EXPLANATORY MEMORANDUM TO

THE ANIMAL HEALTH (MISCELLANEOUS FEES) (ENGLAND) REGULATIONS 2018

2018 No. 664

1. Introduction

1.1 This explanatory memorandum has been prepared by The Department for Environment, Food and Rural Affairs (Defra) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Animal Health (Miscellaneous Fees) (England) Regulations 2018 replace the fees set down in S.I. 2013/1240 ("the 2013 Fee Regulations") with the exception of the regulation 4 and the fees for services provided for the control of trade in endangered species Schedule 1.

2.2 The purpose of this instrument is to provide for changes to the fees payable in relation to services delivered by the Animal and Plant Health Agency ("APHA", an executive agency of Defra), at full cost recovery is achieved for several of the services that the APHA provides.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 This instrument applies only to England and is subject to the negative resolution procedure. Consideration of whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 The 2013 Fee Regulations and this replacement instrument are made under enabling powers contained in both section 56 of the Finance Act 1973 for those fees related to the implementation of EU requirements and section 10 of the Animal Health and Welfare Act 1984.

4.2 This instrument sets out fees covering seven different service areas provided to users by Defra's executive agency, APHA (formerly known as the Animal Health and Veterinary Laboratories Agency). The fees set down in the 2013 Fee Regulations were set at 50% of the full cost of the Agency providing those services.

4.3 The instrument sets out new fees payable for services delivered by the APHA as in the 2013 Regulations, with the exception of the fees for the control of trade in endangered species which remain the same under Schedule 1 of the 2013 Fee Regulations. All the other fees are included in this instrument and have been calculated in line with the proposition that the costs of services should be borne by users who benefit directly from the service provided.

5. Extent and Territorial Application

5.1 The extent of this instrument is to England and Wales.

5.2 The territorial application for this instrument is England only.

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

What is being done and why

7.1 The Annex to this Memorandum contains tables showing the comparison of old and new fees.

7.2 The APHA is responsible in England, on behalf of Defra, for delivering a number of services aimed at facilitating trade, preventing the introduction and spread of animal diseases, safeguarding public health and protecting wild flora and fauna. Flora is the plant life occurring in a particular region or time, generally the naturally occurring or indigenous native plant life. Fauna is the corresponding term for animal life. It is Government policy to charge users the full cost of the services it provides. Charging for services is consistent with the principle that businesses using and benefiting from the service provided should bear the cost of its provision.

7.3 These fees have been calculated using latest HM Treasury agreed model. They include a capped level of travel time not previously charged in the 2013 Fee Regulations. The new fees reflect efficiencies and cost reduction methods employed by APHA to provide the recipient of the APHA services with value for money.

7.4 ***Salmonella*** **National Control Programmes (zoonoses**). In line with Regulation (EC) No 2160/2003 of the European Parliament and the Council on the control of *salmonella*, as part of the *Salmonella* National Control Programmes the APHA collect and test official samples in order to verify progress in achieving agreed salmonella reduction targets. It also provides services to maintain an approved private laboratory network, and carries out proficiency tests for laboratories to ensure consistency in test results on *salmonella* samples.

7.5 **Poultry Health Scheme.** Any poultry establishments that wish to export live poultry or hatching eggs to EU member States or to countries outside the EU (known as 'third countries') must be members of the Poultry Health Scheme ("PHS"). The PHS is operated by the APHA as a mechanism to encourage the export of poultry and eggs. It offers a system of registration and approval enabling establishments to comply with PHS requirements set out in Council Directive 2009/158/EC.

7.6 **Bovine Semen.** The Bovine Semen (England) Regulations 2007 control the collection, processing and storage of bovine semen eligible for domestic trade and with other member States of the European Union. In addition to facilitating trade the 2007 Regulations ensure the health status of donor animals. The APHA provides a service of licensing artificial insemination centres and approval of donor animals.

7.7 **Porcine Semen.** The Artificial Insemination of Pigs (England and Wales) Regulations 1964 deal with domestic trade, and the Artificial Insemination of Pigs (EEC) Regulations 1992 deal with EU trade. They control the collection, processing and

storage of porcine semen eligible for trade. In addition to facilitating trade, they also help guard against transmission of diseases that may be present in porcine semen. The APHA inspect and approve collection centres. Their staff also take samples from boars with a view to their approval for becoming donor animals.

7.8 **Bovine Embryos**. The Bovine Embryo (Collection, Production and Transfer) Regulations 1995 facilitate trade, control the health of donor animals and guard against diseases which could be transmitted via embryos. The APHA are responsible for approving and licensing bovine embryo teams and storage centres.

7.9 **Checking consignments of live animals from third countries at border inspection posts.** EU legislation requires all live animals (other than accompanied pets) arriving from countries outside the EU to be inspected and have documentary and identification checks by an authorised veterinarian on entry at a Border Inspection Post. This requirement is implemented through the Trade in Animals and Related Products Regulations 2011, and the veterinary checks are carried out by the APHA in order to prevent the introduction of diseases harmful to animal and public health.

8. Consultation outcome

8.1 A consultation on proposals to revise fees for the provision of these statutory services ran from 26 October to 14 December 2015. Around 450 trade organisations, farming unions and businesses were invited to respond to the consultation along with 4,000 private veterinary practices and the general public. Thirteen responses were received and the majority of respondents, although generally opposed to increases in fees, were divided as to which option was favoured, with a slight majority opting for the APHA preferred option of basing the revised fees using the latest Treasury model for assessing costs and expenditure.

8.2 Details of the consultation on proposals to revise fees for statutory services delivered by the APHA, including a summary of responses can be found at: https://www.gov.uk/government/consultations/charges-for-statutory-services-provided-by-apha-proposed-changes, that decided on fee increases in line with full cost recovery principles. The 2013 Fee Regulations, (with the exception of regulation 5 and Schedule 2 dealing with *salmonella* national control programmes), only introduced fees set at 50% of full cost recovery of the services. The *salmonella* fees were set at full cost in 2013. In comparison to the projected 100% fees from the 2013 Fee Regulation, fees have now all been revised applying efficiency savings and application of a Treasury calculation model.

8.3 This instrument sets fees that represent a slightly different cost recovery structure. Some savings have been made by the APHA so certain fees are now being reduced, whilst other fees have increased but to lesser extent than previously envisaged under the cost formula used in 2013. Travel time taken for APHA officials to reach relevant premises in order to provide their services have been capped at a maximum of 90 minutes for a return journey to deliver any service.

9. Guidance

9.1 Details of the new fees will be included on the APHA website.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment was not required for this proposal due to it being low cost to business. A Regulatory Triage Assessment has been approved by the Reducing Regulation sub-committee.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 No specific action is proposed to minimise the regulatory burden of fees being payable by small businesses for the services that are supplied to them.

11.3 Due to the nature of the proposed changes to fees it is not possible to reduce the impact on Small or Micro-businesses.

12. Monitoring & review

12.1 The levels of fees will be reviewed periodically with a view to ensuring that the fees continue to reflect full cost recovery for the provision of these services.

13. Contact

13.1 Rob Walters at the Animal and Plant Health Agency, Tel: 0208 026 0724 or email rob.walters@apha.gsi.gov.uk can answer any queries regarding the instrument.