

## POLICY NOTE

### THE SEED (SCOTLAND) (MISCELLANEOUS AMENDMENTS) REGULATIONS 2013

SSI 2013/326

1. The above instrument was made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and sections 16(1), (1A), (2), (3), (4), and (5)(a), and 36 of the Plant Varieties and Seeds Act 1964 (“the Act”). The instrument is subject to negative resolution procedure.

#### Consultation

2. Section 16(1) of the Act requires the Scottish Ministers to consult with representatives of such interests as appear to them to be appropriate.

3. Scottish Government consulted with NFU Scotland, AIC Scotland, and the Scottish Seed Trade Association, in line with SG guidelines. Individuals will also be made aware of this change by way of the Science and Advice for Scottish Agriculture Seed Certification information letter. This is sent to the industry on a regular basis to inform them of any changes to legislation, marketing protocols or procedures.

4. Our key stakeholders were content with the proposal to increase the fodder seed lot weight, but did not foresee any of their membership making use of this new provision, due to the cost of implementation. The change of botanical name for tomatoes has no impact on the seed’s industry in Scotland.

#### Policy Objectives

5. The purpose of this instrument is to amend the Fodder Plant Seed (Scotland) Regulations 2005 (“the 2005 Regulations”) and the Vegetable Seed Regulations 1993 (“the 1993 Regulations”) in order to transpose Commission Directives 2012/37/EU & 2013/45/EU respectively. The increase of grass seed (*Latin name - gramineae*) lot weight from 10 tonnes to 25 tonnes provided the individual /company receives authorisation from the certifying authority.

6. Botanical reclassification of the species *Solanum lycopersicum* (tomato) means that the Latin name in the 1993 Regulations needs to be amended.

#### Background

7. Scottish Government currently has 5 statutory instruments which regulate the marketing of agricultural and vegetable seed to ensure that only good quality seed is marketed. Each regulation covers the marketing of seeds of a different group of crops (“Cereals”, “Fodder”, “Oil & Fibre” “Vegetables” and “Beet”).

8. The 2005 Regulations cover the marketing of fodder seeds for agricultural and conservation use; and include such species as peas, beans as well as number of grasses.

9. At present grasses have a maximum seed lot weight of up to 10 tonnes. Under a scheme for an experiment, (Commission Decision 2007/66/EC) a five year trial was carried out to determine whether increasing the seed lot size to 25 tonnes would have an effect on homogeneity. Using conditions based on internationally accepted methods and standards such as those established by the International Seed Testing Association (ISTA), seed houses were able to produce sufficient homogenous seed lots with a higher tonnage.

10. Commission Directive 2012/37/EU was introduced to allow Member States to authorise individuals/companies to increase the maximum weight of seed lots to 25 tonnes for grasses.

11. Individuals/companies marketing, processing and/or packing seeds are required to register with Scottish Ministers under regulation 5(1) of the Seed (Regulation, Licensing and Enforcement) (Scotland) Regulations 2006 (“the 2006 Regulations”). Those who meet the requirement of having the premises, equipment, staff and knowledge are provided with a unique registration number, which must appear on all seed lots or paperwork produced by that individual/company.

12. Any person registered under regulation 5(1) of the 2006 Regulations wishing to produce grass seed lots at the increased seed lot weight will require to apply to the certifying authority (i.e. the Scottish Ministers) to do so.

13. The Scottish Ministers will not approve an application unless the applicant has complied with the Scottish Government Guide to Large Herbage Seed Lot Approval and Check Sampling Programme 2013 (“the Large Herbage Seed Lot Approval Guidance”). In order to ensure the homogeneity of increased seed lot weights, checks will require to be carried out by the Scottish Ministers. These checks are per the ISTA rules which are referred to in the Large Herbage Seed Lot Approval Guidance.

14. The provision conferring discretion on Ministers to alter the specified maximum weight of a seed lot on application of a registered person confers sub delegation of power in implement of a specific authorisation to do so in Commission Directive 2012/37/EU.

### **Financial Effects**

15. There will be no additional costs to citizens, the environment or Government.

16. A Business Regulatory Impact Assessment has not been prepared as there are no companies in the UK wishing to increase the production size of grasses to 25 tonnes.

### **Consolidation**

17. These Regulations amend the 1993 and the 2005 Regulations. The Scottish Government is aware that both of these Regulations have been amended more than five times. However, the Commission is currently working on converting 12 Directives; including the seed marketing directives, into one EU Regulation. Scottish Government need to ensure that Scotland achieve their redline issues during the early drafting stages of the Regulation, and this is where resources are currently being channelled.

18. Our seed marketing Regulations will be repealed within the next 3 – 5 years, and therefore we would ask that Rural Affairs, Climate Change and Environment Committee consider that an amendment to the 2005 and 1993 Regulations is acceptable under the circumstances.

Scottish Government  
Agriculture, Food and Rural Communities Directorate

11 November 2013