

Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (repealed)

TITLE II

OFFICIAL CONTROLS BY MEMBER STATES

CHAPTER VI:

FINANCING OF OFFICIAL CONTROLS

Article 26

General principle

Member States shall ensure that adequate financial resources are available to provide the necessary staff and other resources for official controls by whatever means considered appropriate, including through general taxation or by establishing fees or charges.

Article 27

Fees or charges

1 Member States may collect fees or charges to cover the costs occasioned by official controls.

2 However, as regards the activities referred to in Annex IV, section A, and Annex V, section A, Member States shall ensure the collection of a fee.

3 Without prejudice to paragraphs 4 and 6, fees collected as regards the specific activities mentioned in Annex IV, section A and Annex V, section A shall not be lower than the minimum rates specified in Annex IV, section B and Annex V, section B. However, for a transitional period until 1 January 2008, as regards the activities referred to in Annex IV, section A, Member States may continue to use the rates currently applied pursuant to Directive 85/73/EEC.

The rates in Annex IV, Section B and Annex V, Section B shall be updated at least every two years, in accordance with the procedure referred to in Article 62(3), in particular to take account of inflation.

4 Fees collected for the purposes of official controls in accordance with paragraph 1 or 2:

- a shall not be higher than the costs borne by the responsible competent authorities in relation to the items listed in Annex VI; and
- b may be fixed at a flat-rate on the basis of the costs borne by the competent authorities over a given period of time or, where applicable, at the amounts fixed in Annex IV, section B or in Annex V, section B.

5 In setting the fees Member States shall take into consideration:

- a the type of business concerned and relevant risk factors;

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Changes to legislation: There are currently no known outstanding effects for the Regulation (EC) No 882/2004 of the European Parliament and of the Council (repealed), CHAPTER VI.: (See end of Document for details)

- b the interests of businesses with a low throughput;
- c traditional methods used for production, processing and distribution;
- d the needs of businesses located in regions subject to particular geographical constraints.

6 When, in view of own-check and tracing systems implemented by the feed or food business as well as of the level of compliance found during official controls, for a certain type of feed or food or activities, official controls are carried out with a reduced frequency or to take account of the criteria referred to in paragraph 5(b) to (d), Member States may set the official control fee below the minimum rates referred to in paragraph 4(b), provided that the Member State concerned provides the Commission with a report specifying:

- a the type of feed or food or activity concerned;
- b the controls performed in the feed and food business concerned; and
- c the method for calculating the reduction of the fee.

7 When the competent authority carries out several official controls at the same time in a single establishment, it shall consider these controls as a single activity and charge a single fee.

8 Fees relating to import controls are to be paid by the operator or his representative to the competent authority in charge of import controls.

9 Fees shall not directly or indirectly be refunded, unless unduly collected.

10 Without prejudice to the costs deriving from the expenses referred to in Article 28, Member States shall not collect any fees other than those referred to in this Article for the implementation of this Regulation.

11 Operators or other relevant businesses or their representatives shall receive proof of their payment of fees.

12 The Member States shall make public the method of calculation of fees and communicate it to the Commission. The Commission shall examine whether the fees comply with the requirements of this Regulation.

Article 28

Expenses arising from additional official controls

When the detection of non-compliance leads to official controls that exceed the competent authority's normal control activities, the competent authority shall charge the operators responsible for the non-compliance, or may charge the operator owning or keeping the goods at the time when the additional official controls are carried out, for the expenses arising from the additional official controls. Normal control activities are the routine control activities required under Community or national law and, in particular, those described in the plan provided for in Article 41. Activities that exceed normal control activities include the taking and analysis of samples as well as other controls that are required to check the extent of a problem, to verify whether corrective action has been taken, or to detect and/or substantiate non-compliance.

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Article 29

Level of expenses

When setting the level of expenses referred to in Article 28, account shall be taken of the principles laid down in Article 27.

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