

To organisations on the attached list

15 October 2007

Dear Sir/Madam

Seed Potatoes Fees Regulations – Amendments Required

I am writing to advise you about changes we propose to make to the Seed Potatoes (Fees) (Scotland) Regulations 2005 and the Seed Potatoes (Fees) (Scotland) Amendment Regulations 2006. These changes are limited to an increase in the fees for Nuclear Stock services together with the introduction of fees for crop and tuber inspections for Unlisted Varieties of seed potatoes for Test and Trial purposes and a fee to cover staff costs when visits for tuber inspections are cancelled at or on route to the place of inspection at short notice.

We propose no other amendments and the other seed potato fees will remain the same as those detailed in the Schedule to the Seed Potatoes (Fees) (Scotland) Regulations 2005.

The changes we propose are as follows:-

Nuclear Stock

<u>Service</u>	<u>2006</u>	<u>2007</u>
a) Initiation of new nuclear stock (6 microplants)	£159	£169
b) Provision of in vitro maintained nuclear stock (6 microplants)	£46	£48
c) In vitro maintenance of nuclear stock (annual fee per variety)	£65	£69

These fees were last increased in 2006. At present the cost of services a) and c) are not fully recovered and the increases being proposed are to ensure that the current gap in cost recovery for these services does not widen further. The increases are, therefore, above the rate of inflation.

Unlisted Varieties for Test and Trial purposes

The fees for the new category of Unlisted Varieties of seed potatoes for Test and Trial purposes are proposed to be at the same level as that which currently apply to Approved Stock. The cost of crop inspections is being set at £25 per half hour or part thereof and the cost of official examination of such tubers, in respect of crops for which an application has been made, at £25 per half hour or part thereof which shall include the provision of official labels and seals. Your views are sought on this proposal.

Fees for Aborted Tuber Inspections

We would also welcome your comments on a proposal that has been made to introduce a fee to cover the costs incurred when tuber inspections are cancelled with inadequate reason at very short notice. The circumstances envisaged here are where an inspector is on the way to or has arrived at a premise and is unable to gain access to carry out the inspection. The rate proposed for this is £25 per half hour or part thereof.

We would welcome your views on all the changes we are proposing to make to the Seed Potatoes (Fees) (Scotland) Regulations 2005 and the Seed Potato (Fees) (Scotland) Amendment Regulations 2006 by close on 19 November 2007. Further information is contained in the attached Partial Regulatory Impact Assessment.

Yours faithfully

Mrs Caroline Boyd

Organisations

Mr Peter Loggie
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Federation of Small Businesses – Scottish Office
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Scottish Organic Centre
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Regulatory Impact Assessment

1. Title

Seed Potatoes (Fees) (Amendment) Scotland Regulations 2007

2. Purpose and intended effect

Objectives

To assess the proposal to increase three fees for the provision and maintenance of nuclear stock, extend the current fees charged for crop and tuber inspections for Approved Stock to Unlisted Varieties of Test and Trial Varieties which can now be marketed in Scotland following the implementation of the provisions of EC Decision 2004/842 and introduce a new fee to cover staff costs when on a very limited number of occasions visits for tuber inspections are cancelled at or en route to the place of inspection.

Background

This Regulatory Impact Assessment applies to Scotland only. Existing fees for seed potato services are contained in the Seed Potato (Fees) Scotland 2005 and the Seed Potato (Fees) (Scotland) Amendment Regulations 2006. Equivalent services are provided in other parts of the UK by the other administrations.

Rationale for government intervention

By working towards achieving cost recovery The Scottish Government is better able to keep pace with industry demands for the services. If the appropriate level was not charged for the services that applicants receive, the European Commission could consider that Scotland is subsidising its seed potato industry and is therefore acting contrary to EU law on State Aids. Charges are currently levied by our European counterparts for equivalent services.

3. Consultation

Within Government

Colleagues within The Scottish Government have been consulted.

Public consultation

A short written public consultation with stakeholder organisations will be undertaken. Stakeholders include the National Farmers Union Scotland, the Pre-Basic Growers Association, the British Potato Council, the British Potato Trade Association, the Scottish Organic Producers Association and the Association of Small Businesses. All stakeholders involved in the seed potato industry should therefore be aware of our proposals.

4. Options

Two options have been identified.

4.1 Option 1 – Do nothing

The fees charged under Option 1 for nuclear stock would remain at the current level set in the Seed Potatoes (Fees) (Scotland) Amendment Regulations 2006, namely £159 for the initiation of new nuclear stock (6 microplants); £46 for the provision of in vitro maintained nuclear stock (6 microplants) and £65 annually for the in vitro nuclear stock (per variety). There would be no fee charged for either unlisted varieties for test and trial varieties or for any aborted visits. The Scottish Government would not be able to recover the costs of the service for providing and maintaining nuclear stock and so tax payers would be subsidising the industry. For the two new fees tax payers would also be meeting the costs and therefore subsidising some parts of the seed potato industry.

4.2 Option 2 – Increase fees for the nuclear stock services and introduce 2 new fees

The fees charged under Option 2 for the nuclear stock services would increase to £169 for the initiation of new nuclear stock (6 microplants); £48 for the provision of in vitro maintained nuclear stock (6 microplants) and £69 annually for the in vitro maintenance of nuclear stock (per variety). For Unlisted Varieties for Test and Trial varieties the level proposed is the same as currently applies to Approved Stock, namely £25 per half hour or part thereof for growing crop and tuber inspections and for aborted visits the level is again proposed at £25 per half hour or part thereof.

5. Costs and Benefits

Sectors and groups affected

Seed potato producers, growers, merchants and ware potato growers who rely on seed potatoes to be of a known health status. It is envisaged that the measures would impact equally across the industry irrespective of size.

Scotland is a major seed potato producer. The value of Scottish seed potatoes in 2006 was recorded as being around £50 million.

Benefits

Option 1 – No change

Stakeholders would benefit from getting the nuclear stock services at a reduced rate and being subsidised by tax payers. Producers of Test and Trial seed potatoes would benefit from being able to market these seed potatoes with costs of the services being subsidised by taxpayers.

Option 2 – Increased fees for nuclear services and the introduction of new fees

Stakeholders would be liable to pay the appropriate fee for the services received without the costs of these services and inspections being subsidised by tax payers.

Costs

Option 1 – No change

The no change option would mean that producers would not be faced with additional costs.

Option 2 – Increased fees for nuclear services and the introduction of new fees

This option would mean that the industry would be required to meet the costs of the provision and maintenance of nuclear stock. Assuming the same figures as detailed, the total cost over a year would amount to £3,000 for increases in nuclear stock services, and £300 for unlisted varieties. It is not possible to quantify the amount for aborted visits but we anticipate that this cost would be minimal.

6. Small Firms Impact Test

A number of small businesses may be affected by these increases and the introduction of the fees for the marketing of unlisted varieties for test and trial purposes. Exact numbers are not known as some of the smaller companies in the industry will be subsidiaries of larger companies and will be classified accordingly. The level of all the fees under the scheme will be the same no matter what size the company however the revised regulation inherently provides for different sizes of businesses, as the impact of requirements such as inspection and labelling etc will be proportionate to the numbers of seed potatoes being produced and marketed.

7. Legal Aid Impact Test

The Proposal does not create new criminal sanctions or civil penalties.

8. Test Run of business forms

Stakeholders already apply for the services and no new forms are envisaged.

9. Competition Assessment

The following initial assessment has been made.

Would the Proposal:

- Directly limit the number or range of suppliers?
- Indirectly limit the number or range of suppliers?

The Proposal imposes further costs on growers, but does not directly or indirectly restrict the number or range who will be able to operate in the market place.

- Limit the ability of suppliers to compete?
- Reduce growers' incentives to compete vigorously?

The Proposal is more unlikely to have any effect on competition.

10. **Enforcement, sanctions and monitoring**

Growers will be charged the revised fees of the services by Government officials. Failure to pay the relevant fee will mean that the service will not be available.