

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT PLANT HEALTH ETC.
(MISCELLANEOUS FEES) (AMENDMENT)
(ENGLAND) REGULATIONS 2022

Wednesday 6 July 2022

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The Committee consisted of the following Members:

Chair: SIR EDWARD LEIGH

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| † Abrahams, Debbie (<i>Oldham East and Saddleworth</i>)
(Lab) | † Prentis, Victoria (<i>Minister for Farming, Fisheries
and Food</i>) |
| † Aiken, Nickie (<i>Cities of London and Westminster</i>)
(Con) | † Sunderland, James (<i>Bracknell</i>) (Con) |
| † Atherton, Sarah (<i>Wrexham</i>) (Con) | † Timpson, Edward (<i>Eddisbury</i>) (Con) |
| † Baron, Mr John (<i>Basildon and Billericay</i>) (Con) | † Tracey, Craig (<i>North Warwickshire</i>) (Con) |
| † Dines, Miss Sarah (<i>Derbyshire Dales</i>) (Con) | Twigg, Derek (<i>Halton</i>) (Lab) |
| † Glindon, Mary (<i>North Tyneside</i>) (Lab) | † Vaz, Valerie (<i>Walsall South</i>) (Lab) |
| † Henry, Darren (<i>Broxtowe</i>) (Con) | Winter, Beth (<i>Cynon Valley</i>) (Lab) |
| † Higginbotham, Antony (<i>Burnley</i>) (Con) | † Zeichner, Daniel (<i>Cambridge</i>) (Lab) |
| Johnson, Kim (<i>Liverpool, Riverside</i>) (Lab) | Peter Stam, Laura Caccia, <i>Committee Clerks</i> |
| | † attended the Committee |

Fourth Delegated Legislation Committee

Wednesday 6 July 2022

[SIR EDWARD LEIGH *in the Chair*]

Draft Plant Health etc. (Miscellaneous Fees) (Amendment) (England) Regulations 2022

2.30 pm

The Minister for Farming, Fisheries and Food (Victoria Prentis): I beg to move,

That the Committee has considered the draft Plant Health etc. (Miscellaneous Fees) (Amendment) (England) Regulations 2022.

It is a great pleasure to serve under your chairmanship, Sir Edward. This draft statutory instrument, which was laid before the House on 6 June, makes amendments to the plant health fees established in the Plant Health etc. (Fees) (England) Regulations 2018 to ensure there is proper recovery of costs. It ensures that the fees charged for plant health checks on plants imported into England from third countries reflect the frequency of those checks established under the new Official Controls (Plant Health) (Frequency of Checks) Regulations 2022.

Plant health checks are carried out on plants and plant products imported into England from third countries that might pose a risk to our biosecurity. The new inspection scheme will determine the frequency of physical and identity checks in a risk-based way. The scheme will apply to everything from non-EU countries and on high-priority items from the EU. The highest-risk commodities will be subject to 100% plant health checks and fees. The level of identity and physical checks on other plants is based on risk and therefore subject to proportionally reduced fees.

The standard Government approach to charging fees is to recover the full costs of service delivery. Charging for plant health services is consistent with the principle that businesses using these services should broadly bear the costs. This is appropriate given that most serious plant pests and diseases that arrive and spread in this country do so via commercial trade in plants and plant produce.

This SI applies to England only. The Scottish and Welsh Governments are following the same approach, in terms of applying fees to recover the full costs of their respective inspections. Both Governments have laid their own corresponding legislation.

This SI also provides for a flat-rate fee on certain plants for planting imported to England from all third countries. The new risk-targeted inspection scheme will subject plants intended for final users to lower frequencies of checks. The flat-rate fee aims to prevent plants that have completed their production stage in a third country and are ready to be sold to consumers after import from benefiting from a cost advantage over plants imported that would then complete their production in Great Britain. The flat-rate fee maintains full cost recovery and was proposed following industry concerns. The Welsh Government have laid similar legislation.

We have worked closely with industry, including the Horticultural Trades Association and the National Farmers Union, on developing our approach to the flat-rate fee. Following their concerns, we carried out a consultation, after which it was decided that a new flat-rate fee should be applied to plants for planting and cuttings. After additional feedback that a switch to a flat-rate fee would significantly increase fees for importing bulbs and seeds for the final user, we have restricted the flat-rate fee to certain products.

Mr John Baron (Basildon and Billericay) (Con): I congratulate the Government on focusing on what is an increasingly important area, particularly given the importance we attach to plant-based food and the green agenda generally. I suggest to the Minister that in addition to focusing on cost—I know she has reviewed this policy area extensively with the help of the NFU and so forth—we also look at the integrity of the ingredients coming in to ensure that standards are maintained at the highest possible level for the sake of consumers.

Victoria Prentis: My hon. Friend makes an important point about the importance of our biosecurity and the integrity of what is imported into this country. However, in the context of this SI, I make no apology for focusing on cost, because that is broadly what we are concerned with. The other regulatory regime, in which my hon. Friend is interested, has already broadly been put in place. The Government take plant biosecurity—indeed, all levels of biosecurity—extremely seriously, and it is important to have the right legislation in place to enable us to keep us safe.

This SI extends an exemption from the payment of fees for pre-export and export certification services, where goods are moving from England to Northern Ireland, in order to make trade between England and NI easier and smoother.

Valerie Vaz (Walsall South) (Lab): On that last point, is the Minister effectively saying that plants can move from Great Britain to NI without having to break the protocol?

Victoria Prentis: I am not quite sure what the hon. Lady is referring to. There are currently difficulties with the export of certain plants—“export” is probably the wrong word—or rather the movement of certain products from GB to NI. We had some significant difficulties this summer with, for example, the Queen’s Green Canopy trees, which were not able to be moved. The regulations will enable trade to continue between England and NI in line with our Government’s movement assistance scheme which, as the hon. Lady knows, clearly sets out what we are and are not able to move. There are, however, significant difficulties, as I think she knows, with the Northern Ireland protocol and the movement of some plant products.

In conclusion, the SI ensures the correct level—

Valerie Vaz: I have a further question about—

Victoria Prentis: It is not really relevant to the SI, which is related to the cost recovery of—

Valerie Vaz: It is about proposed new paragraph (2F).

Victoria Prentis: Then I am delighted to give way.

Valerie Vaz: To clarify, just in case there is litigation and people need to look at the record, the new paragraph states “Where an inspector suspects”. Is there a definition of what the inspector must have regard to, and should we not be concerned that different inspectors may suspect different things? Proposed new schedule 2A(8) just refers to “vegetables”. Can the Minister say which vegetables?

Victoria Prentis: Vegetables are defined elsewhere in legislation, and I will draw the hon. Lady’s attention to that later if she wishes.

On proposed new paragraph (2F), I do not think that is specifically an NI issue.

Valerie Vaz: It is not related to NI—just generally.

Victoria Prentis: I am sorry, I found it hard to follow the hon. Lady’s train of thought.

Valerie Vaz: They are separate questions, Minister.

Victoria Prentis: Let me have a look at the schedule. The inspector will take a risk-based approach, as I said, to how and when to check third-country consignments. That is in line with existing practice. I think a reference to the correct part of OCR 2022 would most help the hon. Lady because that will give her the information she needs about checking the inspection. In the regulations before us, we are not concerned with the actual checks but the cost recovery that enables the fees to be recovered when the inspectors carry out the checks. These are fees regulations.

Debbie Abrahams (Oldham East and Saddleworth) (Lab): My question is probably quite similar. Given that the regulations follow on from our withdrawal from the EU, what are the changes in terms of fees collection and the surveillance and monitoring for pests and so on?

Victoria Prentis: If we pass the regulations, we will be able to recover fees proportionately for checks that are carried out on plants and plant produce that move into the country. For the EU, if this legislation is passed, things will largely stay the same, although there will be some increase, from about 10% to a higher figure, in checks on EU plants for planting, such as trees, if the inspector, having powers under the other regulations—the OCR—takes the view that such checks are proportionately necessary. The draft regulations merely enable the cost recovery of the fees if those checks are carried out.

This SI ensures the correct level of recovery of the fees charged for plant health checks on plants imported from third countries. It maintains a full cost-recovery service for plant health services. I commend the regulations to the Committee.

2.40 pm

Daniel Zeichner (Cambridge) (Lab): It is a pleasure to serve with you in the Chair, Sir Edward. What joy, when so much is going on in this place, that we have a packed house to talk about the draft Plant Health etc. (Miscellaneous Fees) (Amendment) (England) Regulations 2022. I am sure this is captivating Members on all sides. As the Minister said, however, these are important

questions, not least because I am not entirely clear whether the checks are currently taking place at all in the glorious border control points, some of which are now sitting empty outside Plymouth.

On the detail of the draft legislation, I first draw attention to its link to another SI, the Official Controls (Plant Health) (Frequency of Checks) Regulations 2022, which troubled colleagues in the other place, because that SI was published only after they had discussed the draft regulations, which was slightly confusing. My colleague Baroness Jones challenged the Minister in the other place, and he explained that the reasons why were completely beyond him. Perhaps the Minister present in Committee will have another stab at it. Who knows how these things work!

In the Government’s response to their consultation on the frequency of risk-targeting plant health import inspections, they came to the conclusion that imposing full checks on all categories of plants needed to be balanced against the impact on regulators and trade. Our sense was that that conclusion was not covered fully in the explanatory memorandum to the frequency of checks regulations. Nevertheless, they appear to be a drawing back from the number of checks being made, at a time when biosecurity risks seem to be ongoing and a constant danger to our country. We are slightly concerned. We will not vote against the draft regulations, but there are concerns. We all share the understanding of the importance of ensuring that biosecurity is the top priority. The question is one of balance.

In the consultation, which seems to have been a good one, stakeholders expressed a number of concerns, including the ability for the plant health risk group to respond rapidly to new outbreaks; the need for inspection methods to embrace more modern technology; and the need for greater transparency on the interception of pests and diseases. I fully appreciate that the issues are not easy ones. I have some excellent plant scientists in my constituency of Cambridge, at the Sainsbury Laboratory and so on, and when we have had some dreadful outbreaks in the past, I have spoken to them, so I fully appreciate how significant the issues are.

The explanatory memorandum to the draft SI states that the frequency of checks may be increased if the relevant authority considers that necessary after a risk assessment. However, as we know from the response to the consultation, the decision not to impose full checks was made because of the impact it would have on trade, so when the authorities are deciding whether they believe a biosecurity threat is sufficient to increase checks temporarily, that will take place against a backdrop in which market considerations have already played a role in influencing the rate of checks. I want reassurance from the Minister that the SI is not about trying to save money but about the primacy of biosecurity, because we think the trade-off might not have been got entirely right.

The draft regulations set out the fees for checks on high-priority commodities from the EU and/or commodities from non-EU countries. The full costs of service delivery are intended to be recovered. We understand that. Will the Department for Environment, Food and Rural Affairs be establishing a dedicated fund for paying the staff who carry out the plant checks? That question was asked in the other place. Will the money recovered from businesses stretch to cover not only the scientists conducting

[Daniel Zeichner]

the checks but the inspectors at the ports and entry points? In other words, is the money going to be directly allocated to running the service? Does the Minister know how many staff she expects will be funded by these payments and is she confident—I am sure she is—that there will be sufficient staff to carry out the checks to the right standards?

I was slightly intrigued to see the disparity in the fees. For instance, the cost of a physical check for cut Christmas trees from the EU, Liechtenstein or Switzerland is £3.58, whereas the physical checks for seed potatoes from those same countries would be £156.69. There may be a reason for that; I am sure the Minister will elaborate. Will she provide reassurance that the difference in cost will not significantly disadvantage businesses that import goods subject to the higher fees? She touched a bit on that in her point about the flat fee. We would be grateful for answers to those points from the Minister.

2.46 pm

Victoria Prentis: I am delighted to answer them. The new inspection arrangements are very much based on international standards for categorising commodities according to risk, which goes some way to explaining the difference in fees for Christmas trees and seed potatoes, for example. That will allow the Animal and Plant Health Agency to focus on the commodities that represent the highest potential risk—that is very much what is driving the policy. We want APHA to be able to focus on, for example, trees and other woody plants that are grown outside the UK, while reducing input on the products that represent a much lower risk, such as house plants or fruit and vegetables that are imported ready for consumption, which are very low risk products. In that way, we will target resources in the most effective way to protect our biosecurity, while avoiding unnecessary burdens and costs on businesses.

Inspection frequencies are only one tool by which risk can be mitigated and we will keep them under frequent review. We have a plant health risk group that

meets monthly and continually monitors new threats, taking into account the import inspections that are being carried out, as well as other relevant information such as scientific advances and the developments of disease in other countries. We also keep our import requirements under continuous review to determine whether they need to be strengthened in response to new or altered risks, as was recently the case with pine processionary moths, which became a much bigger risk so we dealt with them accordingly.

The import controls on regulated goods from the EU are being phased in and the target operating model is due to be published this autumn. It will be produced in consultation with a large range of industry stakeholders. It is important that we listen to them, as we did for this work stream, as the hon. Gentleman acknowledged. They made valid points that were listened to and acted on. It is fair to say that our targeted consultation with plant health stakeholders on the flat-rate fee was very helpful in informing Government policy. We had 34 responses to the consultation and the vast majority, including those from the Horticultural Trades Association and the relevant section of the NFU, were supportive of the line the Government are taking.

The consultation on the new risk-targeted inspection received 11 responses, which were also generally supportive of a GB-focused risk-based frequency of checks regime, which is why one has been worked up and finds its way into this SI. As I have outlined, the regulations will ensure that the full cost recovery of plant health services is maintained and that the costs of inspecting imported plant health controlled materials will be met by businesses, using our inspection services. I commend the regulations to the House.

The Chair: I thank you all for your calm and close attention.

Question put and agreed to.

2.50 pm

Committee rose.