POLICY NOTE

THE SEED (FEES) (SCOTLAND) AMENDMENT REGULATIONS 2020

S.S.I. 2020/148

Introduction

1. The above instrument ("the SSI") is made by Scottish Ministers in exercise of the powers conferred by sections 16(1), (1A) and (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. The purpose of the SSI is to 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, 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 a European Union requirement to ensure that farmers and growers receive seeds of a known minimum quality. This is achieved in Scotland through marketing regulations described above 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. 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, whilst still providing a robust system, where functions and costs are transparent to all.

6. A review of the functions and costs / overheads for 2019-2020 revealed changes to fees currently set out in the 2018 Regulations are required to ensure full cost recovery.

7. The fees in schedule 1 of the 2018 Regulations 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.

8. Last year's costs for seed certification amounted to £179,291 of which 95% was recovered (£171,315). The difference was due to no increase in fees for the season before and general increases in overheads in the services provided.

9. Fees for representations and hearings (head A. in new schedule 2 of the 2018 Regulations substituted by the SSI) are increasing by 8% in line with the same percentage increase being applied to the administration costs for preparation of course work, guidance and exam papers, as well as the cost for processing any applications for the courses and exams provided for licensing a member of the seed industry to undertake seed testing, seed sampling and or crop inspecting (ie the fees in heads C. and D. in new schedule 2 of the 2018 Regulations substituted by the SSI). The fees for seed analyst courses and examination in head E. in new schedule 2 of the 2018 Regulations substituted by the SSI are unchanged.

10. The two remaining fees in this schedule (under head B. in new schedule 2 of the 2018 Regulations substituted by the SSI) are both related to seed testing. The throughput fee charged to Licensed Seed Testing Stations ("LSTS") for the checking of samples (fee (ii) under head B.) is increasing by 8% in light of increases in costs last season because of a poor harvest, which resulted in samples being more difficult to assess, increasing the amount of staff time taken to conclude tests.

11. The introduction of a new monitoring system for LSTSs, which involves a more rapid way of checking samples throughout the testing season and one less visit to the LSTS, means that the licence fee (fee (i) under head B.) is being reduced by £152.50 (a 9% decrease).

Consultation

12. 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 e-mail or a letter providing them the link to the consultation on changes to the fees (https://consult.gov.scot/agriculture-and-rural-communities/fees-for-seed-testing-certification).

13. The full consultation document was also sent key stakeholders (the National Farmers Union Scotland ("the NFUS"), AIC Scotland and Scottish Seed Trade Association).

14. The consultation was targeted at over 90 individuals, with Scottish Ministers receiving one response, from the NFUS. The response highlighted that the NFUS:

- is very supportive of the Scottish Government's seed service, delivered primarily via SASA (Agriculture Division, Agriculture and Rural Economy Directorate, Scottish Government);
- welcomes the reduction in the LSTS fee;
- notes the increases in certain fees are above the annual CPI.

Financial Effects

15. There are a number of reasons for certain fees increasing by more than CPI. At the last annual review in 2019, a shortfall of 3% was noted. However, no amendments were made to the fees in the 2018 Regulations in 2019 because the shortfall was less than £7,000 and the introduction of the new fees would have coincided with the UK's exit from the European Union. Scottish Government opted instead to maintain the fees that were set following the 2018 review, and review again in 2020 for the 2020/21 season. The industry were informed of this decision by way of a seed certification letter. Not increasing the fees last year and the poor harvest conditions in 2019 and increasing administration costs have contributed to the need to increase fees by between 5 – 8%.

16. As well as the consultation, appointments were made with twelve businesses / individuals from across Scotland, who took part in a Business Regulatory Impact Assessment ("BRIA"). The results of the BRIA indicate that reviews of the fees are looked upon as a fair way of monitoring the costs associated with seed testing and seed certification. Comments were noted on a number of occasions that the seed industry are aware the fees charged in Scotland are less than those charged by the certifying authorities and the Official Seed Testing Station for England and Wales. They highlight that the majority of businesses / individuals are content for the fees to be increased, if doing so means that the high standard of support and advice provided by the Scottish Government is maintained.

Timing

17. The SSI comes into force on 01 July 2020.

Scottish Government
Agriculture and Rural Economy Directorate
SASA, Agriculture Division