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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 413**

**SEEDS**

**The Seed (Fees) (Scotland) Regulations 2011**

	<i>22nd November</i>
<i>Made</i> - - - -	<i>2011</i>
<i>Laid before the Scottish</i>	
<i>Parliament</i> - - - -	<i>24th November 2011</i>
<i>Coming into force</i> - -	<i>1st January 2012</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 16(1), (1A), (3)(i) and (5)(a) and 36 of the Plant Varieties and Seeds Act 1964<sup>(1)</sup> and all other powers enabling them to do so.

In accordance with section 16(1) of that Act they have consulted with representatives of such interests as appear to them to be concerned.

**Citation, commencement and extent**

1. These Regulations may be cited as the Seed (Fees) (Scotland) Regulations 2011 and come into force on 1st January 2012.
2. These Regulations extend to Scotland only.

**Interpretation**

- 3.—(1) In these Regulations—
- “the 2006 Regulations” means the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006<sup>(2)</sup>;
- “the relevant person” means—
- (a) a licensed crop inspector, where the fee is for an official examination carried out by a licensed crop inspector;
  - (b) a licensed seed sampler, where the fee is for the sampling of a seed lot for the purposes of an official examination carried out by a licensed seed sampler; or

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(1) 1964 c.14. Section 16(1) was amended by the European Communities Act 1972 (c.68) (“the 1972 Act”), section 4(1) and Schedule 4, paragraph 5(1) and (2). Section 16(1A) was inserted by the 1972 Act, section 4(1) and Schedule 4, paragraph 5(1) and (2). See section 38(1) for the definition of “the Minister”. The functions of the Secretary of State insofar as within devolved competence were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(2) S.S.I. 2006/313, as amended by S.S.I. 2007/536 and S.I. 2011/1043.

- (c) in any other case, the Scottish Ministers; and  
 “the Seed Marketing Regulations” means—
- (a) the Vegetable Seeds Regulations 1993(3);
  - (b) the Oil and Fibre Plant Seed (Scotland) Regulations 2004(4);
  - (c) the Cereal Seed (Scotland) Regulations 2005(5);
  - (d) the Fodder Plant Seed (Scotland) Regulations 2005(6); and
  - (e) the Beet Seed (Scotland) (No. 2) Regulations 2010(7).

(2) Other words and expressions used in these Regulations have the same meaning as they do in the Seed Marketing Regulations or, as the case may be, the 2006 Regulations.

#### **Fees for matters set out in Schedule 1**

4.—(1) Paragraph (2) applies to matters set out in Schedule 1 relating to the Seed Marketing Regulations.

- (2) Where this paragraph applies—
- (a) the relevant person must charge the appropriate fee for the matter set out in Schedule 1; and
  - (b) the fee must be paid to the relevant person within one month of demand.

#### **Fees for matters set out in Schedule 2**

5.—(1) Paragraph (2) applies to matters set out in Schedule 2 relating to the 2006 Regulations.

- (2) Where this paragraph applies—
- (a) the Scottish Ministers must charge the appropriate fee for the matter set out in Schedule 2; and
  - (b) the fee must be paid to the Scottish Ministers within the relevant timescale set out in Schedule 2.

#### **Reduced or additional fees**

6.—(1) Where an application in respect of a matter set out in Schedule 1 is withdrawn before arrangements have been made for the purposes of an official examination, the appropriate fee set out in paragraph A of Schedule 1 (initial fee) is—

- (a) reduced to the sum of £2.75 per hectare or part thereof; and
- (b) otherwise not due (and if already paid must be repaid).

(2) Where an application in respect of a matter set out in Schedule 1 is not made by the applicable date, a fee of £29.00 per crop must be charged by the relevant person in addition to the appropriate fee set out in paragraph A of Schedule 1, and the fee must be paid to the relevant person within one month of demand.

- (3) Where in relation to an application in respect of a matter set out in Schedule 1—
- (a) arrangements have been made for an official examination to be carried out by a licensed crop inspector; and

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(3) S.I. 1993/2008; as amended in relation to Scotland by S.I. 1996/1452, 1997/616, 1999/1863, S.S.I. 2000/250, S.I. 2001/3510, S.S.I. 2007/305, S.S.I. 2010/219 and S.S.I. 2010/425.  
 (4) S.S.I. 2004/317, amended by S.S.I. 2006/313, 2007/224 and 536, 2009/223 and 2010/219.  
 (5) S.S.I. 2005/328, amended by S.S.I. 2006/313 and 448, 2007/224 and 536, 2009/223 and 2010/219.  
 (6) S.S.I. 2005/329, amended by S.S.I. 2006/313 and 448, 2007/224 and 536, 2009/233 and 330, and 2010/219.  
 (7) S.S.I. 2010/148.

(b) the applicant subsequently requests that the examination be carried out instead by the Scottish Ministers,

a fee of £29.00 per crop must be charged by the Scottish Ministers in addition to the appropriate fee set out in paragraph B of Schedule 1, and the fee must be paid to the Scottish Ministers within one month of demand.

(4) In paragraph (2), “the applicable date” means the date for enabling arrangements to be made for an official examination of a crop grown to produce seed of a species to which the Seed Marketing Regulations apply.

### **Exemptions**

7. The Scottish Ministers may exempt any person from compliance with any provision in these Regulations relating to the payment of fees, subject to any conditions the Scottish Ministers think appropriate.

### **Revocations**

8. The Seeds (Fees) (Scotland) Regulations 2007(8) and regulation 24 of the Beet Seed (Scotland) (No. 2) Regulations 2010 are revoked.

St Andrew’s House,  
Edinburgh  
22nd November 2011

*RICHARD LOCHHEAD*  
A member of the Scottish Executive

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## SCHEDULE 1

Regulation 4(2)(a)

## FEES FOR MATTERS RELATING TO THE SEED MARKETING REGULATIONS

<i>Matter</i>	<i>Fee</i>
	£
<b>A. Initial fees</b>	
Initial fee per hectare or part thereof for crops intended to produce:—	
(i) Pre-Basic Seed or Basic Seed	29.60
(ii) Certified Seed, Certified Seed of the First Generation, Certified Seed of the Second Generation or Certified Seed of the Third Generation	4.25
<b>B. Crop inspection fees</b>	
(i) Fee for the official examination of crops other than a hybrid of swede rape intended to produce Pre-Basic Seed, Basic Seed, Certified Seed, Certified Seed of the First Generation, Certified Seed of the Second Generation or Certified Seed of the Third Generation, per hectare or part thereof examined	16.30
(ii) Fee for the official field inspection of a hybrid of swede rape, per hectare or part thereof examined	48.90
(iii) Fee for the further official examination of crops intended to produce Pre-Basic Seed, Basic Seed, Certified Seed, Certified Seed of the First Generation, Certified Seed of the Second Generation or Certified Seed of the Third Generation, per hectare or part thereof examined, except:—	16.30
(a) Further official examination of crops for wild oats, per hectare or part thereof examined	7.96
(b) Further official examination of crops in respect of isolation distance, per hectare or part thereof examined	3.17
(c) Further official examination of crops which have been lodged, per hectare or part thereof examined	7.13
(iv) Fee for the authentication of seed lot sown (where this has not been carried out at crop inspection), per crop	7.13
(v) Fee for the official examination of crops where there has been an official post control the results of which have been unsatisfactory, per hectare or part thereof examined	16.30
<b>C. Seed lot fees</b>	
Fee for issuing an official certificate or a breeder's confirmation (other than in the circumstances described under paragraph D below) in respect of a seed lot certifying the seed to be:—	
(i) of a multiplication category	73.00
(ii) of a final generation category	30.55
<b>D. Seed lot re-entry fee</b>	

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<i>Matter</i>	<i>Fee</i>
	£
Fee for issuing an official certificate or a breeder's confirmation in respect of a seed lot where, following an application for certification of the seed to be within one particular category, that application has been withdrawn and a new application has been submitted for certification of the seed within another category, as follows:	
(i) Pre-Basic Seed, Basic Seed, Certified Seed or Certified Seed of the First Generation	35.00
(ii) Certified Seed of the Second Generation or Certified Seed of the Third Generation	17.45
<b>E. Sampling fees</b>	
Fee per seed lot for the sampling or re-sampling of a seed lot for the purposes of an official examination, and for sampling or re-sampling imported seed intended for further multiplication	50.12
<b>F. Official label fees</b>	
Fee per seed lot for the issue and printing of a:—	
(i) Tear resistant label for breeder's confirmation seed, Pre-Basic seed or seed for export	40.50
(ii) Self adhesive label for breeder's confirmation seed, Pre-Basic seed or seed for export	28.00
<b>G. OECD Certificate</b>	
Fee per certificate for issuing an Organisation for Economic Co-operation and Development (OECD) Certificate	25.00
<b>H. Higher Voluntary Standard (HVS)</b>	
Fee per seed lot for verification that a seed lot meets the applicable Higher Voluntary Standards (HVS)	6.00

## SCHEDULE 2

Regulation 5(2)(a)

## FEES FOR MATTERS RELATING TO THE 2006 REGULATIONS

<i>Matter</i>	<i>When payable</i>	<i>Fee</i>
		£
<b>A. Representations by, and hearings of, a seed merchant, processor or packer, licensed crop inspector, licensed seed sampler or personnel pertaining to a Licensed Seed Testing Station</b>		
(i) Fee for making written representations to the Scottish Ministers	On making representations	33.95
(ii) Fee for being heard by a person appointed by the Scottish Ministers	On applying to be heard	67.95

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<i>Matter</i>	<i>When payable</i>	<i>Fee</i> £
<b>B. Licensed Seed Testing Stations</b>		
(i) Annual fee payable during the currency of the licence (or a proportion thereof in respect of a part of a year)	Within one month of demand by or on behalf of the Scottish Ministers, annually in advance	1500.00
(ii) Fee payable by a Licensed Seed Testing Station in respect of an official examination of seed	Within one month of demand by or on behalf of the Scottish Ministers, annually in arrears	7.25
<b>C. Cereal Crop Inspection Courses and Examination</b>		
Fee for:—	Within one month of demand by or on behalf of the Scottish Ministers	
(i) Cereal Crop inspection course		607.00
(ii) Initial examination and compulsory re-test		
(a) all 3 species groups		95.00
(b) 2 species		70.00
(c) 1 species only		35.00
<b>D. Seed Sampling Courses and Examination</b>		
Fee for:—	Within one month of demand by or on behalf of the Scottish Ministers	
(i) Tuition and examination for seed samplers licence (administrative and sampling elements)		400.00
(ii) Tuition and examination for seed samplers licence (administrative element only)		120.00
(iii) Re-examination fee for seed samplers licence with sampling function enabled		35.00
(iv) Re-examination fee for seed samplers licence with sampling function not enabled		10.00
<b>E. Seed Analyst Courses and Examination</b>		
Fee for:—	Within one month of demand by or on behalf of the Scottish Ministers	
(i) Laboratory Management Course Registration		1000.00
(ii) Laboratory Management Course Attendance and Examination (per day or part thereof)		410.00
(iii) Analyst Course Registration		1656.00

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<i>Matter</i>	<i>When payable</i>	<i>Fee</i> £
(iv) Analyst Course Registration - additional and retake divisions (per division)		161.00
(v) Analyst Course Attendance (per day or part thereof)		410.00
(vi) Analyst Course Examination (per day or part thereof)		410.00
(vii) Tetrazolium Testing Course Attendance (per day or part thereof)		426.00
(viii) Tetrazolium Testing Course Examination (per day or part thereof)		426.00

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations prescribe fees for matters relating to—

- the Vegetable Seeds Regulations 1993, the Oil And Fibre Plant Seed (Scotland) Regulations 2004, the Cereal Seed (Scotland) Regulations 2005, the Fodder Plant Seed (Scotland) Regulations 2005 and the Beet Seed (Scotland) (No. 2) Regulations 2010 (regulation 4 and Schedule 1); and
- the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 (regulation 5 and Schedule 2).

Regulation 6 provides for the reduction and repayment of fees or for payment of additional fees in respect of matters specified in paragraph A or, as the case may be, paragraph B of Schedule 1, in certain circumstances.

Regulation 7 makes provision for the Scottish Ministers to exempt any person from compliance with any provision in these Regulations relating to payment of fees.

Regulation 8 revokes the Seeds (Fees) (Scotland) Regulations 2007 and regulation 24 of the Beet Seed (Scotland) (No. 2) Regulations 2010 which amended those Regulations.

In addition to the new fees which apply to the circumstances specified in regulation 6(2) and (3), the fees in Schedules 1 and 2 are changed as follows:

	<i>Current fee</i> (£)	<i>New fee</i> (£)
<b>SCHEDULE 1</b>		
<b>B. Crop inspection fees</b>		

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	<i>Current fee</i>	<i>New fee</i>
	<i>(£)</i>	<i>(£)</i>
(i) Official examination of crops (other than hybrids of swede rape) (per hectare or part thereof)	14.25	16.30
(ii) Official field inspection of hybrids of swede rape (per hectare or part thereof)		48.90
(iii) Further official examination of crops (per hectare or part thereof), other than—	14.25	16.30
(a) Further official examination of crops for wild oats	7.15	7.96
(b) Further official examination of crops in respect of isolation distance	2.85	3.17
(c) Further official examination of crops which have been lodged		7.13
(iv) Authentication of seed lot sown (per crop)	6.40	7.13
(v) Official examination of crops following an unsatisfactory post control (per hectare or part thereof)		16.30
<b>E. Sampling fees</b>		
Fee for sampling or re-sampling of seed lots or imported seed intended for further multiplication (per seed lot)	48.90	50.12
<b>H. Higher voluntary standard (HVS)</b>		
Fee for verification that a seed lot meets the applicable HVS (per seed lot)		6.00
<b>SCHEDULE 2</b>		
<b>B. Licensed Seed Testing Stations</b>		
(i) Fee for official examination of seeds	5.25	7.25
<b>C. Cereal Crop inspection courses and examination</b>		
(i) Cereal Crop inspection course	570.00	607.00
(ii) Initial examination and compulsory re-test		
(a) All 3 species group		95.00
(b) 2 species		70.00
(c) 1 species only	25.00	35.00
Theory only	25.00	
<b>D. Seed sampling courses and examination</b>		
(i) Re-examination fee for seed samplers licence (with sampling function enabled)		35.00
(iv) Re-examination fee for seed samplers licence (with sampling function not enabled)		10.00
<b>E. Seed analyst courses and examination</b>		



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	<i>Current fee</i>	<i>New fee</i>
	<i>(£)</i>	<i>(£)</i>
(i) Laboratory management course registration	504.00	1,000.00
(ii) Laboratory management course attendance and examination	1210.00 (3 days)	410.00 (per day)
(iii) Analyst course registration	1344.00	1656.00
(iv) Analyst course registration additional and re-take divisions (per division)	141.00	161.00
(v) Analyst course attendance (per day or part thereof)	380.00	410.00
(vi) Analyst course examination (per day or part thereof)		410.00
NB The fee for the Tetrazolium testing course attendance and examination is now levied on a daily basis for all species.		

A Business and Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. A copy of it can be obtained from the Scottish Government Rural and Environment Directorate, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD.