

# Business Regulatory Impact Assessment

## **Title of Proposal**

The Seed (Fees) (Scotland) Amendment Regulations 2023

## **Purpose and intended effect**

### **Background**

Agricultural seed is regulated under a series of regulations (collectively, the “Seed Marketing Regulations”) which originally derive from EU Directives on the marketing of seed. The Seed Marketing Regulations specify the requirements which seed marketed for commercial purposes must meet in order to provide high standard multiplication seed. This ensures that seed sold to and grown by Scottish farmers is of a high quality.

### **Objective**

Within the Scottish Government, SASA are responsible for carrying out the technical and administrative work associated with seed certification. SASA are the Seed Certification Authority for Scotland. Updating the Fees charged by SASA enables the Scottish Government to realise its policy of achieving full cost recovery for all the services it provides to the seed industry.

### **Rationale for Government intervention**

A recent review of the fees for seed certification, seed testing and other seed services recognised that amendments to certain fees are required to cover costs that will be incurred by SASA in the 2023-2024 certification cycle, avoiding any under (or over) recovery.

This work contributes to the objective of creating a high quality, efficient public service to encourage trade with other countries and help Scotland’s agriculture and horticulture industries achieve responsible and sustainable future growth. It also ensures that the costs of public services are met by those who benefit directly and the cost to Government is neutral.

## **Consultation**

### **Within Government**

Scottish Government’s policy team have consulted with the Seed Certifying Authority and the Official Seed Testing Station for Scotland (OSTS), who have provided the information contained within this Business and Regulatory Impact Assessment (BRIA). Figures were calculated using historical data and an inflation rate from March 2022 (4.5%). Inflation has since risen to double figures and costs have increased in line with this.

# Business Regulatory Impact Assessment

An increase of 5% for seed certification and 7% for seed testing and associated licensed activities fees has been identified, in an effort to seek full cost recovery in 2023-2024, whilst acknowledging the increase to other aspects of seed production.

## Public Consultation

In line with Scottish Government consultation procedures, a 8 week public consultation took place, beginning on the 10 March. The consultation documents were sent electronically to users of the services, Key Stakeholders and all interested parties registered with Scottish Government (53 businesses / individuals). An electronic copy was also placed on the SASA website. The consultation closed on 5 May, with one response received from HIS Ltd. (a grass seed company in Inverness) which stated, “as a retailer of grass seed, all seems fine and balanced , given current economic conditions.”

## Business

The Consultation is specific to a specialised area of the agricultural sector mainly consisting of Professional Seed Operators, Licensed Crop Inspectors, Licenced Seed Samplers and Licensed Seed Testing Stations. Some of these were contacted directly and asked to take part by way of BRIA interviews. We have been unable to conduct any interviews due to not receiving any responses.

Consultation documents were placed on the SASA website, including example costs for certifying seed under the proposed new values.

## Fee Structure Options

To meet the stated aim of introducing a full cost recovery for seed certification, seed testing and associated functions, we have considered the following options:

### **1. Increase fees for seed certification by 5% and fees for seed testing and associated licensed activities by 7%, in line with CPI**

These increases recognise the additional costs brought about by the high CPI throughout the second half of 2022 and into 2023 while balancing the desire to limit increases in cost to industry.

### **2. Increase fees at a lower rate of 5%**

This is in recognition of both the high value for CPI and the increases faced in other aspects of business e.g. rising energy costs but would risk further under recovery in seed testing particularly in 2023-24 potentially leading to a requirement for higher increases in 2024-25.

## Preferred Option

Option 1 is preferred by the Scottish Government. Based on the information provided by SASA, these are the increases that would be required to ensure full cost recovery for both

# Business Regulatory Impact Assessment

seed certification and seed testing. Figures were calculated using historical data and an inflation rate from March 2022 (4.5%). Inflation has since risen to double figures and costs have increased in line with this. Incorporating these increases, the cost of certifying a tonne of barley seed, for example, would be roughly £20.60 (figure provided by SASA, factoring in average tonnes per hectare for the past harvest). To set that into context, barley (for seed) is currently retailing at an average of £575 per tonne (information sourced from seed merchants). This option would put certification and testing fees at approximately 3.6% of that overall cost, compared to 3.5% currently.

## Sectors and groups affected

- Professional Seed Operators;
  - Seed Merchants
  - Seed Processors
  - Seed Packers
- Licensed Seed Testing Stations (LSTS)
- Licensed Seed Samplers
- Licensed Crop inspectors
- Farmers

Using the cost information provided by the Seed Certifying Authority, an example of a 30 tonne seed lot of cereals is provided in **Annex A** at the end of the document.

## Timing of New Fees

The Scottish Government will implement the revised fees on 1 July 2023.

## Regulatory and EU Alignment Impacts

### Intra UK Impacts

There are no intra-UK impacts anticipated. The National Authorities within the UK set their own fees in line with their separate pieces of legislation. The Plant Varieties and Seeds policy area is covered by a Common Framework; within this framework it is agreed that authorities are able to conduct reviews of their fees at regular intervals.

### International Trade

There are no impacts on international trade anticipated. The fees review relates largely to the certification and testing of domestic seed. There are fees associated with export, however, the increases are not anticipated to introduce any barriers. The Scottish seed market is largely a domestic market, with some seed being sold to Northern Ireland and England; there is minimal international trade.

# Business Regulatory Impact Assessment

## **EU Alignment**

There are no impacts to EU alignment anticipated. All certifying authorities, including in the EU, have the ability to assess and set their own fees. The primary consideration for EU alignment in the seeds area is the standards any seed must meet in order to be marketed. The amendments seek only to change fees, they are not seeking to amend any standards and therefore remain aligned with the EU.

## **Scottish Firms Impact Test**

A selection of private and corporately owned businesses of varying size and functions were selected randomly from across Scotland to take part in BRIA interviews. These businesses were contacted and invited to interview, but none wished to participate/no responses were received. Therefore, it was not possible to conduct any interviews for the purposes of the BRIA.

## **Competition Assessment**

No impact on competition.

## **Test run of business forms**

No new forms for business to fill in will be introduced as a result of these proposals.

## **Legal Aid Impact Test**

We do not anticipate that the contents of this BRIA will impact the Legal Aid Fund.

## **Enforcement, sanctions and monitoring**

The Scottish Government Accounting System (SEAS) team, the Seed Certifying Authority & the OSTs Scotland all work together to ensure that invoices are issued timeously. The normal action for non-paid invoices is used by the SEAS team for any statutory services not paid for by an individual or company after the time allotted.

Non-compliance results in companies or individuals being put on a client blacklist. Failure to pay for a service means no further work is carried out by the Certifying Authority or by the OSTs Scotland.

## **Implementation and delivery plan**

## **Business Regulatory Impact Assessment**

Any increase will be implemented by way of The Seed (Fees) (Scotland) Amendment Regulations 2023. Section 24(4) of the Plant Varieties and Seeds Act 1964, which provides Ministers with powers to authorise the Official Seed Testing Station for Scotland to charge for services it provides.

An increase of 5% for seed certification and 7% for seed testing fees will apply. This will come into force on 1 July 2023.

### **Post-implementation review**

Scottish Ministers have given their assurance to the Rural Affairs, Islands and Natural Environment Committee that the statutory fees charged for seed testing, seed certification, and associated licensed activities should be reviewed on an annual basis.

### **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: MAIRI GOUGEON**

**Date: 18 May 2023**

**Ms Gougeon**

**Cabinet Secretary for Rural Affairs, Land Reform and Islands**

## Business Regulatory Impact Assessment

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## Business Regulatory Impact Assessment

ANNEX A – Partial Business and Regulatory Impact Assessment (FINAL)

### CEREAL (SPRING BARLEY) ONLINE APPLICATION: EXAMPLE OF FINAL GENERATION

Statutory Function	Current Fee	Cost per tonne of Seed (assuming 30 tonne lot and a seed yield of 6.5 tonnes per ha)	+ 5% for inspection and 7% for seed testing fees	Cost per tonne of Seed (assuming 30 tonne lot and a seed yield of 6.5 tonnes per ha)
<b>Initial Fees</b>	£4.06 per Hectare	£0.62	£4.26 per Hectare	£0.66
<b>Crop Inspection Fee</b>	£22.44 per Hectare	£3.45	£21.32 per Hectare	£3.63
<b>Seed Lot Fee</b>	£33.04 per seed lot	£1.10	£31.38 per seed lot	£1.16
<b>Sampling Fee</b>	£59.81 per seed lot	£1.99	£56.78 per seed lot	£2.09
<b>Seed Testing – HVS test, 100 Seed STZ</b>	£85.10	£2.84	£91.06	£3.04
<b>Total cost of fees payable for Certification as included in the fees regulations</b>		£ 10.00		£10.58
Labels £*		£1.00		£1.00
Seals £*		£1.00		£1.00
Bags		£8.00		£8.00
<b>Total cost for Certification</b>		<b>£20.00</b>		<b>£20.58</b>

\* labels, seals and bags are not part of the consultation process, but are shown to give an indication of overall costs