

2001 No. 89

FOOD

The Meat (Hygiene and Inspection) (Charges) Amendment
(Scotland) Regulations 2001

Made 12th March 2001

Laid before the Scottish Parliament 12th March 2001

Coming into force 2nd April 2001

The Scottish Ministers, in exercise of the powers conferred by sections 17(1), 45 and 48(1) of the Food Safety Act 1990(a) and of all other powers enabling them in that behalf, having had regard in accordance with section 48(4A)(b) of that Act to advice given by the Food Standards Agency and after consultation in accordance with section 48(4) and 48(4B)(c) of that Act, and (insofar as these Regulations impose charges in relation to the monitoring of the requirements of the Welfare of Animals (Slaughter or Killing) Regulations 1995(d)) by section 2(2) of the European Communities Act 1972(e), hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Meat (Hygiene and Inspection) (Charges) Amendment (Scotland) Regulations 2001 and shall come into force on 2nd April 2001.

(2) These Regulations extend to Scotland only.

Amendments to the Meat (Hygiene and Inspection) (Charges) Regulations 1998

2.—(1) The Meat (Hygiene and Inspection) (Charges) Regulations 1998(f) shall be amended in accordance with the following paragraphs of this regulation.

(2) In regulation 2(1) (interpretation), in the definition of “accounting period”, the words “of less than a year” shall be inserted before the word “determined”.

(3) In regulation 3 (charges), paragraphs (5) and (6) shall be omitted.

(4) In regulation 3(10), the words “or (5)” shall be omitted.

(5) In the Schedule (calculation of the inspection charge), for paragraphs 1 to 5 there shall be substituted the following paragraphs—

(a) 1990 c.16; section 17(1) was amended by the Food Standards Act 1999 (c.28) (“the 1999 Act”), Schedule 5, paragraphs 8 and 12; sections 45 and 48(1) were amended by the 1999 Act, Schedule 5 paragraph 8; amendments made by Schedule 5 of the 1999 Act which extend to Scotland shall be taken as pre-commencement enactments for the purposes of the Scotland Act 1998 (c.46) by virtue of section 40(2) of the 1999 Act. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(b) Section 48(4A) was inserted by the Food Standards Act 1999, Schedule 5, paragraph 21.

(c) Section 48(4B) was inserted by the Foods Standards Act 1999, Schedule 5, paragraph 21.

(d) S.I. 1995/731, to which there are amendments not relevant to these Regulations.

(e) 1972 c.68; section 2(2) was amended by the Scotland Act 1998, Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(f) S.I. 1998/2095, amended by S.S.I. 2000/61 and 62.

“1. Subject to paragraphs 2, 3, 4 and 5 below, the inspection charge payable by the occupier of any premises for any accounting period shall be the lower of—

- (a) the sum of—
 - (i) the standard charge incurred in relation to those premises for that period; and
 - (ii) any additional charge incurred in relation to those premises for that period by virtue of paragraph 8A below; and
- (b) the time costs generated by those premises for that period.

2.—(1) This paragraph applies where the inspection charge calculated under paragraph 1 above for any accounting period (amount A), when added to the inspection charge payable in respect of all earlier accounting periods falling within the same financial period (amount B), produces a total (amount C) which is greater than the amount of the inspection charge which would be payable under paragraph 1 above if those accounting periods were one accounting period (amount D).

(2) Where this paragraph applies, the inspection charge payable by an occupier for an accounting period shall be the amount by which amount D exceeds amount B.

(3) In this paragraph, “financial period” means a period commencing on the Monday immediately following the last Sunday in March in any year and ending on the last Sunday in March in the following year.

3. The inspection charge payable by the occupier of a re-packaging centre shall be the time costs.

4. The inspection charge payable by the occupier of a slaughterhouse or cutting premises for any accounting period shall not be lower than 45% of the standard charge incurred in relation to those premises for that period.

5. The inspection charge payable by the occupier of a cold store shall be determined in accordance with paragraph 12 below.”.

(6) In the Schedule, in paragraph 6, in the table, the entries in the table below shall be inserted at the end—

<i>Species</i>	<i>Type</i>	<i>Rate per type of animal in ECU</i>
“Ostriches and other ratites		1.3
Land mammals and birds not listed elsewhere in this table		1.3”

(7) In the Schedule, in paragraph 7—

- (a) the words “any cutting operation carried out on” shall be omitted; and
- (b) for the words “entering the cutting room” to the end there shall be substituted the words “brought into those premises during that period.”.

(8) In the Schedule, the following paragraphs shall be inserted after paragraph 8—

“8A.—(1) Where in respect of an accounting period the Agency finds that it has incurred increased costs because of inefficiency in the operation of premises, the Agency may, in accordance with this paragraph, add an additional charge to the standard charge incurred in relation to the premises for that period.

(2) The additional charge shall be a sum equal to the time costs generated by the inefficiency for the accounting period concerned.

(3) The Agency may not make an additional charge in accordance with this paragraph unless it has notified the occupier of its intention to do so.

(4) The notification referred to in sub-paragraph (3) above shall be given as soon as is practicable after the Agency has concluded that it wishes to make an additional charge in accordance with this paragraph.

(5) For the purposes of this paragraph “inefficiency” means an inefficiency on the part of the occupier and shall include in particular–

- (a) delay in the start of slaughtering attributable to the occupier;
- (b) mechanical breakdown caused by lack of maintenance;
- (c) enforcement action taken by the Agency or an inspector;
- (d) under-employment of inspectors caused by the occupier’s failure to adhere to the working hours or working practices agreed for the purposes of this paragraph pursuant to sub-paragraph (6) below;
- (e) insufficient provision of slaughter staff caused by the occupier’s failure to adhere to the working hours or working practices agreed for the purposes of this paragraph pursuant to sub-paragraph (6) below;
- (f) delays caused by risks to the health or safety of inspectors attributable to the occupier; and
- (g) any change to the working hours or working practices agreed for the purposes of this paragraph pursuant to sub-paragraph (6) below attributable to the occupier.

(6) For the purposes of sub-paragraph (5)(d), (e) and (g) above, the Agency and the occupier shall agree working hours and working practices and shall keep the working hours and working practices so agreed under review.

(7) Where, following any such review, it appears to the Agency and the occupier that it is appropriate to do so, they may by further agreement vary any working hours or working practices agreed pursuant to sub-paragraph (6) above.

(8) Where any working hours or working practices have been varied pursuant to sub-paragraph (7) above they shall be treated as having been agreed pursuant to sub-paragraph (6) above.

(9) No additional charge may be made in accordance with this paragraph in respect of any increased costs incurred because of any variation in working hours or working practices which does not alter the working hours or working practices which have been agreed in accordance with sub-paragraph (6) above.

8B.—(1) An occupier who does not agree that an additional charge is payable in accordance with paragraph 8A above may request that the question be determined by a person nominated for the purpose pursuant to sub-paragraph 3(a) below.

(2) A request under sub-paragraph (1) above shall be made within 1 week of the Agency giving the occupier notice under paragraph 8A(3) above.

(3) Where an occupier makes a request under sub-paragraph (1) above–

- (a) the Agency shall nominate a person to determine the question from the list established under sub-paragraph (4) below;
- (b) the person so nominated shall give the occupier and the Agency an opportunity to make representations on the question to be determined; and
- (c) the person so nominated shall, within 1 month of being nominated, decide whether an additional charge is payable and shall notify the occupier and the Agency of that decision.

(4) The Agency shall establish and maintain a list of people who may be nominated for the purposes of this paragraph and shall consult those organisations appearing to represent occupiers before including any person on the list.”.

(9) In the Schedule, for paragraph 12 there shall be substituted the following paragraph–

“Cold stores

12.—(1) The inspection charge for a cold store with a storage capacity of–

- (a) less than 100 cubic metres;
- (b) 100 cubic metres or more but not more than 25000 cubic metres; or
- (c) more than 25000 cubic metres,

shall be calculated by multiplying the sum determined by the Agency in accordance with sub-paragraphs (2) to (4) below for cold stores of that storage capacity by the number of inspections carried out at the cold store concerned in an accounting period.

(2) The Agency shall from time to time determine the sum used for the purpose of calculating the inspection charge for cold stores of each storage capacity specified in sub-paragraph (1) above having regard to the cost of providing inspections at cold stores of that storage capacity.

(3) The sum determined by the Agency under sub-paragraph (2) above for the purpose of calculating the inspection charge for cold stores of a given storage capacity shall reflect the salary costs and fees of the inspectors carrying out inspections at cold stores of that storage capacity and such proportion of the administrative costs of inspection services as the Agency considers it proper to apportion to carrying out inspections at such cold stores.

(4) Before determining any sum in accordance with sub-paragraph (2) above, the Agency shall consult such occupiers as are likely to be affected by that sum.”.

(10) In the Schedule, for paragraph 13 there shall be substituted the following paragraph–

“**13.** The Agency shall determine the hourly rate applicable to inspectors, and may determine different rates for different inspectors or different classes of inspector, having regard to the level of qualifications and experience of different inspectors or classes of inspector and to the cost of providing inspections by different inspectors or classes of inspector. The Agency may vary any rate determined pursuant to this paragraph where, having regard to the factors set out in paragraphs 14 and 15 below, it appears to the Agency to be necessary to do so.”.

(11) In the Schedule, in paragraph 14–

- (a) after “rate for any”, there shall be inserted “inspector or”;
- (b) in sub-paragraph (a), for the words “of inspectors in that class” there shall be substituted the words “and other costs of providing inspections by that inspector or that class of inspector.”.

(12) In paragraph 15, for the words “paragraph 14(b)” there shall be substituted the words “paragraphs 12(3) and 14(b)”.

SUSAN C DEACON

A member of the Scottish Executive

St Andrew’s House,
Edinburgh
12th March 2001

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations (which extend to Scotland only) amend the Meat (Hygiene and Inspection) (Charges) Regulations 1998 (“the principal Regulations”). The principal Regulations implemented in Great Britain the provisions relating to charges for meat inspections of Council Directive 85/73/EEC, an amended and consolidated text of which is annexed to Council Directive 96/43/EC (O.J. No. L 162, 1.7.96, p.1).

These Regulations introduce new charges for meat inspections which are subject to the principal Regulations. These Regulations provide that, subject to certain provisions, the charge for inspections will be the lower of the standard charge (plus any additional charge for increased costs) and the time costs (regulation 2(5)). The Regulations also make provision for circumstances in which the Food Standards Agency can charge for increased costs on a time basis (regulation 2(8)). The Regulations also make provision for charges at re-packaging centres and cold stores (regulation 2(5) and (9)). The revised basis for calculating inspection charges is in accordance with Council Directive 85/73/EEC.

The Regulations also set the standard charge for ostriches, other ratites and any other land mammals or birds (regulation 2(6)).

A Regulatory Impact Assessment, which includes a compliance cost assessment of the effect which these Regulations have on business costs, has been prepared and has been placed in the Scottish Parliament Information Centre. Copies may be obtained from the Food Standards Agency, 6th Floor, St Magnus House, 25 Guild Street, Aberdeen AB11 6NJ.

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