

Plant Health Exports Audited Trader Scheme (PHEATS) - Scottish Membership

**Partial Business and Regulatory Impact
Assessment**

October 2023

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Purpose and intended effect

Background

Following the UK's exit from the 'European Union' (EU), exports of plant products such as fruit, vegetables and cut flowers require export certification in the form of a 'phytosanitary certificate' (PC) when exporting to the EU and 'Northern Ireland' (NI).

PHEATS is a voluntary trade facilitation scheme developed by the 'Department for Environment Food and Rural Affairs' (DEFRA) for exports of low-risk fruit, vegetables and cut flowers to the EU and NI from England and Wales.

Objective

To seek feedback from Scottish export businesses on their interest and value in being part of PHEATS. This will allow the 'Scottish Government' (SG) to consider if there is a benefit in rolling out the voluntary PHEATS scheme in Scotland. Introducing PHEATS would allow Scottish businesses the same opportunities as those in England and Wales when exporting low-risk fruit, vegetables and cut flowers to the EU and NI. Exporters who operate 'just-in-time' logistics can export their goods more quickly themselves, by doing their own inspections, which frees up valuable time through not having to wait for an official inspection to be undertaken. Applying for a PC when needed, allows exporters to send their goods to customers when they are ready. These factors together save time, increase export capacity and reduce administrative requirements.

Rationale for Government intervention

The SG wants to ensure the best trading environment for Scottish businesses. Since Brexit, exports of low-risk cut flowers, fruit, and vegetables to the EU and NI have required a PC for those goods being exported to the EU. This requires extra resources for SG inspectors and businesses.

Joining PHEATS would remove the requirement for SG inspectors to attend authorised premises in person to carry out inspections every time a PC is required. Instead, inspections will be carried out by an 'Authorised Person' (AP) who has received training through the scheme. Once they have confirmed that a consignment meets the applicable plant health requirements, a PC can be requested from SG inspectors, who maintain oversight of the scheme through monitoring and auditing functions.

Background to phytosanitary certification

Regulated plants and plant products need to meet the import requirements of the receiving country in accordance with the 'International Standards for Phytosanitary Measures' (ISPMs), stated in the 'International Plant Protection Convention' (IPPC) as an intergovernmental treaty that protects the world's plant resources from the spread and introduction of pests, and promotes safe trade. The SG is the 'National Plant Protection Organisation' (NPPO) in Scotland who is solely responsible for conducting plant health inspections, and who can only issue a PC.

Under specific circumstances, third parties may be authorised to perform specific phytosanitary actions on behalf of the NPPO under the 'Official Controls Regulation' 2017/625 (OCR), and the Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) Regulations 2020 with the exception of the issuance of PCs. In this light, PHEATS enables an AP to undertake devolved phytosanitary inspections (and uphold phytosanitary security), which is the physical inspection of all produce exported under PHEATS. This contrasts with exports outside of PHEATS, where the SG conduct all physical inspections of exported plant commodities. The NPPO retains ultimate responsibility for ensuring the phytosanitary actions have been performed according to the NPPO's requirements.

Eligibility

To be eligible to join PHEATS, the applicant must export low-risk fruit, veg or cut flowers. A business can apply for membership using the PHEATS application form, and they must identify one 'Person Responsible' (PR) for overall management of the scheme who acts as a point of contact with the SG. AP(s) are also nominated to be authorised to conduct the official export inspections. After nomination, the PR and the AP(s) must do the online training and pass the in-person audits. A business must implement and monitor an approved 'Biosecurity Control Management Plan' (BCMP) for PHEATS (which you can see in the PHEATS user guide).

Training

Following review of an application, the PR and the AP(s) will be sent a link to online pest, disease and export application training. All AP(s) and the PR must complete the training and pass the assessments for the application to progress. Each module has an online test that must be passed to complete the training.

Upon completion of the pest & disease and export application training and assessments, an SG inspector will arrange an authorisation inspection of the business in accordance with the requirements of the BCMP. This includes AP(s) and the PR demonstrating the implementation of the BCMP (parts A and B). All candidate AP(s) and the PR must attend the inspection training at this visit, and pass an assessment.

Acceptance onto PHEATS will be decided by an independent representative of the SG. Once these steps have been completed, and the business is accepted onto PHEATS, then they become an 'Authorised Business' (AB).

Biosecurity control management

Plant health biosecurity concerns the procedures and measures put in place by the AB, PR and AP(s), to protect against the introduction and movement of harmful pests and diseases. This relates to consignments exported from Great Britain, for example, by identifying plant health risks and implementing action to mitigate these risks. The BCMP for PHEATS is designed to ensure the points made above. The BCMP is a checklist of necessary steps to follow to ensure effective plant biosecurity, and the sections are:

- Authorised Person(s): names and details of the APs.
- Commodities, country of export and country of origin: provide a list of goods to be sent to the exporting country, and the times they will be sent each week.
- Site Plan: e.g. label the inspection area and post-inspection holding area.
- Conflict of Interest: declare any conflict of interest.

Inspecting consignments

Once accepted onto PHEATS, the AP(s) will be authorised to inspect commodities exported under PHEATS. The responsibility of the phytosanitary function of official inspection is delegated to the AP(s) as per Article 31(2) of the retained OCR who may carry out this function only in relation to PHEATS.

To ensure consignments meet the plant health requirements of the importing country, at least one AP must officially inspect every consignment being exported under PHEATS at the business site, to ensure consignments are free from pests and diseases, and that it meets the importing country's requirements.

Phytosanitary certification of consignments

Following the export consignment passing the physical official inspection undertaken by an AP(s), an application for export can be made to the SG for a PC for those commodities that have passed the official inspection. Where goods have not passed the physical inspection, this will need to be recorded in the official records, and be made available to the SG upon request.

Provided the PC application is successful, the physical PC and two copies will be posted on the application day. Also, a pdf scan of the original and a cover letter stating the original will be posted is included. Submission of an application will be taken to mean that the goods subject to the application have passed their physical inspection, and meet the importing country's plant health requirements.

Goods eligible for export

All fruit, vegetables and cut flowers can be exported under PHEATS.

This scheme only covers regulated goods for which a PC is required for import. Commodities that do not require a PC, and commodities that are prohibited in the importing country, are not within the scope of this scheme. PHEATS does not include the exports of:

- Plants for planting
- Plant products
- Seeds
- Grain

- Used machinery
- Wood and wood products
- Potatoes (seed and ware)

Further information

If you require further information about how PHEATS operates in England and Wales and plant exports generally, please see:

- [PHEATS Homepage](#)
- [PHEATS User Guide](#)
- [PHEATS FAQs](#)
- General information about the export of plant products can be found on [GOV.UK](#).

Consultation

Within Government

We have consulted internally with colleagues in Policy, Legal Services, and SASA to establish the processes, procedures and costs to provide the export certification services, and to seek their advice and comments on our proposals as they have developed.

Public Consultation

A public consultation will take place from **23 October 2023** and run until **15 December 2023**.

The consultation is specific to specialised businesses of the agricultural sector, specifically consisting of exporters of low-risk fruit, vegetables and cut flowers. They will be provided a with copy of the consultation paper and this partial 'Business and Regulatory Impact Assessment' (BRIA) for comment. The consultation will also be placed on Citizen Space and the SG website for wider awareness. In addition, businesses will be contacted directly about their views on joining this scheme.

Policy Options

To introduce PHEATS in Scotland:

Option 1. Introduction of PHEATS in Scotland

Introduce PHEATS in Scotland on the same terms and conditions as England and Wales. PHEATS is a voluntary trade facilitation scheme developed by DEFRA for exports of low-risk fruit, vegetables and cut flowers to the EU and NI that complies with internationally recognised rules. This scheme is a process which gives devolved authority to an AP(s) within an AB to conduct phytosanitary inspection(s). The actual issue of a PC remains with the SG plant health inspector. The business would be subject to audits to ensure they are complying with the phytosanitary requirements for inspections.

The likely costs associated with this scheme are as follows:

Fees outline

1) Initial authorisation and site visit

PHEATS activity	Fee	Charge unit
Initial authorisation and site visit	£302.00	Per authorised site

This fee covers the cost of the inspectors first visit, their full assessment of the inspection site and an audit of the PR and the AP(s) competency to inspect. The inspector would check that the inspection site is correctly set up by checking aspects like: the physical layout of the inspection point; ensuring the correct equipment is used; and an assessment of the holding area (amongst others).

PHEATS training is audited by an SG inspector shadowing a PR and AP(s). They must conduct an export inspection and do a short assessment.

2) Compliance audit

PHEATS activity	Fee	Charge unit
Compliance audit	£176.00	Per audit

The fee covers the cost of the inspector auditing and checking the inspection site and reviewing the inspection abilities of the AP(s). All audits and checks would be checked against criteria set out in the BCMP.

The PC fee below is for the time taken to complete and issue the PC by an SG inspector:

PHEATS activity	Fee	Charge unit
Issue and completion of a PC	£25.00	Per certificate

Businesses accepted onto PHEATS will receive regular audits of the inspection site by SG inspectors, to monitor conformity with the scheme and their BCMP. Every audit includes a requirement for one AP or the PR to demonstrate export, scheme and inspection knowledge at each audit. After acceptance on to the scheme, all AP(s) and the PR must be available for, and pass an audit assessment at least annually.

Refresher training will be provided by the SG every five years which must be completed by all AP(s) and the PR. It is a requirement of the BCMP that AP(s) and the PR maintain their knowledge of relevant pests and diseases and the countries' import requirements.

Sites will be audited weekly for the first month, fortnightly the following month and monthly thereafter. If non-conformities are identified, additional audits within this

frequency will be undertaken. Unannounced audits, or audits within the above frequency may also be undertaken by the SG. The table below details all the costs of the audits combined for year one:

PHEATS activity	Fee	Total cost	Charge unit
Initial authorisation and site visit	£302.00 x 1	£302.00	Per authorised site
All compliance audits	£176.00 x 16	£2,816	Per audit
Total cost of audits to an AB for year one		£3,118	

The table below details all the costs of the audits combined for any subsequent year at current fee rates:

PHEATS activity	Fee	Total cost	Charge unit
All compliance audits	£176.00 x 12	£2,112	Per audit
Total cost of audits to an AB for a subsequent year		£2,112	

Please note that an unannounced audit can take place at any time and the cost of an unannounced audit is still £176.00.

If moving goods solely to NI, no fees will apply for any audits, or for the issue of a PC. Currently, no charges for PCs are issued for goods sent to NI under the Movement Assistance Scheme.

You may also want to consider if the goods your business sends to NI are within scope of the NI Retail Movement Scheme. Further guidance is available at GOV.UK.

Goods sent to the Republic of Ireland through PHEATS will require a PC charged as normal because it is in the EU.

Option 2: Maintain the current exporting arrangements with the EU and NI

This option would allow businesses to continue with current arrangements, by applying official inspections and the issue of PCs to allow movement of all low-risk fruit, vegetables and cut flowers to be moved to the EU and NI.

You may also want to consider if the goods your business sends to NI are within scope of the NI Retail Movement Scheme. Further guidance is available at GOV.UK

Preferred Option

If Scottish businesses wish to use PHEATS, then Option 1 is preferred by the SG. This is because having all PHEATS members working from the same terms and

conditions allows for the seamless operation of the scheme through shared inspection practices and standard operating procedures, and does not compromise our international obligations. Also, the costs being introduced are expected to recover the full cost of this service, with no additional cost burdens being placed on businesses who do not use this service.

Sectors and groups affected

The only sector this partial BRIA concerns is the Scottish exporters of fruit, veg and cut flowers. No other sectors are involved or affected. The following groups are not affected because:

- Local Authorities have no role in the administration of PHEATS or inspection of the exported goods.
- UK consumers are not affected because PHEATS is a voluntary exports scheme.
- The regulator and administrator of PHEATS would be the SG's 'Horticulture and Marketing Unit' (HMU), and because PHEATS devolves phytosanitary inspection responsibility to PHEATS' members, this enables them to move goods on their timetable.
- It is for eligible businesses who export PHEATS' goods, to choose to join providing they undertake the appropriate training and audits.
- The SG is ensuring the scheme is available to such businesses.
- Third sector organisations will not be affected by PHEATS because it has nothing to do with this sector.

Costs and Benefits

Being a PHEATS member brings the benefits of:

- Choosing when you are able to undertake your own inspections.
- Choosing when you can move the consignment(s) after the PC has been issued helping with just-in-time logistics.
- Faster inspection times are possible when more than one AP inspects consignments which saves money and time.
- Removal of unnecessary paperwork for applying for PCs and inspections.

Exporting under PHEATS is a chargeable service, and as such, is subject to full cost recovery. However, these costs are kept to a minimum. The fees cover training, assessment, authorisation, auditing, on-going auditing and the issuance of a PC.

Indicative fees for joining the scheme are outlined in the 'Policy Options' section.

Scottish Firms Impact Test

The proposals for PHEATS impact all organisations which are involved in moving low-risk plant produce and cut flowers to the EU and NI. These businesses will be consulted on the effectiveness of the scheme through the written consultation and

interviews. The results of the business interviews and consultation will be published in this section after we have fully consulted all stakeholders.

Competition Assessment

There is not expected to be an overall negative impact on competition arising from joining PHEATS. This scheme has been in operational in England and Wales since 2021, by extending this membership to Scottish businesses, it provides more options for their business model.

UK Internal Market Act (2020) and Common Frameworks Impact Test

PHEATS has no impact on the UK Internal Market Act (2020), and its operation in Scotland has no impact on the Plant Health Common Framework.

EU Alignment Impact Test

No impact on alignment with EU law is expected because PHEATS complies with EU members states importing requirements. PHEATS members in England and Wales have been successfully exporting to EU countries since 2021. The SG's EU Alignment Team have no concerns with Scottish PHEATS' membership, re-accession or EU law alignment.

Fairer Scotland Duty

PHEATS does not interact with reducing socio-economic inequalities. Its focus is on moving low risk-goods more quickly, and has been implemented to address the increase in export demand. PHEATS is a trade facilitation policy, as opposed to one focussed on people, a group or a service. A Fairer Duty Scotland is not applicable to PHEATS because it is goods focussed, and it does not attempt to tackle socio-economic inequalities.

PHEATS does not fall under any public sector reform objective. The SG's decision to facilitate PHEATS and make it available to Scottish businesses has been taken as a result of Brexit, the impact on our inspection resources and on exporters of low-risk plant products. Overall, the SG's decision to join PHEATS is a standalone decision taken to offset the negative consequences of EU exit, as opposed to being part of a broader strategic decision.

Test run of business forms

There is a Part 4 Agreement and an Impartiality Agreement that have been added to the application form for Scottish PHEATS' members to sign. Both of these items contain mandatory requirements that PHEATS' members must conform to if they want to join the scheme. The application form has not been amended in any significant way except for the above additions, and so it is felt unnecessary to conduct a trial run.

International Trade and International Standards

The SG's 'World Trade Organisation' (WTO) Team were consulted and they have confirmed that Scottish membership of PHEATS does not require WTO notification, and it will have no impact or negative effect on international standards.

Legal Aid Impact Test

Having consulted with the Legal Aid Team, we do not anticipate that the contents of this partial BRIA will impact the Legal Aid Fund.

Equality Impact Assessment (EQIA)

PHEATS is a voluntary exports scheme, and its focus is on plants and plant products. It aims to protect the importing countries from pests and diseases by ensuring plants and plant products are free from them. It has been designed to align strictly with, and not go beyond the requirements of ISPM 45.

Because PHEATS' focus is on exporting plant goods, no EQIA is required for PHEATS. This is because no marginalised individuals or excluded groups with protected characteristics, and by extension their opportunities, will not be affected by PHEATS. Also, because PHEATS is an voluntary exports scheme, it does not seek to redress any social, political or economic outcomes.

Enforcement, sanctions and monitoring

PHEATS enforcement would be undertaken by the SG's HMU including the collection of statutory fees. HMU will monitor and audit PHEATS' PR and AB training and testing. They will also conduct AB inspection sites and inspection practices over a set period.

If there is sufficient interest from Scottish businesses to introduce PHEATS in Scotland, a process for dealing with critical and non-critical conformities (violations of PHEATS' requirements) will be developed and guidance will be provided to PHEATS' members.

Implementation and delivery plan

The Plant Health (Export Certification) (Scotland) Order 2018 will be altered using the powers derived from the Plant Health Act 1967 - Section 4A, to include fees for the initial site visit (training, assessment and authorisation), and the auditing/monitoring fee. The legislation does not have to be altered for the cost of issuing a PC since HMU inspectors, as the Competent Authority, are the only ones who can issue a PC.

Summary and recommendation

If Scottish businesses wish to use PHEATS, then the SG's intention is to introduce PHEATS in Scotland using the same terms and conditions as England and Wales.

Summary costs and benefits table

PHEATS is a chargeable service, which is set up to facilitate trade for low-risk plant products, and subject to certain criteria that will involve SG inspectors. By charging for these costs, the objective of this policy is to contribute to a full cost recovery regime for the plant health inspection services. The intended aim is to make more efficient use of public resources by transferring the cost of the service from the taxpayer to those who benefit directly from the service (i.e. exporters of PHEATS' goods).

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

Date:

Ms Slater

Minister for Green Skills, Circular Economy and Biodiversity

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