

# Rural Affairs and Islands Committee

30th Meeting, 2023 (Session 6), Wednesday, 22 November

## Subordinate legislation

### Introduction

1. This paper supports the Committee's consideration of the draft Plant Health (Fees) (Forestry) (Scotland) (Amendment) Regulations 2023.
2. Background information relating to the affirmative parliamentary procedure is set out in **Annexe A**.

<b>Title of instrument:</b>	<a href="#">Plant Health (Fees) (Forestry) (Scotland) (Amendment) Regulations 2023 (Draft)</a>
<b>Type of instrument:</b>	Affirmative (see <b>Annexe A</b> )
<b>Laid date:</b>	23 October 2023
<b>Reporting deadline:</b>	1 December 2023
<b>Coming into force:</b>	31 December 2023
<b>Motion to approve:</b>	<a href="#">S6M-10920</a>
<b>Instrument drawn to Parliament's attention by DPLRC:</b>	No
<b>Instrument made using powers conferred by:</b>	<a href="#">European Union (Withdrawal) Act 2018</a>
<b>Supporting documentation:</b>	Policy note – <b>Annexe B</b>

### Purpose of the instrument

1. The policy note states that the Plant Health (Fees) (Forestry) (Scotland) (Amendment) Regulations 2023 ("the 2023 Regulations") amend the Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015 ("the Forestry Fees Regulations").

2. The Forestry Fees Regulations include provisions relating to phytosanitary certification fees, including an exemption to provide that such fees are not payable in relation to exports from Scotland to Northern Ireland in certain circumstances. The 2023 Regulations amend the Forestry Fees Regulations to change the date on which this exemption ceases to have effect from 31 December 2023 to 30 June 2025.
3. The Regulations would also amend the 'Type of inspection' description in schedule 1 of the Forestry Fees Regulations, which outlines fees for inspections in connection with a plant passport authority. The 2023 Regulations remove the word 'physical' from schedule 1 of the Forestry Fees Regulations which, according to the policy note, would provide greater clarity on the intended scope of activities which may be charged for as part of these inspections (see para 5). The regulations make no changes to the fee rates.

## Background

4. Under the terms of the EU Withdrawal Agreement movements of regulated plants, plant products and other objects from GB to Northern Ireland must be accompanied by a phytosanitary certificate. These certificates are produced by the [Competent Authority](#) (the Scottish Government) and attest, to the authorities of a third country, that the goods meet the import requirements of that third country. The UK Government's [Movement Assistance Scheme \(MAS\)](#) facilitates an exemption to provide that phytosanitary fees are not payable in relation to exports from GB to Northern Ireland in certain circumstances, with the aim of supporting exporters post-transition period. The scheme is now scheduled to extend to 30 June 2025. The policy note confirms that this scheme is separate to the Windsor Framework, "so there are no implications in that area".
5. Movements of regulated plants, plant products and other objects within GB must also be accompanied by a plant passport. Regulation 3 of the 2023 Regulations introduces a revised schedule (schedule 1, page 2 of the instrument link provided above) to the Forestry Fees Regulations. The revision removes the word 'physical' from schedule 1 of the Forestry Fees Regulations, which was added unnecessarily to the schedule when fees were being revised to reflect inflationary rises in associated costs.
6. According to the policy note, this revision "provides greater clarity on the intended scope of activities which may be charged for in relation to audit inspections by competent authorities of professional operators authorised to issue GB plant passports, better capturing virtual and physical components of the hybrid forestry inspection regime for plant passport authorities."
7. Funding for the costs incurred in providing the export certification services outlined in regulation 2 is to be provided by the UK Government, and exporters will not be charged. Instead, reimbursement will be to the Scottish Government.

8. The Minister for Green Skills, Circular Economy and Biodiversity has, by motion [S6M-10920](#) (as set out in the agenda), proposed that the Committee should recommend the approval of this instrument.

## Consideration by the Delegated Powers and Law Reform Committee

9. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on [31 October](#) and agreed that no points arose.

## For decision

### 10. The Committee is invited to—

- **take evidence from the Minister and Scottish Government officials on the instrument (agenda item 4);**
- **ask the Minister to move, and then to debate, the motion on the instrument (agenda item 5); and**
- **delegate authority to the Convener to sign off the Committee's report to the Parliament on the instrument.**

**Rural Affairs and Islands Committee clerks  
November 2023**

## Parliamentary procedure – affirmative instruments

1. The affirmative parliamentary procedure is set out in Chapter 10 of the [Parliament's Standing Orders](#). Instruments subject to the affirmative procedure cannot come into force unless they are approved by Parliament.
2. It is usual practice for subject committees to take evidence from the Scottish Government in advance of considering the instrument. The Committee will take evidence from the Minister for Green Skills, Circular Economy and Biodiversity and Scottish Government officials at **agenda item 4** on the Plant Health (Fees) (Forestry) (Scotland) (Amendment) Regulations 2023. The Committee will formally consider the motion during **agenda item 5**.
3. The lead committee must report its recommendation to the Parliament within 40 days of the instruments being laid; where the lead committee recommends the instrument be approved, the Parliamentary Bureau will propose a motion that the instrument be agreed. The deadline for the Committee to report on both instruments is set out in the boxes above.

## Policy note

# The Plant Health (Fees) (Forestry) (Scotland) (Amendment) Regulations 2023

## SSI 2023/Draft

The above instrument was made in exercise of the powers conferred by paragraph 7 of schedule 4 and paragraph 21 of schedule 7 of the European Union (Withdrawal) Act 2018. The instrument is subject to affirmative procedure.

## Purpose of the instrument

1. The Plant Health (Fees) (Forestry) (Scotland) (Amendment) Regulations 2023 (“the 2023 Regulations”) amend the Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015 (“the Forestry Fees Regulations”). The Forestry Fees Regulations include provision relating to phytosanitary certification fees, including an exemption to provide that such fees are not payable in relation to exports from Scotland to Northern Ireland in certain circumstances. The 2023 Regulations amend the Forestry Fees Regulations to change the date on which this exemption ceases to have effect from 31 December 2023 to 30 June 2025.
2. In addition, the 2023 Regulations amend the ‘Type of inspection’ description in schedule 1 of the Forestry Fees Regulations, which outlines fees for inspections in connection with a plant passport authority. The 2023 Regulations remove the word ‘physical’ from schedule 1 of the Forestry Fees Regulations, providing greater clarity on the intended scope of activities which may be charged for as part of these inspections. The fee rates remain unchanged.

## Policy Objectives

3. The 2023 Regulations make amendments to legislation in the field of plant health as it applies in Scotland.
4. Regulation 2 of the 2023 Regulations amends regulation 3 (5BB) of the Forestry Fees Regulations which makes provision relating to phytosanitary certification fees, including an exemption to provide that such fees are not payable in relation to exports from Scotland to Northern Ireland in certain circumstances. The 2023 Regulations amend the Forestry Fees Regulations to change the date on which this exemption ceases to have effect from 31 December 2023 to 30 June 2025.
5. Under the terms of the EU Withdrawal Agreement movements of regulated plants, plant products and other objects from GB to Northern Ireland must be

accompanied by a phytosanitary certificate. These certificates are produced by the Competent Authority and attest, to the authorities of a third country, that the goods meet the import requirements of that third country. The UK Government's Movement Assistance Scheme (MAS) facilitates an exemption to provide that phytosanitary fees are not payable in relation to exports from GB to Northern Ireland in certain circumstances, with the aim of supporting exporters posttransition period. The scheme is now scheduled to extend to 30 June 2025. This is separate to the Windsor Framework, so there are no implications in that area.

6. Movements of regulated plants, plant products and other objects within GB must be accompanied by a plant passport. Regulation 3 of the 2023 Regulations introduces a revised schedule (schedule 1) to the Forestry Fees Regulations. The revision removes the word 'physical' from schedule 1 of the Forestry Fees Regulations, which was added unnecessarily to the schedule when fees were being revised to reflect inflationary rises in associated costs.
7. This revision provides greater clarity on the intended scope of activities which may be charged for in relation to audit inspections by competent authorities of professional operators authorised to issue GB plant passports, better capturing virtual and physical components of the hybrid forestry inspection regime for plant passport authorities.

## EU Alignment Consideration

8. This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

## Consultation

9. No formal consultation has been carried out as the proposed amendments do not introduce any new requirements for stakeholders in Scotland.

## Impact Assessments

10. The proposed amendments do not bring in any new fees or alter the current situation. Therefore impact assessments were not deemed necessary.

## Financial Effects

11. Funding for the costs incurred in providing the export certification services outlined in regulation 2 is to be provided by the UK Government, and exporters will not be charged. Instead reimbursement will be to the Scottish Government.

12. The Minister for Green Skills, Circular Economy and Biodiversity confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

**Scottish Government**  
**Environment and Forestry Directorate**  
**October 2023**