

**EXPLANATORY MEMORANDUM TO THE
CHARGES FOR INSPECTIONS AND CONTROLS (AMENDMENT) (No. 2)
REGULATIONS 2005**

2005 No. 2715

1. This Explanatory Memorandum has been prepared by the Veterinary Medicines Directorate (VMD), an Executive Agency of the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

This Memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 It is a requirement of Community law that Member States operate a National Surveillance Scheme for residues of veterinary medicines and certain other substances in animals and animal products. It is also a Community requirement that charges are made in the sectors covered by the surveillance (red meat, poultry, eggs, milk, farmed fish and wild and farmed game) to recover the costs of operating the NSS. This SI increases the charges made in some sectors in this financial year.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 The Community rules are contained in Directive 85/73/EC ('the Directive'). The Directive requires recovery of the actual cost of surveillance in relation to eggs (see Article 2 and paragraph 1(d) of Annex B), and otherwise a minimum figure which can be increased to no more than the actual cost (Articles 2 and 5.3 and paragraph 1(a) – (c) and (e) of Annex B).
- 3.2 Until last year, the charges had not been increased since 1995 for red meat and 1998 for the other sectors. Some adjustments were needed to the charges for most sectors to enable the VMD to achieve its Ministerial target of full cost recovery and to rectify imbalances that had arisen between the sectors. In 2004 the VMD consulted on a three year plan to achieve these aims. This SI therefore covers the second year of the plan. There are two points to note.
- 3.3 In 1997 the minimum recovery figure for poultry was set at 1.35 euros per tonne by the Directive. This figure has not changed. The increase in these Regulations is to account for the variation in the official exchange rate between sterling and euros.
- 3.4 In 2004 the VMD consulted on increases in the egg charge of 25% for each of the three years. Subsequent discussions with the British Egg Industry Council resulted in the BEIC agreeing to pay the cost of the surveillance direct to the VMD and recover the cost from the larger egg packers. SI 2005/12 enabled the Secretary of State enter into a formal agreement. An agreement was made on 20 April 2005, the effect being that the increase in charges made to the egg industry as a whole is only 6% in both 2004/05 and this financial year owing to the VMD only having to issue only one invoice, payment reminder letters etc,

which reduces its administrative costs. However, the fee increase relating to eggs under this SI is 25%, which takes effect should the agreement terminate, as the VMD will have to revert collecting from individual producers directly under the regulations.

4. Legislative Background

4.1 The surveillance of animals and animal products for residues of veterinary medicinal products and certain other substances is a requirement under Community law (Council Directive 96/23/EC). Community law (Council Directive 85/73/EEC) requires a charge to be made on the industries covered to fund the surveillance.

4.2 The surveillance scheme is implemented in Great Britain under The Animals and Animal Products (Examination for Residues and Maximum Residue Limits) Regulations 1997 SI 1729. Council Directive 85/73/EEC is implemented under The Charges for Inspections and Controls Regulations 1997 SI 2893. The primary enabling power to make charges is section 45 of the Food Safety Act 1990 (c.16).

5. Extent

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The VMD runs the National Surveillance Scheme (NSS) for residues of veterinary medicines and certain other substances. Each year over 30,000 samples are collected from abattoirs and farms throughout the United Kingdom. These are analysed to check that they do not contain residues which may harm human health. This fulfils the UK's obligations under Council Directive 96/23/EC. The sampling programme and charges levied are based on national throughput in the sectors.

7.2 The VMD has a Ministerial target to achieve full cost recovery of the costs of the scheme. A review of the current charges imposed on each sector in 2004 revealed that they were insufficient to recover all of the costs of the surveillance scheme. The review also identified that the balance of burdens in the charging structure would need to be remedied over three years.

7.3 The aims of the amendments in the charges in these Regulations is to implement the second year of the three year plan to:

- achieve full cost recovery for running the NSS in the financial year 2005/06, and,
- adjust inequalities in the burdens between the sectors by 2006/07, whilst still achieving full cost recovery.

7.4 There was extensive consultation with the various industry sectors over a three month period in accordance with Government policy in 2004. The consultation explained the need for the adjustments and the proposal to spread them over

three years. This exercise was repeated this year. Industry were advised that the proposed adjustment in charges for this financial year were the same as those included in last year's exercise with two exceptions:

- i. Unfortunately goats were last year, which has resulted in an increase of 110% for the coming financial year. This equates to a price increase from 1.8 pence to 3.8 pence per goat.
- ii. The milk figure for this financial year increases by 20% (last year's increase was 15%) owing to necessary increases in the analytical costs for this sector. This increases the cost from 2.04 to 2.12 pence per 1,000 litres of milk.

7.5 Only seven responses were received this year, of which four were basically acknowledgements. (This is probably owing to the fact that there is very little change to the estimates for this financial year to those contained in last year's consultation paper.) The other three responses focused on the need for value for money in conducting the programme and operating on a level playing field with the new Member States.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum

9. Contact

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Department for Environment, Food and Rural Affairs
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REGULATORY IMPACT ASSESSMENT

The Charges for Inspections and Controls (Amendment) Regulations 2005

Purpose and intended effect of the proposal

Issue:

Under European Union (EU) law (Council Directive 96/43), the Veterinary Medicines Directorate should recover the costs of running the National Surveillance Scheme (NSS) for residues of veterinary medicines and certain other substances in animals and animal products.

Before last year charges had not increased for the red meat sector since 1995, and not at all for the poultry, eggs, milk, fish and game sectors since their introduction in January 1998 (1999 for game). Charges to the egg sector were reduced by 25% in 2000, but charges to the poultry sector continue to exceed costs owing to the requirement in Council Directive 96/43/EC to make a minimum charge.

Last year the VMD explained that if there were no increases it would mean the VMD would be unable to achieve full cost recovery, which would result in some of the costs being met out of public funds. The VMD also explained that it would phase in the price changes over three financial years. This proposal covers the second of those three years – the financial year 2005/06.

The measure adjusts charges in the goat and milk sectors from those estimates included in last years consultation exercise for this financial year. Unfortunately goats were omitted from the consultation exercise last year, which has resulted in an increase of 110% for the coming financial year. This equates to a price increase from 1.8 pence to 3.8 pence per goat. The milk figure for this financial year increases by 20% (last year's increase was 15%) owing to necessary increases in the analytical costs for this sector. This increases the cost from 2.04 to 2.12 pence per 1,000 litres of milk.

Objectives:

To achieve full cost recovery for running the NSS in the financial year 2005/06 and beyond, and so comply with EU law.

Risk assessment:

If the revised fee scales are not introduced, full cost recovery will not be achieved. This would risk infraction proceedings against the UK by the EU.

Options:

1. To leave charges unchanged – the VMD would be unable to achieve full cost recovery. Some of the costs of the VMD would have to be met out of existing public funds.
2. To amend the charges in line with the attached schedule.

Issues of equity and fairness:

The charges are made on all operators based on their output (see below), rather than just those from whom samples are taken. The underlying principle behind this is that it would not be reasonable for a particular operator to bear the cost of samples taken from its premises, when the whole industry benefits from the assurance given to consumers by the published results.

Benefits:

The existence of such wide-ranging surveillance programmes and the regular publication of their results plays a major role in maintaining consumer confidence in the food products concerned and in preventing a misunderstanding or misrepresentation of the food safety aspects of veterinary residues. Also, World Trade Organisation rules allow the UK authorities to test imports from Non-EU countries as we have equivalent testing of home produce – acting to further reassure consumers over food safety. As such, all producers, processors and consumers benefit from an industry-funded robust, open and transparent surveillance programme for veterinary residues that is capable of acting where illegal residues are found.

Compliance Costs:**Business sectors affected:**

Table 1. Businesses invoiced by the VMD to support the National Surveillance Scheme

Industry sector	Number of customers
Red meat	350
Poultry	150
Farmed fish	117
Milk	200
Eggs	1*
Game	30

* The costs of egg industry surveillance will be paid direct to the VMD by the British Egg Industry Council.

Compliance Costs for a “typical” business:

The costs for typical and small businesses in each of the industry sectors are given in Table 2.

There should be no non-recurring costs.

Total compliance costs:

The total costs amount to some £4.0m per annum.

Impact on small business:

The interests of small businesses are protected by charging based on the size, as judged by the throughput of animals or animal products.

Other Costs:

This being regulations to increase charges for inspections, there are no other costs.

Results of Consultations:

These are to be published soon.

Summary and recommendations:

It is recommended that the charges be amended as set out in the attached schedule.

Enforcement, sanctions, monitoring and review:

These proposals will not change existing arrangements for enforcement, sanctions, monitoring and review.

Declaration:

I have read the Regulatory Impact Assessment and I am satisfied that the balance between cost and benefit is the right one in the circumstances.

Signed by the responsible Minister:Ben Bradshaw.....

Date :28th September 2005.....

**Ben Bradshaw
Parliamentary Under Secretary of State
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Contact Point:

Enquiries and comments on this compliance cost assessment should be addressed to:

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Table 2. Summary of the values of the various livestock sectors and residue charges for 2005/06 with compliance costs for typical and small businesses¹.

Sector	Value of industry (£)	Cost of Residue Testing (£)	Charge per animal (£)	Typical Business			Small Business		
				No of animals	Value (£)	Cost of Residue Testing (£)	No of animals	Value (£)	Cost of Residue Testing (£)
Cattle	1,125,000,000	1,013,000	0.4246	20,000	9,840,000	8,492	4,500	2,232,000	1,911
Pigs	678,000,000	470,000	0.0831	204,000	15,279,000	16,952	2,000	149,800	166
Sheep	703,000,000	780,000	0.0387	157,000	6,967,000	6,075	8,000	335,000	310

Sector	Value of industry (£)	Cost of Residue Testing (£)	Charge per tonne (£)	Typical Business			Small Business		
				Tonnes	Value (£)	Cost of Residue Testing (£)	Tonnes	Value (£)	Cost of Residue Testing (£)
Poultry	1,274,000,000	957,000	0.8297	13,500	10,980,000	11,201	9	7,300	7
Farmed fish	319,500,000	274,000							
Salmon	300,000,000		1.859	2,000	3,410,000	3,718	135	230,000	251
Trout	19,000,000		1.573*	55	61,470	92*	10	11,176	16*
Game		48,000	1.0461						

Sector	Value of industry (£)	Cost of Residue Testing (£)	Charge (£)	Typical Business			Small Business		
				Throughput	Value (£)	Cost of Residue Testing (£)	Throughput	Value (£)	Cost of Residue Testing (£)
Eggs**	520,000,000	139,000							
Milk	2,632,000,000	299,000	0.0212 / 1000 L	1,737,900 L	313,000	38.80	300,000 L	54,000	6.36

* = Charge is levied per tonne of feed

** = A single charge is made to the British Egg Industry Council

¹ The industry production values were taken from the 2003 Defra Agricultural census and other sources.

