

POLICY NOTE

THE SEED (FEES) (SCOTLAND) AMENDMENT REGULATIONS 2024

S.S.I. 2024/146

Introduction

1. The above instrument (“the SSI”) is made by the 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, 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), and
 - The Beet Seed (Scotland) (No 2) Regulations 2010 (S.S.I. 2010/148).
4. The 2018 Regulations also prescribe fees in relation to matters arising under the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 (S.S.I. 2016/68). Those regulations allow a number of official functions related to seed certification and seed testing to be undertaken by licensed individuals, as well as providing for the training and supervision of licensed persons.
5. 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.

6. The annual review of costs and services by Scottish Government is undertaken by SASA, the Seed Certifying Authority for Scotland, to check that full cost recovery is achieved (with limited over-recovery) whilst still providing a robust system, where functions and costs are transparent to all.
7. Service fee adjustments were calculated using historical data and UK GDP deflator figures from September 2023 (<https://www.gov.uk/government/statistics/gdp-deflators-at-market-prices-and-money-gdp-september-2023-quarterly-national-accounts>).
8. 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 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%.
10. 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.
11. 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.
12. 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.

EU Alignment Consideration

13. This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

14. 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 Seed Fees Review 2023-24 consultation was also placed on the SASA website (<https://www.sasa.gov.uk/seed-testing-certification/2023-24-consultation-fees-seed-testing-seed-certification-and-associated>).
15. The consultation ran for an eight week period and was targeted at over 30 individuals. The full consultation documents were 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 periods from Alexander Harley Seeds Ltd (seed production specialists) which supported our proposed fee increase option.
16. 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.

Financial Impact

17. 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

18. The SSI comes into force on 01 July 2024.

Scottish Government

Agriculture and Rural Economy Directorate

SASA, Agriculture Division

May 2024