

## **EXECUTIVE NOTE**

### **THE SEED (SCOTLAND) (AMENDMENTS FOR TESTS AND TRIALS ETC.) REGULATIONS 2007 SSI/2007/224**

#### **Introduction**

1. The above instrument was made in exercise of powers conferred by sections 16(1), (1A), (2), (3) and (5) and 36 of the Plant Varieties and Seeds Act 1964. The instrument is subject to negative resolution procedure.

#### **Policy Objectives**

2. The principal purpose of the instrument is to amend 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 Oil and Fibre Plant Seed (Scotland) Regulations 2004 (S.S.I. 2004/317) to implement, in Scotland, Commission Decision 2004/842/EC (O.J. No. L 362, 9.12.2004, p.21) regarding authorisation for placing on the market seed belonging to varieties for which an application for entry onto the National List has been submitted.

The EC Seed Marketing Directives require official certification of seed of the main crop species to ensure that seed sold to farmers meets specified standards. The Directives are implemented by seed marketing regulations. Each Directive includes a derogation that enables Member States to authorise producers to place quantities of seed on the market for the purposes of tests and trials to test the market for new varieties before they are officially certified.

Marketing of new varieties for tests and trials purposes currently happens on a small scale under interim arrangements set out in the Cereal Seed (Scotland) Regulations 2005, the Fodder Plant Seed (Scotland) Regulations 2005 and the Oil and Fibre Plant Seed (Scotland) Regulations 2004. Those regulations are now being brought into line with the requirements of the Decision to allow breeders to continue marketing seed for tests and trials as well as take advantage of the new provisions which allow EU wide marketing of larger quantities of seed than under previous arrangements.

These Regulations establish rules for authorisation to market seed for tests and trials purposes.

These Regulations also make a number of miscellaneous amendments updating certain provisions and dealing with outstanding issues following scrutiny of the aforementioned seed marketing regulations by the Subordinate Legislation Committee.

#### **Consultation**

3. A consultation letter was issued to over 200 consultees, including seed merchants, processors and packers as well as government and other interested bodies. Four responses were received, three of which had no comments and the fourth response welcomed the proposal to implement the Decision.

## **Timing**

4. Introducing legislation at this time of the year will enable growers to take advantage of the new legislation, in time for next growing season.

## **Financial effects**

5. Implementation of the Decision will introduce a requirement for seed to meet official certification standards with all the attendant costs. These costs are relatively minor when set against the potential benefit of supplying a larger EU market and the industry has indicated, informally, that it wishes the Decision to be implemented in full. A Regulatory Impact Assessment has been prepared.

## **Relationship to Current Policy/Practice**

6. England and Wales have legislation in place implementing the Decision. Legislation in Northern Ireland does not provide for tests and trials therefore they are not required to make any amendments to their seed marketing regulations. Guidance will be issued on applying for authorisation to market unlisted varieties for tests and trials.

Scottish Executive Environment and Rural Affairs Department

March 2007

# Regulatory Impact Assessment

## 1. Title of proposal

Amendments to the Cereal Seed (Scotland) Regulations 2005 (SSI 2005/328); the Fodder Plant Seed (Scotland) Regulations 2005; the Oil and Fibre Plant Seed (Scotland) Regulations 2004; the Beet Seeds Regulations 1993 (SI 1993/2006, as amended by SI 1999/1861 and SSI 2000/246); the Vegetable Seeds Regulations 1993 (SI 1993/2008, as amended by 1996/1452, SI 1999/1863 and SSI 2000/250)

## 2. Purpose and intended effect

- Objective

2.1 Commission Decision 2004/842/EC introduces procedures that set out how Member States may authorise the placing on the market seed of a variety for which an application for entry in a National Catalogue of varieties of agricultural plant species or vegetable species has been received. The Scottish Executive intends to lay a Scottish Statutory Instrument (SSI), which will amend the Seeds Marketing Regulations, to expand the marketing of unlisted varieties for test and trials to take place in Scotland.

- Background

2.2 The Seed Marketing Regulations (as amended) covering Beet, Cereal, Fodder Plants, Oil and Fibre, and Vegetable seed currently provide for authorisations to be granted that permit the marketing in Scotland of agreed quantities of agricultural and vegetable species for the purpose of test and trials. As we already have a provision in our seed marketing regulations for tests and trials, we are required to implement Commission Decision 2004/842/EC.

- Rationale for government intervention

2.3 The procedures required by the Commission Decision are more prescriptive and align them closely to the seed certification procedure for a variety that is already on a national list.

## 3. Consultation

- Within government

3.1. No inter-departmental consultation was required although other departments (eg Defra) have been copied in for information, as appropriate.

- Public consultation

3.2 The principle of passing on the costs of administering our services to users of such services is well established. Although the number of users in this particular case are small, the rationale for any proposed increase in charges has been explained fully to those affected and an opportunity provided to make representations. This was achieved through a consultation of the users of the service, and was undertaken in accordance with Scottish Executive good practice.

## 4. Options

4.1 **Option 1** - do nothing. This would disadvantage plant breeders, preventing them from continuing existing levels of marketing seed for tests and trials and exploiting EU wide opportunities

4.2 **Option 2** - implement changes necessary to comply with all aspects of the Commission decision by amending the Seed Marketing Regulations.

## 5. Costs and benefits

- Sectors and groups affected

5.1 Plant breeding companies and some seed companies who want to trial varieties for specific applications and end uses will be the groups most likely to be affected by the proposals. Currently twelve companies have been issued with fourteen authorisations in the UK. (These applications have all been made to Defra by English Companies). The number of applications may increase because the Commission Decision provides for EU wide marketing for tests and trials purposes.

- Benefits

5.2 The Seed Marketing Regulations already permit authorisation for marketing to be issued for scientific and selection work and test and trials. The Commission Decision however requires a more detailed procedure that mirrors seed certification for a listed variety. The changes in policy will benefit companies who previously considered that the quantity of seed permitted for multiplication under the previous agreement was not viable.

- Costs

5.3 Procedures introduced by the Decision, place additional small burdens on applicants. Seed entered for test and trial will have to comply with the technical conditions set out in the Seed Marketing regulations as they apply to crop and seed standards and those relating to seed tests, packing, sealing and labelling of the seed. As the Scottish Executive, Environment and Rural Affairs Department have not previously processed any applications for testing and trialling of unlisted varieties, we are unable to produce any costs based on Scottish data. However, using indicative numbers for applications made in England and applying the fees charged in Scotland, we have been able to produce an estimate of costs. (See **Annex**)

## 6. Small Firms Impact Test

As we have no experience of Scottish companies carrying out these types of tests and trials, we asked the industry for any comments on costs that they could offer. None were received.

6.1 Based on Defra's assessment, there will be an additional financial burden on the smaller businesses involved in the plant breeding area, as there will on the medium sized companies. This relates to the costs of meeting crop and seed standards and labelling. The additional costs are, however, relatively small.

## **7. Competition assessment**

7.1 The changes will enable UK breeding companies to maintain and expand activities in this area EU wide and will therefore assist competitiveness.

## **8. Enforcement, sanctions and monitoring**

8.1 Subject to completion and acceptance of an application, companies will receive an authorisation to market a stated quantity of seed of a specific variety for test and trial purposes. The applicant will have to ensure the seed covered by the authorisation achieves the technical standards set out in the seeds marketing regulations. Company records may be subject to inspection by an authorised official in the same way as with all other seed activities. SEERAD will carry out similar enforcement procedures as that for certified seed crops.

- Sanctions

8.2 Breaches of the authorisation or the technical standards set out in the seed marketing regulations could lead to a contravention of the Regulations for which the penalty, on conviction, is a fine not exceeding level 5 on the standard scale of the Magistrates Court Act.

- Monitoring

8.3 The technical aspects of an authorisation would be overseen by the Scottish Agricultural Seeds Agency (SASA). Seed activities are subject to routine inspection by SEERAD's Agricultural Staff.

## **9. Declaration and publication**

*I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.*

**Signed** .....

**Date**

ROSS FINNIE  
Minister for Environment and Rural Development

**7 March 2007**

## Unlisted Varieties Test and Trial

### 1. Application for authorisation 2004/05 received by Defra.

In the seeds year June 2004 - July 2005 14 authorisations for test and trial of unlisted species were granted covering the following species:

White Lupins:	1 x 30t
Wheat:	1 x 500t
Oil Seed Rape:	8571 Kg (originating from 7 lots)
Barley:	1 x 25t
Field Peas:	1 x 100t
Oats:	1 x 1.5t
Swede:	1 x 6kg
Lettuce:	1 (no weight required)

### 2. Cost Example (Indicative costs are based on The Seeds (Fees) (Scotland) Regulations 2002 (as amended))

a) Using the example of a 25t seed lot of barley entered for malting trials the additional cost under the new regulations would be:

#### i. Seed lot entry fee

C210t = £21.80

#### ii. Crop entry fees

C2 crop of 4 hectares at £5.90 per hectare = £23.60. (25t of seed at a yield of 7 tonnes per hectare = 3.6 hectares rounded to 4 hectares)

#### iii. Cost of labels

25t in 500kg bags would require 50 labels at 12p = £ 6.00 (This cost is based on the old price of an Orange label, currently under review.)

### Total cost per application for an authorisation £51.40

b) There will be costs for the company in providing information and carrying out licensed crop inspection, seed sampling and testing under official supervision. However, the additional costs are likely to be low given that companies would probably carry out similar quality assurance on seed marketed under existing arrangements for test and trials.