

2017 No. 179

SEEDS

The Seed (Fees etc.) (Scotland) Regulations 2017

Made - - - - *30th May 2017*

Laid before the Scottish Parliament *1st June 2017*

Coming into force - - *1st July 2017*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 16(1), (1A), (3)(i), (5)(a) and 36 of the Plant Varieties and Seeds Act 1964(a) 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 etc.) (Scotland) Regulations 2017 and come into force on 1st July 2017.

2. These Regulations extend to Scotland only.

Interpretation

3.—(1) In these Regulations—

“the 2016 Regulations” means the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016(b);

“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
- (c) in any other case, the Scottish Ministers; and

(a) 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).

(b) S.S.I. 2016/68 as amended by S.S.I. 2016/434.

“the Seed Marketing Regulations” means—

- (a) in relation to vegetable seed, the Vegetable Seeds Regulations 1993(a);
- (b) in relation to oil and fibre plant seed, the Oil and Fibre Plant Seed (Scotland) Regulations 2004(b);
- (c) in relation to cereal seed, the Cereal Seed (Scotland) Regulations 2005(c);
- (d) in relation to fodder plant seed, the Fodder Plant Seed (Scotland) Regulations 2005(d);
and
- (e) in relation to beet seed, the Beet Seed (Scotland) (No. 2) Regulations 2010(e).

(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 2016 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.

(3) Where paragraph A(ii) of schedule 1 applies, any initial fee which has been paid under paragraph A(i) must be repaid to the extent that it exceeds the fee payable under paragraph A(ii).

Fees for matters set out in schedule 2

5.—(1) Paragraph (2) applies to matters set out in schedule 2 relating to the 2016 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.

Exemptions

6. The Scottish Ministers may exempt any person or class of persons, or persons generally, from compliance with any of the provisions of these Regulations, subject to any conditions the Scottish Ministers think appropriate.

(a) S.I. 1993/2008, amended by S.I. 1996/1452, S.I. 1997/616, S.I. 1999/1863, S.S.I. 2000/250, S.I. 2001/3510, S.S.I. 2007/305, S.S.I. 2010/219, S.S.I. 2010/425, S.I. 2011/1043, S.S.I. 2013/326 and S.S.I. 2016/434.

(b) S.S.I. 2004/317, amended by S.S.I. 2006/313, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223, S.S.I. 2010/219, S.S.I. 2016/68 and S.S.I. 2016/434.

(c) S.S.I. 2005/328, amended by S.S.I. 2006/313, S.S.I. 2006/448, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223, S.S.I. 2010/219, S.S.I. 2016/68 and S.S.I. 2016/434.

(d) S.S.I. 2005/329, amended by S.S.I. 2006/313, S.S.I. 2006/448, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223, S.S.I. 2009/330, S.S.I. 2010/219, S.S.I. 2012/5, S.S.I. 2013/326, S.S.I. 2016/68 and S.S.I. 2016/434.

(e) S.S.I. 2010/148, as amended by S.S.I. 2011/413, S.S.I. 2016/68 and S.S.I. 2016/434.

Revocations

7. The Seed (Fees) (Scotland) Regulations 2016^(a) are revoked.

Amendment of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016

8. In regulation 15(2) (right to make representations) of the 2016 Regulations ^(b), for “the person refused a licence” substitute “the person who applied for a licence under regulation 3”.

FERGUS EWING

A member of the Scottish Government

St Andrew's House,
Edinburgh
30th May 2017

(a) S.S.I. 2016/69.

(b) S.S.I. 2016/68 as amended by S.S.I. 2016/434.

SCHEDULE 1

Regulation 4

FEEES FOR MATTERS RELATING TO THE SEED MARKETING REGULATIONS

<i>Matter</i>	<i>Fee £</i>
A. Initial fees	
(i) Initial fee per hectare or part thereof, except where sub-paragraph (ii) applies, for applications in respect of crops intended to produce:—	
(a) Pre-basic Seed or Basic Seed	29.60 (online applications) 30.13 (other applications)
(b) Certified Seed, Certified Seed of the First Generation, Certified Seed of the Second Generation or Certified Seed of the Third Generation	4.25 (online applications) 4.33 (other applications)
(ii) Reduced initial fee per hectare or part thereof for applications referred to in sub-paragraph (i)(a) or (b) which are withdrawn before arrangements have been made for the purposes of an official examination.	2.80
(iii) Late application fee per crop payable in addition to initial fee under sub-paragraph (i)(a) or (b) where application is not made by the date for enabling arrangements to be made for an official examination of a crop grown to produce seed of a species to which any instrument comprising the Seed Marketing Regulations applies.	29.52
B. Crop inspection fees	
(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.	19.14
(ii) Fee for the official field inspection of a hybrid of swede rape, per hectare or part thereof examined.	57.42
(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:—	19.14
(a) further official examination of crops for wild oats, per hectare or part thereof examined	8.81
(b) further official examination of crops in respect of isolation distance, per hectare or part thereof examined	3.46
(c) further official examination of crops which have been lodged, per hectare or part thereof examined	7.79
(iv) Fee for the authentication of seed lot sown (where this has not been carried out at crop inspection), per crop.	7.79
(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.	19.14
(vi) Fee payable in addition to fee under sub-paragraph (i) to (v) above	29.52

where arrangements have been made for an official examination to be carried out by a licensed crop inspector and the applicant subsequently requests that the examination be carried out instead by the Scottish Ministers.	
C. Seed lot fees	
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	85.00 (online applications) 86.53 (other applications)
(ii) of a final generation category	33.00 (online applications) 33.59 (other applications)
D. Seed lot re-entry fee	
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	35.63
(ii) Certified Seed of the Second Generation or Certified Seed of the Third Generation	17.76
E. Sampling fees	
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.	51.02
F. Official label fees	
Fee per seed lot for the issue and printing of a:—	
(i) tear resistant label for Pre-basic Seed, seeds for export or seeds following the issue of a breeder's confirmation	41.23
(ii) self adhesive label for Pre-basic Seed, seeds for export or seeds following the issue of a breeder's confirmation	28.50
G. OECD Certificate	
Fee per certificate for issuing an Organisation for Economic Co-operation and Development (OECD) Certificate.	25.45
H. Higher Voluntary Standards (HVS)	
Fee per seed lot for verification that a seed lot meets the applicable Higher Voluntary Standards (HVS).	7.13

SCHEDULE 2

Regulation 5

FEES FOR MATTERS RELATING TO THE 2016 REGULATIONS

<i>Matter</i>	<i>When payable</i>	<i>Fee £</i>
A. Representations by, and hearings of, a licensed professional seed operator, licensed crop inspector, licensed seed sampler or personnel pertaining to a licensed seed testing station		
(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
B. Licensed seed testing stations		
(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	1650.00
(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	7.50
C. Cereal crop inspection courses and examination		
Fee for:—	Within one month of demand by or on behalf of the Scottish Ministers	
(i) Cereal crop inspection course		629.12
(ii) Initial examination and compulsory retest—		
(a) all 3 species groups		98.44
(b) 2 species		72.48
(c) 1 species only		36.24
D. Seed sampling courses and examination		
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)		422.47
(ii) Tuition and examination for seed samplers licence (administrative element only)		126.74
(iii) Re-examination fee for seed samplers licence with sampling function enabled		36.95
(iv) Re-examination fee for seed samplers licence with sampling function not enabled		10.59

E. Seed analyst courses and examination		
Fee for:—	Within one month of demand by or on behalf of the Scottish Ministers	
(i) Laboratory management course registration		1112.67
(ii) Laboratory management course attendance and examination (per day or part thereof)		419.42
(iii) Analyst course registration		1841.56
(iv) Analyst course registration – additional and retake divisions (per division)		179.17
(v) Analyst course attendance (per day or part thereof. Number of days depends on division)		419.42
(vi) Analyst course examination (per day or part thereof)		419.42
(vii) Tetrazolium testing course attendance (per day or part thereof)		433.67
(viii) Tetrazolium testing course examination (per day or part thereof)		433.67

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 (Licensing and Enforcement etc.) (Scotland) Regulations 2016 (regulation 5 and schedule 2).

Regulation 6 makes provision for the Scottish Ministers to exempt any person from compliance with any provision in these Regulations relating to payment of fees.

Regulation 7 revokes the Seed (Fees) (Scotland) Regulations 2016 (“the 2016 Regulations”).

The changes to the fees in schedules 1 and 2 from those in the 2016 Regulations are as follows:

	<i>Current fee</i> (£)	<i>New fee</i> (£)
SCHEDULE 1		
A. Initial Fees		
(i) Initial fee per hectare or part thereof for crops intended to produce:-		
(a) Pre-Basic Seed or Basic Seed (for applications other than online applications)	29.60	30.13
(b) Certified Seed, Certified Seed of the First Generation, Certified Seed of the Second Generation or Certified Seed of the Third Generation (for applications other than online applications)	4.25	4.33
(i) Reduced initial fee per hectare or part thereof for applications referred to in sub-paragraph (i)(a) or (b) which are withdrawn before arrangements have been made for the purpose of an official examination.	2.75	2.80
(ii) Late application fee per crop payable in addition to initial fee under sub-paragraph (i)(a) or (b)	29.00	29.52
(iii) Official examination of crops intended other than hybrids of swede rape (per hectare or part thereof).	18.80	19.14
(iv) Official field inspection of hybrids of swede rape (per hectare or part thereof).	56.40	57.42
(v) Further official examination of crops (per hectare or part thereof) except:-	18.80	19.14
(a) further official examination of crops for wild oats	8.65	8.81
(b) further official examination of crops in respect of isolation distance	3.40	3.46
(c) further official examination of crops which have been lodged	7.65	7.79
(i) Authentication of seed lot sown (per crop)	7.65	7.79
(ii) Official examination of crops following an	18.80	19.14

	<i>Current fee (£)</i>	<i>New fee (£)</i>
unsatisfactory official post control (per hectare or part thereof)		
(iii) Additional fee payable for official examinations to be carried out by the Scottish Ministers instead of licensed crop inspectors	29.00	29.52
C. Seed lot fee		
Issuing an official certificate or a breeder's confirmation (except where paragraph D applies) in respect of a seed lot certifying the seed lot to be:-		
(i) of a multiplication category (for applications other than online applications)	85.00	86.53
(ii) of a final generation category (for applications other than online applications)	33.00	33.59
D. Seed lot re-entry fee		
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, Certified Seed of the First Generation	35.00	35.63
(ii) Certified Seed of the Second Generation or Certified Seed of the Third Generation	17.45	17.76
E. Sampling fees		
Sampling or re sampling of a seed lot for the purposes of an official examination, and for sampling or resampling imported seed intended for further multiplication	50.12	51.02
F. Official label fee		
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	41.23
(ii) Self-adhesive label for breeder's confirmation seed, Pre-Basic Seed or seed for export	28.00	28.50
G. OECD Certificate		
Issuing an Organisation for Economic Co-operation and Development (OECD) Certificate	25.00	25.45
H. Higher Voluntary Standard		
Verifying that a seed lot meets applicable higher voluntary standards (per seed lot)	7.00	7.13
SCHEDULE 2		
B. Licensed seed testing stations		
Official examination of seed	7.63	7.50
C. Cereal crop inspection courses and examination		
(i) Cereal crop inspection course	618.00	629.12
(ii) Initial examination and compulsory re-test:		
(a) all 3 species groups	96.70	98.44
(b) 2 species	71.20	72.48

	<i>Current fee</i> (£)	<i>New fee</i> (£)
(c) 1 species only	35.60	36.24
D. Seed sampling courses and examination		
(i) Tuition and examination for seed samplers licence (administrative and sampling elements)	415.00	422.47
(ii) Tuition and examination for seed samplers licence (administrative element only)	124.50	126.74
(iii) Re-examination fee for seed samplers licence (with sampling function enabled)	36.30	36.95
(iv) Re-examination fee for seed samplers licence (with sampling function not enabled)	10.40	10.59
E. Seed analyst courses and examination		
(i) Laboratory management course registration	1093.00	1,112.67
(ii) Laboratory management course attendance and examination (per day or part thereof)	412.00	419.42
(iii) Analyst course registration	1809.00	1,841.56
(iv) Analyst course registration – additional and retake divisions (per division)	176.00	179.17
(v) Analyst course attendance (per day or part thereof)	412.00	419.42
(vi) Analyst course examination (per day or part thereof)	412.00	419.42
(vii) Tetrazolium testing course attendance (per day or part thereof)	426.00	433.67
(viii) Tetrazolium testing examination (per day or part thereof)	426.00	433.67

Regulation 8 amends regulation 15(2) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 to correct a drafting error and to fulfil a commitment to the Scottish Parliament to do so.

A business and regulatory impact assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies of it may be obtained from the Scottish Government Agriculture and Rural Economy Directorate, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD and online at www.legislation.gov.uk.

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