

## **POLICY NOTE**

### **THE SEED (FEES) (SCOTLAND) AMENDMENT REGULATIONS 2023**

**S.S.I. 2023/151**

#### **Introduction**

1. The above instrument (“the SSI”) is made by Scottish Ministers in exercise of the powers conferred by sections 16(1), (1A), 3(i) and 36 of the Plant Varieties and Seeds Act 1964 (“the Act”) and all other powers enabling them to do so. The SSI is subject to negative procedure.

#### **PURPOSE OF THE INSTRUMENT**

The purpose of the SSI is to update the fees charged for seed certification, seed testing and associated licensed activities by amending the relevant provisions of the Seed (Fees) (Scotland) Regulations 2018.

#### **Policy objectives**

2. This SSI will update the provisions for the charging for seed certification (in relation to seed marketing) and associated licensed activities by substituting new schedules 1 and 2 of the Seeds (Fees) (Scotland) Regulations 2018 (“the 2018 Regulations”).
3. The 2018 Regulations prescribe fees in respect of matters arising under the various regulations, known collectively as the “Marketing Regulations”, namely:
  - The Vegetable Seeds Regulations 1993 (S.I. 1993/2008),
  - The Oil and Fibre Plant Seed (Scotland) Regulations 2004 (S.S.I. 2004/317),
  - The Cereal Seed (Scotland) Regulations 2005 (S.S.I. 2005/328),
  - The Fodder Plant Seed (Scotland) Regulations 2005 (S.S.I. 2005/329),
  - The Beet Seed (Scotland) (No 2) Regulations 2010 (S.S.I. 2010/148), and
  - The Seeds (Licensing and Enforcement etc.) (Scotland) Regulations 2016 (S.S.I. 2016/68)(all as amended).
4. Seed certification is carried out to ensure that farmers and growers receive seeds of a known minimum quality. These standards remain aligned with the EU. This is achieved in Scotland through the 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 standards and as being derived from crops which have also met specific

standards. The Scottish Government carries out technical and administrative work associated with seed certification.

5. The annual review of costs and services by Scottish Government allows the Seed Certifying Authority to check that full cost recovery is achieved (with no over recovery) whilst still providing a robust system, where functions and costs are transparent to all.
6. The 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).
7. Noting the uncertainty and variation to costs due to inflation, but also taking into account the need to increase fees to avoid a more significant cost increase in future reviews, consideration was given to increasing fees by the rate of CPI, which is an accustomed practice. 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.
8. Fees prescribed in schedule 1 of the 2018 Regulations will be subject to a 5% increase. These fees relate to the various functions undertaken to allow the species, variety and standard of seed to be checked through various processes, including seed sampling and crop inspections.
9. Fees prescribed in schedule 2 of the 2018 Regulations will be subject to a 7% increase. These fees relate to representations and hearings, Licensed Seed Testing Stations, and courses and examinations.

### **Consultation**

10. Section 16(1) of the Act requires Scottish Ministers to consult with representatives of such interests as appear to them to be concerned before making regulations under that power. All customers of the seed certification system in Scotland and / or OSTs were sent an email or a letter providing them the link to the consultation on changes to the fees. The consultation was also placed on the SASA website. ([2023 - Consultation on Fees for Seed Testing, Seed Certification, and Associated Seed Functions | SASA \(Science & Advice for Scottish Agriculture\)](#))
11. The consultation ran for an eight week period and was targeted at over 50 individuals. The full consultation document was also shared with key stakeholders (the National Farmers Union Scotland (“the NFUS”), AIC Scotland and Scottish Seed Trade Association). One response was received within the consultation period from HIS Ltd. (a grass seed company in Inverness) which stated, “as we are a retailer of grass seed, all seems fine and balanced, given current economic conditions.”

### **Financial Impact**

12. In addition to the consultation, a Business Regulatory Impact Assessment (“BRIA”) was undertaken to determine the extent of the financial effects of the proposed changes. Several businesses across Scotland were invited to take part in BRIA interviews, but none wished to participate. Therefore, it was not possible to conduct any interviews. Accordingly, the

BRIA considers the impact on businesses based on the information that was available to the Scottish Government.

**Timing**

13. The SSI comes into force on 01 July 2023.

Scottish Government

Agriculture and Rural Economy Directorate

SASA, Agriculture Division

May 2023