

Rural Affairs and Islands Committee
Wednesday 12 June 2024
17th Meeting, 2024 (Session 6)

Note by the Clerk on the Seed (Fees) (Scotland) Amendment Regulations 2024 (SSI 2024/146)

Overview

1. At this meeting, the Committee will consider the following Scottish statutory instrument (SSI), which is subject to annulment by resolution of the Parliament until 25 June 2024. The Committee is invited to consider the instrument and decide what, if any, recommendations to make.

2. More information about the instrument is summarised below:

Title of instrument: [The Seed \(Fees\) \(Scotland\) Amendment Regulations 2024](#)
(SSI 2024/146)

Laid under: [Plant Varieties and Seeds Act 1964](#)

Laid on: 17 May 2024

Procedure: Negative

Deadline for committee consideration: 24 June 2024

Deadline for Chamber consideration: 25 June 2024.

Commencement: 1 July 2024

Delegated Powers and Law Reform Committee consideration

3. The DPLR Committee considered the instrument on 28 May 2024 and [reported on it in its 39th Report, 2024](#). The DPLR Committee made no recommendations in relation to the instrument.

Purpose of the instrument

4. The policy note describes the purpose of the instrument 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”.
5. Seed certification services are undertaken by the Scottish Government, Science & Advice for Scottish Agriculture (SASA) and the Rural Payments Inspection Directorate with the aim of ensuring that farmers and growers are achieving certain quality standards. Charges for seed certifications are reviewed annually by SASA on behalf of Scottish Ministers to secure full cost recovery for services provided.

6. This instrument seeks to subject fees set out in Schedule 1 and 2 of the [Seed \(Fees\) \(Scotland\) Regulations 2018](#) to a 6.68% increase. A 55% increase in crop inspections is also being proposed, which the policy note states is due to an under-allocation having been made in previous years. The policy note states that:

“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.”

7. The Scottish Government ran an eight week consultation on its proposed changes in fees followed by a further six week exercise. It received one response which was in favour of the proposed rise in charges.
8. The policy note accompanying the instrument is included in Annexe A. It includes a summary of consultation undertaken on the instrument, impact assessments carried out, and the anticipated financial effects.

Committee consideration

9. So far, no motion recommending annulment has been lodged.
10. Members are invited to consider the instrument and decide whether there are any points they wish to raise.

Procedure

11. Under the negative procedure, an instrument is laid after it is made, and is subject to annulment by resolution of the Parliament for a period of 40 days beginning on the day it is laid.
12. Once laid, the instrument is referred to:
 - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
 - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.
13. Any MSP may propose, by motion, that the lead committee recommend annulment of the instrument. If such a motion is lodged, it must be debated at a meeting of the Committee, and the Committee must then report to the Parliament (by the advisory deadline referred to above).
14. If there is no motion recommending annulment, the lead committee is not required to report on the instrument.

Clerks to the Committee
June 2024

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

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Annexe A

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>).

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Annexe A

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 nonewished 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