

Department for Environment, Food and Rural Affairs

## Seeds Marketing in England and Wales:

# Consultation on revision of fees to achieve Full Cost Recovery for statutory services

July 2013

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## An invitation to contribute

The Food and Environment Research Agency (Fera) is responsible for delivery of statutory services for varieties and seeds, plant health and bee health on behalf of the Department for Environment, Food and Rural Affairs (Defra). The proposals in this consultation on seeds marketing fees are part of a wider review of Fera's delivery of all these services and it is important that you consider them in this context.

The next few years will see significant changes in the way Defra develops and delivers policy. A major review of the EU plant health and varieties and seeds legislation which underpins these areas is underway, with formal proposals from the European Commission expected later in 2013. While we must wait for the detail, it is clear that a new approach is needed to meet the challenges of plant health threats, to assure seed quality, and to facilitate the continued development of new varieties.

Businesses using the services, as the direct beneficiaries, have a central role in contributing expertise to the development and implementation of the new legislation. Defra sees this role as strategically important and we have successfully pressed during preparatory discussions with the European Commission and Member States to involve stakeholders at the start of the policy process. We are also working more closely with the Devolved Administrations and our own stakeholders.

We are collaborating to develop UK positions for the EU reviews and the Advisory Forums will further enhance joint working in strategic policy making. We also need to collaborate on implementation of the services delivered or coordinated by Fera, with an urgent need to identify opportunities to drive down costs. Progress is being made in discussions between the Devolved Administrations, delivery partners and stakeholders in Fera's taskforces.

Fees need to be increased to achieve full cost recovery, bridging the gap between costs and fee income. This is particularly important in the current economic climate, with Fera's income from government reducing over the next few years. The preferred option is to phase fee increases from this year to achieve full cost recovery during 2015, giving time to change delivery to reduce costs and minimise the fee increases eventually needed.

I hope this explanation of the wider issues puts this fees consultation in context and helps you contribute. Your participation is important to help us understand the impact of the proposals on you and your organisations.

**Andy Mitchell**  
**Head of Varieties and Seeds Policy**  
**Defra**

## Executive Summary

- This consultation concerns fees for Fera's seeds marketing service for the main agricultural and vegetable species in England and Wales. It does not concern fees charged in Scotland and Northern Ireland where there is separate legislation.
- It is government policy to recover the full cost of providing statutory services from the businesses which directly benefit. However, current fee income of £0.90 m per year for the seeds marketing service does not match the government's £1.72 m costs. This represents a subsidy of £0.82 m per year to the seeds industry and an equivalent cost to the taxpayer.
- The policy objective under consultation is to increase fees for seeds marketing to recover the full cost from businesses using the services and to remove the cost to the taxpayer.
- There are three options under consideration:
  - Option 1      Maintain the status quo, no increase in fees
  - Option 2      Increase fees to achieve full cost recovery in 2013
  - Option 3      Phased fee increase. Recovery of all costs in 2013 except for maintenance and depreciation of the online application system, followed by full cost recovery in 2015
- Option 1 would make it difficult for Defra to meet its commitments under the Comprehensive Spending Review and would lead to reductions in its services.
- Option 2 would result in large fee increases. The increases range from 16% for the Licensed Seed Testing Station annual fee to 121% for the application fee for multiplication seed lots.
- Option 3 is preferred by Defra and the Welsh Government. It 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. 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 deadline for comments is: **6 September 2013**

# 1. Introduction

- 1.1 Defra is reviewing fees for its statutory services delivered by Fera for plant health and plant varieties and seeds, all of which are based on EU legislation and international obligations. New fees for five of the plant health services (import inspections including for potatoes from Egypt, licensing, plant passporting, and seed potato certification) were introduced in April 2012 and the consultation for export certification services concluded in November 2012. Defra, working with the Devolved Administrations of Northern Ireland, Scotland and Wales is also reviewing fees charges for its National Listing and Plant Breeders' Rights (PBR) services in the UK. The proposals will be relevant to some businesses involved in seeds marketing. The documents for these other consultations are available at: [www.gov.uk/defra](http://www.gov.uk/defra)
- 1.2 This document explains the consultation on proposed fee increases for the seeds marketing service in England and Wales. It summarises the Consultation Impact Assessment (Annex I) which gives further information about the service, costs, risks and options under consideration. Defra acts for Wales on seeds marketing and is consulting on behalf of the Welsh Government. The consultation does not concern fees charged in Scotland and Northern Ireland where there is separate legislation.
- 1.3 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. Seed cannot be marketed unless it is officially certified.
- 1.4 The seeds marketing regulations in England and Wales are implemented by Fera on behalf of Defra and the Welsh Government, with much of the technical work and official supervision carried out by the National Institute of Agricultural Botany (NIAB) under contract with Fera.
- 1.5 The main purpose of the consultation is to explain the options for fee increases to achieve full cost recovery and their impacts and to seek further information from businesses affected by the proposals. The Consultation Impact Assessment has identified that Options 2 and 3 will have an impact on small businesses and we would welcome information to help understand this.

## 2. Government policy on charging for publicly provided services

- 2.1 'Managing Public Money'<sup>1</sup> explains Government policy on charging for publicly provided services. Charging for services transfers the cost from the taxpayer to the users who benefit directly, giving a fairer distribution of public resources and lowering public expenditure. The usual policy is to charge at full cost.
- 2.2 Defra is required to review fees for seeds marketing to ensure that the costs of the services are met by businesses benefiting directly from them and that it is cost neutral to government.

## 3. Current costs and fees of the statutory services

- 3.1 The current estimated cost of providing statutory services for seeds marketing is £1.72 m with a deficit of £0.82 m. A total of £0.90 m is recovered through fees. A breakdown of the costs and the shortfall is given in Annex 3 of the Consultation Impact Assessment.
- 3.2 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 overall and allowed fees to be more closely related to activities. The fees were revised in 2007 and achieved full recovery of costs using the basis for calculation accepted at the time. However, full cost recovery is no longer achieved, with the main reasons being:
- Administration and audit costs which have become more transparent since the formation of Fera in 2009.
  - Maintenance and depreciation costs for the online application system. Maintenance costs are now specifically allocated to Fera rather than as an overhead within Defra and depreciation costs are recoverable regardless of the nature of the capital funding.
  - Control plots. This 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 significant under recovery.

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<sup>1</sup> Managing Public Money. HM Treasury, October 2007. Available to view at [http://hm-treasury.gov.uk/documents/public\\_spending\\_reporting/governance\\_risk/psr\\_managingpublicmoney\\_publication.cfm](http://hm-treasury.gov.uk/documents/public_spending_reporting/governance_risk/psr_managingpublicmoney_publication.cfm)

- Increases in NIAB's costs, following a formula in the contract with Fera, since the fees were increased in 2007.

## 4. Overview of Seeds Marketing in England and Wales

- 4.1 EU legislation requires 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. 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.
- 4.2 The main requirements of the seeds marketing legislation are:
- 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.
  - 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.
  - 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.
  - 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.
  - Marketed seed must be packaged, sealed and labelled to preserve its integrity and to give specific information.
- 4.3 The legislation sets out licensing conditions and specifies which activities can be carried out under official supervision by seed company employees, independent individuals, and seed testing laboratories.
- 4.4 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. In addition, Fera has contracts for the supply of labels and seals. Seed companies pay these contractors directly, leaving Fera with contract management costs.

- 4.5 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.
- 4.6 The seeds industry in England and Wales currently uses licensing to the full extent allowed by the legislation, inspecting almost all seed crops entered to produce the certified seed generations, and sampling and testing almost all seed lots. Monitoring by Defra and NIAB follows Hampton principles on better regulation and is at the minimum level required by the legislation.
- 4.7 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.
- 4.8 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.
- 4.9 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.
- 4.10 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.

## **5. Options under consideration**

- 5.1 This section summarises the options under consideration and proposals for increased fees to achieve full cost recovery. Annex II compares the current fees with Options 2 and 3 and gives information on costs. Further details of the proposals and current evidence on impacts to businesses from increased fees are provided in the Impact Assessment (Annex I).
- 5.2 The options under consideration are:
- Option 1 Maintain the status quo, no increase in fees

- Option 2 Increase fees to achieve full cost recovery in 2013
- Option 3 Phased fee increase. Recovery of all costs in 2013 except for maintenance and depreciation of the online application system, followed by full cost recovery in 2015

Option 3 is preferred by Defra and the Welsh Government. It 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. 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%.

- 5.3 **Option 1**, no change in the existing fees will maintain partial cost recovery. The taxpayer will continue to subsidise the service at £0.82 m per year. This is not realistic but provides a baseline against which other options can be assessed.
- 5.4 **Option 2** would deliver within a year the Government's objective for full cost recovery through increases in fees. The proposals are summarised in Annex II. The increases range from 16% for the Licensed Seed Testing Station annual fee to 121% for the application fee for multiplication seed lots. 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 increase significantly.
- 5.5 Option 2 includes a proposal to double the current difference between fees for online and paper applications.
- 5.6 Annex III gives the proposals 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 testing in wheat and barley.
- 5.7 **Option 3** differs from Option 2 in that it excludes costs for depreciation and maintenance of the online application system until 2015. Therefore, the overall impact is similar although at a lower level (Annex II). Proposed fees 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 by a seed producing company would increase by about 10% and for a plant breeding company by about 30%.
- 5.8 Development of the online application system started about 10 years ago using funding from a budget aimed specifically at increasing online transactions with government, where set up costs would be high and risky compared with the

potential benefits. This introduced constraints in how it was developed and meant that potential users had little involvement.

- 5.9 The online system remains in use, with annual depreciation costs of £168,000 in 2013/14. Maintenance costs will be about £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 to some extent from the online application system, through lower fees and through increased efficiency in companies submitting applications.
- 5.10 The case for excluding the depreciation and maintenance costs under Option 3 is that the industry had little involvement in developing the online application system or in choice of contractor and that maintenance costs are considerably higher than anticipated when the original business case was made.
- 5.11 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 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 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.

## 6. Timing of new fees

- 6.1 Defra's target is to implement revised fees for applications received from **1 December 2013**.

## 7. Assumptions

- 7.1 The main assumption in this review is that actual business volumes after any fee increases will be close to the estimates used in the Impact Assessment. The estimated business volumes are conservative and take account of the long term downward trend in seed production in England and Wales.

## 8. Risks

8.1 The main risks identified in the Impact Assessment (Annex I) are:

- Without full cost recovery, Defra would not be able to maintain its statutory services within its reduced funding under the Comprehensive Spending Review.
- If full cost recovery is implemented, 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, but farmers will have little opportunity to pass costs further down the supply chain. This risk maybe significant for Option 2, immediate full cost recovery, but is lower and manageable under Option 3, phased recovery
- 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.
- A significant proportion of the companies in this sector are specialist small to medium sized enterprises (SMEs). Defra estimates that 75% of applicants are SMEs, accounting for 50% of applications. Given the significant subsidy in some other EU countries, the fee proposals are likely to increase the competitive disadvantage. Fee increases may have a disproportionate impact on small and micro businesses if the fees will be a higher proportion of their costs. This is another area where Defra has little information and would welcome evidence from industry.

8.2 There is a possibility of cumulative impacts from fee increases in Fera's other statutory services. Plant breeding companies will also be impacted by proposals for full cost recovery for National Listing and Plant Breeders' Rights, see Section 1.6. Defra considers that the risk of significant cumulative impacts for these services is managed through the preferred options of phasing full cost recovery in both cases, giving time to reduce costs before full cost recovery must be achieved.

8.3 The risk of cumulative impacts with the six plant health services is likely to be limited since most plant breeding and seed producing companies do not also use the plant health services.

8.4 One of the objectives of this consultation is to seek evidence from businesses on potential risks and impacts, in addition to that already provided during informal consultation. We would welcome further data from businesses on the potential risks and impacts of the proposed Options 2 and 3 particularly in respect of small and micro sized enterprises and competition.

## 9. Consultation

9.1 This formal consultation builds on discussion with representative industry organisations associations during development of the impact assessments.

9.2 The main purpose of the consultation is to inform all stakeholders likely to be affected by the proposed increases in fees for Fera's seeds marketing service and in particular to seek:

- Comments on the options summarised in this document and given in more detail in Annex I, the Impact Assessment, and to propose others that could deliver the government's objectives of full cost recovery. Options that deliver less than full cost recovery by 2015 will not be considered.
- Comments, supported by evidence, on the Impact Assessment in Annex I. For Ministers to make an informed decision on the implementation of full cost recovery, accurate information is needed on the impacts, including market structure, competitiveness and future business. We are reliant on stakeholders to provide information to achieve this.

9.3 Any information you can provide to support your response will improve the assessment of the impacts of this proposal. Please consider the following questions:

### **About the Policy Options**

9.3.1 Which is your preferred option for achieving full cost recovery for the service and why did you choose this option?

9.3.2 Are there other options which could achieve the objective of full cost recovery for the service?

### **About the risks of implementation**

9.3.3 Does the Impact Assessment adequately identify the key risks surrounding implementation of Options 2 and 3, their likelihood and their impact? If not, can you describe those risks and evidence to assess their likelihood and impact.

9.3.4 Does Option 3 sufficiently mitigate the risks by giving businesses time to adapt and for stakeholders and government to work together to reduce costs including for the online application system?

### **About impacts on competition**

9.3.5 Will the implementation of Option 2 lead directly to a reduction in the number of businesses in the sector or have a significant impact on their ability to compete within the UK and with other Member States? Will the implementation of Option 3 reduce this impact?

**About impacts on small (50 or fewer employees) and micro businesses (10 or fewer employees)**

- 9.3.6 Will the implementation of Option 2 have a disproportionate impact on small or micro businesses? Will the implementation of Option 3 reduce this impact?

**About cumulative impacts**

- 9.3.7 Fee reviews have been recently completed for statutory services on plant health services and are underway for National Listing. Do you or your organisation use these services and if so what is the cumulative impact of fee increases?
- 9.3.8 Are there other fee reviews for government services that could also have an impact on you or your organisation?

**About specific impacts**

- 9.3.9 How should the cost of verifying imported herbage seed at Higher Voluntary Services be recovered? (See Section 5.11)

**About you and your business**

- 9.3.10 The following information will help us make effective use of your response:

Type of organisation

Number of full time equivalent employees

If a subsidiary of a UK or international company, number of full time equivalent employees in total

Current cost of seeds marketing fees as a percentage of annual turnover

Proportion of your company's profit is directly related to trade facilitated by the seeds marketing service

- 9.4 We are consulting widely, including all businesses affected by the changes and individuals, groups and organisations that may have an interest in seeds marketing. The consultation document and annexes are available on the Defra website at: [ ]. We have directly approached all businesses and organisations who have used these services in the past two years.
- 9.5 A list of consultees is given in Annex IV. You are invited to contact us with the names of any other stakeholders not on this list who you feel could contribute.
- 9.6 Comments should be received at the address below or emailed to: [SMFC@defra.gsi.gov.uk](mailto:SMFC@defra.gsi.gov.uk) no later than **6 September 2013**.

Alison Conder,  
Department for Environment, Food and Rural Affairs,

Eastbrook  
Shaftesbury Avenue  
Cambridge  
CB2 8DR

- 9.7 Responses to this consultation will be used to advise Ministers of the views of stakeholders affected by the proposals. A summary of responses will be published within 12 weeks of the closure of the consultation on Defra's website at:  
[www.gov.uk/defra](http://www.gov.uk/defra)

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Any enquiries regarding this document/publication should be sent to us at:

[SMFC@defra.gsi.gov.uk](mailto:SMFC@defra.gsi.gov.uk)