

EXECUTIVE COUNCIL

RESTRICTED

Title of Report: Regulations to Support Agricultural Fees
Paper No: 140/09
Date: 25 June 2009
Report of: Principal Crown Counsel

1.0 Purpose

The purpose of this paper is to seek Honourable Members' approval of the making by the Governor of the Customs (Import Prohibitions)(Fees) Regulations 2009.

2.0 Recommendations

Honourable Members are recommended to approve the making of the Customs (Import Prohibitions)(Fees) Regulations 2009.

3.0 Summary of Financial Implications

The financial implications set out in Executive Council Paper number 40/09 included the financial implications of the particular fees provided for in the attached regulations as part of the whole proposal to increase fees; separate figures for these fees alone are not available.

4.0 Background

4.1 Executive Council Paper 40/09 proposed a number of increases in fees charged by the Agriculture Department. Where possible, appropriate provision was included in the Finance Ordinance to reflect the fees, as approved by Members. However, as indicated in Executive Council paper number 107/09 (Finance Bill etc), it was apparent that some of the fees had never been properly regulated for in the usual way. Time constraints did not allow for the drafting of the necessary new regulations to enable consideration of them at the May meeting of Executive Council, but it was proposed that the necessary regulations be submitted for consideration in June.

4.2 The fees charged by the Department of Agriculture which had not previously been properly regulated are fees in connection with the importation of animals and animal products, the exportation of animals, and the exportation of animal products.

4.3 The attached regulations provide legislative authority for the charging of fees in connection with the importation of animals and animal products. The method used to

regulate the importation of animals and animal products has been to make proclamations under the Customs Ordinance, although the reason for the controlling provisions are largely the promotion and protection of animal health. The charging of fees for services provided by the Department of Agriculture under the Customs Ordinance is unusual, and ideally the controlling provisions will be re-assigned/re-drafted under more appropriate animal health legislation in the future.

4.4 The Agricultural department have clarified that the fees charged in connection with the export of animals (usually pets) relate to a non-statutory service provided by the department in connection with the exportation of animals to other countries. Because the service is an optional one offered to persons wishing to export their pets, and is non-statutory, the fees charged do not need the support of fees regulations.

4.5 Because of the complexities and out of date nature of the legislation supporting the issue of certificates in connection with animal products, it is not currently possible to regulate for the fees charged in connection with the issue of such certificates. More work will need to be done in the amendment of the principal legislation before this can occur. Such work has priority in accordance with the instructions of Members on legislative drafting priorities generally.

5.0 Financial Implications

The financial implications set out in Executive Council Paper number 40/09 included the financial implications of the particular fees provided for in the attached regulations as part of the whole proposal to increase fees; separate figures for these fees alone are not available.

6.0 Legal Implications

It is intended that the attached regulations, if approved by Honourable Members and made by the Governor, will be published before 1 July 2009 in order that the proposed commencement date can be met.

7.0 Human Resources Implications

None

SUBSIDIARY LEGISLATION

CUSTOMS

Customs (Import Prohibitions) (Fees) Regulations 2009

S.R & O. No. of 2009

Made: 2009

Published: 2009

Coming into force:1 July 2009

IN EXERCISE of my powers under section 162 of the Customs Ordinance (Title 26.1), I make the following regulations —

1. Title

These regulations are the Customs (Import Prohibitions)(Fees) Regulations 2009.

2. Commencement

These regulations come into force on 1 July 2009.

3. Fees

The fees below are payable in connection with the issue of licences by the Director of Agriculture under the following proclamations made under the Customs Ordinance in relation to the prohibition of imports —

(a) Importation of Animals etc Proclamation 2000 (No 2 of 2000):

(i) licence for importation of animal – standard (per animal)	£110.00
(ii) licence for importation of animal – poultry/exotic pet (per licence)	£55.00
(iii) licence for importation of animal – poultry/exotic pet (annual)	£110.00
(iv) inspection and treatment on arrival – first 15 minutes (per animal)	£22.00
(iv) inspection and treatment on arrival – per subsequent 15 minutes	£11.00
(v) clearance from port of arrival – Mare Harbour (per importer)	£99.00

(vi) clearance from port of arrival – Stanley (per importer)	£22.00
(vii) inspection following house quarantine (per animal)	£11.00

(b) Importation of Food and Animal Products from South America Proclamation 2001 (No 3 of 2001):

(i) licence for the importation of animal/animal product (commercial – single importation)	£13.20
(ii) licence for the importation of animal/animal product (commercial – annual)	£110.00
(iii) licence for the importation of animal/animal product (non commercial).	£3.30

Made

2009

A. E. Huckle,
Governor.

EXPLANATORY NOTE
(not forming part of the above regulations)

These regulations make new provision for fees in connection with the issue of licences required under various Customs Proclamations which prohibit the importation of animals and animal products.