

Business Regulatory Impact Assessment

Title of Proposal

The Seed (Fees) (Scotland) Amendment Regulations 2024

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 2024-2025 certification cycle, with the aim of avoiding 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

The 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).

Service fee adjustments were calculated using historical data and [UK GDP deflator](#) figures from September 2023.

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Fees prescribed in schedule 1 of the 2018 Regulations which cover the testing and checking of seed lots being grown that season will be subject to a 6.68% increase. The exception is the fee for a crop inspection. Due to an under allocation of costs in this service area this fee requires to be increased by 55%.

The main cause of the under estimate of costs in previous years was an error that resulted in Official Inspections being costed on the basis of one inspector rather than two. When an official inspection is undertaken there are two inspectors involved.

This would push inspection costs in Scotland up from £23.56/ha or part thereof to £36.52 /ha. Comparing favourably with charges in England and Wales where the fee for engaging an official inspector is £93.70/ha inclusive of crop entry fees.

Fees prescribed in schedule 2 of the 2018 Regulations will also be subject to a 6.68% increase. These fees relate to the training and examination of licensed individuals who undertake number of statutory function required to certify seed, as well a supervisory fee paid by licensed seed testing stations for an annual inspection as well as any support and / or guidance required from the Official Seed Testing Station for Scotland throughout the year.

Public Consultation

The consultation ran for an eight week period and was targeted at over 30 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 Alexander Harley Seeds Ltd (seed production specialists) which supported out proposed fee increase option.

Due to a minor error that affected the calculation of fees in the first consultation document, a supplementary consultation was issued which ran for a further 6 weeks. No further responses were received.

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

Business

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.

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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:

Option 1: Increase all fees at a flat rate of 5%

- This option would increase fees for all seed certification, seed testing & associated seed functions by 5%.
- Given the known increase in costs this would risk further under recovery in seed testing particularly in 2024-25. This may result in public funds being used to subsidise business costs which goes against Scottish Government policy.

Option 2: Bespoke fee increases to meet full cost recovery

- Propose a rate increase of 6.68% (in line with [UK GDP deflator](#) figures from Sep 2023) across the majority of services, the exception being crop inspection costs, which are required to increase by 55% due to an error in allocation of costs in this service area. The main cause of the under estimate of costs in previous years was an error that resulted in Official Inspections being costed on the basis of one inspector rather than two. When an official inspection is undertaken there are two inspectors involved, one senior and one junior. However, even at this level of increase, inspection costs are still considerably below those charged in the rest of the UK.
- This would push inspection costs in Scotland up from £23.65/ha or part thereof to £36.52 /ha. Comparing favourably with charges in England and Wales where the fee for engaging an official inspector is £93.70/ha inclusive of crop entry fees.
- Based on the information provided by SASA, these increases would be required to ensure full cost recovery.

Preferred Option

Option 2 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 seed certification and seed testing.

Implementation of the recommended fee increases as detailed in Annex A would result in projected income of £187,764.34 assuming similar seed lot and crop

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activity to 2022-2023, against costs this year of £184,406.68. This would mean a projected over recovery of 1.8 % which is well within accepted limits.

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

Timing of New Fees

The Scottish Government will implement the revised fees on 01/07/2024.

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.

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

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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

Any increase will be implemented by way of the Seed (Fees) (Scotland) Amendment Regulations 2024. Section 24(4) of the Plant Varieties and Seeds Act 1964 provides Ministers with powers to authorise the Official Seed Testing Station for Scotland to charge for services it provides.

A fee increase of 6.68% across the majority of services and a 55% increase in crop inspection costs will come into force on 01/07/2024.

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.

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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: Jim Fairlie

Date: 15 May 2024

Mr Fairlie

Minister for Agriculture and Connectivity

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FEES FOR MATTERS RELATING TO THE SEED MARKETING REGULATIONS - SCHEDULE 1

		Option 1	Option 2
A) INITIAL FEES	Current Fee (£)	+ 5%	+ 6.68%
(i) Initial fee per hectare or part thereof for crops intended to produce			
(a) Pre-Basic Seed or Basic Seed			
Online applications	29.56	31.04	31.53
Other applications	34.34	36.06	36.63
(b) Certified Seed, Certified Seed of the First Generation, Certified Seed of the Second Generation or Certified Seed of the Third Generation			
Online applications	4.26	4.47	4.54
Other applications	4.94	5.19	5.27
(ii) Reduced initial fee per hectare or part thereof for applications referred to in sub-paragraph (i)(a) or (b) which are withdrawn before arrangements have been made for the purposes of an official examination.	3.19	3.35	3.40
(iii) Late application fee per crop payable in addition to initial fee under sub-paragraph (i)(a) or (b) where the application is not made by the date for enabling arrangements to be made for an official examination of a crop grown to produce seed of a species to which any instrument comprising the Seed Marketing Regulations applies.	33.65	35.33	35.90

		+ 5%	+ 55%
B) CROP INSPECTION FEES	Current Fee (£)		
(i) Fee for the official examination of crops other than a hybrid of swede rape intended to produce Pre-basic Seed, Basic Seed, Certified Seed, Certified Seed of the First Generation, Certified Seed of the Second Generation or Certified Seed of the Third Generation, per hectare or part thereof examined.	23.56	24.74	36.52
(ii) Fee for the official field inspection of a hybrid of swede rape, per hectare or part thereof examined.	70.68	74.21	109.55
(iii) Fee for the further official examination of crops intended to produce Pre-basic Seed, Basic Seed, Certified Seed, Certified Seed of the First Generation, Certified Seed of the Second Generation or Certified Seed of the Third Generation, per hectare or part thereof examined, except:			
(a) further official examination of crops for wild oats, per hectare or part thereof examined	10.85	11.39	16.82
(b) further official examination of crops in respect of isolation distance, per hectare or part thereof examined	4.25	4.46	6.59

(c) further official examination of crops which have been lodged, per hectare or part thereof examined	9.58	10.06	14.85
(iv) Fee for the authentication of seed lot sown (where this has not been carried out at crop inspection), per crop	9.58	10.06	14.85
(v) Fee for the official examination of crops where there has been an official post control the results of which have been unsatisfactory, per hectare or part thereof examined	23.56	24.74	36.52
(vi) Fee payable in addition to fee under sub-paragraphs (i) to (v) where arrangements have been made for an official examination to be carried out by a licensed crop inspector and the applicant subsequently requests that the examination be carried out instead by the Scottish Ministers	33.65	35.33	52.16

C) SEED LOT FEES	Current Fee (£)	+ 5%	+ 6.68%
<i>Fee for issuing an official certificate or a breeder's confirmation (other than in the circumstances described under paragraph D) in respect of a seed lot certifying the seed to be:</i>			
(i) of a multiplication category			
(a) Online applications	89.37	93.84	95.34
(b) Other applications	103.58	108.76	110.50
(ii) of a final generation category			
(a) Online applications	34.7	36.44	37.02
(b) Other applications	40.21	42.22	42.90

D) SEED LOT RE-ENTRY FEE	Current Fee (£)	+ 5%	+ 6.68%
<i>Fee for issuing an official certificate or a breeder's confirmation in respect of a seed lot where, following an application for certification of the seed to be within one particular category, that application has been withdrawn and a new application has been submitted for certification of the seed within another category, as follows</i>			
(i) Pre-basic Seed, Basic Seed, Certified Seed or Certified Seed of the First Generation	42.64	44.77	45.49
(ii) Certified Seed of the Second Generation or Certified Seed of the Third Generation	21.25	22.31	22.67

E) SAMPLING FEES	Current Fee (£)	+ 5%	+ 6.68%
Fee per seed lot for the sampling or re-sampling of a seed lot for the purposes of an official examination, and for sampling or re-sampling imported seed intended for further multiplication	62.81	65.95	67.01

F) OFFICIAL LABEL FEES	Current Fee (£)	+ 5%	+ 6.68%
<i>Fee per seed lot for the issue and printing of a:</i>			
(i) tear resistant label for Pre-basic Seed, seeds for export or seeds following the issue of a breeder's confirmation	50.76	53.30	54.15
(ii) self-adhesive label for Pre-basic Seed, seeds for export or seeds following the issue of a breeder's confirmation	35.09	36.84	37.43

G) OECD CERTIFICATE	Current Fee (£)	+ 5%	+ 6.68%
Fee per certificate for issuing an Organisation for Economic Co-operation and Development (OECD) Certificate	31.33	32.90	33.42

H) HIGHER VOLUNTARY STANDARDS (HVS)	Current Fee (£)	+ 5%	+ 6.68%
Fee per certificate for issuing an Organisation for Economic Co-operation and Development (OECD) Certificate	8.78	9.22	9.37

FEES FOR MATTERS RELATING TO THE SEED MARKETING REGULATIONS - SCHEDULE 2

		Option 1	Option 2
A) Representations by, and hearings of, a licensed professional seed operator, licensed crop inspector, licensed seed sampler or personnel pertaining to a licensed seed testing station	Current Fee (£)	+ 5%	+ 6.68%
(i) Fee for making written representations to the Scottish Ministers	40.41	42.43	43.11
(ii) Fee for being heard by a person appointed by Scottish Ministers	80.88	84.92	86.28

B) LICENSED SEED TESTING STATIONS	Current Fee (£)	+ 5%	+ 6.68%
(i) Annual fee payable during the currency of the licence (or a proportion thereof in respect of a part of a year)	1655.29	1738.05	1765.86
(ii) Fee for being heard by a person appointed by Scottish Ministers	8.82	9.26	9.41

C) CEREAL CROP INSPECTION COURSES AND EXAMINATION	Current Fee (£)	+ 5%	+ 6.68%
(i) Annual fee payable during the currency of the licence (or a proportion thereof in respect of a part of a year)	748.82	786.26	798.84

(ii) Fee for being heard by a person appointed by Scottish Ministers			
(a) All 3 species groups	117.17	123.03	125.00
(b) 2 species	86.26	90.57	92.02
(c) 1 species only	43.14	45.30	46.02

D) SEED SAMPLING COURSES AND EXAMINATION	Current Fee (£)	+ 5%	+ 6.68%
<i>Fee payable within one month of demand by or on behalf of the Scottish Ministers</i>			
(i) Tuition and examination for seed samplers licence (administrative and sampling elements)	502.85	527.99	536.44
(ii) Tuition and examination for seed samplers licence (administrative element only)	150.85	158.39	160.93
(iii) Re-examination fee for seed samplers license with sampling function enabled	43.98	46.18	46.92
(iv) Re-examination fee for seed samplers license with sampling function not enabled	12.60	13.23	13.44

E) SEED ANALYST COURSE AND EXAMINATION	Current Fee (£)	+ 5%	+ 6.68%
<i>Fee payable within one month of demand by or on behalf of the Scottish Ministers</i>			
(i) Laboratory management course registration	1226.27	1287.58	1308.18
(ii) Laboratory management course attendance and examination (per day or part thereof)	462.24	485.35	493.12
(iii) Analyst course registration	2029.59	2131.07	2165.17
(iv) Analyst course registration – additional and retake divisions (per division)	197.47	207.34	210.66
(v) Analyst course attendance (per day or part thereof. Number of days depends on division)	462.24	485.35	493.12
(vi) Analyst course examination (per day or part thereof)	462.24	485.35	493.12
(vii) Tetrazolium testing course attendance (per day or part thereof)	477.95	501.85	509.88
(viii) Tetrazolium testing course examination (per day or part thereof)	477.95	501.85	509.88

FEES CHARGED BY THE OFFICIAL SEED TESTING STATION FOR SCOTLAND FOR SEED TESTING (OSTS)

CEREALS	Current Fee (£)		Option 1		Option 2	
	MIN	HVS	+ 5%		+ 6.68%	
			MIN	HVS	MIN	HVS
Fee for an official examination of seed:						
Certification tests (analytical purity, determination of other seeds by number and germination)	72.01	89.87	75.61	94.36	76.82	95.87
Certification tests (analytical purity, determination of other seeds by number, germination and moisture content)	76.77	95.22	80.61	99.98	81.90	101.58
Certification tests (analytical purity, determination of other seeds by number and moisture content)	52.97	67.25	55.62	70.61	56.51	71.74
Certification by STZ						
Certification tests (analytical purity, determination of other seeds by number, 100 seed STZ)	73.2	91.06	76.86	95.61	78.09	97.14
Certification tests (analytical purity, determination of other seeds by number, 100 seed STZ and moisture content)	77.96	96.41	81.86	101.23	83.17	102.85
Certification tests (analytical purity, determination of other seeds by number, 100 seed STZ followed by a germination test when the STZ result does not remove doubt as to whether the germination standard will be met)	101.17	119.03	106.23	124.98	107.93	126.98
Certification tests (analytical purity, determination of other seeds by number, 100 seed STZ followed by a germination test when the STZ result does not remove doubt as to whether the germination standard will be met and moisture content)	105.93	124.39	111.23	130.61	113.01	132.70
Certification tests (analytical purity, determination of other seeds by number, 200 seed STZ)	96.41	117.84	101.23	123.73	102.85	125.71
Certification tests (analytical purity, determination of other seeds by	101.17	123.19	106.23	129.35	107.93	131.42

number, 200 seed STZ and moisture content)						
Certification tests (analytical purity, determination of other seeds by number, 200 seed STZ followed by a germination test when the STZ result does not remove doubt as to whether the germination standard will be met)	123.7 9	145.2 1	129.9 8	152.4 7	132.0 6	154.9 1
Certification tests (analytical purity, determination of other seeds by number, 200 seed STZ followed by a germination test when the STZ result does not remove doubt as to whether the germination standard will be met and moisture content)	128.5 5	150.5 7	134.9 8	158.1 0	137.1 4	160.6 3
Certification tests (analytical purity, determination of other seeds by number, 400 seed STZ)	145.8 1	174.3 8	153.1 0	183.1 0	155.5 5	186.0 3
Fee for an official examination of seed:						
Certification tests (analytical purity, determination of other seeds by number, 400 seed STZ and moisture content)	149.9 7	179.7 3	157.4 7	188.7 2	159.9 9	191.7 4
Certification tests (analytical purity, determination of other seeds by number, 400 seed STZ followed by a germination test when the STZ result does not remove doubt as to whether the germination standard will be met)	173.1 8	202.3 5	181.8 4	212.4 7	184.7 5	215.8 7
EU certification tests (analytical purity, determination of other seeds by number, 400 seed STZ followed by a germination test when the STZ result does not remove doubt as to whether the germination standard will be met and moisture content)	177.9 4	207.1 1	186.8 4	217.4 7	189.8 3	220.9 4
HVS Verification						
A search of an EU certified sample for designated species to assess compliance with Higher Voluntary standards (HVS) standard for wheat, durum wheat, spelt wheat, barley and oats and red oat	58.91	-	61.86	-	62.85	-
Fee for individual or additional tests						

100 seed STZ test on a certification sample	41.07	41.07	43.12	43.12	43.81	43.81
100 seed STZ test on a certification sample followed by a germination test when the STZ result does not remove doubt as to whether the germination standard will be met	69.04	69.04	72.49	72.49	73.65	73.65
200 seed STZ test on a certification sample	78.56	78.56	82.49	82.49	83.81	83.81
200 seed STZ test on a certification sample followed by a germination test when the STZ result does not remove doubt as to whether the germination standard will be met	106.5 3	106.5 3	111.8 6	111.8 6	113.6 5	113.6 5
400 seed STZ test on a certification sample	159.4 9	159.4 9	167.4 6	167.4 6	170.1 4	170.1 4
400 seed STZ test on a certification sample followed by a germination test when the STZ result does not remove doubt as to whether the germination standard will be met	170.2	170.2	178.7 1	178.7 1	181.5 7	181.5 7
An analytical purity test on a certification sample	33.33	33.33	35.00	35.00	35.56	35.56
An analytical purity test and a moisture content test on a certification sample	39.28	39.28	41.24	41.24	41.90	41.90
An additional 2kg seed search for wild oats on a certification sample	108.9	108.9	114.3 5	114.3 5	116.1 7	116.1 7
Fee for an official examination of certified seed for loose smut infection of wheat, durum wheat, spelt wheat and barley (per thousand embryos examined)	66.06	66.06	69.36	69.36	70.47	70.47
Moisture content test only on certification sample	7.74	7.74	8.13	8.13	8.26	8.26
Germination test only on certification sample	39.28	39.28	41.24	41.24	41.90	41.90
Fee for provision of an International Certificate						
Orange International Certificate	20.83	20.83	21.87	21.87	22.22	22.22
Blue International Certificate	20.83	20.83	21.87	21.87	22.22	22.22

FODDER	Current Fee (£)		+ 5%		+ 6.68%	
	MIN	HVS	MIN	HVS	MIN	HVS
Fee for an official examination of seed for:						

(a) Analytical purity, germination and determination of other seeds by number of:						
(i) grasses, except timothy	133.31	-	139.98	-	142.22	-
(ii) timothy	98.79	-	103.73	-	105.39	-
(iii) large seeded legumes	76.77	-	80.61	-	81.90	-
(iv) small seeded legumes	92.85	-	97.49	-	99.05	-
(v) brassicas	100.57	-	105.60	-	107.29	-
(b) Bitter Lupin Test	57.14	-	60.00	-	60.96	-
HVS Verification						
Fee for a search for designated species to assess compliance with HVS standards for appropriate species	58.91	-	61.86	-	62.85	-
Fee for provision of an International Certificate						
Orange International Certificate	20.83	-	21.87	-	22.22	-
Blue International Certificate	20.83	-	21.87	-	22.22	-

OIL AND FIBRE PLANT SEEDS	Current Fee (£)		+ 5%		+ 6.68%	
	MIN	HVS	MIN	HVS	MIN	HVS
Fees for an official examination of seed for:						
Analytical purity, germination and determination of other seeds by number, of sunflower, linseed, flax, soya bean and hemp	84.51	-	88.74	-	90.16	-
Analytical purity, germination and determination of other seeds by number of Brassica species	100.58	-	105.61	-	107.30	-
Seed-borne Disease Tests						
Sunflowers for Botrytis spp.	77.37	-	81.24	-	82.54	-
Flax and linseed for:						
(a) Alternaria spp.	63.68	-	66.86	-	67.93	-
(b) Phoma exigua var.linicola (Ascochyta linicola)	63.68	-	66.86	-	67.93	-

(c) Colletotrichum lini	63.68	-	66.86	-	67.93	-
(d) Fusarium spp.	63.68	-	66.86	-	67.93	-
(e) Botrytis spp.	63.68	-	66.86	-	67.93	-
Soya bean for:						
(a) Pseudomonas syringae pv.glycinea spp.		-	0.00	-	0.00	-
(i) for one sub-sample test	110.69	-	116.22	-	118.08	-
(ii) for five sub-sample tests	369.58	-	388.06	-	394.27	-
(b) Diaporthe phaselorum spp.	69.04	-	72.49	-	73.65	-
Fee for provision of an International Certificate						
Orange International Certificate	20.83	-	21.87	-	22.22	-
Blue International Certificate	20.83	-	21.87	-	22.22	-

	Current Fee (£)		+ 5%		+ 6.68%	
BEET SEEDS	MIN	HVS	MIN	HVS	MIN	HVS
Fee for an official examination of seed:						
Analytical purity, germination and determination of other seeds by number (<i>includes: number of seedlings germinating from a cluster in monogerm and precision seeds</i>)	88.67	-	93.10	-	94.59	-
Fee for provision of International Certificates						
Orange International Certificate	20.83	-	21.87	-	22.22	-
Blue International Certificate	20.83	-	21.87	-	22.22	-

	Current Fee (£)		+ 5%		+ 6.68%	
VEGETABLE SEEDS	MIN	HVS	MIN	HVS	MIN	HVS
Fee for an official examination of seed:						
Analytical purity, germination and determination of other seeds by number (<i>includes: number of seedlings germinating from a</i>	76.77	-	80.61	-	81.90	-

<i>cluster in monogerm and precision seeds)</i>						
Fee for provision of International Certificates						
Orange International Certificate	20.83	-	21.87	-	22.22	-
Blue International Certificate	20.83	-	21.87	-	22.22	-

*All prices are exclusive of vat. An account is sent out after completion of tests.