POLICY NOTE

THE SEED (FEES) (SCOTLAND) AMENDMENT REGULATIONS 2022

S.S.I. 2022/186

Introduction

1. The above instrument ("the SSI") is made by Scottish Ministers in exercise of the powers conferred by sections 16(1), (1A) 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 a new schedule 1 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, (or overcharging customers) whilst still providing a robust system, where functions and costs are transparent to all.
6. Due to Covid restrictions no review was undertaken for 2019-2020. However, it was possible to carry out a review of the functions and costs (including overheads) for 2020-2021. Seed certification costs for 2020-2021 amounted to £124,261, with a recovery made of £138,272.
7. The figures for 2020-2021 present an over-recovery, however they are based on a period that saw restrictions in place on multiple occasions, which limited some staff costs (primarily the certification plot checks). A return to normal working practices will see these costs (approximately £24,000 per annum) reinstated which, along with additional cost increases linked to increasing inflation, energy costs, and staff salary increases, will likely absorb any over-recovery for 2020-2021.
8. Noting the uncertainty and variation to costs due to the pandemic, 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. However, the figure for CPI in December 2021 was unusually high at 5.4%, therefore a mid-figure of 3% was proposed which would limit the cost to the taxpayer pending a more in-depth and more realistic review of fees in 2023.
9. Only the fees prescribed in schedule 1 of the 2018 Regulations will be subject to the 3% increase. These 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.
10. Fees for representations and hearings, Licensed Seed Testing Stations, and courses and examinations, as contained in schedule 2, remain unchanged.

Consultation

11. 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 place on the SASA website. (2022 - Consultation on Fees for Seed Testing, Seed Certification and Associated Seed Functions | SASA (Science & Advice for Scottish Agriculture))
12. The consultation ran for a twelve 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). No responses were received within the consultation period.

Financial Impact

13. 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. Five business and individuals undertook interviews and questionnaires for the BRIA. The results of the BRIA indicate that the seed certification and sampling service provided by the Scottish Government is viewed as good value for money, with valuable support and advice available. It was noted that with any additional increases, fees charged by Scotland would remain lower than those charged by the certifying authorities and the Official Seed Testing Station for England and Wales. The proposed increases were considered in line with, or less than, other costs associated with the production and marketing of seeds, however limiting costs was a preference and respondents indicated a preference for a 3% - over the 5.4%, CPI-linked increase.

Timing

14. The SSI comes into force on 01 July 2022.

Scottish Government

Agriculture and Rural Economy Directorate

SASA, Agriculture Division