

BUSINESS AND REGULATORY IMPACT ASSESSMENT

Title of Proposal

The Seed (Fees) (Scotland) Regulations 2011.

Purpose and intended effect

Background

Seed certification is a European Community requirement to ensure that farmers and growers receive seeds of a known minimum quality. This is achieved in Scotland through marketing regulations which ensure that seeds of the main agricultural and vegetable species can be marketed only after being examined and certified as meeting specified minimum EU standards and as being derived from crops which have also met specific EU standards. Scottish Government (Rural Payments and Inspections Directorate (RPID)) carries out technical and administrative work associated with seed certification.

Objective

Regulations to implement increases in statutory fees for seed testing, seed certification, and licensed activities in Scotland.

Rationale for Government Intervention

A fundamental principle of SG accounting procedure and practice is that fees and charges should be set for all statutory services and the financial objective of a statutory service should normally be full cost recovery with fees set accordingly. This work contributes to the SG purpose of sustainable economic growth by ensuring good quality seed will continue to be available to Scottish farmers and that SG resources are used efficiently, with appropriate costs being recovered from the industry wherever possible.

Consultation

Within Government

Internal consultation included Finance Policy Division, who were able to advise on the SG's cost recovery policy and the RPID, Science and Advice for Scottish Agriculture division (SASA), who advised on the activities required to deliver a Scottish seed certification scheme. The Scottish Government Legal Directorate provided legal advice and Communications Greener Team assisted with the consultation.

Public consultation

Partial - The consultation was undertaken in accordance with SG good practice and a 12 week consultation took place between February 25th and 22nd May 2011.

Although the principle of passing on the costs of administering our services to the users of such services is well established, the rationale for any proposed changes to fees must be explained fully to those affected and an opportunity provided to them to make representations against the proposed amendments. The seed sector in Scotland is relatively small and well understood to Government and to the final users, the farmers. Formal consultation is therefore fairly straightforward. A computerised database exists in ARD which allows relevant stakeholders to be easily identified but in addition the consultation papers were published on the Scottish website to ensure as wide coverage as possible.

Final - Topic which arose from the consultation are shown below;

1. Time required to introduce fees - The industry felt that they required time to introduce the changes, one in particular asking for three years.

Policy Decision - Stakeholders were notified of possible changes (new fees and increases to fees) in February when the consultation document was issued. The document contained very detailed information on the proposed increases and what it would mean to various types and sizes of businesses. As SG do not propose to bring these fees into force until 1st January 2012, SG consider that a period of 10 months is sufficient time to allow businesses to make appropriate changes.

In addition the straitened national economic situation requires full cost recovery, as does the principle of moving the tax burden from the general taxpayer to the industry necessitating supervision.

It should also be recognised that the reaction to the style and transparency of the proposed fee increases by seed industry bodies elsewhere in the U.K. was favourable.

The Scottish Government conclusion is that the proposed fee increases should be implemented in full.

Business

The list of consultees was extensive and widespread within the seeds industry and contact is made with industry on a regular basis. With current levels of personnel, the present budgetary position and the disproportionate cost of face to face consulting, consultation by letter and through the Scottish Government website was deemed to be the optimum level of consultation for a routine revision of fees.

Options

Options are set out for consideration below.

Option 1

Maintaining the status quo for seed certification, seed testing and licensed activities fees in Scotland;

Option 2

Increase all seed certification, seed testing and licensed activities fees to reflect cost increases (including 3.2% for inflation.) and introduce new fees for service provided by SG that were previously met by the Public Good. Thereby seeking to achieve full cost recovery.

Costs & Benefits

Sectors and Groups Affected

Those affected will be those entities involved in the production and marketing of cereal and non-cereal seeds and associated persons involved in the certification of seed produced. The main groups involved are the farmers who specialise in growing crops for “seed” i.e. “seed producers”. Seed merchants provide a vital link to the final users, the farmers who pay a premium price to buy and grow this guaranteed high quality seed to produce the crops.

Benefits

Option 1

Seed certification fees currently do not reflect actual costs and therefore they are currently being subsidised by the Scottish Government. This subsidisation reduces costs to applicants and if these cost savings are passed on to the users, they may result in cheaper seed costs to the farmers and growers who sow the seed for food and feed crops. However, this option does not provide transparency of costs within the certification process. A total compliance cost is not available, as SG does not collect financial data relating to production costs in the seed sector.

Option 2

The proposed increases in costs and introduction of new fees will ultimately benefit the efficiency of the process, allow market forces to operate and ensure transparency of costs. The full cost recovery proposed will help ensure that the users of the system rather than the taxpayer in general pay for the services being delivered. A total compliance cost is not available, as SG does not collect financial data relating to production costs in the seed sector.

Costs

Compliance costs for businesses, charities and voluntary organisations

The effect of the proposed changes to fees on small businesses will be proportional to their level of certification activity. As statutory fees represent only about 3% of the cost of the final stages of cleaning and bagging seed, the proposed increase to small seed merchants, will be representative of current cost and inflation increases. If the costs are passed on, an arable farmer would face an increase in the price per tonne for seed he purchases of between 0.14% - 1% which means that they would be paying between an additional 9 – 65 pence per hectare for the seed sown.

Of the 39 fees listed in Schedules 1 and 2, we propose that sixteen should not increase at all, four would increase by less than 10%, six would increase by between 10 and 20%, and six would increase by greater than 20%. There are eleven new fees proposed.

In addition seed testing fees charged by the Official Seed Testing Stations (OSTS) would all increase by 20%. Seeds testing fees form the majority of the fees and cover a wide range of different official examinations of seed.

The compliance costs covered by these Regulations relate to matters arising under The Seeds (Registration, Licensing and Enforcement) Scotland Regulations 2006 and to matters arising under the Marketing Regulations for cereal seeds, fodder plant seeds, oil and fibre plant seeds, beet seeds and vegetable seeds.

Seed traders will be directly affected but some element of the increase may be passed on to growers.

It is difficult to identify a ‘typical’ business in the seed sector as companies differ in terms of the crop species in which they deal, their overall size, and the activities in which they are engaged. Representative profiles for a large processor (A), a medium-large processor (B), a medium-small processor (C), a small seed processor (D) and a fodder mixture processor (E) are shown below.

There are 4 large seed processors in Scotland (A) who together account for 60% of the seed certified. The 3 Scottish medium-large sized processors (B) account for 22% of seed certified in Scotland whilst the 4 medium-small processors (C) account for 10% of Scottish certified seed. The 17 small seed processors (D) each handle relatively small (<1%) amounts of the seed certified in Scotland. There are a total of 11 fodder mixture companies (2 large, 5 medium and 4 small processors).

Company (number)	Recurrent Costs		+/- %
	Existing Rates – Option 1	Proposed Rates – Option 2	Option 2
A (4)	£24,573.60	£25,853.60	5.21%
B (3)	£19,845.70	£22,078.00	11.25%
C (4)	£5,581.65	£6,180.75	10.73%
D (17)	£2,282.80	£2,510.20	9.96%
E (11)	£351.00	£1,021.00	190.88%

A more detailed breakdown of these assumptions and statutory fee costs is attached at Appendix 1

The majority (17 out of 28) of the seed processing companies in Scotland are small and would face an increase in costs of around 9%. In contrast the percentage increase by fodder mixture companies is higher than for seed processors, this is because at present they do not pay a Higher Voluntary Standard (HVS) verification fee. This involves administration costs in checking and handling the paperwork involved with HVS verification (re-grading of seed to the Higher Voluntary Standard).

Total Compliance Cost

A total compliance cost is not available, as SG does not collect financial data relating to production costs in the seed sector; however the average cost of certification is £9.50 or approximately 2.5% of the estimated production cost. With the proposed increases, certification costs would rise on average to £10.90 per tonne of seed or approximately 3% of the cost, an increase overall of 0.5%. A tonne of cereal seed costs a farmer between £380 & £400, thus depending on the throughput of the processor, the rise per tonne of seed would range between about £0.50 and £2.50 (an increase of between 0.15% and 1%).

Since cereals are typically sown at about 160 – 180 kg per hectare, the proposed increase in certification fees would result in an increased seed cost to the farmer of between £0.10 and £0.64 per hectare sown.

Thus we estimate that the proposed increases should have a minimum effect on overall costs in this sector.

Other costs

There will be no additional costs to citizens, the environment or Government. Costs to Government and hence the taxpayer should decrease if full cost recovery is achieved.

Scottish Firms Impact Test

The list of consultees is extensive and widespread within the seeds industry and contact is established on a regular basis. With current levels of personnel, the present budgetary position and the disproportionate cost of face to face consulting, consultation by letter and through the Scottish Government website is deemed to be the optimum level of consultation for a routine revision of fees.

Competition Assessment

The Competition Filter has been applied and the conclusion is that there is no significant risk of impact from competition. (See Appendix 2) A detailed assessment has therefore not been prepared but in summary:

- the relevant markets and products which might be affected by the policy, is the long-established Scottish Seeds Industry;
- the policy proposal is an increase to certain fees and introduction of new fees. This will not either directly or indirectly limit the number or range of suppliers. The majority of companies in Scotland's seed industry can be classified as being Small/Micro Businesses; where only five or less are employed. Many of these

companies employ seasonal part-time staff and most are parts of a bigger agricultural supply organisation;

- the proposal will not raise costs to smaller entrants relative to larger existing suppliers except in that a higher throughput will allow of economies of scale?
- the proposal will not limit the ability of suppliers to compete e.g. by reducing the channels suppliers can use or geographic area they can operate in;
- the proposal will not affect suppliers' incentives to compete vigorously

“Test Run” of Business Forms

Seed Certification is a long established procedure and the associated forms are regularly reviewed. The change in fees does not involve any changes to forms and a test run of business forms is not therefore required.

Legal Aid Impact Test

This Directive does not introduce new criminal sanctions or civil penalties; therefore there are no implications for legal aid. It was decided that consulting the Access to Justice team was not required

Enforcement, sanctions and monitoring

SG RPID (SASA) carries out the collection of fees for seed certification and seed testing in Scotland. The income levels and fee rates are monitored and reviewed annually.

If a company fails to pay seed certification fees, the seed will not be certified and therefore the vendor will not be able to market the seed.

Implementation and delivery plan

The implementation of these Regulations does not represent a change of policy
The SSI will be laid before the Scottish Parliament on 24 November 2011 with a coming in to force date of 1 January 2012.

Summary and recommendation

This Regulatory Impact Assessment estimates the average cost of changes to fees to a range of businesses involved with the seed industry is acceptable.

The Scottish Statutory Instrument (SSI) will revoke and replace the existing statutory instruments for seed fees.

Option 2 will achieve full cost recovery of statutory fees charged for services relating to seed certification and associated licensed activities.

In view of the above, it is recommended that the Seed Fees (Scotland) Regulations 2011 is introduced to Scottish law.

Declaration

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Mr Richard Lochhead

Cabinet Secretary for Rural Affairs and the Environment, Scottish Government

22 November 2011

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Appendix 1 - PROFILE OF SEED MERCHANTS IN SCOTLAND

Merchant A - The representative data used below makes the following assumptions

Throughput 50 Hectares of Pre-Basic(PB) Crops entered for Certification
 80 Hectares of 1st Generation(C1) Crops entered for Certification – licensed inspection
 20 Hectares of 1st Generation Crops entered for Certification – official inspection
 850 Hectares of 2nd Generation(C2) Crops entered for Certification – licensed inspection
 150 Hectares of 2nd Generation Crops entered for Certification – official inspection
 100 Hectares of 2nd Generation Fodder(Field Bean) entered for Certification – official inspection
 280 2nd Generation Cereal Seed Lots entered for Certification
 20 Multiplication (Pre-Basic, Basic, 1st Generation) Cereal Seed Lots entered for Certification
 12 x 2nd Generation Fodder(Field Bean) Seed Lots entered for Certification
 The merchant also has a Licensed Seed Testing Station(LSTS) attached to it – testing 312 Samples

Using the assumptions above, the existing statutory Fees and the proposed new Fees give the following costs

	Existing Rates – Option 1	Cost	Proposed Rates – Option 2	Cost
Cereal – Crop Fees				
PB Initial Fee	50 ha x £29.60	£1480	50 ha x £29.60	£1480
PB Inspection Fee	50 ha x £14.25	£712.50	50 ha x £16.30	£815
C1 Initial Fee	80 ha x £4.25	£340	80 ha x £4.25	£340
C1 Inspection Fee	20 ha x £14.25	£285	20 ha x £16.30	£326
C2 Initial Fee	1000 ha x £4.25	£4250	1000 ha x £4.25	£4250
C2 Inspection Fee	150 ha x £14.25	£2137.50	150 ha x £16.30	£2445
Cereal – Seed Lot Fees				
C2	280 x £30.55	£8554	280 x £30.55	£8554
PB/B/C1	20 x £73	£1460	20 x £73	£1460
Cereal Total		£19219		£19670
Fodder – Crop Fees				
C2 Initial Fee	100 ha x £4.25	£425	100 ha x £4.25	£425
C2 Inspection Fee	100 ha x £14.25	£1425	100 ha x £16.30	£1630
Fodder – Seed Lot Fees				
C2	12 x £30.55	£366.60	12 x £30.55	£366.60
Fodder Total		£2216.60		£2421.60
LSTS Fees				
LSTS Throughput	312 x £5.25	£1638	312 x £7.25	£2262
LSTS License	1 x £1500	£1500	1 x £1500	£1500
LSTS Total		£3138		£3762
Total Cost Of Statutory Fees		£24573.60		£25853.60

Merchant B - The representative data used below makes the following assumptions

Throughput 30 Hectares of 1st Generation Cereal Crops entered for Certification – licensed inspection
 20 Hectares of 1st Generation Cereal Crops entered for Certification – official inspection
 500 Hectares of 2nd Generation Cereal Crops entered for Certification – licensed inspection
 150 Hectares of 2nd Generation Cereal Crops entered for Certification – official inspection
 80 Hectares of 2nd Generation Fodder(Field Bean) entered for Certification – official inspection.
 130 2nd Generation Cereal Seed Lots entered for Certification
 10 Multiplication (1st Generation) Cereal Seed Lots entered for Certification
 10 2nd Generation Fodder(Field Bean) Seed Lots entered for Certification
 11 Cereal - EC Certification Test - 100 Seed STZ Test ^{\$}
 1 Cereal - EC Certification Test - 200 Seed STZ Test ^{\$}
 2 Cereal - EC Certification Test - Germination Test ^{\$}
 102 Cereal - HVS Certification Test - 100 Seed STZ Test ^{\$}
 9 Cereal - HVS Certification Test - 200 Seed STZ Test ^{\$}
 2 Cereal - HVS Certification Test - 400 Seed STZ Test ^{\$}
 13 Cereal - HVS Certification Test - Germination Test ^{\$}
 10 C2 Field Bean Seed Test ^{\$}

^{\$} Costs are based on the charges levied by the Official Seed Testing Station for Scotland

Using the assumptions above, the existing statutory Fees and the proposed new Fees give the following costs

	Existing Rates – Option 1	Cost	Proposed Rates – Option 2	Cost
Cereal – Crop Fees				
C1 Initial Fee	50 ha x £4.25	£212.50	50 ha x £4.25	£212.50
C1 Inspection Fee	20 ha x £14.25	£285	20 ha x £16.30	£326
C2 Initial Fee	500 ha x £4.25	£2125	500 ha x £4.25	£2125
C2 Inspection Fee	150 ha x £14.25	£2137.50	150 ha x £16.30	£2445
Cereal – Seed Lot Fees				
C2	130 x £30.55	£3971.50	130 x £30.55	£3971.50
PB/B/C1	10 x £73	£730	10 x £73	£730
Cereal Total		£9461.50		£9810
Fodder – Crop Fees				
C2 Initial Fee	80 ha x £4.25	£340	80 ha x £4.25	£340
C2 Inspection Fee	80 ha x £14.25	£1140	80 ha x £16.30	£1304
Fodder – Seed Lot Fees				
C2	10 x £30.55	£305.50	10 x £30.55	£305.50
Fodder Total		£1785.50		£1949.50
Seed Testing Fees				
Cereal – EC 100 Seed STZ	11 x £46.50	£511.50	11 x £ 55.80	£613.80
Cereal – EC 200 Seed STZ	1 x £60.20	£60.20	1 x £72.20	£72.20
Cereal – EC Germination	2 x £45.80	£91.60	2 x £54.90	£109.80
Cereal – HVS 100 Seed STZ	102 x £57.50	£5865	102 x £69	£7038
Cereal – HVS 200 Seed STZ	9 x £73.40	£660.60	9 x £88.10	£792.90
Cereal – HVS 400 Seed STZ	2 x £107.20	£214.40	2 x £128.60	£257.20
Cereal – HVS Germination	13 x £56.80	£738.40	13 x £68.20	£886.60
Fodder – C2 Field Bean Seed	10 x £45.70	£457	10 x £54.80	£548
Seed Testing Total		£8598.70		£10318.50
Total Cost Of Statutory Fees		£19845.70		£22078.00

Merchant C - The representative data used below makes the following assumptions

Throughput 15 Hectares of 1st Generation Cereal Crops entered for Certification – licensed inspection
 200 Hectares of 2nd Generation Cereal Crops entered for Certification – licensed inspection
 50 2nd Generation Cereal Seed Lots entered for Certification
 2 Multiplication (1st Generation) Cereal Seed Lots entered for Certification
 4 Cereal - EC Certification Test - 100 Seed STZ Test [§]
 1 Cereal - EC Certification Test - Germination Test [§]
 38 Cereal - HVS Certification Test - 100 Seed STZ Test [§]
 4 Cereal - HVS Certification Test - 200 Seed STZ Test [§]
 5 Cereal - HVS Certification Test - Germination Test [§]

[§] Costs are based on the charges levied by the Official Seed Testing Station for Scotland

Using the assumptions above, the existing statutory Fees and the proposed new Fees give the following costs

	Existing Rates – Option 1	Cost	Proposed Rates – Option 2	Cost
Cereal – Crop Fees				
C1 Initial Fee	15 ha x £4.25	£63.75	15 ha x £4.25	£63.75
C2 Initial Fee	200 ha x £4.25	£850	200 ha x £4.25	£850
Cereal – Seed Lot Fees				
C2	50 x £30.55	£1527.50	50 x £30.55	£1527.50
PB/B/C1	2 x £73	£146	2 x £73	£146
Cereal Total		£ 2587.25		£ 2587.25
Seed Testing Fees				
Cereal – EC 100 Seed STZ	4 x £46.50	£186	4 x £55.80	£223.20
Cereal – EC Germination	1 x £45.80	£45.80	1 x £54.90	£54.90
Cereal – HVS 100 Seed STZ	38 x £57.50	£2185	38 x £69	£2622
Cereal – HVS 200 Seed STZ	4 x £73.40	£293.60	4 x £88.10	£352.40
Cereal – HVS Germination	5 x £56.80	£284	5 x £68.20	£341
Seed Testing Total		£2994.40		£3593.50
Total Cost Of Statutory Fees		£5581.65		£6180.75

Merchant D - The representative data used below makes the following assumptions

Throughput 50 Hectares of 2nd Generation Cereal Crops entered for Certification – official inspection
 10 2nd Generation Cereal Seed Lots entered for Certification
 10 Official Seed Sampling Fees
 1 Cereal - EC Certification Test - 100 Seed STZ Test [§]
 8 Cereal - HVS Certification Test - 100 Seed STZ Test [§]
 1 Cereal - HVS Certification Test - Germination Test [§]

[§] Costs are based on the charges levied by the Official Seed Testing Station for Scotland

Using the assumptions above, the existing statutory Fees and the proposed new Fees give the following costs

	Existing Rates – Option 1	Cost	Proposed Rates – Option 2	Cost
Cereal – Crop Fees				
C2 Initial Fee	50 ha x £4.25	£212.50	50 ha x £4.25	£212.50
C2 Inspection Fee	50 ha x £14.25	£712.50	50 ha x £16.30	£815
Cereal – Seed Lot Fees				
C2	10 x £30.55	£305.50	10 x £30.55	£305.50
Cereal – Seed sampling	10 x £48.90	£489	10 x £50.12	£501.20
Cereal Total		£1719.50		£1834.20
Seed Testing Fees				
Cereal – EC 100 Seed STZ	1 x £46.50	£46.50	1 x £55.80	£55.80
Cereal – HVS 100 Seed STZ	8 x £57.50	£460	8 x £69	£552
Cereal – HVS Germination	1 x £56.80	£56.80	1 x £68.20	£68.20
Seed Testing Total		£563.30		£676
Total Cost Of Statutory Fees		£2282.80		£2510.20

Merchant E - The representative data used below makes the following assumptions

Throughput 100 Fodder Seed Lots for HVS Verification
 2500 Mixture Seed Lots produced
 10 Samples entered for Fodder HVS Verification Tests [§]

[§] Costs are based on the charges levied by the Official Seed Testing Station for Scotland

Using the assumptions above, the existing statutory Fees and the proposed new Fees give the following costs

	Existing Rates – Option 1	Cost	Proposed Rates – Option 2	Cost
Fodder – Seed Lot Fees				
HVS Verification	100 x £0	£0	100 x £6	£600
Fodder Total		£0		£600
Seed Testing Fees				
HVS Verification	10 x £35.10	£351	10 x £42.10	£421
Seed Testing Total				£421
Total Cost Of Statutory Fees		£351		£1021

Appendix 2

COMPETITION FILTER TEST QUESTIONS

Question	Answer Yes/No
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	Yes
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No
Q4: Would the costs of the regulation affect some firms substantially more than others?	Yes
Q5: Is the regulation likely to affect the market structure, changing the number or size of firms?	No
Q6: Would the regulation lead to higher set-up costs for new or potential firms that existing firms do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential firms that existing firms do not have to meet?	No
Q8: Is the sector characterised by rapid technological change?	No
Q9: Would the regulation restrict the ability of firms to choose the price, quality, range or location of their products?	No