

To Interested Organisations

Our ref: E367397  
14 December 2007

Dear Sir/Madam

**PLANT HEALTH FEES (SCOTLAND) REGULATIONS 1996 – PROPOSED AMENDMENT  
TO PLANT PASSPORTING FEES**

I am writing to consult you about changes we propose to make to the Plant Health Fees (Scotland) Regulations 1996. These changes relate to an increase in the fees for inspections for plant passporting purposes. The other fees covered by these Regulations are not affected.

The attached Initial Regulatory Impact Assessment sets out why these fees need to be increased and the options being considered (set out in section 4).

I would welcome your views on these options by 7 March 2008 or earlier if possible. Responses submitted after this date may not be considered.

Please see the Appendix to this letter which gives further information on this consultation and includes a Respondee Information Form (RIF) which should be completed and submitted with your comments. If you are intending to reply by e-mail please make sure the RIF is also included with your response.

Yours sincerely

Jean Waddie  
Agricultural Commodities Branch

## THE SCOTTISH GOVERNMENT CONSULTATION PROCESS

Consultation is an essential and important aspect of Scottish Government working methods. Given the wide-ranging areas of work of the Scottish Government, there are many varied types of consultation. However, in general, Scottish Government consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

The Scottish Government encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors, and no two exercises are likely to be the same.

Typically Scottish Government consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the issue, and they are also placed on the Scottish Government website enabling a wider audience to access the paper and submit their responses. Consultation exercises may also involve seeking views in a number of different ways, such as through public meetings, focus groups or questionnaire exercises. Copies of all the written responses received to a consultation exercise (except those where the individual or organisation requested confidentiality) are placed in the Scottish Government library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4565).

All Scottish Government consultation papers and related publications (eg analysis of response reports) can be accessed at Scottish Government consultations (<http://www.scotland.gov.uk/consultations>)

The views and suggestions detailed in consultation responses are analysed and used as part of the decision-making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented.

Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.

**While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.**

# PLANT HEALTH FEES (SCOTLAND) REGULATIONS 1996 – PROPOSED AMENDMENT TO PLANT PASSPORTING FEES

## Responding to this consultation paper

We are inviting written responses to this consultation paper by 7 March 2008. Please send your response by email to: [jean.waddie@scotland.gsi.gov.uk](mailto:jean.waddie@scotland.gsi.gov.uk) , or by post:

Jean Waddie  
The Scottish Government  
Rural Directorate  
Agricultural Commodities Branch  
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If you have any queries contact **Jean Waddie** on 0131 244 4895.

This consultation, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at <http://www.scotland.gov.uk/consultations>. You can telephone Freephone 0800 77 1234 to find out where your nearest public internet access point is.

The Scottish Government now has an e-mail alert system for consultations (seConsult at <http://www.scotland.gov.uk/Consultations/seConsult>). This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). seConsult complements, but in no way replaces Scottish Government distribution lists, and is designed to allow stakeholders to keep up to date with all Scottish Government consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

## Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

## Next steps in the process

Where respondents have given permission for their response to be made public (see the attached Respondent Information Form), these will be made available to the public in the Scottish Government Library by 7 April 2008. We will check all responses where agreement to publish has been given for any potentially defamatory material before logging them in the library or placing them on the website. You can make arrangements to view responses by

contacting the Scottish Government Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

### **What happens next?**

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us determine how we proceed with our proposed changes.

### **Comments and complaints**

If you have any comments about how this consultation exercise has been conducted, please send them to:

Name: John Speirs

Address: The Scottish Government, Rural Directorate, Agricultural Commodities Branch  
1-B, Pentland House, 47 Robb's Loan, EDINBURGH, EH14 1TY

E-mail: [john.speirs@scotland.gsi.gov.uk](mailto:john.speirs@scotland.gsi.gov.uk)

## RESPONDENT INFORMATION FORM

### PLANT HEALTH FEES (SCOTLAND) REGULATIONS 1996 – PROPOSED AMENDMENT TO PLANT PASSPORTING FEES

Please complete the details below and return it with your response. This will help ensure we handle your response appropriately. Thank you for your help.

Name:

Postal Address:

1. Are you responding: (please tick one box)
  - (a) as an individual go to Q2a/b and then Q4
  - (b) **on behalf of** a group/organisation go to Q3 and then Q4

#### INDIVIDUALS

- 2a. Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government website)?

Yes (go to 2b below)

No, not at all We will treat your response as confidential

- 2b. **Where confidentiality is not requested**, we will make your response available to the public on the following basis (**please tick one** of the following boxes)

Yes, make my response, name and address all available

Yes, make my response available, but not my name or address

Yes, make my response and name available, but not my address

#### ON BEHALF OF GROUPS OR ORGANISATIONS

- 3 The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government website). Are you also content for your **response** to be made available?

Yes

No We will treat your response as confidential

#### SHARING RESPONSES/FUTURE ENGAGEMENT

- 4 We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Government to contact you again in the future in relation to this consultation response?

Yes

No

# **Plant Health Fees (Scotland) Regulations 1996 – Proposed Amendments to Plant Passporting Fees**

## **INITIAL REGULATORY IMPACT ASSESSMENT**

### **1. Title of proposal**

Increase in charges in respect of inspections carried out for the purpose of conferring authority to issue plant passports under the Plant Health (Scotland) Order 2005.

### **2. Purpose and intended effect**

#### **Objective**

2.1 To increase the charges made to industry in order to achieve full cost recovery for statutory inspections carried out for authorisation to issue plant passports.

#### **Background**

2.2 Around the world there are many plant pests and diseases which, if they were to become established in an area, could cause serious damage to crops and plants. To guard against the spread of harmful organisms official controls apply to the movement and keeping of plants, plant pests and other material within the European Community, including any trade within the UK. These controls are based on EC and GB legal provisions.

2.3 Under the Plant Health (Scotland) Order 2005, certain listed plants, plant products and other objects may only be brought into or moved within Scotland, or sent from Scotland to other parts of the EU, when accompanied by a plant passport. Producers, traders and importers of such material must be authorised by the Scottish Government to issue plant passports. The authorisation process involves an inspection of the listed plant material at the premises and includes a check of business records.

2.4 The Plant Health Fees (Scotland) Regulations 1996 (as amended) prescribe the fees to be charged for these inspections, for issuing licences to permit importation of plant material that would otherwise be prohibited, and for potato quarantine testing. The fees for licences were increased in 2005, and those for potato quarantine testing were introduced in 2004. Neither of these are affected by the current proposals. The fees relating to plant passports have not been altered since 1996.

#### **Rationale for government intervention**

2.5 Scottish Government accounting principles require that fees and charges for all statutory and commercial services should be set at a level that achieves full cost recovery. This ensures that services which benefit business (eg, by enabling them to sell and export plants and plant products that would otherwise be prohibited) are paid for by the businesses in question, and are not subsidised by the taxpayer. It is also important that the income from fees should be sufficient to provide an effective service to meet the level of demand.

2.6 The costs of inspections relating to authorisation to issue plant passports include the inspection itself, administration of the scheme, and the scientific investigation of samples sent for analysis. Costs vary from year to year depending on the plant health situation at the time, which affects factors such as the number of samples sent for analysis and the time taken to inspect each premises. Fees are calculated according to the size of the premises.

2.7 Although the service aims to be as efficient as possible, costs have risen significantly in recent years. This is partly due to new plant health threats, particularly *Phytophthora ramorum*, and partly reflecting rising costs for staffing and overheads. Fees have not increased since 1996, and in the financial year 2006-07 the service experienced a deficit of £1,774. A further deficit is anticipated in 2007-08. It is therefore necessary to increase fees in order to achieve full cost recovery in future years.

### **3. Consultation**

#### Within government

3.1 Colleagues within the Scottish Government have been consulted. No inter-departmental consultation is required although other administrations (eg Defra) will be copied in for information.

#### Public consultation

3.2 There is a relatively small group of potential users of this service, and the principle of passing on the costs of administering these services is well established with them. Users of the service and relevant industry bodies will be consulted on the proposed increase in fees through a written consultation on the terms of the Regulatory Impact Assessment.

### **4. Options**

4.1 In the last financial year the costs incurred for plant passporting purposes for the businesses inspected was £14,000, but the amount of fees collected was £12,226, a deficit of £1,774. A deficit is also predicted in the current financial year, 2007-08.

4.2 There are two ways in which future costs can be projected. We can assume that costs will rise in line with inflation, which is currently around 3% per annum. However, the actual costs of the scheme have risen at an average of 11% per annum over the past 4 years. It is not expected that costs will continue to rise at the same rate over future years, but this figure can be used as a maximum. Using these alternative assumptions, future costs of the scheme would be as follows:

Financial Year	Cost rising at 3% p.a.	Cost rising at 11% p.a.
2006-07	£14,000	£14,000
2007-08	£14,420	£15,540
2008-09	£14,852	£17,249
2009-10	£15,298	£19,146
2010-11	£15,757	£21,252
2011-12	£16,229	£23,590
2012-13	£16,716	£26,185

4.3 Five options for future charges are set out below. These are based on the same level of business applications for authorisation to issue plant passports as in 2006-07, and assume an average number of samples requiring scientific analysis each year.

**Option 1** No change in fees

This would result in increasing deficits year on year, rising to a predicted £4,490 in 2012-13, even if costs only increase in line with inflation.

**Option 2** Assume that costs will rise in line with inflation, and increase fees to a level that would ensure full cost recovery for 3 years.

To meet the projected cost of £15,757 in 2010-11, fees would need to rise by 29%

**Option 3** Assume that costs will continue to rise at 11% p.a., and increase fees to a level that would ensure full cost recovery for 3 years.

To meet the projected cost of £21,252 in 2010-11, fees would need to rise by 74%

**Option 4** Assume that costs will rise in line with inflation, increase fees to a level that would ensure full cost recovery in 2008-09, and review fees annually thereafter to reflect the increase in costs for the preceding year.

To meet the projected cost of £14,852 in 2008-09, fees would need to rise by 21%. If costs then rise in line with inflation, fees would be raised by 3% each year.

**Option 5** Assume that costs will continue to rise at 11% p.a., increase fees to a level that would ensure full cost recovery in 2008-09, and review fees annually thereafter to reflect the increase in costs for the preceding year.

To meet the projected cost of £17,249 in 2008-09, fees would need to rise by 41%. If costs continue to rise at the current rate, fees would then be raised by 11% each year.

4.4 The revised fees under each option would be:

Area (Ha)	Option 1 (no change)	Option 2 (29%)	Option 3 (74%)	Option 4 (21%)	Option 5 (41%)
Not exceeding 1	£72.50	£93.53	£126.15	£87.73	£102.23
1-2	£100.00	£129.00	£174.00	£121.00	£141.00
2-4	£146.00	£188.34	£254.04	£176.66	£205.86
4-10	£192.00	£247.68	£334.08	£232.32	£270.72
10-20	£298.00	£384.42	£518.52	£360.58	£420.18
20-35	£357.00	£460.53	£621.18	£431.97	£503.37
35-50	£420.00	£541.80	£730.80	£508.20	£592.20
Each additional 10 Ha or part	£55.00	£70.95	£95.70	£66.55	£77.55

### Outcomes

4.5 **Option 1** would not meet the objective of achieving full cost recovery. All other options have the potential to achieve full cost recovery, depending on the rate at which costs increase in future years. **Option 2** and **Option 4** run the risk that the costs of the scheme will rise faster than inflation, and therefore significant increases in fees could be required in future years to catch up. If **Option 4** was selected, but costs rise by 11% in 2007-08, fees would need to rise by 29% for 2009-10. **Option 3** and **Option 5** require very large increases in fees for 2008-09, but increases after that would be limited to the rate at which costs increase. **Option 4** and **Option 5** put in place a systematic way of ensuring that full cost recovery is achieved in future years. These options are likely to impose some additional costs for the Scottish Government as the Regulations will need to be amended more frequently, but these costs are not expected to be passed on in fees.

4.6 **Option 4** is preferred for the following reasons:

- It has the potential to achieve full cost recovery in 2008-09;
- If this is not achieved, further increases can be made to ensure full cost recovery in 2009-10;
- If costs continue to rise at current levels, the significant increase in fees required to meet full cost recovery will be spread across 2 years;
- An annual review process will ensure that the level of fees is closely related to the costs of the service, and should avoid significant increases after the initial readjustment in 2008-09 and (potentially) 2009-10.

## 5. Costs and benefits

### Sectors and groups affected

5.1 In 2006-07, 85 plant nurseries (consisting of large and small businesses) were authorised to issue plant passports. The average fee charged, per business, was £164, therefore there is unlikely to be any significant transfer of costs to other sectors or consumers.

## Benefit

5.2 The proposed increases to fees for inspections relating to authorisation to issue plant passports would meet the requirement for statutory and commercial services provided by the Scottish Government to achieve full cost recovery, and avoid any risk of illegal subsidy. It would also ensure that the Scottish Government continues to have the resources to provide an effective service to plant passporting businesses.

## Disadvantage

5.3 The proposed increases may not be well received by some organisations who use this service, particularly since the fees have stayed at the same level since 1996. The service cannot be provided by anyone apart from the Scottish Government, so there is no option to seek lower fees elsewhere.

## Costs

5.4 The proposal will have no costs to businesses which use the service other than the direct increase in fees. There may be some increase in administrative costs to the Scottish Government if the annual review results in the fees being amended more frequently.

## **6. Small Firms Impact Test**

6.1 Many of the businesses involved in plant passporting may be regarded as small businesses, ie, having fewer than 250 full time equivalent employees. Fees are charged according to the size of the premises to be inspected. No changes are proposed to regulatory procedures which might for example require additional staff time, therefore no significant impact on small businesses is anticipated.

6.2 All businesses authorised to issue plant passports will be consulted directly on these proposals, in writing, either by post or by email. The relevant trade associations will also be consulted, including the National Farmers Union Scotland and the Horticultural Trades Association.

## **7. Test run of business forms**

No new forms will be introduced as a result of this proposal.

## **8. Competition assessment**

8.1 The Competition Filter has been applied and the conclusion is that there is no significant risk of impact on competition. The service involved is a statutory service which cannot be provided by anyone except the Scottish Government, and the proposed increase in fees will apply equally to all businesses that wish to issue plant passports. A detailed competition assessment has therefore not been prepared.

## **9. Enforcement, sanctions and monitoring**

9.1 There is a theoretical risk that a significant increase in fees to businesses that wish to issue plant passports could lead to some businesses seeking to evade the system and issue plant passports without authorisation. However, it is unlikely that such actions would succeed. The trade is well aware of the requirement for plant passports and purchasers would be unlikely to accept consignments without the proper documentation. Plants moved within the EU without a valid passport risk being destroyed. Scottish Government inspectors are also in regular contact with businesses authorised to issue plant passports and other horticultural businesses, and would quickly become aware of any non-compliance.

9.2 Inspection visits to authorised suppliers would also provide an opportunity to discuss and monitor the impact of increased fees, in addition to administrative monitoring of the balance of income and expenditure.

### **Contact point for enquiries and comments:**

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*December 2007*

## **List of Consultees**

Commission for Racial Equality  
COSLA  
Disability Rights Commission  
Equal Opportunities Commission  
Federation of Small Business  
Horticulture Development Council  
Horticulture Trade Association  
Local Authorities  
National Farmers Union for Scotland  
Scottish Growers/Wholesalers  
Scottish MEP's