

# Business Regulatory Impact Assessment - Summary

## **Title of Proposal**

The Seed (Fees) (Scotland) Amendment Regulations 2022

## **Purpose and intended effect**

### **Background**

Agricultural seed is regulated in accordance with retained EU Directives which relate to marketing in order to provide high standard multiplication seed. This delivers high standard seed multiplication procedure which 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 known as the Seed Certification Authority for Scotland. Updating the Fees charged by SASA enables the Scottish Government to adhere to 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 2022-2023 certification cycle, avoiding any under [or over] recovery.

This work contributes to the objective of creating a high quality, efficient public service to encourage trade with third 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**

Scottish Government's policy team have consulted with the 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).

The impact of the Covid-19 pandemic was recognised when establishing costs, particularly the disruption to usual ways of working and what the financial implications of returning to usual practices in the coming year would be. In light of this, the established practice of raising fees in line with CPI was considered, however this year saw inflation hit unusually high levels (5.4% in December 2021, the date historically used for CPI based increase).

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An increase of 3% has been identified, for certification and testing fees, in an effort to seek full cost recovery in 2022-2023, whilst acknowledging the increase to other aspects of seed production.

### Public Consultation

In line with Scottish Government consultation procedures, a 12 week public consultation took place, beginning on the 12 February. The consultation documents were sent electronically to users of the services, Key Stakeholders and all interested parties registered with Scottish Government (53 businesses / individuals). An electronic copy was also placed on the SASA website. The consultation closed on 15 May, with no responses being received.

### Business

The Consultation is specific to a specialised area of the agricultural sector mainly consisting of Professional Seed Operators, Licensed Crop Inspectors, Licenced Seed Samplers and Licensed Seed Testing Stations. Some of these were contacted directly and asked to take part by way of BRIA interviews.

Consultation documents were placed on the SASA website, including example costs for certifying seed under the proposed new values. A total of five businesses took part in BRIA interviews.

### 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:

#### 1. Increase fees by 5.4%, in line with CPI

No fee amendments were applied in 2021, due to uncertainty surrounding the Covid pandemic. Following this year of no increase, it was noted that some increase may be made to ensure that amendments are incremental and to reduce the risk of requiring a larger increase at a later date. Historically the value of CPI as for December the previous year has been used to gauge this increase. CPI at December 2021 was identified as 5.4%.

#### 2. Increase fees at a lower rate of 3%

Noting that the value for CPI, at 5.4%, was unusually high, it was suggested that a lower rate of 3% also be proposed. This value takes into account the increases in other costs associated with seed production and marketing (fuel, utilities, haulage etc).

### Preferred Option

Option 2 is preferred by the Scottish Government. While endeavouring to be as accurate as possible, the uncertainty and changes to working practices during the pandemic

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created difficulties in establishing projected figures for the 2022 / 2023 certification cycle. Acknowledging the return of some practices that were not carried out and charged for over the past two years, it is apparent that costs to SASA will increase and likely result in under-recovery. Implementing an increase of 3% takes a step toward ensuring full recovery, pending an in-depth and more realistic review of fees in 2023.

### 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

Using the cost information provided by the Certifying Authority, an example of a 30 tonne seed lot of cereals is provided in **Annex E** at the end of the document.

### Timing of New Fees

The Scottish Government will implement the revised fees on 1 July 2022.

### Scottish Firms Impact Test

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, with a follow up email issued following low reply; this gave three of the businesses interviewed. AIC Scotland is a key stakeholder for Scottish Government who work with many seed businesses, through them a further invite to interview was passed on to industry and a further two businesses took part in the BRIA. The interviews were conducted via MS Teams

Break down of businesses Interviewed –

- One sold herbage seed only
- Two sold herbage and brassicas
- One sold cereals and legumes
- One sold cereals and brassicas
- The majority of crops certified are C1 and C2, with some pre-basic.

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- The most popular generations of seed bought in were C1 and C2 grade
- Cereals and pulses tended to be purchased from the UK
- Herbage and Brassicas were purchased from the UK, EU countries, Canada and New Zealand

### Summary of the Interviews –

#### Certification and Species

- Cereals are the most common seed certified in Scotland, 98% of all crops certified in Scotland are cereals.
- 97% of the Cereals certified are final generation seed lots.

#### Cost

- For the businesses interviewed seed certification and testing fees represented a small percentage of their total seed costs, between 1.5 and 5% of total.
- The proposed increase was viewed as a fair way of Scottish Government covering its cost and accepted the rise in costs. A preference was expressed for limiting to a 3% increase by all interviewees.
- Proposed increases were seen as lower than, or in line with, other increases associated with seed production and marketing.
- Two businesses used OSTs for seed sampling, two used a Licensed Seed Testing Station (one in-house), and one business used a mix of both.
- One individual commented that there was a need for a wider fees review to consider how to bring other associated costs, such as training, down.
- It was also highlighted that second (re-)inspections were an extra cost that should be reviewed, and whether initial fees could be adjusted slightly to cover these costs.
- One individual asked if export fees could be factored in to any future review

#### General

- The service provided by the certifying authority was considered good value for money. Businesses were appreciative of the level of service and advice they receive from SASA.

#### **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.

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### Legal Aid Impact Test

Having consulted with the Legal Aid Team, 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 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.

### Implementation and delivery plan

Any increase will be implemented by way of The Seed (Fees) (Scotland) Amendment Regulations 2022. Scottish Ministers have authorised Section 24(4) of the Plant Varieties and Seeds Act 1964, which provides Ministers with powers to allow the Official Seed Testing Station for Scotland to make charges for services they provide.

An increase of 3% for seed certification and seed testing fees will apply. This will come into force on 1 July 2022.

### 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.

### Summary and recommendation

Scottish Government will

- Increase the fees prescribed in Schedule 1 of the Seed (Fees) (Scotland) Regulations 2018 by 3% from 1 July 2022

The proposed increase is anticipated to limit any deficit in income, reducing the potential for further, sharper increases following the next annual review, which will be fully able to account for reinstatement of costs following the pandemic. This is in line with Scottish

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Government's aim of full cost recovery, and reducing the amount of money that comes from the public.

Statutory Function	Current Fee	Cost per tonne of Seed (assuming 30 tonne lot and a seed yield of 5.0 tonne per ha)	+ 3 %	Cost per tonne of Seed (assuming 30 tonne lot and a seed yield of 5.0 tonne per ha)
<b>Initial Fees</b>	£3.85 per Hectare	£0.77	£3.88 per Hectare	£ 0.78
<b>Crop Inspection Fee</b>	£21.29 per Hectare	£4.26	£21.32 per Hectare	£4.26
<b>Seed Lot Fee</b>	£31.35 per seed lot	£1.05	£31.38 per seed lot	£1.05
<b>Sampling Fee</b>	£56.75 per seed lot	£1.89	£56.78 per seed lot	£1.89
<b>Seed Testing – HVS test, 100 Seed STZ</b>	£87.45	£2.92	£87.48	£2.92
<b><i>Total cost of fees payable for Certification as included in the fees regulations</i></b>		£ 10.89		£ 10.90
Labels £		£1.13		£1.13
Seals £		£1.00		£1.00
<b>Total cost for Certification</b>		<b>£13.02</b>		<b>£13.03</b>

ANNEX E – Partial Business and Regulatory Impact Assessment (FINAL)

**CEREAL ONLINE APPLICATION: EXAMPLE OF FINAL GENERATION**

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\* labels and seals are not part of the consultation process, but are shown to give an indication of overall costs