

Title: Revision of fees for Seeds Marketing in England and Wales IA No: DEFRA1439 Lead department or agency: Department for Environment, Food and Rural Affairs (Defra) Other departments or agencies: Food and Environment Research Agency (Fera) Sustainable Futures, Welsh Government	Impact Assessment (IA)		
	Date: 01/12/2012		
	Stage: Consultation		
	Source of intervention: Domestic		
	Type of measure: Secondary legislation		
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Summary: Intervention and Options	RPC Opinion: AMBER
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£0m	-£5.64m	£0.70m	No
			NA

What is the problem under consideration? Why is government intervention necessary?

EU obligations require a statutory framework for the marketing of seed of the main agricultural and vegetable crops, with objectives of quality assurance, consumer protection, and ensuring a single market. The Seed Marketing Regulations 2011. Seed cannot be marketed unless it is officially certified; that is, of a registered variety, produced through a defined generation system, meeting specified quality standards, and correctly packaged, labelled and sealed. This statutory service is administered by Fera on behalf of Defra. It is government policy to recover the costs of providing statutory services, but the current fees do not reflect the actual cost to government of service provision. This is a subsidy to registered users and a financial cost to the taxpayer. Government intervention is necessary to remove this subsidy.

What are the policy objectives and the intended effects?

The objective of this policy is to remove the subsidy for Seed Marketing statutory services without compromising implementation of the legislation or the government's objectives for sustainable food production. The intended effect is more efficient use of public resources by transferring the full cost of service provision from the general taxpayer to the direct beneficiaries of the service (e.g. seed companies) and move toward full cost recovery (FCR), in line with government policy (Managing Public Money (2009) HM Treasury).

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

- Do nothing (No change to current position of partial cost recovery).
- Introduction of FCR during 2013 for all recoverable costs for the seeds marketing services at current resource levels.
- Phased introduction of FCR, through fee increases in 2013 to recover costs except for maintenance and depreciation costs of the online application system, followed by recovery of all costs in 2015. This will give time for Fera and the industry to replace the online certification system and/or reduce other costs while moving towards the policy objective of FCR.

Options for de-regulation have not been adopted because of the need to comply with EU legislation.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 12/2018					
Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: NS		Non-traded: NS

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: _____ Date: _____

Summary: Analysis & Evidence

Policy Option 1

Description: Do nothing (No change to current position of partial cost recovery)

FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: £0m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	£0m	£0.82m	£6.85m

Description and scale of key monetised costs by 'main affected groups'

- This option maintains the existing fee levels and consequent partial recovery of the cost of service provision.
- Estimated present value of the total costs to the taxpayer over 10 years is approx. £6.85m. The taxpayer will continue to subsidise the service at approx. £0.82m per annum.

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	£0m	£0.82m	£6.85m

Description and scale of key monetised benefits by 'main affected groups'

- Estimated present value of total benefits to industry over 10 years is **£6.85m**.
- The main beneficiaries will be businesses (namely plant breeding companies, seed producing companies and farmers) using the service who will continue to have access to a subsidised service of £0.70m per annum.

Other key non-monetised benefits by 'main affected groups'

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

Key Assumption: Service cost calculations for 2013/14 assume that the number of applications will remain at or close to 2011/12 values. **Key Risk:** Fera's statutory services are required to make substantial cuts in costs by year 4 of the Comprehensive Spending Review. The main risks if FCR fees are not implemented are that cuts would be required to: (1) the coverage and speed of the service, with impacts on business users and/or (2) cuts elsewhere in the statutory programme.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: £0m	Benefits: £0.824m	Net: £0.824m	No	NA

Summary: Analysis & Evidence

Policy Option 2

Description: Introduction of full cost recovery during 2012 for all recoverable costs for the seeds marketing services at current resource levels.

FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: £0m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	£0m	£0.82m	£6.85m

Description and scale of key monetised costs by 'main affected groups'

- This option introduces full cost recovery from service users in 2013.
- Estimated present value of total costs to industry over 10 years is **£6.85m**. This cost will be borne by plant breeding companies, seed producing companies and farmers. The annual cost to business will be about £0.70m.

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	£0m	£0.82m	£6.85m

Description and scale of key monetised benefits by 'main affected groups'

- Estimate present value of the total benefits to the taxpayer over 10 years is **£6.85m**.
- The main beneficiary of this option will be the taxpayer who will benefit from a cost transfer to business of £0.82 m per annum.

Other key non-monetised benefits by 'main affected groups'

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

Key Assumption: Cost base and fees needed to achieve FCR assume no change in business volume (no. of applications for seed crops and lots) compared with 2011/12. **Key Risks:** (1) Increased cost of certified seed may reduce demand in favour of farm saved seed, reducing the viability of seed companies, particularly small companies specialising in minor crops. (2) Increased use of farm saved seed will reduce plant breeders' royalty income, affecting the viability of breeding programmes, particularly those for minor crops, with an impact on the development of new varieties and sustainable food production. (3) Migration of seed production from England & Wales to cheaper countries elsewhere in the EU.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: £0.725m	Benefits: £0m	Net: -£0.824m	No	NA

Summary: Analysis & Evidence

Policy Option 3

Description: Phased introduction of FCR, through fee increases in 2013 to recover all costs except for maintenance and depreciation costs of the online application system, followed by FCR in 2015.

FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: £0m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	£0m	£0.70m	£5.44m

Description and scale of key monetised costs by 'main affected groups' The main affected group will be plant breeding and seed producing companies and farmers.

- Estimated present value of the total cost to industry over 10 years is **£5.44m**. Annual cost to service users for the first 2 years of the 10 year profile is £0.19m and £0.82m thereafter.
- Estimated present value of the total cost to the taxpayer over 10 years = **£1.2m** due to the continued £0.63m subsidisation by the taxpayer for the first 2 yrs.
- See section 10.5 for more information.

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate		£0.70m	£5.44m

Description and scale of key monetised benefits by 'main affected groups'

- Estimated present value of the total benefit to the taxpayer over 10 years is **£5.44m**. Annual benefit to the taxpayer for the first two years is £0.19m and £0.70m thereafter.
- Estimated present value of the total benefit to industry over 10 years is **£1.21m**. Industry will benefit from a continued annual subsidy in the first two years of £0.63m.
- See section 10.5 for further detail.

Other key non-monetised benefits by 'main affected groups'

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

Key Assumption: no change in business volume compared with 2011/12.

Key Risk: (1) As Option 2 regarding the impact on the impact on applicants, but at a lower and manageable level. (2) Delivery of the two-year time frame for Fera to work with industry to replace the online certification system and / or reduce other costs.

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: £0.632m	Benefits: £0m	Net: -£0.632m	No	NA

Evidence Base (for summary sheets)

References

No.	Legislation or publication
1	The Seed Marketing Regulations 2011 England http://www.legislation.gov.uk/uksi/2011/463/part/1/made
2	The Seed Marketing (Wales) Regulations 2012 http://www.legislation.gov.uk/wsi/2012/245/contents/made
3	EU Seeds Marketing Directives: Council Directive 2002/54/EC on the marketing of beet seed Council Directive 66/402/EEC on the marketing of cereal seed Council Directive 66/401/EEC on the marketing of fodder plant seed Council Directive 2002/57/EC on the marketing of seed of oil and fibre plants Council Directive 2002/55/EC on the marketing of vegetable seed See http://eur-lex.europa.eu/en/index.htm to search for individual Directives
4	The Future of Food and Farming: Challenges and Choices for Global Sustainability, Foresight Programme http://www.bis.gov.uk/assets/bispartners/foresight/docs/food-and-farming/11-546-future-of-food-and-farming-report.pdf

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Evidence Base (for summary sheets)

This Consultation Impact Assessment (IA) seeks to identify and develop options open to government to make services for seeds marketing in England and Wales, as far as possible, cost neutral. Through the associated consultation, stakeholders are invited to provide additional relevant evidence, in particular concerning the impact of achieving full cost recovery, and to challenge the evidence provided by Defra.

1. Background

1.1 EU Directives and resulting English and Welsh regulations lay down a quality assurance process for the identity, purity, health, and viability of marketed seed of the main agricultural and vegetable species. EU legislation closely follows OECD schemes for seed moving in international trade and the rules of the International Seed Testing Association. The main elements are:

- i. The variety must be on a National List or the Common Catalogue, that is, it must have completed the testing for official registration specified in separate EU Directives and resulting UK regulations.
- ii. Seed must be produced through a generation system controlling the production of at least basic seed and one generation of certified seed. In practice, almost all multiplication under official control starts with pre-basic seed and the number of generations of certified seed depends on the species. Vegetable species may be marketed as standard seed, which has much simpler official control, and is widely used as an alternative to certified seed.
- iii. Crops grown to produce seed must meet standards for varietal identity and purity, presence of harmful weeds and other crop species, and isolation from sources of undesirable pollen.
- iv. Seed must be sampled and tested prior to marketing, for germination, purity, the presence of seed of harmful weeds and other crop species, and in some cases harmful diseases.
- v. Marketed seed must be packaged, sealed and labelled to preserve its integrity and to give specific information.

The legislation specifies which activities can be carried out by seed company employees, independent individuals, and seed testing laboratories. It gives conditions for this licensing and official supervision.

1.2 The seeds marketing regulations in England and Wales are implemented by the Food and Environment Research Agency (Fera) on behalf of the Department for Environment, Food and Rural Affairs (Defra) and the Welsh Government. Most of the technical work and official supervision is carried out by the National Institute of Agricultural Botany (NIAB) under contract with Fera. Seeds marketing is a devolved activity, with separate legislation and systems in Scotland and Northern Ireland. Relatively little seed is produced in Wales (< 1 % of England and Wales production) and Fera implements legislation on behalf of the Welsh Government, operating to a single system.

Fera's main roles are: overall management of the system, licensing of seed companies, crop inspectors, seed samplers and seed testing laboratories, audit of seed companies, monitoring the performance of licensed seed samplers, and enforcement. NIAB's main roles are: collation of information on all seed crops and seed lots, training and exams for all licensed activities, monitoring the performance of licensed crop inspectors and seed testing stations, control plots of all seed lots used for further multiplication, control plots of 5% of final generation seed lots, and inspection of crops entered to produce pre-basic and basic seed.

Fera has contracts for the supply of labels and seals. Seed companies pay these contractors directly, leaving Fera with contract management costs.

- 1.3 The seeds industry in England and Wales uses licensing and official supervision to the full extent allowed by the legislation, inspecting almost all seed crops entered to produce the various generations of certified seed, and sampling and testing almost all seed lots. Monitoring by Fera and NIAB follows Hampton principles and is at the minimum level required by the legislation.
- 1.4 NIAB's collation of information relating to all seed crops and seed lots maintains a complete pedigree record. This allows coordination of the certification system, official inspection of crops entered to produce pre-basic and basic seed, the linking information from control plots of multiplication seed lots to crops sown with the seed, monitoring of licensed personnel through check inspection, and monitoring of seed testing laboratories through check testing.
- NIAB receives most information through the online seed certification system, which, provided the data are compliant, automatically enters NIAB's database. NIAB receives the remainder through a series of paper forms that are manually entered into the database. All data are checked for compatibility with relevant existing data on entry into the database, maintaining pedigree records and assuring compliance with the legislation. Fees for crop entry and seed lot application are paid with the relevant forms and are also administered by NIAB. Annual fees for licensed seed testing laboratories are invoiced by Fera.
- 1.5 Annex 2 summarises the areas of seed production and amounts of seed certified in England and Wales annually.
- 1.6 About 90 companies are registered with Fera for seed production and certification. They include micro-businesses producing small quantities of seed, large national companies producing a large proportion of the seed used in England and Wales, and UK subsidiaries of multi-national plant breeding companies producing basic seed of their varieties for further multiplication. A much larger number of companies is registered for marketing of seed, buying certified seed from other companies but not producing seed themselves.
- 1.7 The total value of seed produced in the UK is estimated as £125m a year, with about 90% produced in England. This is about half of the total market, with the balance provided by imports.
- 1.8 Although not required by the seeds marketing legislation or process, seed certification facilitates the collection of royalties for Plant Breeders' Rights through records of sales of certified seed.
- 1.9 Fera has delivered significant cost savings, reducing its costs for overall management of seeds marketing by £90,000 in 2013/14, and is seeking further opportunities for streamlining. This includes discussion with stakeholders ahead of formal consultation on fee increases, mainly through the Seeds Marketing Taskforce, a Government-business partnership whose key aim is supporting the drive for further service cost-efficiency gains. The Taskforce first met on 10 May 2012 and has had five further meetings to date, with the main issue being replacement of the online applications system.
- 1.10 Defra and Fera are also implementing Commission Decision 2012/340/EU, to allow seed company personnel to inspect, under a system of licensing, crops entered to produce pre-basic and basic seed. This has the potential to significantly reduce crop entry fees for these categories, reducing total costs by up to £140,000.

2. Problem under consideration

- 2.1 The issue under consideration is full cost recovery (FCR) for the seeds marketing service in England and Wales. The current fees structure was introduced in 2006 following a review of the legislation and competitive re-tendering of the technical contract, which reduced costs and allowed fees to be more closely related to individual activities. Fees were revised in 2007 and achieved full recovery of costs using the basis for calculation accepted at the time and for the next few years. However, full cost recovery is no longer achieved, with the main reasons being:
- i. Fera's costs (administrative costs are more transparent since the formation of Fera in 2009).

- ii. Maintenance and depreciation costs for the online certification system. Maintenance costs are now specifically allocated to Fera, rather than as an overhead within Defra's budget, and depreciation costs are recoverable regardless of the nature of the capital funding.
 - iii. Control plots. Fera's fees review has shown an underestimate in the number of control plots of breeders' seed lots, imported seed lots, and reference samples for varietal identity. This means that the current cost allocation of one control plot to each multiplication seed lot leads to a significant under recovery.
 - iv. Increases in NIAB's costs, following a formula in the contract with Fera, since the fees were increased in 2007.
- 2.2 Fera has followed Defra and Treasury advice to identify business costs that should be recovered. These are NIAB's costs as subcontractor, costs for the online applications system and the direct costs of Fera's delivery team in Cambridge and Plant Health and Seeds Inspectors located across England and Wales (e.g. salaries, ERNIC, superannuation, accommodation, travel and subsistence, consumables) with proportionate overheads (e.g. HR, finance, IT and top management costs etc)¹. Enforcement costs are not recoverable, which for seeds marketing are mainly for investigation of infringements and activities associated with testing of samples of marketed seed and the resulting actions.
- 2.3 The fees structure allocates specific costs (e.g. official crop inspection, check inspection, check seed testing, and control plots) to the relevant fee type, with other costs (e.g. management of the system, audit of seed companies, IT costs) allocated pro rata to each crop or seed lot application.

3. Rationale for intervention

- 3.1 This Fera service is a legal requirement for marketed seed of the main agricultural and vegetable species, implementing UK regulations that transpose the EU Council Directives listed in the Evidence Base. Seed cannot be marketed unless it is officially certified and of a variety on the UK National List or the Common Catalogue, assuring varietal identity and seed quality, protecting buyers, whether another seed company, farmer or other consumer. The primary beneficiaries of the service are seed producing companies, who cannot otherwise sell seed of species covered by the legislation, and their customers who benefit from the consumer protection it provides.
- 3.2 It is government policy to recover the costs of providing statutory services, but the current fees do not reflect the actual cost to government of service provision. In 2013/14, Fera estimates that the current fees will recover £0.90m from users of the service out of £1.72m total recoverable cost, leading to a £0.82m deficit which is currently subsidised by the taxpayer (Annex 3). Transferring the full cost of the service to the users benefitting directly from it will allow more efficient use of public resources and enable lower public expenditure and borrowing.

4. Policy objective

- 4.1 The aim of introducing full cost recovery for the seeds marketing service is to remove the financial cost to the taxpayer of providing these services by transferring the costs to those who benefit from the service. The objective is to achieve full cost recovery without compromising the government's objectives of protecting consumers through assurance of varietal identity, seed purity and viability, and to support sustainable food production.

¹ Chapter 6.2 How to calculate fees, Managing Public Money (2009), HM Treasury

5. Description of options considered

5.1 Four options have been considered for delivering the policy objective of making services for seeds marketing cost neutral for Government:

- **Option 1:** Do nothing (No change to current position of partial cost recovery). Under this option, fees would be maintained at current levels but would not achieve full cost recovery.
- **Option 2:** Introduction of full cost recovery during 2013 for all recoverable costs for the seeds marketing services at current resource levels. This would deliver the government's objective for full cost recovery through increases in fees.
- **Option 3:** Phased introduction of full cost recovery, through fee increases in 2013 to recover all costs except for maintenance and depreciation of the online application system, followed by full cost recovery in 2015. This will give time for Fera and the industry to replace the online certification system and / or reduce other costs while eventually achieving the policy objective of full cost recovery.
- **Option 4: De-regulation (Not adopted).** This non-legislative option would leave the industry to manage the quality of marketed seed, through a service charter, quality mark or code of practice, with costs borne by business users. This option was not adopted for further consultation because it does not comply with EU legislation or international obligations.

6. Costs and benefits for each option (including administrative burden)

6.1 The estimated costs and level of recovery in 2013/14 are given in Annex 3. Proposed fee increases under Options 2 and 3, and comparisons with the current fees, are summarised in Annexes 4 and 5. Annex 6 explains the impact on representative business types.

- **Option 1:** Do nothing (No change to current position of partial cost recovery)
 - **Benefits:**
 - Businesses continue to gain access to a subsidised service.
 - No effect on the economic status of seed producing companies and their customers and consequently no impact on seed quality or the economic status of plant breeding companies, which might in turn affect the continued development of varieties for UK agriculture.
 - **Costs:**
 - Failure to meet government objective of full cost recovery, continuing to subsidise a commercial sector where there is insufficient rationale for doing so.
 - The annual cost to government and taxpayer will continue at £0.82m (shortfall between total annual recoverable costs of £1.72m and fee income of £0.90m; Annex 3).
- **Option 2:** Introduction of full cost recovery during 2013 for all recoverable costs for the seeds marketing services at current resource levels
 - **Benefits:**

- Self-funded services with costs borne by those who benefit rather than the government and taxpayer.
- **Costs:**
 - Additional financial cost to seed producing companies of about £0.70m per annum.
 - Possible reduction in business volume and increase in unit costs for Fera and its contractors.

The fee increases under Option 2 range from 16% for the Licensed Seed Testing Station annual fee to 123% for the application fee for multiplication seed lots (Annex 4). The differences arise from the allocation of specific costs. For example, crop entry fees for official inspection comprise mainly the cost of official inspection, which has a relatively small increase, whereas final generation seed lots have a higher proportion of Fera's administration and IT costs and NIAB's control plot costs, which have increased significantly (see 2.1 above).

Annex 6 estimates the overall impact on representative business types. Under Option 2, total fees payable by a seed producing company would increase by about 50% and for a plant breeding company by about 100%. Estimated costs for the representative business types are: small seed producing company about £1,800 under current fees increasing to £3,600 under Option 2 and £1,900 in 2013 under Option 3, large seed producing company about £165,000 under current fees increasing to £329,000 under Option 2 and £179,000 under Option 3 in 2013, and for a plant breeding company about £58,000 under current fees increasing to £86,000 under Option 2 and £77,000 under Option 3 in 2013.

Option 2 includes a proposal to double the current difference between fees for online and paper applications. The objective is to increase uptake from the current level of 80% of applications received online, maximising use and the cost benefits of the system.

Annex 5 gives the proposed fees for seed tests where, because of their specialist nature, there are no Licensed Seed Testing Stations authorised and tests can only be done by an Official Seed Testing Station. The tests are for diseases of sunflower, linseed, flax, soya bean and hemp, and for loose smut retrieval of wheat and barley.

Defra would welcome the industry's views on recovering the cost of verifying herbage seed imported from other EU countries at the Higher Voluntary Standard (HVS). The service is provided to comply with single market principles, making all seed of relevant species eligible for re-certification at the UK's higher standard. Currently NIAB checks an appropriate seed test report to confirm that HVS is met, which then allows marketing under UK HVS labels. About 1,000 checks are carried out each year for a small number of companies, at a cost of about £14,000. There is currently no fee for this service. The issue is whether it is acceptable for these costs to be recovered across all final generation seed lots or whether a specific fee should be charged. Collecting a specific fee would increase the current cost, to give a fee of about £25 to £35 per seed lot depending on the invoicing arrangements. Alternatively, the verification of herbage seed could be considered as an application for re-entry of an already certified seed lot, and the final generation seed lot fee applied (see Annex 4).

- **Option 3** Phased introduction of full cost recovery, through fee increases in 2013 to recover all cost except for maintenance and depreciation costs of the online application system, followed by full costs recovery in 2015.
 - **Benefits:**
 - Partly self-funded services until 2015 with most costs borne by those who benefit.
 - Businesses continue to gain access to a partly subsidised service until 2015.
 - Full cost recovery from 2015.
 - **Costs:**

- Additional costs to businesses in 2013 and 2014 of about £0.19m and £0.82m thereafter. This is the shortfall in total recoverable costs excluding depreciation and maintenance costs for the online application systems.
- Continuing annual cost to government and taxpayer of about £0.63m up to 2015. This is the depreciation and maintenance costs of the online application system.
- Possible reduction in business volume and increase in Fera's unit costs.

Option 3 differs from Option 2 in the exclusion of costs for depreciation and maintenance of the online application system until 2015. This means that the broad impact is similar although at a lower level and the comments above on other aspects apply to both options. Proposed fees in 2013 under Option 3 are shown in Annex 4, with increases ranging from 16% for Licensed Seed Testing Stations to 85% for multiplication seed lots. Annex 6 estimates the overall impact on representative business types. Under Option 3, total fees payable in 2013 by a seed producing company would increase by about 10% and for a plant breeding company by about 30%.

The justification for excluding maintenance and depreciation costs for the online application system during the phasing period is that key initial decisions were made without stakeholder involvement, stakeholders had no say in the selection of contractor, maintenance costs are now much higher than anticipated, and during its development there was insufficient clarity over eventual cost recovery. This contrasts with the competitive tendering of the contract for technical services, where stakeholders were involved in specifying the work and selecting the contractor.

Development of the online application system started in 2002 with funding from a Treasury and Cabinet Office initiative 'Invest to Save Budget' aimed specifically at improving the efficiency of public sector services through projects with relatively high start-up costs and risks compared with their potential benefits. Together with a requirement for the system to function through the Government Gateway, this introduced constraints on how it was developed and meant that potential users had little involvement in the underlying principles. Development focussed on single transactions with data entered online through a series of forms, whereas the eventual efficiencies lay in bulk uploads from company databases. This was addressed in later stages, but did not change the original database architecture. In addition, complexity was increased by the interface between the online applications system and NIAB's database which validates and stores records for seed crops and seed lots.

Since the online system remains in use, some of the hardware and software has been re-lifed, with depreciation of £168,000 in 2013/14. Its maintenance costs will be £468,000 in 2013/14. Costs of £61,000 a year for the help desk run by NIAB and maintenance of the interface between the online application system and NIAB's database are included in the recoverable costs in Option 2. This recognises that the industry benefits from the online application system, through lower fees and through the increased efficiency of companies submitting applications.

Successful implementation of Option 3 requires Fera and the industry to review the seeds marketing process in partnership, looking for new ways of working and replacing the online application system and / or finding other efficiencies, to achieve full cost recovery in 2015. The level of fee increases needed in 2015 to achieve FCR will depend on the success of this review. Since the costs of the online application system can be separated out and because there are no immediately obvious areas for cost reduction in other areas, there is no reason to delay FCR of costs relating to the provision of services other than the online system. Fera has initiated discussion at stakeholder workshops held in May and August 2011 and this is continuing through the government-industry taskforce, with six meetings to date.

The level of fee increase needed to achieve full cost recovery in 2015 will depend on the success of government-industry partnership in reducing costs. Given that the online applications system accounts for a significant proportion of the total costs, its replacement is the main risk.

- **Option 4: De-regulation (Not adopted).**
- **Benefits:**

- Costs will be borne by beneficiary businesses, rather than by the taxpayer. Cost reductions to government would be about £0.82m annually.
- **Costs:**
 - De-regulation would fail to implement the EU Directives, where seed certification must be administered by responsible official bodies. The European Commission is currently reviewing EU seeds legislation with the objective of simplification and greater responsibility for industry. However, any changes will not be implemented for several years and therefore de-regulation has not been considered as an option for consultation.

7. Administrative burdens

- 7.1 Defra does not anticipate an increase in the administrative burden for business for any of the options proposed because, although charges will increase, the administrative process will remain unchanged, i.e. the scope and structure of certification process will at least initially remain the same. For Option 3 reductions might be expected beyond 2015 as processes are further simplified with the aim of reducing costs.

8. Pre-Consultation Workshop

- 8.1 As part of consultations to inform the development of this IA and future formal public consultation documents, workshops were held on 19 May and 23 August 2011. They were attended by industry organisations (Agricultural Industries Confederation, British Society of Plant Breeders and National Farmers Union) and NIAB as delivery partner. The workshop included a review of the risks and wider impacts associated with the policy options and explanation of Fera's costs.

9. Risks & Assumptions

9.1 Risks

- 9.1.1 The main risk if full cost recovery is not achieved is that Fera will fail to make the substantial savings required in its varieties and seeds costs by Year 4 of the Comprehensive Spending Review. This would require cuts in the coverage and speed of the service, with impacts on business and/or cuts elsewhere in the statutory programme.
- 9.1.2 The main risk if full cost recovery is implemented is that increased costs for the seeds industry may reduce its profitability, possibly impacting on objectives for consumer protection and sustainable food production. Some of the increased costs for seed producing companies may be passed to their farmer customers. This risk may be significant for Option 2, immediate full cost recovery, but is lower and manageable under Option 3, phased recovery.
- 9.1.3 The value of seed used in the UK is estimated at £290m, most of which is in England. This means the total annual cost of the statutory seeds marketing service of £1.72m is about 0.6% of the market value. The cost of seed and statutory seeds marketing will be very small compared with the value of crops grown with the seed.
- 9.1.4 A further impact may be reduced income to plant breeding companies from royalties on certified seed, should higher costs lead to increased use of farm saved seed. Since royalty rates for farm saved seed are about half those for certified seed, this would affect the profitability of breeding programmes and the continued development of varieties suited to UK agriculture. In turn, this might affect environmental benefits of plant breeding, such as adaptation to climate change and increased nitrogen use efficiency, and the economic benefits of increased yield and quality.
- 9.1.5 Increased fees may significantly reduce demand for the service which may mean that full costs are not recovered in the short term. Seed companies may shift some of their production to

Scotland, although this is unlikely to be significant, or for high value seed such as grasses and oilseed rape, import seed from other EU countries or from third countries.

9.1.6 No additional risks were identified during the workshops. However, risk data will continue to be sought through future informal and formal consultation.

9.2 Assumptions

9.2.1 The main assumption is that actual business volumes, after any fee increases, will remain close to those used for estimating purposes in this Impact Assessment. The estimated business volumes are conservative and take account of the long term downward trend in seed production in England and Wales. Possible changes in business practice in response to fee increases are:

- Reduced number of applications.
- Passing on some or all extra costs to customers (other seed companies and farmers), possibly resulting in lower demand.
- Shift seed production away from England and Wales to other parts of the UK and EU.

9.2.2 There may be increased illegal activity, such as marketing seed which does not meet the requirements of the seeds regulations. Controls already in place should restrict any shift to illegal activity or non-payment of debt, making it small. However, where it does occur it will have a negative impact on taxpayers both through lost revenue and enforcement costs. Again further evidence will continue to be sought during the consultation.

10. Direct costs and benefits to business calculations

10.1 Annual profiles of monetised costs and benefits for businesses in £m at constant prices are given in 10.4 and 10.5.

10.2 Total annual costs based on the difference between the 'current' state (Option 1 'Do nothing' based on estimated additional costs to business in 2013/14 of £0.82m) and future state if Option 2 or 3 are implemented.

10.3 One-In-One-Out methodology has been followed. However, it should be noted that these proposals are not under the scope of One-In-One-Out in line with the statement by the Minister of State for Business and Enterprise that 'fees and charges should only be considered in scope of the government's One in One Out policy where they resulted from an expansion in the level of regulatory activity.' These proposals do not expand the level of regulatory activity.

10.4 **Option 2:** Introduction of full cost recovery during 2013 for all recoverable costs for the seeds marketing services at current resource levels

Direct costs and benefits to Businesses under Option 2 (£m)										
	2013	2014	2105	2016	2017	2018	2019	2020	2021	2022
Transition Costs	0	0	0	0	0	0	0	0	0	0
Annual recurring cost	0.824	0.824	0.824	0.824	0.824	0.824	0.824	0.824	0.824	0.824
Total annual costs	0.824	0.824	0.824	0.824	0.824	0.824	0.824	0.824	0.824	0.824
Transition benefits	0	0	0	0	0	0	0	0	0	0
Annual	0	0	0	0	0	0	0	0	0	0

recurring benefits										
Total annual benefits	0	0	0	0	0	0	0	0	0	0

- 10.5 **Option 3:** Phased introduction of full cost recovery through fee increases in 2013 to recover all costs except for maintenance and depreciation of the online application system followed by full cost recovery in 2015.

Direct costs and benefits to Businesses under Option 3 (£m)										
	2013	2014	2105	2016	2017	2018	2019	2020	2021	2022
Transition Costs	0	0	0	0	0	0	0	0	0	0
Annual recurring cost	0.188	0.188	0.824	0.824	0.824	0.824	0.824	0.824	0.824	0.824
Total annual costs	0.188	0.188	0.824	0.824	0.824	0.824	0.824	0.824	0.824	0.824
Transition benefits	0	0	0	0	0	0	0	0	0	0
Annual recurring benefits	0.636	0.636	0	0	0	0	0	0	0	0
Total annual benefits	0.636	0.636	0	0	0	0	0	0	0	0

- 10.6 For Option 3, Fera will work in partnership with the industry to reduce costs and / or replace the online applications system. Table 10.5 shows full cost recovery is achieved in 2015 through a second increase in costs to industry, but the actual increase will depend on cost reductions arising from Fera and the industry's review, for example through replacing the online applications system. The depreciation and maintenance costs of the online application system will continue to be subsidised by £0.636m in 2013 and 2014 and this is therefore shown as a benefit to industry.

11. Wider impacts

11.1 Statutory equality duties

The seeds marketing legislation is primarily intended for commercial scale agricultural and horticultural production. The proposed fee increases equally affect all individuals and businesses involved in activities covered by the policy. Given the objective of the EU legislation, which is designed to protect consumers by providing high quality seed, no negative or adverse impact on protected social groups is anticipated.

11.2 Competition Impact Assessment

11.2.1 Implementation of Options 2 and 3 would affect a number of different sectors within the seeds industry, all of which are already subject to regulatory controls that may inhibit competition to some extent. Most seed marketing businesses are specialists producing high value products and will pass additional costs resulting from increased fees to their customers..

11.2.2 Seed companies may shift some of their production to Scotland, although this is unlikely to be significant because of transport costs to processing plants and the main arable areas in the south and east of England. The opportunity will be greatest for companies near the border with Scotland, but there is relatively little demand for seed in this area, so the overall impact will be

small. Statutory fees are a relatively small component of total costs, making it difficult to assess the impact.

- 11.2.3 Scottish Government completed a consultation on its seeds marketing fees in May 2011 and revised fees came into force on 1 January 2012. The fees structure differs in some respects from England and Wales and the Scottish industry is much smaller in total size and average size of seed producing company. Direct comparisons between Scotland's new fees and the proposals under Options 2 and 3 are difficult. Option 3 will give fees 14 to 112% higher than in Scotland, and Option 3 will give 1 to 7% lower fees for crops with licensed inspection and for final generation seed lots, but other fees will be 14 to 87% higher. A more relevant comparison is the overall impact on representative business types, as used in Annex 6. Option 2 will result in total fees payable of 44 to 63% higher than in Scotland, and for Option 3, total fees payable in England and Wales will be 3% less for seed companies and 49% higher for plant breeding companies. This will have an impact on competition, but as discussed above other cost factors, in particular transport, will determine any changes in seed production and sales. Any impact is likely to be confined to the north of England, with seed companies in this area possibly locating seed crops in Scotland, and potentially being at a minor disadvantage to competitors in Scotland. However, the overall impact will be small because most seed is produced and used in the main arable farming areas of south and east England.
- 11.2.4 Production of high value seed such as grasses and oilseed rape may shift to other EU countries or third countries if production costs are significantly lower. There has been a trend in this direction for some time, related to wider issues than statutory fees, so the impact of increased fees is difficult to assess.
- 11.2.5 Overall, Defra does not anticipate that the proposed increase in fees for seeds marketing affects significantly the commercial viability of established businesses in this sector and thus restrict competition. However, there may be some markets where profit margins are low and demand is insufficiently robust for consumers to pay increased prices. If so, some businesses may not remain commercially viable, potentially leading to more competitive businesses increasing their market shares. This is an area where Defra would welcome evidence from the industry.

11.3 Small firms impact assessment

- 11.3.1 A significant proportion of the small number of companies in this sector are specialist small to medium sized enterprises (SMEs). Fera estimates that 75% of applicants are SMEs, accounting for 50% of applications.
- 11.3.2 Previous consultations indicated that SMEs, in common with the majority of consulted businesses, preferred to see charges that did not place them in competitive disadvantage with their competitors in other EU countries. Given the significant subsidy in some other countries, the fee proposals are likely to increase the competitive disadvantage.
- 11.3.3 There is a risk that fee increases might have a disproportionate impact on small and micro businesses, because the fees will be a higher proportion of their costs compared to larger businesses. However, this is another area where Defra has little information and the consultation will seek more data on the potential impact of fee increases on small firms and micro businesses.

The preferred option (Option 3), seeks to limit the impact of fee increases, including the impact on small firms and micro businesses, through non-recovery of the costs of maintenance and depreciation of the online application system until 2015.

11.4 Greenhouse gas assessment

Options 2 and 3 would not be expected to result in changes with a significant impact on emissions of greenhouse gases.

11.5 Wider environmental issues assessment

The policy options may have minor impacts on sustainable food production.

11.6 Health and well-being assessment

The policy options will not directly affect health or well-being and will not cause inequalities.

11.7 Human rights assessment

The policy is consistent with the Human Rights Act 1998.

11.8 Justice assessment

The policy options do not create new criminal sanctions or civil penalties.

11.9 Rural proofing assessment

Conditions apply equally to all individuals and businesses using the seeds marketing service. There should be no equality issues arising from the location of individuals or businesses.

11.10 Sustainable development assessment

The proposal contributes to the government's sustainable development principle of achieving a sustainable economy by transferring the full cost of seeds marketing services from the taxpayer to businesses using the service, thus enabling more efficient allocation of public money. The policy options may have minor impacts on sustainable food production.

12. Summary and preferred option with description of implementation plan

- 12.1 The value of seed used in the UK is estimated at £290m, most of which is in England. This means the total annual cost of the statutory seeds marketing service of £1.72m is about 0.6% of the market value. The cost of seed and statutory seeds marketing will be very small compared with the value of crops grown with the seed. This makes comparison with market value of seed a more realistic comparison than the total value of marketed crop produce or the food sector, which will be much higher.
- 12.2 Defra's preferred option is Option 3: Immediate full recovery of recoverable costs except for maintenance and depreciation of the online application system, giving time for Fera and the industry to make changes to reduce costs. This option would increase fees in 2013 to a lesser extent than Option 2, partially achieving the government's objective, while allowing time for Fera and the industry to replace the online application system and explore other ways to reduce costs.
- 12.2 Options for de-regulation have been discounted because of the need to comply with EU legislation and international conventions.
- 12.3 Given the magnitude of the fees increases needed for full cost recovery in some areas, up to 123%, and the potential for implementation to put UK farmers at a disadvantage to those in other Member States, we are recommending selected full cost recovery with fee increases in 2013.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

Basis of the review: [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review, or there could be a political commitment to review (PIR)];

Defra will monitor annually the impact on applications for seeds marketing and will meet regularly with its delivery partners and stakeholder organisations. It will also undertake annual stakeholder satisfaction surveys. The first survey to take place after the introduction of the new fees will be in []. The results and the outcomes of this monitoring activity will be reported on the Defra website in [] as an interim report. This exercise will be repeated in [] and a second interim report published. A final review report on the effects of the increase charges will be undertaken in [] 2018, five years after the introduction of the new fees. Consideration will be given at each stage as to whether any action is required to amend implementation of the legislation.

Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]

This review will assess the impact of the policy objective of full cost recovery on:

1. Delivery of UK's objectives for plant varieties and seeds
2. Our ability to recover the full costs of the service
3. Patterns of usage
4. The effects of any unforeseen or unintended consequences.

Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]

The approach will be an annual review of stakeholders' views and an assessment of the monitoring data. These data will inform an assessment of the benefits gained by the policy in achieving full cost recovery against the costs imposed on businesses and the wider policy objectives for varieties and seeds.

Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]

Baseline data will be derived from pre-implementation period April 2011 to April 2012, summarised in this Impact Assessment.

Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]

Full cost recovery for the seeds marketing service by 2013 (Option 2) or 2015 (Option 3).

Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]

1. Delivery of UK's objectives for plant varieties and seeds - Defra will evaluate whether increased fees have had an impact on seed production in England and Wales.
2. Whether the full costs of the seeds marketing service continue to be recovered - by monitoring fee income and costs.
3. Patterns of usage - Defra will evaluate the information used for 1. above.
4. The effects of any unforeseen or unintended consequences - Defra will use information from its delivery partners, stakeholder organisations and customer satisfaction surveys to monitor for unforeseen consequences.

Reasons for not planning a review: [If there is no plan to do a PIR please provide reasons here]

Annex 2. Business volumes for seeds marketing in England and Wales

A. Estimated number of seed crops, seed lots and Licensed Seed Testing Stations in 2013/14

No. of pre-basic/basic crops	500
No. of crops with licensed inspection	7,000
Total seed crop entries	7,500
No. multiplication seed lots	1,200
No. final generation seed lots	10,800
Total seed lot applications	12,000
No. Licensed Seed Testing Stations	28

B. Weight of seed certified from harvest 2011 (t)

	<i>Pre-basic/basic</i>	C1	CS/C2/C3	Total
Cereals	2,774	14,992	264,413	282,179
Pulses	599	2,045	17,218	19,862
Oilseeds	204	39	2,933	3,176
Herbage	175	95	5,808	6,078
Total	3,752	17,171	290,373	311,295

C. Area of seed crops entered for multiplication in 2012 (ha)

	Pre-basic/basic	C1	CS/C2/C3	Total
Cereals	2,406	3,459	53,217	59,082
Pulses	459	1,152	5,386	6,997
Oilseeds	647	127	2,029	2,803
Herbage	331	55	6,100	6,486
Total	3,843	4,793	66,732	75,367

Annex 3. Estimated costs and income from current fees in 2013/14

1. Estimated costs 2013/14 (£k)	Recoverable	Enforcement	Total
NIAB	806	46	852
Fera Varieties and Seeds Delivery	115	41	156
Fera PHSI	167	42	209
IBM online application system	636	0	636
Total	1,724	129	1,853
2. Estimated income 2013/14 from current fees (£k)	900		
3. Estimated shortfall (£k)			
Total	824		
Excluding IBM costs for online system	188		

Annex 4. Proposals for seeds marketing fees

		Crop Entry Fee (£/ha)			Seed Lot Application Fee (£/seed lot)		LSTS annual fee
		Licensed inspection	Official inspection ¹	Additional inspection	Final generation	Multipli-cation	
Current fee	Online	4.20	51	NA	32	84	NA
	Paper	4.80	52	29	36	89	1,500
Option 2: FCR	Online	8.00	66	NA	66	187	NA
	Increase	90%	29%	NA	106%	123%	NA
	Paper	9.00	68	35	74	197	1,745
	Increase	88%	31%	21%	106%	121%	16%
Option 3: FCR except for online system	Online	4.50	60	NA	34	155	NA
	Increase	7%	18%	NA	6%	85%	NA
	Paper	5.50	62	35	42	165	1,745
	Increase	15%	19%	21%	17%	85%	16%

¹ Crop groups with a single inspection. Crop groups with two or three inspections would increase by an additional £33/ha for each inspection

Annex 5. Statutory seed testing fees

	Current fee (£)	Proposed fee (£)	Increase (%)
Loose smut infection in wheat, durum wheat, spelt wheat and barley (per thousand embryos examined)	65	73	12
<i>Botrytis</i> spp in sunflower	49	55	12
<i>Alternaria</i> spp, <i>Phoma exigua</i> var <i>linicola</i> , <i>Colletotrichum lini</i> , <i>Fusarium</i> spp and <i>Botrytis</i> spp in flax and linseed	39	45	15
<i>Pseudomonas syringae</i> pv <i>glycinea</i> in soya bean			
One sub-sample test	69	77	12
Five sub-sample test	230	257	12
<i>Diaporthe phaseolorum</i> in soya bean	43	48	12
<i>Botrytis</i> spp in hemp	Not listed	55	NA
<i>Orobanche</i> spp in hemp	Not listed	47	NA

Fees for specific tests required by the legislation but where Licensed Seed Testing Stations are not authorised for the work. Testing is done by an Official Seed Testing Station.

Annex 6. Impact on representative business types									
		Individual fees (£/ha, seed lot etc)			Cost (ie total fees payable) (£)			Increase (%)	
		Option 1	Option 2	Option 3	Option 1	Option 2	Option 3	Option 2	Option 3
1. Small seed producing company									
Seed crops inspected by licensed personnel	200ha	4.20	8.00	4.50	840	1,600	900	90	7
Final generation seed lots	30	32	66	34	960	1,980	1,020	106	6
No LSTS					0	0	0		
Total					1,800	3,580	1,920	99	7
2. Large seed producing company									
Seed crops inspected by licensed personnel	15,000ha	4.20	8.00	4.50	63,000	120,000	67,500	90	7
Final generation seed lots	3,000	32	66	34	96,000	198,000	102,000	106	6
Multiplication seed lots	50	84	187	155	4,200	9,350	7,750	123	85
LSTS		1,500	1,745	1,745	1,500	1,745	1,745	16	16
Total					164,700	329,095	178,995	100	9
3. Plant breeding company									
Seed crops with official inspection	750ha	51	66	60	38,250	49,500	45,000	29	18
Additional official inspections	200ha	29	35	35	5,800	7,000	7,000	21	21
Multiplication seed lots	150	84	187	155	12,600	28,050	23,250	123	85
LSTS		1,500	1,745	1,745	1,500	1,745	1,745	16	16
Total					58,150	86,295	76,995	48	32
Assumes all applications made online where the system allows									