

EXECUTIVE NOTE

THE MEAT (OFFICIAL CONTROLS CHARGES) (SCOTLAND) REGULATIONS 2009 (SSI 2009/262)

1. The above instrument was made by Scottish Ministers under the powers in section 2(2) of and paragraph 1A of Schedule 2 to the European Communities Act 1972 and all other powers enabling them to do so. The instrument is subject to negative resolution procedure.

Policy Objectives

2. The instrument (which replaces the Meat (Official Controls Charges) (Scotland) Regulations 2008 – S.S.I. 2008/98 – “the current Regulations” – which came into force on 31 March 2008) continues to require the Food Standards Agency (“the Agency”) to charge the operators of approved meat premises in Scotland in order to recover a percentage of the costs incurred by the Agency’s Executive Agency, the Meat Hygiene Service (“MHS”), in carrying out official controls at such premises to check for compliance with applicable meat hygiene and animal welfare at slaughter requirements (official controls are carried out by the MHS in Great Britain and by the Department of Agriculture and Rural Development in Northern Ireland). In so doing, the instrument supplements the requirement imposed on Member States by Article 27 of Regulation (EC) No. 882/2004 on Official Feed and Food Controls¹ (“the OFFC Regulation”). References below to “meat hygiene” official controls should be taken to include animal welfare at slaughter official controls.
3. Consumers and food manufacturers need to be confident that the meat they buy is of the nature, substance and quality expected, but they cannot assess this fully from its appearance when it is offered for sale. In order to ensure that a good level of confidence is maintained, and the risk of meat-borne disease is managed appropriately, meat official controls are set out in EC law and carried out across Great Britain by the MHS.

¹ Regulation (EC) No 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and welfare rules.

4. The cost of carrying out these official controls is borne by both approved meat businesses and taxpayers and since 2001 the proportion paid by each has become unbalanced. Most approved meat businesses are now charged much less than the actual cost of the controls. To help address this imbalance the above instrument introduces measures to encourage the more efficient use of official control resources by these businesses.
5. Specifically, the purpose of the instrument is to introduce from 28 September 2009:
 - i. generally applicable time-cost charging for meat hygiene and animal welfare at slaughter official controls carried out by the MHS at approved meat plants and on-farm;
 - ii. provision to enable the charges to be varied;
 - iii. a requirement for operators to declare their working hours and practices and reach agreement with the MHS on the resources required to carry out official controls (other than audit), including a review mechanism and associated fees.
6. The instrument includes provision to enable the FSA to vary the charges for meat hygiene official controls without the need to amend the instrument. However, it does not make any specific reference to increasing, or reducing, charges compared with their current levels.
7. Ministers in each UK country were asked to agree to a generally applicable increase in charges of 4% as compared with current levels, but this agreement was not secured across the UK. Any increase to charges in 2010-11 and beyond would be subject to the outcome of further public consultation, of FSA Board recommendations, and to decisions of Ministers in each country of the UK.
8. In addition to the main proposals, the instrument serves to implement a number of other, related, proposals:
 - a) charges to be introduced for meat hygiene official controls that are carried out on farm (as opposed to in meat plants) in certain circumstances prescribed in EC meat hygiene legislation;

- b) for businesses to declare to the Agency their working times and working practices in order to enable MHS to determine the resources needed to carry out official controls at the business premises concerned;
- c) for businesses, on payment of a fee of £250, to be able to initiate a semi-independent review of that determination where they are dissatisfied with the outcome of the determination; and
- (d) for businesses to be able to appeal to an independent person nominated by the Agency against the MHS's decision reached as a result of such a review.

Background

9. The requirement to charge approved meat businesses for the cost of carrying out meat hygiene and animal welfare at slaughter official controls is set out in Regulation (EC) No. 882/2004 (the OFFC Regulation). These charges must be no more than actual costs incurred in carrying out official controls and in general no less than the amount calculated from specified minimum rates (the EC minima).
10. The method in the current Regulations of calculating meat hygiene charges that is applied across GB, known as the Maclean formula, is to charge each business the lower of either discounted MHS staff time costs or a throughput charge that depends on the number of animals or amount of meat that is processed. This method of calculation was introduced in 2001 when the slaughterhouse industry was rapidly rationalising in response to changing market needs and was facing a sudden significant rise in official controls charges due to the need, in 1999, for the Government to implement an EC law which required full time veterinary supervision at slaughterhouses. There was concern that the increased charges were sufficiently large to present a real risk that some businesses would be forced to close, which could have caused disruption to the meat supply and had adverse consequences for the rural economy and on animal health and welfare.
11. The Maclean formula has provided a significant level of subsidy to slaughterhouses, game handling establishments and cutting plants from the full cost of official controls and has helped the industry to remain robust even during the challenges presented by the

legacy of BSE and disease outbreaks, such as foot and mouth and avian influenza. It has also ensured that smaller businesses have received significant levels of support.

12. The Maclean formula was intended as a limited support for a limited time for the small and medium-sized red meat slaughterhouses which could not use official controls efficiently due to their limited throughput. However, in practice the benefit has been applied to the vast majority of the industry, both large and small plants. Over the past seven years the total subsidy across GB has been around £190 million, of which Scotland's share has been around £23 million.
13. Most importantly, because the charge paid is typically a throughput charge which is not related to the amount of MHS time used, the current charging system does not always incentivise industry to use MHS resources efficiently. This new instrument changes the system of charging to one based on the time it takes to carry out meat hygiene controls. This will provide each business with an incentive to reduce the number of official control hours that it requires and encourage it to work cooperatively with the MHS to achieve that end.
14. The scope of official controls, which are set out in EC law, will not be affected by these measures to amend the charging system, and so there will be no reduction in the level of consumer protection and the health benefits afforded by the meat hygiene controls. On the contrary, the move to a time-cost charging system will strengthen the financial incentives for businesses to comply with food and animal welfare at slaughter requirements.
15. The measures set out in the instrument to amend the charging system complement parallel work to modernise and streamline the MHS to improve efficiency and effectiveness. The MHS has already reduced its operating costs in Scotland by £0.2 million in 2007/08 (£4m in GB), by £1.1 million in 2008/09 (£9m in GB) and will continue this work to reduce the costs of delivering official controls.
16. The current Regulations will cease to apply at the end of 2009 as they include a provision having that effect. Their early replacement, or at least amendment to remove that

provision, is therefore essential because otherwise, as from the beginning of 2010, there would no longer be in force in Scotland any provisions supplementing Article 27 of the OFFC Regulation - with the consequence that charges could not lawfully be imposed in Scotland and that the United Kingdom would be in breach of its obligation under EU law to enact such provisions.

Other Administrations

17. Similar legislation is being introduced in England, Wales and Northern Ireland.

Consultation

18. The FSA undertook a 14 week public consultation that ended on 25 March 2009 on a draft of the above instrument and related proposals to increase charges for official meat controls. As part of this process a stakeholder meeting was held on 6 March in Edinburgh, attended by meat plant operators, trade bodies, producer organisations, and Scottish Government officials. The meeting was independently chaired and included a panel of stakeholder representatives and the Chief Executive of the FSA. The proposals were also discussed in public at meetings of the Scottish Food Advisory Committee (SFAC). An analysis of the responses to the consultation will be available on FSA's website: www.food.gov.uk.

19. The main consultation proposals were to:

- i. introduce a time-cost system of calculating charges for meat hygiene and animal welfare at slaughter official controls, and provision to vary these charges (as outlined in paragraph 5 above);
- ii. increase these charges by 4%, 6% or 9% with the latter being the preference of the Food Standards Agency Board; and
- iii. introduce a new charge to recover 5% of the cost of official controls on Specified Risk Material (SRM), including additional BSE controls that apply to cattle slaughtered for human consumption that are required to be tested for BSE.

20. The Scottish Association of Meat Wholesalers and Quality Meat Scotland were amongst those key stakeholders who supported the move to time-cost charging, on the basis that time-cost charging would drive the right attitudes to help produce a more efficient official controls service, and to reduce official controls required under current legislation to more appropriate levels and therefore reduce overall costs, whilst others including NFU Scotland and the Scottish Federation of Meat Traders Association raised concerns about possible impacts on small and medium sized businesses. Some individual approved meat businesses also responded to the consultation, some of whom supported a move to time-cost charging whilst others did not.
21. Regarding the related proposals to increase current charge levels, the general view expressed by industry stakeholders was that there should be no increases to charges at this time.
22. The FSA Board discussed the outcome of the public consultation at its open meeting on 21 April 2009. In light of the changed economic environment, the conclusion of the Board was that revised proposals should be recommended to Ministers as follows:
- i. to pursue the introduction of time-cost charging but, in response to industry concerns, to revise or drop some of the associated proposals relating to the detail of the charging arrangements.
 - ii. to increase charges for meat hygiene and animal welfare at slaughter official controls by 4%.
 - iii. to defer the introduction of SRM charges for further consideration.
23. The FSA Board considers that their recommendations struck a balance between the industry views on affordability, the current economic climate, and Government policies on limiting burdens on industry on the one hand, and the need for Government to make effective use of taxpayers' money and the financial requirements of the Agency on the

other. However, as outlined in paragraph 7 above, there was not Ministerial agreement across the UK to the FSA Board's recommendation to increase charges by 4%.

Financial Implications

24. The move to time-cost charging is estimated to be broadly cost neutral across all sectors, with the level of charges remaining unaffected. Each business will continue to receive a discount from the full cost of the controls. This will be based on the discounts that are currently applicable to ensure that the introduction of time-cost charging will not affect the level of charge that each business pays, this being on the assumption that the businesses practices and throughput, and the amount of MHS official control time, remain unchanged as compared with 2008-09. Account will continue to be taken of the interests of small and isolated businesses in determining the proportion of costs that will be charged to them.

25. The Agency believes that moving to generally applicable time-cost charging will encourage commercial discipline and a reduction in the time spent by MHS staff carrying out official controls, leading to savings for industry and taxpayers. This will be achieved through the more efficient use of available enforcement resources and by clearly setting out the basis of charges for each monthly period. The stronger incentives provided by time-cost charging for businesses to comply with meat hygiene and animal welfare at slaughter requirements will also make it easier, and thus slightly cheaper, to administer.

26. The Agency asked Ministers in each UK country to agree to a generally applicable increase in charges of 4% during the current year as compared with current levels, but this agreement was not secured across the UK. Any increase to charges in 2010-11 and beyond would be subject to the outcome of further public consultation, of FSA Board recommendations, and to decisions of Ministers in each country of the UK.

27. A Regulatory Impact Assessment has been prepared to accompany this instrument.

Food Standards Agency Scotland

19 June 2009

FINAL REGULATORY IMPACT ASSESSMENT

The Meat (Official Controls Charges) (Scotland) Regulations 2009

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FINAL REGULATORY IMPACT ASSESSMENT

1. TITLE OF THE PROPOSAL

The Meat (Official Controls Charges) (Scotland) Regulations 2009

- 1.1 Implementation of the provisions of Regulation (EC) 882/2004 on Official Feed and Food Controls (OFFC) relating to charging for official controls at approved meat establishments for which domestic legal provisions are necessary.

2. PURPOSE & INTENDED EFFECT OF THE MEASURE

The Objectives

- 2.1 The objectives of the proposed Scottish Statutory Instrument are to introduce by 28 September 2009:
- iii. generally applicable time cost charging for meat hygiene and animal welfare at slaughter official controls carried out at approved meat plants;
 - iv. provision to enable the charges to approved meat plants for meat hygiene and animal welfare at slaughter official controls to be varied.
 - iv. a requirement for operators to declare their working hours and practices coupled with business agreements between the MHS and operators for official control resources allocated to individual meat premises, including a review mechanism and associated fees.
 - iv. charges for meat controls carried out on-farm by the MHS
- 2.2 The proposed regulations will apply in Scotland only. Equivalent legislation is proposed in England, Wales and Northern Ireland.
- 2.3 It should be noted that the proposed Regulations enable the charges for meat hygiene official controls to be varied but they do not make any specific reference to increasing, or reducing, charges compared with their current levels.

Rationale for Government intervention

- 2.4 Consumers and food manufacturers need to be confident that meat is of the nature, substance and quality that they wish to buy, but they cannot assess this fully from its appearance when it is offered for sale. Government intervention is needed to ensure that meat is of the standard necessary to ensure that a good level of confidence is maintained and that the risk of meat-borne disease is

managed appropriately. Meat official controls are carried out in order for the Government to achieve these objectives and meet obligations on EU Member States set by EC food hygiene and charging legislation.

- 2.5 Approved meat businesses derive benefit from the official controls carried out and they are currently required to pay a proportion of the cost to provide them. However, since 2001 the proportions of the cost that are borne by businesses and by taxpayers have become unbalanced with the result that most businesses are charged much less than the actual cost of the controls.
- 2.6 At present, there is little incentive for the majority of businesses to use official control time efficiently. Currently most slaughterhouse and game handling establishments are charged on the basis of the number of animals that they process and about half of cutting plants are charged on the basis of the tonnage of the meat that they cut up. It is proposed to change the system of charging to one that charges a proportion of the official meat controls cost calculated from the time it takes to carry out those controls. This will provide each business with an incentive to reduce the number of official control hours that it requires and encourage it to work cooperatively with the MHS to achieve that end.

Background

- 2.7 The EC requirements for charges for official controls are set out in Regulation (EC) No.882/2004, known as the OFFC Regulation². The Regulation:
- i. requires that charges be made to businesses for the cost of meat hygiene and animal welfare at slaughter official controls (referred to as meat hygiene controls hereafter) carried out at approved meat premises³. These charges must be no more than actual costs incurred in carrying out official controls and in general no less than the amount calculated from specified minimum rates (the minima);
 - ii. permits charges to be made for other controls, such as those on Specified Risk Material (SRM)⁴ in relation to cattle, sheep and goats and the cost of additional BSE controls⁵ that apply to cattle that are slaughtered for human consumption that are required to be tested for BSE at approved meat premises. These charges must be no more than actual costs (the EC minima do not apply).

² Regulation (EC) No 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and welfare rules.

³ Slaughterhouses, game handling establishments and meat cutting plants that are approved by the Food Standards Agency (FSA) as required by Regulation (EC) 853/2004 in accordance with Regulation (EC) 882/2004

⁴ Controls set out principally in the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006 (as amended), SSI 2006 No.530 Schedule 6 and Schedule 7 paras 1 and 4.

⁵ Controls set out in the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006 (as amended), SSI 2006 No.530, Schedule 2

- 2.8 The proposals described from paragraph 3.4 onwards take account of the OFFC Regulation.
- 2.9 Official meat controls are carried out in Scotland and across GB by the Meat Hygiene Service (MHS), which is part of the Food Standards Agency.⁶
- 2.10 The cost of meat hygiene controls has increased and the proportion of costs charged to industry has fallen substantially since the present meat hygiene charging system was introduced across the UK in 2001. This arrangement (known as the Maclean formula) has resulted in the Scottish meat industry receiving a high level of support from taxpayers: approximately £23 million in total over the last seven years. (Across GB, there has been around £190 million of support from taxpayers over the same period.)

Reducing the cost of official controls/MHS modernisation

- 2.11 The measures set out in the instrument to amend the charging system complement parallel work to modernise and streamline the MHS to improve efficiency and effectiveness and reduce the cost of meat hygiene inspection. The MHS modernisation programme has streamlined the overall structure of the MHS across the board and yielded significant savings. Staffing levels in approved abattoirs have been reviewed resulting in a reduction of 134 staff (GB) and this has delivered a saving of £4million (GB). A comprehensive restructuring of the organisation, including the development of geographical clusters, revised management structures and the closure of regional offices, will also deliver savings of £7 million per annum. The MHS has already reduced its operating costs in Scotland by £0.2 million in 2007/08 (£4m in GB) and by a further £1.1 million in 2008/09 (£9m in GB), and will continue to make additional savings in the current and future financial years. The MHS savings are projected to make a significant contribution to reducing the burden on taxpayers.

The current method of charging for meat hygiene controls

- 2.12 The current method of calculating meat hygiene charges that is applied across GB, known as the Maclean formula, is to charge each business the lower of discounted Meat Hygiene Service (MHS) staff time costs or a charge that depends on the number of animals or amount of meat that is processed (known as a throughput charge). This method of calculation was introduced in 2001 when the slaughterhouse industry was rapidly rationalising in response to changing market needs and was facing a sudden significant rise in official controls charges due to the need, in 1999, for the Government to implement an EC law which required full time veterinary supervision at slaughterhouses. There was concern that the increased charges were sufficiently large to present a real risk that some businesses would be forced to close, which could have caused disruption to the meat supply and had adverse consequences for the rural economy and on animal health and welfare.
- 2.13 The Maclean formula has provided a significant level of subsidy to slaughterhouses, game handling establishments and cutting plants from the full

⁶ The Meat Hygiene Service is an Executive Agency of the Food Standards Agency

cost of official controls and has helped the industry to remain robust even during the challenges presented by the legacy of BSE and disease outbreaks, such as foot and mouth and avian influenza. It has also ensured that smaller businesses have received significant levels of support..

- 2.14 The subsidised headage (throughput) rate was intended as a limited support for a limited time for the small and medium-sized red meat slaughterhouses which could not use official controls efficiently due to their limited throughput. However, in practice the benefit has been applied to the vast majority of the industry, both large and small plants, and has resulted in a subsidy from the public purse to the meat industry across GB of an average of over £25 million per year over the last seven years against an initial level when Maclean was introduced of £10 to £12 million per annum. In 2007/08 the subsidy was worth over £30 million. Over the past seven years the total subsidy across GB has been £190 million, of which Scotland's share has been around £23 million. Most importantly, the current charging system has removed incentives for industry to use MHS resources efficiently because the charge paid has typically been a throughput charge which has not been related to the amount of MHS time used.

EC Minima requirements

- 2.15 The OFFC Regulation sets out minimum rates of meat hygiene charge per type of animal/bird slaughtered and per tonne of meat (by type of meat) that is processed by an approved meat business. These rates are specified in Euros and compliance in the UK has been ensured by taking annual account of the €/£ exchange rate - the rate for each calendar year being taken to be the first rate published in the Official Journal (OJ) of the European Community in the September prior to the year to which it was applied.
- 2.16 The current method of charging for meat hygiene controls takes account of the need to ensure that charges were generally no lower than those calculated from the minimum EC rates per animal or per tonne of meat stipulated in the OFFC Regulation.

Context

- 2.17 In 2007 Scottish red meat slaughterhouses processed 2.77 million animals and produced meat worth around £0.745 billion (£3 billion across GB). The industry as a whole is subject to a number of external forces including variations in the price of utilities and inputs, the wider economic climate, and disease outbreaks.
- 2.18 The economic climate over the past year has had a significant impact on the food industry overall, with high fuel and feed costs in particular contributing to higher input prices, and driving up retail food prices in conjunction with increased demand from developing nations and biofuel production. However, more recently fuel prices have fallen, particularly oil which fell 48% between August and November 2008, while UK food price inflation has remained high at around 11% in September.⁷ Despite lower fuel prices, and feed, wheat and barley prices

⁷ Bank of England, *Inflation Report*, November 2008, <http://www.bankofengland.co.uk/publications/inflationreport/ir08nov.pdf>

having fallen by 45% and 40% respectively compared to last year, prices for the meat industry have remained high. In the 12 months to October 2008 prices have risen as follows: Beef +21.7%, Lamb +16.7%, Pork +23%, Bacon +11.1% and Poultry +15.1%. Overall, food and non alcoholic beverages prices have risen by 10.1% in this time.⁸

- 2.19 Recent trends in the meat production sector suggest that the sector overall is performing relatively well within a difficult macroeconomic situation. The volume of meat production has been relatively stable in recent years, compared to earlier years. There has been substantial growth in livestock and producer (i.e. farmgate) prices and retail prices of meat products over the last year, however higher growth of farmgate prices suggests processor margins may have been reduced. Weak Sterling tends, all else equal, to boost returns for the meat production sector. Total income from farming has risen substantially in 2008. However, despite some relatively positive indicators currently, industry confidence in the future is low.
- 2.20 The industry has been significantly affected by disease outbreaks in recent years. In 2007 the detection of avian influenza in UK poultry resulted in a substantial loss of export revenue, in addition to supermarket sales of poultry falling by 10%, and turkey by 30%.⁹ The red meat sector has also been negatively impacted over a longer period by BSE and by outbreaks of bluetongue and foot and mouth disease (FMD). The most recent outbreak of FMD in 2007 caused substantial disruption to exports of beef, however there was little impact on consumer purchases due the limited scale of the outbreak.¹⁰ The removal of export restrictions resulting from the outbreak, in addition to the strength of the Euro against the Pound, has seen exports of UK meat increase. Figures for the period January to June 2008 show UK meat exports to all countries to be 15% higher than the same period last year, with beef exports growing by 32% and lamb by 24%.¹¹ Exports of meat from Scotland to the rest of the world during the period January to September 2008 were 32% higher than the equivalent period in 2007.¹²
- 2.21 The FSA proposals put forward are designed to ensure that small businesses already receiving significant support will continue to do so. Large variations in the level of charge to different businesses have been avoided by basing the charges on the Maclean charging system.
- 2.22 The proposals are also fully compliant with EC Regulations, which all Member States have to follow.

Defra TSE related cost sharing proposals

- 2.23 The proposals to amend the charging system in this Regulatory Impact Assessment comprise a very small proportion of other cost proposals affecting

⁸ Table 8 of the First Release from ONS <http://www.statistics.gov.uk/pdfdir/cpi1108.pdf>

⁹ Market Intelligence (Mintel), *Poultry and Game*, July 2008.

¹⁰ Market Intelligence (Mintel), *Red Meat*, October 2008.

¹¹ Food from Britain, *Export Brief: Quarterly Review of UK Export Performance*, http://www.foodfrombritain.com/fasttrack/documents/FFB_Export_Brief_Q2_2008.doc

¹² Data from HM Revenue & Customs via <http://www.uktradeinfo.com>

industry. For example, the cost of changes to TSE measures as part of Defra's wider cost sharing programme, including the costs to be transferred to the livestock farming sector for the collection and disposal of fallen cattle requiring a BSE test, is estimated to be around £8 million in Scotland (gross of £2 million first year aid).

Statutory Instrument

- 2.24 The SSI accompanying this Regulatory Impact Assessment (RIA) is needed to implement the change in Scotland to introduce a time-cost charging system.

Devolution

- 2.25 The proposed regulations will apply in Scotland only. Equivalent legislation is proposed in England and Wales to provide coverage throughout Great Britain (GB) to coincide with the MHS's geographical area of responsibility.¹³ Similar legislation is also proposed in Northern Ireland to deliver consistent charging arrangements throughout the UK.

3. CONSULTATION

- 3.1 The Agency carried out a public consultation exercise with stakeholders, interested parties and other Government Departments in Scotland between 18 December 2008 and 25 March 2009. The consultation package was sent to around 180 stakeholders including consumer organisations, enforcement agencies, producers and processors. In addition, operators of 124 approved slaughterhouses, game handling establishments and meat cutting businesses were sent a letter alerting them to the consultation and giving them the opportunity to respond to it either directly or via a representative organisation.
- 3.2 The proposals that were included in the consultation were based on the decisions made by the FSA Board at an open meeting on 17 July 2008. It was the Board's decision that the industry should be charged an increasing proportion of the costs of official meat controls to reflect the benefits that they derive from them, such as maintaining consumer confidence in meat.
- 3.3 As part of the consultation process FSA Scotland held a stakeholder meeting on 6 March 2009 in Edinburgh, attended by meat plant operators, trade bodies, producer organisations, Scottish Government officials and members of the Scottish Food Advisory Committee. The meeting was independently chaired and included a panel of stakeholder representatives and the Chief Executive of the FSA.

¹³ Equivalent regulations are also being proposed in Northern Ireland where the Department for Agriculture and Rural Affairs carry out official controls in approved meat premises on behalf of the FSA.

The FSA option and proposals on which there was consultation

3.4 The option and proposals on which the FSA consulted are described below. The FSA was open to introducing a combination of the proposals.

- Option - do nothing.
- Proposal 1 - introduce a new system of calculating charges for meat hygiene controls based on the time-costs of carrying out those controls.
- Proposal 2 - increase hygiene control charges by:
- a. inflation (4% assumed ¹⁴)
 - b. 6%
 - c. an amount sufficient to recover an additional £0.447 million charges in total over a full year (estimated to be just under 9%)
 - d. introduce a standard hourly rate for calculation of a 95% rebate of Plant Inspection Assistants costs.¹⁵
- Proposal 3 - introduce charges for controls relating to Specified Risk Material (SRM) and the cost of additional BSE controls¹⁶ of either;
- a. 5% of total time-costs incurred carrying out these official controls (equating to just under 7% of the cost in Scotland) from 29th June 2009;
 - b. 5% of those total time-costs (equating to just under 7% of the cost in Scotland) but to be deferred and begin within 2010/11.
- Proposal 4 - provide for charges to be made for official controls carried out on-farm.
- Proposal 5
- a. require operators to declare the working hours and practices of their business;
 - b. introduce a £400 fee to initiate a semi-independent review of MHS assessment of required staff levels made having regard to that assessment; and
 - c. enable businesses to appeal to an independent third person against any assessment of required staff levels made as a result of such a review as

¹⁴ This relatively high estimate of inflation takes into account but is lower than the overall increases in pay rates for MHS staff (3.9% for Official Veterinarians and 5.9% for Meat Hygiene Inspectors)

¹⁵ Some poultry slaughterhouses employ Plant Inspection Assistants (PIAs) who carry out certain official controls for the premises under the supervision of an official veterinarian (OV).

¹⁶ BSE control costs are paid by Defra, and these figures will also appear in Defra calculations.

mentioned in paragraph b.

Proposal 6 Comments were also sought on whether to continue to adjust charge rates in order to comply with EC minima from January in each calendar year or whether, with effect from 2010, to adjust those rates as from the start of each MHS financial year.

3.5 Taking account of responses to the consultation exercise, it has been decided to pursue, with some modifications, proposals 1, 4, 5 a, b and c and 6. Details on this are set out in Section 4 below that also explains why the other proposals have been deferred or dropped.

Summary of Consultation Responses

3.6 There were 18 written responses to the consultation. While only a small proportion of those consulted responded directly, they included representative industry organisations and operators of approved meat plants, representing the views of the majority of the industry. In addition, views expressed at a stakeholder meeting held on 6 March have been taken into consideration.

3.7 Views on the proposal to introduce time based charging were mixed, although it is significant that support was received from the leading trade body in the red meat processing sector, representing 36 companies covering over 90% of total Scottish red meat production and almost 100% of beef and sheep meat produced in Scotland. Others stakeholders expressed concerns that MHS inefficiencies should first be addressed before introducing time based charging, and there was general support for continuing to ensure that small, remote and island operators are not disadvantaged. Some food business operators responded that they would prefer to keep the current charging system.

3.8 There was general agreement in industry that there should be no further increase to hygiene charges until the MHS further reduce the cost of official controls and associated overheads to the lowest levels possible, particularly given the current economic climate and pressures on already thin margins. However, whilst there was a general level of acceptance that the MHS had so far made good progress in reducing costs, responses suggested that significant further reductions could be achieved.

3.9 There was general support amongst industry stakeholders for business agreement to set out working hours and practices, provided there was flexibility for small, remote and island plants, and for on-farm official control charges. Respondents generally felt that the £400 fee to initiate a review was too high, and this has since been reduced to £250 following consultation.

4. ANALYSIS OF OPTIONS & PROPOSALS

4.1 The option and proposals considered below are not exclusive. The Agency was open to introducing a combination of the following:

Option – Do Nothing

- 4.2 This would mean continuing with the current Maclean charging system. Under this system, the majority of businesses pay throughput charges, which do not provide an incentive for them to make the most efficient use of the MHS services. MHS charge rates will continue to vary as a result of the combined impact of the EC Minima Rate changes, the downward trend in official control time (an average reduction in hours of just over 4% assumed across all slaughterhouses in line with past trends¹⁷) and the estimated impact of changes in PIA costs, (see paragraph 4.9 below) but doing nothing would mean that charges would not be increased by the FSA, so in real terms they would fall as their value is eroded by inflation.

Proposal 1 - Introducing generally applicable discounted time cost charging

- 4.3 It was decided to introduce this proposal.
- 4.4 Businesses will be charged a proportion of the cost of each hour (with quarter hours being the minimum unit of charge) that an official of the MHS works in an approved meat plant to carry out official controls. The chargeable proportion of the cost will be expressed as a discount rate that will be notified to each business. Account will continue to be taken of the interests of small/isolated businesses in determining the proportion of costs that will be charged to them.
- 4.5 The move to time costs charges will mean that throughput charges will need to be calculated only for the purpose of ensuring that the EC minimum rates per animal or per tonne of meat are respected. That is, to ensure that the sum the FSA charges as a proportion of the time costs does not fall below the amount which would have to be charged in order to comply with the EC minima if charging was on a headage/tonne of meat basis, except in circumstances where EC law permits or requires it to do so. For example, a sum falling below one calculated from EC minima may be charged if it is to take account of the interests of a low throughput business and must be charged if the full time-cost of carrying out the official controls is less than the amount calculated from the minima.
- 4.6 The FSA believes that moving to generally applicable time-cost charging will encourage commercial discipline that will lead to savings for industry and taxpayers. This will be achieved through the more efficient use of available enforcement resources and by clearly setting out the basis of charges for each monthly period. Time-cost charging will also provide stronger incentives for businesses to comply with meat hygiene and animal welfare at slaughter requirements and will be easier, and thus slightly cheaper, to administer than the Maclean system.
- 4.7 The move to discounted time-cost charging will not in itself affect the level of charges. This will be achieved by using the Maclean charging system to calculate a discount rate for each business using an estimate of its expected

¹⁷ Based on MHS calculations of total official control time in 2008/09 and projections for 2009/10. Hours in cutting plants assumed constant because patterns of audit hours will not be in line with overall reductions.

charges for the year starting 28 September 2009 and the expected full costs of controls. This is on the basis that, if business or MHS practices and throughput stay the same, the charge will be the same as it would have been under the Maclean system. However, any changes in practice or throughput would affect the charge because businesses would be charged by the hour. As explained in paragraph 4.6 above, the FSA expects that charging by the hour will lead to efficiencies in many cases, meaning that overall charges might be lower, all else remaining equal and subject to continuing compliance with EC minima requirements.

- 4.8 Each business will continue to receive a discount from the full cost of the controls. This will be based on the discounts that are currently applicable to ensure that the introduction of time-cost charging will not affect the level of charge that each business pays, this being on the assumption that the businesses practices and throughput stay the same as does the amount of official control time. However, the FSA expects that the time spent on carrying out official controls will fall as a result of MHS efficiencies, with a concomitant reduction in the charges to businesses.
- 4.9 Some poultry slaughterhouses employ Plant Inspection Assistants (PIAs) who carry out certain official controls for the premises under the supervision of an official veterinarian (OV). The FSA encourages plants to employ PIAs as a means to reduce official control costs and to encourage businesses to take responsibility for official controls in their premises. Under time-cost charging, the use of PIAs by a business will contribute to the calculation of the discount it will receive, because the full cost of official controls (MHS and PIA costs) will be used in the calculation.

Proposal 2 - increases in general charging level

- 4.10 Following consultation and further deliberation the FSA is deferring any increases in charges for the year from 28 September 2009 pending further discussions with Ministers across all 4 UK countries.

Analysis of Alternatives

- 4.11 The analysis of the alternative charge increases considered, indicated that:

Proposal 2a – Increasing charges by 4% would, after taking account of the fall in inflation since the option was first assessed, slightly close the gap between the cost of controls and the charges for those controls. Doing this would be in line with the FSA's general principle that it is inappropriate for it to subsidise the costs of official controls for businesses and that FSA expenditure should be aligned more closely with its strategic objectives. A 4% increase would have also made a significant allowance for the ability of industry to meet the additional costs.

Proposal 2b - Increasing charges by 6% would have taken greater account of the FSA's intention that businesses should pay a greater proportion of the cost to the FSA of delivering official controls at approved meat plants. It would have

also have taken significant account of the ability of the industry to meet the additional costs.

Proposal 2c - Increasing charges by an amount sufficient to recover an additional £0.447 million in total in Scotland over a full year (previously estimated, based on 2007/08 data, to be just under 9%) would have been a significant move towards closing the gap between the actual cost of delivery of official controls and the charges made to industry for those controls. It would have also had regard to the ability of industry to meet the charges.

- 4.12 The FSA also considered the possibility of increasing meat hygiene charges by 12%. However, it was decided not to consult on this because, when combined with the additional revenue from the EC minima increases from January 2009, it would have generated more than the £0.447 million in Scotland (£3 million across GB) that the FSA had decided to seek.

Costs of Plant Inspection Assistants (PIAs)

- 4.13 Proposal 2d - It was decided not to implement the proposal to reduce by 5% (from 100% to 95%) the deduction made from meat hygiene charges in respect of the costs borne by some poultry slaughterhouses in employing Plant Inspection Assistants (PIAs) to undertake official controls and to base this deduction on a standard hourly rate of £11 for PIA employment costs instead of agreed actual costs. This decision means that official control charges will continue to take account of 100% of the actual PIA employment costs for each business.

Proposal 3 – charges for SRM and the cost of additional BSE controls

- 4.14 The FSA decided not to introduce charging for these controls either from 28 September 2009 or during 2010/11. The matter will be considered further at a later date. The intention of the proposed charges was to recover a proportion of MHS costs as a first step in the FSA's intended process of balancing the cost sharing agenda with the need for official controls and the benefit that businesses derive from them. These controls only affect red meat slaughterhouses and cutting plants.

Proposal 4 - Charges for official controls carried out on-farm by the MHS

- 4.15 A provision has been included in the Regulations that this RIA accompanies to enable charges to be made for meat hygiene official control work that is done on-farm or other place of origin if certain conditions are satisfied. The FSA has decided to set the level of charge for each farm/place of origin with reference to the charging discounts that apply to slaughterhouses with similar levels of throughput in order to take account of the needs of low throughput on-farm slaughterers. This is instead of charging for the full cost of the controls, as was proposed in the consultation document.
- 4.16 Currently, the MHS carry out very few on-farm official controls. It is not known how much, if at all, the volume of this would change if they had to charge a proportion of the cost of this work. However, the overall impact of the charges will

be small as the overwhelming majority of animals for human consumption are slaughtered in approved abattoirs.

Proposal 5a – businesses declaration of working hours and practices

- 4.17 The Regulations accompanying this RIA require businesses to declare their working hours and practices. This information is to be included in a Business Agreement (BA) with the MHS that will also set out the chargeable official control resources that the MHS allocates to meet the needs of the business. There will be costs associated with the Business Agreement, but since there is currently a requirement for businesses and the MHS to agree operating hours, it is expected that any additional costs from requiring businesses to declare their working hours and practices will be minimal.
- 4.18 The MHS intends to work co-operatively with each business to enable the official control resource allocation to be kept as low as practicable.

Proposal 5b – introduction of a fee to initiate a semi independent review of MHS chargeable staff resource allocations

- 4.19 The Regulations that this RIA accompanies introduce a £250 fee for businesses to initiate a semi-independent review of the MHS's initial assessment of the staff resources needed to carry out chargeable official controls rather than the £400 fee that was proposed in the FSA's consultation document. The FSA Board favoured reducing the fee to £250 in order not to unduly deter small businesses from initiating a review.
- 4.20 It is not possible to estimate the impact of this fee as it is not known how many businesses are likely to be discontented with the MHS's initial assessment of the staff it needs to effectively carry out meat hygiene official controls at the premises. However, the MHS will be seeking to work cooperatively with business operators, which will minimise the likelihood of reviews being initiated. Also, the £250 fee will be reimbursed if the review finds in the operator's favour.

Proposal 5c - appeals against MHS chargeable staff resource allocations

- 4.21 The Regulations provide that where, following a review as described in paragraph 4.24 above, agreement still cannot be reached between the MHS and the business as to MHS staffing arrangements at the plant, businesses may have recourse to an appeals process. This appeal will be to an independent person nominated by the FSA who will review the evidence of both parties and will determine the appeal. The Regulations provide for the independent person to award appropriate costs.
- 4.22 The independent person's determination will be binding on the FSA unless it would mean that it would not fully comply with its obligation under EC law to carry out official controls. In that circumstance, the MHS would provide the staff resources it considered necessary to meet its legal obligations, but would charge the business only in respect of the staff resources considered necessary by the independent person.

4.23 The FSA expect that there will be few appeal cases, but it is not possible to estimate their number or their complexity and thus their impact in terms of cost.

Proposals 5b and 5c - administration costs

4.24 The cost to the FSA/MHS of administering reviews and appeals is estimated to be around £1,000 - £2,000 per case on average, including the inclusion of industry representation at the first stage review and the use of an independent person for cases that are appealed. The total cost for this cannot be estimated because the number of reviews and appeals cannot be predicted, nor is it known the extent to which appeal costs will be awarded for or against the MHS.

Proposal 6 – Applicable date for determining UK minimum charge rates per animal or per tonne of meat

4.25 EC regulations set out minimum meat hygiene official control charge rates per type of animal or per tonne of meat (by type of meat) that apply to all Member States. These rates are specified in EC law in Euros and need to be converted into Pounds Sterling. Current national regulations provide for the Sterling/Euro exchange rate to be set each September to apply from the start of the following calendar year and the consultation document asked whether it would be more appropriate to make such changes from the start of each MHS financial year, starting in 2010. The response to this suggestion was positive.

4.26 The FSA decided to:

- a. change the implementation date for future changes to UK minimum charge rates that are required due to variations of the Sterling/Euro exchange rate from the start of each calendar year to the start of each financial year; and
- b. change from applying an exchange rate prevailing at one point in time to applying an average exchange rate based on the previous calendar year¹⁸. This change will moderate the effect of large changes to the exchange rate that may occur in individual months.

Effect on the Protection Provided by Official Controls

4.27 The scope of official controls will not be affected in any way by these proposals to amend the charging system, and so there will be no reduction in the level of consumer protection and the health benefits afforded by the meat hygiene controls. The move to a time-based hygiene charging system would strengthen incentives for businesses to comply with food hygiene and animal welfare at slaughter requirements. The proposals to amend the charging system are underpinned by the need to maintain the level of consumer protection and the health benefits afforded by meat hygiene controls.

¹⁸ Calculated using the first exchange rate to be published each month in the C series of the Official Journal of the European Community.

5. COSTS AND BENEFITS

Sector and groups affected

- 5.1 The regulations will apply to red meat and poultry slaughterhouses, game handling establishments, cutting plants and certain on farm slaughter facilities. No impacts on racial equality, social, animal welfare or environmental issues due to the proposals have been identified.

Impact on Individual Businesses

- 5.2 As explained in paragraph 4.7 above the move to discounted time-cost charging will not of itself affect the level of charges and the effect of moving to time-cost charging is considered to be broadly cost-neutral across all sectors assuming food business operator practices and throughput and MHS official control time remain unchanged as compared with 2008-09. The financial impact of the measures is expected to be very small, with most having a zero impact on costs. Businesses initiating reviews that find against them will incur costs of £250.

Impact on On-farm slaughter facilities

- 5.3 Currently the MHS carry out very few on-farm official controls relating to farmed game e.g. farmed deer and boar. It is not known how much this would change if they had to charge a proportion of the cost of this work. However, the overall impact of the charges will be small as the overwhelming majority of animals for human consumption are slaughtered in approved abattoirs.

6. SMALL FIRMS IMPACT TEST

- 6.1 Discounts will continue to be targeted to provide support to smaller and geographically remote plants as far as possible within the framework and requirements of the EC OFFC Regulation and in a manner consistent with Agency policy for such businesses.

7. LEGAL AID IMPACT TEST

- 7.1 The new Regulations do not create any new right of appeal to a court or tribunal. Although in the case of the new Business Agreements it will be possible for operators of approved businesses to request a review of decisions made by the MHS regarding resourcing levels, the new Regulations are not expected to have

any impact on the current level of use that an individual makes access to justice through legal aid, or on the possible expenditure from the legal aid fund.

8. TEST RUN OF BUSINESS FORMS

- 8.1 As outlined in section 4, the MHS is introducing Business Agreements with operators of approved businesses to cover the resources required to carry out official controls according to the activities undertaken. Although a new document, Business Agreements have been developed following significant engagement with industry.

9. COMPETITION ASSESSMENT

- 9.1 The introduction of generally applicable time-cost charging is unlikely to affect significantly the ability of approved meat businesses to compete or affect their incentives to do so, as all such businesses within the UK will be affected by them. The FSA does not expect that these measures will directly or indirectly limit the number or range of approved meat businesses.
- 9.2 Limited information is available on the profile of the meat processing sector. However, some analysis has been possible for red meat slaughterhouses. Based on employment information for 27 medium and large businesses, it has been possible to infer an average number of employees per animal unit. Data on throughput for red meat slaughterhouses has been converted into animal units, and the result used to estimate the number of employees and assign each business to a size category. This suggests that across GB approximately three quarters of red meat slaughterhouses are micro businesses, approximately 15% are small, approximately 10% are medium-sized and only 1% or so are large.¹⁹ Separate Scottish figures were not available.

10. ENFORCEMENT, SANCTIONS AND MONITORING

- 10.1 The Meat Hygiene Service (MHS) will monitor the delivery of the proposal in GB (DARD in NI) in accordance with their usual procedures. The policy will be reviewed in January 2010 to establish its actual cost and benefits and the achievement of its desired objectives.
- 10.2 The proposed regulations have been drafted in accordance with Better Regulation principles. This applies, in particular, to the way that they have been drafted to be easily understood and easily implemented, the information

¹⁹ Note that these estimates are based on a small sample of medium-sized and large firms, and the average applied to all businesses. This procedure is likely to over-estimate the number of micro and small firms, because those firms probably have relatively more employees per AU than larger ones, given the economies of scale in the sector.

requirements that will be made of businesses, the sanctions that may be applied and the easy availability of free advice about charges.

- 10.3 It is possible that the above proposals will result in some increase in the cost of pursuing debt recovery across GB. It is estimated that changing the charging system to discounted time cost charging might lead to an increase of the cost of debt recovery of £100k in the first year, due to the use of a new system increasing the number of disagreements about charges owed. Similarly, it is estimated that increasing the overall charging level by any of the levels proposed in option 3 would lead to an increase of the cost of debt recovery of £100k in the year, due to the higher charge level increasing the number of queries about charges owed. Finally, the introduction of charges for SRM, additional BSE controls and on farm enforcement would be expected to have a small impact on the cost of debt recovery due to the higher number of charges made. However, the proposals to increase charges and introduce a charge for SRM are not currently being taken forward.
- 10.4 No changes are being proposed to the sanctions contained in the current Meat (Official Controls Charges (Scotland) Regulations 2008, which are considered to be proportionate and the minimum needed to enable the policy to be implemented effectively.

11. SUSTAINABLE DEVELOPMENT

- 11.1 The proposals might have an impact on the delivery of the Scottish Government's strategic objectives on sustainable development if meat processing premises were to close. In this event it could lead to an increase in food miles, through livestock and meat having to travel greater distances to slaughter. However the proposal to bring in time cost charges controls should encourage more sustainable decision making because it gives businesses an incentive to use MHS resources more efficiently, which will enable resources to be reduced without compromising the level of health benefits and protection. Furthermore, the method used to calculate discounts ensures that those small plants receiving the greatest protection from full costs will continue to do so.

12. RURAL PROOFING

- 12.1 Scotland's meat industry is distributed across rural and urban areas, with some small slaughterhouses, cutting premises and game handling establishments located on islands and in other remote parts of the country. Larger and more complex meat processing premises are generally sited close to the larger centres of population. The proposed change to introduce a system of time-based charging would affect businesses according to processing activities as opposed to location.

13. RISK, UNCERTAINTY AND UNINTENDED CONSEQUENCES

- 13.1 The risk of uncertainty or unintended consequences arising through changing the system of charging for official controls is considered to be low as this change would apply throughout the UK, thus ensuring that all industry bodies will see a change and no one sector will be put at a competitive disadvantage.

14. IMPLEMENTATION AND DELIVERY PLAN

- 14.1 The MHS would implement the proposal in Scotland and the rest of GB (and by the Department of Agriculture and Rural Development – DARD – in NI) in accordance with their usual procedures.

15. POST-IMPLEMENTATION REVIEW

- 15.1 The policy will be reviewed in January 2010 to establish its actual costs and benefits and the achievement of its desired objectives.

16. SUMMARY AND RECOMMENDATION

- 16.1 Consumers and food manufacturers need to be confident that meat is of the nature, substance and quality that they wish to buy, but they cannot assess this fully from its appearance when it is offered for sale. Government intervention is needed to ensure that meat is of the standard necessary to ensure that a good level of confidence is maintained and that the risk of meat-borne disease is managed appropriately. Meat official controls are carried out in order for the Government to achieve these objectives.
- 16.2 The cost of carrying out these official controls is borne by both approved meat businesses and taxpayers and since 2001 the proportion paid by each has become unbalanced. Most approved meat businesses are now charged much less than the actual cost of the controls. To help address this imbalance the above instrument introduces measures to encourage the more efficient use of official control resources by these businesses.
- 16.3 Therefore the Cabinet Secretary is recommended to agree to:
- i. the introduction of generally applicable time cost charging for meat hygiene and animal welfare at slaughter controls;

- ii. the introduction of business agreements relating to work practices, and arrangements for the review and appeal against decisions concerning MHS staff levels
- iii. the introduction of charges for meat controls carried-out on-farm by the MHS
- iv. amending the timing of adjustments to charge rates to comply with EC minima

17. DECLARATION

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.

Signed:

Date:

Cabinet Secretary for the Environment and Rural Affairs

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