

Note by the Clerk: subordinate legislation

Overview

1. At this meeting, the Committee will consider the following instruments, which are subject to the negative procedure. The Committee is invited to consider the instruments and decide what, if any, recommendations to make:
 - [The Seed \(Fees\) \(Scotland\) Amendment Regulations 2025](#)
 - [The Marketing of Fruit Plant and Propagating Material \(Scotland\) Amendment Regulations 2025](#)

Delegated Powers and Law Reform (DPLR) Committee consideration

2. The [DPLR Committee considered the instruments on 27 May 2025](#) and made no recommendations in relation to them.

The Seed (Fees) (Scotland) Amendment Regulations 2025

3. Further information about the instrument is summarised below:

Laid under: [Plant Varieties and Seeds Act 1964](#).

Laid on: 19 May 2025

Procedure: Negative

Deadline for committee consideration: 23 June 2025

Deadline for Chamber consideration: 27 June 2025

Commencement: 1 July 2025

Purpose of the instrument

4. This instrument seeks to update the fees charged for seed certification, and associated licensed activities, by amending the relevant provisions of [the Seed \(Fees\) \(Scotland\) Regulations 2018](#). Seed certification ensures that seeds of the main agricultural and vegetable species can only be marketed after being examined and certified as meeting specified minimum standards and as being derived from crops which have also met specific standards.
5. The certification of seed and the training and examination of licensed persons are statutory functions and is undertaken by SASA, the Seed Certifying Authority for Scotland, on behalf of the Scottish Government. The policy note states that the annual review of certification services by SASA checks that “full cost recovery is achieved (with limited over-recovery) whilst still providing a robust system, where functions and costs are transparent to all”. Increases in seed fees are implemented annually via an SSI.

6. The policy note accompanying the instrument includes a summary of consultation undertaken on the instrument, impact assessments carried out, and the anticipated financial effects and is set out in **Annexe A**. Members will note that, although a consultation was undertaken, no responses were submitted. A [BRIA](#) has been produced.

The Marketing of Fruit Plant and Propagating Material (Scotland) Amendment Regulations 2025

7. Further information about the instrument is summarised below:

Laid under: [Plant Varieties and Seeds Act 1964](#).

Laid on: 19 May 2025

Procedure: Negative

Deadline for committee consideration: 23 June 2025

Deadline for Chamber consideration: 27 June 2025

Commencement: 7 October 2025

Purpose of the instrument

8. This instrument seeks to amend the lists of regulated non-quarantine pests ('RNQPs'), and associated requirements, in [the Marketing of Fruit Plant and Propagating Material \(Scotland\) Regulations 2017](#).
9. The amendments aim to align with changes made by the European Union to [Commission Implementing Directive 2014/98/EU](#), therefore maintaining equivalence with the European Union for fruit plants and fruit plant propagating material.
10. RNQPs are plant pests that are a significant concern in agriculture. While they are present in a country and not subject to quarantine measures, their presence on plants intended for planting can lead to economic losses. Therefore, their regulation is crucial to prevent such impacts.
11. The regulation involves measures for both domestic and imported plants. For domestic plants, this might include treatments to manage the pest populations. For imported plants, it could mean refusing entry to infested plants to prevent the spread of these pests.
12. The policy note states that the purpose of the [Marketing of Fruit Plant and Propagating Material \(Scotland\) Regulations 2017](#) is to ensure that fruit plants and fruit plant propagating material are consistently healthy and of good quality. It sets out inspection, sampling, testing and production site requirements in relation to plant species and the RNQPs which they are vulnerable.
13. The policy note accompanying the instrument includes a summary of consultation undertaken on the instrument, impact assessments carried out, and the anticipated financial effects is set out at **Annexe B**. Members will note that a joint and targeted consultation was run by the UK administrations. The policy note states that "no responses were received within the consultation period, indicating the majority are content with the proposed amendments

RAI Committee consideration

14. So far, no motions recommending annulment have been lodged.

15. Members are invited to consider the instruments and decide whether there are any points they wish to raise.

Clerks to the Committee
June 2025

Scottish Government Policy Note

This instrument (“the SSI”) is made by the Scottish Ministers in exercise of the powers conferred by sections 16(1), (1A), 3(i) and 36 of the Plant Varieties and Seeds Act 1964 (“the Act”) and all other powers enabling them to do so. The SSI is subject to negative procedure.

Summary Box

The purpose of the SSI is to update the fees charged for seed certification, and associated licensed activities by amending the relevant provisions of the Seed (Fees) (Scotland) Regulations 2018.

Policy Objectives

This SSI will update the provisions for the charging for seed certification (in relation to seed marketing) and associated licensed activities by substituting new schedules 1 and 2 of the Seeds (Fees) (Scotland) Regulations 2018¹ (“the 2018 Regulations”).

The 2018 Regulations prescribe fees in respect of matters arising under the various regulations, known collectively as the “Seed Marketing Regulations”, namely:

- The Vegetable Seeds Regulations 1993 (S.I. 1993/2008)²
- The Oil and Fibre Plant Seed (Scotland) Regulations 2004 (S.S.I. 2004/317)³
- The Cereal Seed (Scotland) Regulations 2005 (S.S.I. 2005/328)⁴
- The Fodder Plant Seed (Scotland) Regulations 2005 (S.S.I. 2005/329)⁵
- The Beet Seed (Scotland) (No 2) Regulations 2010 (S.S.I. 2010/148)⁶

The 2018 Regulations also prescribe fees in relation to matters arising under the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 (S.S.I. 2016/68)⁷. Those regulations allow a number of official functions related to seed certification and seed testing to be undertaken by licensed individuals, as well as providing for the training and supervision of licensed persons.

Seed certification is carried out to ensure that farmers and growers receive seeds of a known minimum quality. These standards remain aligned with the EU. This is achieved in Scotland through the Marketing Regulations, which ensure that seeds of the main agricultural and vegetable species can be marketed only after being examined and certified as meeting specified minimum standards and as being derived from crops which have also met specific standards. The Scottish Government carries out technical and administrative work associated with seed certification.

¹ <https://www.legislation.gov.uk/ssi/2018/152>

² <https://www.legislation.gov.uk/ukSI/1993/2008/contents/made>

³ <https://www.legislation.gov.uk/ssi/2004/317/contents/made>

⁴ <https://www.legislation.gov.uk/ssi/2005/328/contents>

⁵ <https://www.legislation.gov.uk/ssi/2005/329/made>

⁶ <https://www.legislation.gov.uk/ssi/2010/148/contents>

⁷ <https://www.legislation.gov.uk/ssi/2016/68/contents/made>

The certification of seed and the training and examination of licensed persons are statutory functions. As such, under Scottish Government Fees & Charges Guidance, fees require to be levied for that service.

The annual review of certification services by Scottish Government is undertaken by SASA, the Seed Certifying Authority for Scotland, to check that full cost recovery is achieved (with limited over-recovery) whilst still providing a robust system, where functions and costs are transparent to all.

Fees prescribed in schedule 1 of the 2018 Regulations which cover the inspections and testing of seed lots being grown that season will be subject to a 6.14% increase.

Incorporating these fee increases, the cost of certifying per tonne for Barley, would roughly be of £18.71, which is an average increase of £0.74 compared to last year (figure provided by SASA, factoring in average tonnes per hectare for the past harvest).

Fees prescribed in schedule 2 of the 2018 Regulations will also be subject to a 6.14% increase, excluding service lines belonging to Section B(i) and B(ii) which will see a bespoke increase of 15% and 10% respectively.

Service fee adjustments (as detailed in points 9 and 11) were calculated using historical data and UK GDP deflator⁸ figures from September 2024.

Implementation of the recommended fee increases (as detailed in points 9 and 11) would result in a projected income of £221,395 against the estimated cost of £227,977 (assuming similar service use to last year).

This would mean a projected recovery rate of 97.1% which accounts for the varying demand in service.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

Section 16(1) of the Act requires Scottish Ministers to consult with representatives of such interests as appear to them to be concerned before making regulations under that power.

All service users (over 30 relevant stakeholders) of the seed certification system in Scotland and / or OSTs were sent an email providing them the link to the consultation on changes to the fees. The Seed Fees Review 2024-25 consultation⁹ was also placed on the SASA website.

⁸ <https://www.gov.uk/government/statistics/gdp-deflators-at-market-prices-and-money-gdp-september-2024-quarterly-national-accounts>

⁹ <https://www.sasa.gov.uk/seed-testing-certification/2024-25-consultation-fees-seed-testing-seedcertification-and-associated>

The consultation ran for an eight week period (07/01/2025 to 04/03/2025). However, no responses were received during this consultation period.

Financial Effects

In addition to the consultation, a Business Regulatory Impact Assessment (BRIA) was undertaken to determine the extent of the financial effects of the proposed changes. Several businesses across Scotland were invited to take part in BRIA interviews, but we had no responses. Therefore, it was not possible to conduct any interviews. Accordingly, the BRIA considers the impact on businesses based on the information that was available to the Scottish Government.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

Under the requirements of the UNCRC (Incorporation) (Scotland) Act 2024, these amendments are not relevant to children's rights or wellbeing as set out in the UNCRC (Incorporation) (Scotland) Act 2024.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, The Seed (Fees) (Scotland) Amendment Regulations 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

Timing

The SSI comes into force on 01 July 2025.

Scottish Government Policy Note

This instrument (SSI) is made by the Scottish Ministers in exercise of the powers conferred by sections 16(1), 16(1A), 29(1) and 36 of the Plant Varieties and Seeds Act 1964 (“PVS Act”) and all other powers enabling them to do so. The SSI is subject to negative procedure.

Summary Box

The purpose of this SSI is to amend the lists of Regulated Non-Quarantine Pests, and associated requirements, in the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017, in order to align with amendments made by the European Union to Commission Implementing Directive 2014/98/EU, therefore maintaining equivalence with the European Union for fruit plants and fruit plant propagating material.

Policy Objectives

Regulated Non-Quarantine Pests (‘RNQPs’) are plant pests that are present in a country and not subject to quarantine measures. However, their presence on plants intended for planting can cause economically unacceptable impacts. The presence of RNQPs on plant hosts is therefore regulated on both domestic plants for planting and imported plants to reduce their potential impact, be that by requiring treatment of GB populations or refusing entry of imported infested plants. The definition of a RNQP is set out in Article 36 of Regulation (EU) 2016/2031.

The purpose of the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017 (‘the 2017 Regulations’) is to ensure that fruit plants and fruit plant propagating material are consistently healthy and of good quality. To that end, the 2017 Regulations set out inspection, sampling, testing and production site requirements in relation to plant species and the RNQPs to which they are vulnerable. This SSI makes changes to the RNQPs referred to in the 2017 Regulations and to requirements in relation to some of them.

The 2017 Regulations transposed the requirements of European Union (‘EU’) legislation as regards to fruit plant propagating material and fruit plants. After the exit of the UK from the EU, the EU granted equivalence to the UK for fruit plants and fruit plant propagating material, meaning that such material from Great Britain can be marketed in the EU and Northern Ireland. Amendments are made to the 2017 Regulations by this SSI in order to align with the amendments made by the EU to Commission Implementing Directive 2014/98/EU regarding RNQPs and species of fruit plants. Such alignment is necessary to ensure the continuation of EU equivalence for fruit plants and fruit plant propagating material from Great Britain.

This SSI makes the following amendments to the 2017 Regulations:

- Schedule 6 is amended to remove Fig mosaic agent, because it no longer fulfils the conditions to be listed as a RNQP, and *Candidatus* Phytoplasma australiense Davis *et al*, because it is now classed as a quarantine pest.

Pucciniastrum minimum (Schweinitz) Arthur is added to the list of RNQPs in relation to *Vaccinium* L.,

- Schedule 6A is amended to add Tomato ringspot virus as a RNQP in relation to *Malus* Mill., *Rubus* L., *Vaccinium* L. and species of *Prunus* L. Tobacco ringspot virus is also added as a RNQP in relation to *Vaccinium* L.,
- The plant material sampling, testing and production site requirements in Schedule 7 are amended to include requirements in relation to Tomato ringspot virus and Tobacco ringspot virus,
- The requirements in Schedule 7 regarding *Pyrus* L. and its associated RNQP, *Candidatus* Phytoplasma pyri Seemüller & Schneider, are amended. Production site requirements in relation to pre-basic *Cydonia oblonga* Mill. produced in non-insect proof conditions are removed.

These proposed changes to meet EU equivalence will have minimum impact on Scottish industry.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

Under the requirements of the UNCRC (Incorporation) (Scotland) Act 2024, these amendments are not relevant to children's rights or wellbeing as set out in the UNCRC (Incorporation) (Scotland) Act 2024.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, *The Marketing of Fruit Plant and Propagating Material (Scotland) Amendment Regulations 2025* is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is relevant to the Scottish Government's policy to maintain alignment with the EU.

The UK (or Great Britain since NI still applies EU law) is the only country to be granted **EU wide equivalence** for fruit plants and fruit plant propagating material. Details of the equivalence decision can be found in Commission Implementing Decision 2020/2219.

The UK Plant Variety and Seed Committee (PVSC) concluded that to **reduce the risk of loss of EU equivalence** for fruit propagating material and fruit plants, the best option was to pursue alignment as far as possible with the EU timetable.

The current EU proposal states that Member States should have transcribed the requirements by 31st July 2025, and officials consider Scotland should make these changes as soon as possible in order to cause no equivalence impacts.

Alignment across UK governments (Defra, the Scottish Government, and the Welsh Government) is necessary to prevent any disadvantage to the industry. Consequently, the coming into force (CIF) date has been delayed to allow Welsh

government adequate time to align with the process. A revised date of 7th October 2025 has been set, as this is the earliest achievable timeline for all administrations to commit to. This delay will have minimal impact on industry while maintaining equivalence with minimal risk.

Statement required by the European Union (Withdrawal) Act 2018 - why the Scottish Ministers consider that there are good reasons for the amendments made to regulations made under section 2(2) of the European Communities Act 1972

The Minister for Parliamentary Business has made the following statement under paragraph 16(2) of Part 1 of schedule 8 of the European Union (Withdrawal) Act 2018:

“I believe there are good reasons for the amendments made by this instrument to the 2017 Regulations, which were made under section 2(2) of the European Communities Act 1972. The 2017 Regulations transposed EU requirements as regards fruit plants and fruit plant propagating material. Those requirements facilitated the granting of equivalence by the EU to fruit plants and propagating material originating from Great Britain. It is therefore appropriate to continue to align with the updated EU phytosanitary requirements for fruit plants and propagating material to ensure equivalence and maintain ongoing trade in this specific market.”

Consultation

Section 16(1) of the PVS Act requires Scottish Ministers to consult with representatives of such interests as appear to them to be concerned before making regulations under that power.

A joint consultation (Defra, Welsh Government and Scottish Government) ran for an eight week period (10th March 2025 to 5th May 2025) and was targeted specific relevant stakeholders.

No responses were received within the consultation period, indicating the majority are content with the proposed amendments.

Financial Effects

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

The Minister for Agriculture and Connectivity confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Timing

The SSI comes into force on 7 October 2025.