Explanatory Memorandum to The Charges for Inspections and Controls (Amendment) Regulations 2004

SI 2004 No. 1697

1.1 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.

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

2. Description

2.1 It is an EU requirement 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 an EU statutory 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 scheme. 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 EU rules are contained in Directive 85/73/EC as amended, and, in relation to the charges altered by these Rgulations, the Directive requires recovery of costs without a minimum figure in relation to eggs (see Article 2 and Annex B paragraph 1(d)), and otherwise a minimum figure in Annex B which can be increased to represent actual cost (Article 2, Article 5(3) and Annex B paragraph 1)

3.2 The charges have not been increased since 1995 for red meat and 1998 for the other sectors for which figures are being altered. However, charges in some sectors must be increased now if the VMD is to achieve its Ministerial target (legally obligatory in the case of eggs and optional otherwise) of full cost recovery for the service it provides and to rectify some imbalances which have arisen between the sectors over the intervening years. There are two particular points of note.

3.3 The minimum recovery figure for poultry was established as and remains 1.35 ecus/euros per tonne, and the figure used in the charges for Inspection and Controls Regulation 1997 recorded the conversion rate at the time. The minimum charge has always raised more income than the cost of the surveillance programme for that sector. (VMD officials have discussed this anomaly with the European Commission but could not obtain a derogation.) The consequence is that, as rates changed, the figure recorded in the 1997 Regulations exceeded what it was lawful in EU law to charge, and the sums collected were reduced

accordingly. So the apparent change in the poultry figure in the Regulations is simply a reflection of what is actually being collected.

3.3 The price set for eggs in the Charges for Inspections and Controls Regulations 1997 was 0.88 pence per case. However, in 2000 the price charged was reduced by 25% to 0.66 pence per case, as is expressly permitted by Regulation 3(3) of the 1997 Regulations, to reflect actual costs. The SI was not changed at the time. Therefore, although the new SI appears to signify a reduction in the charge, the reality is that the egg industry is facing a 25% increase. VMD officials are working with the industry to seek a more cost-effective way of collecting the egg charge. If this can be achieved a smaller increase will be required to meet cost recovery and a further SI will be made. However the requirement to recover full cost renders it inconsistent with EU law to delay these changes until the egg situation has been resolved.

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 EU law (Council Directive 96/23/EC). EU law (Council Directives 85/73/EEC as amended) 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'. The EU charging Directives are implemented under 'The Charges for Inspections and Controls Regulations 1997' (as amended). The primary enabling power lies in section 45 of the Food Safety Act 1990 (c.16) as amended.

5. Extent

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 The Parliamentary Secretary (Commons) at the Department for Environment, Food and Rural Affairs has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

6.2 In my view, the provisions of the 'The Charges for Inspections and Controls (Amendment) Regulations 2004' are compatible with the Convention rights.

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 charging levels in each sector revealed that they are 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, and the ones currently planned for future years, are to:

- achieve full cost recovery for running the NSS in the financial year 2004/05, and,
- adjust the burdens between the sectors by 2006/07, whilst still achieving full cost recovery.

7.4 There has been extensive consultation with the various industry sectors over a three month period in accordance with Government policy. Industry were advised that the proposed charges for 2004/05 were definite figures, but that the figures shown for the two following financial years were subject to change depending on circumstances at the time.

7.5 Thirteen responses have been received. Several consultees recognised that charges have not risen for some years, but expressed concern about the effect of the increases on their sectors. It was suggested that Government should contribute to the cost, as it is public health that is being protected. The imbalance between some sectors was also noted by some, who appreciated the fact that the imbalance is being rectified over three years.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum

9. Contact

Eric Crutcher
Residues Surveillance and R&D Unit
Veterinary Medicines Directorate
Woodham lane
New Haw

Addlestone
Surrey
KT15 3LS

Telephone 01932 338322
FAX: 01932 336618
Email: e.crutcher@vmd.defra.gsi.gov.uk

Department for Environment, Food and Rural Affairs
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REGULATORY IMPACT ASSESSMENT

The Charges for Inspections and Controls (Amendment) Regulations 2004

Purpose and intended effect of the proposal

Issue:
Under European Union (EU) law (Council Directive 85/73 as amended), the Veterinary Medicines Directorate should recover all of the costs of running the National Surveillance Scheme (NSS) for residues of veterinary medicines and certain other substances. At the current levels, the charges will fall short of this in a number of sectors.

Charges have 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 85/73/EC to make a minimum charge. No increase would mean 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.

This measure will amend charges for controls and inspections on the red meat, farmed fish, poultry, milk, and egg industries with a view to achieving full cost recovery in the financial year 2004/05 and future amendments are planned to adjust burdens between the sectors by 2006/07.

Objectives:
1) To achieve full cost recovery for running the NSS in the financial year 2004/05/06 and beyond.

2) By future amendments, to adjust burdens between the sectors by 2006/07.

Risk assessment:
If the revised fee scales are not introduced over the next 3 years, 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 their premises, when the whole industry benefits from the assurance given to consumers by the published results.

Benefits:

1) Provides evidence for consumers and raises consumer confidence in official controls on the quality of food.
2) All producers, processors and stakeholders in general benefit from the funding of a robust, open and transparent surveillance programme for residues of veterinary medicinal products and other substances.
3) Provides assurance on the safe use of veterinary medicinal products.

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	850
Game	30

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 £3.8m 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.

Other Costs:

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

Results of Consultations:

These will be published soon after the end of the consultation period.

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.

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

David Webb
Veterinary Medicines Directorate
Woodham Lane
New Haw
Addlestone
Surrey
KT15 3LS

Telephone No : 01932 338327
Fax No : 01932 336618

Declaration: (to be completed for final RIA only).

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 : .....5th July 2004.....

Table 2. Summary of the values of the various livestock sectors and residue charges for 2004/05 with compliance costs for typical and small businesses[1].

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	1,117,000,000	872,000	0.4143	20,000	9,920,000	8,286	4,500	2,232,000	1,864
Pigs	688,000,000	779,000	0.0978	204,000	14,039,000	19,951	2,000	138,000	196
Sheep	622,000,000	384,000	0.0267	157,000	5,936,000	4,192	8,000	302,000	214

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	1,227,000,000	1,137,000	0.8297	13,500	10,800,000	11,201	9	7,000	7
Farmed fish	259,500,000	244,000							
Salmon	231,000,000		1.69	2,000	3,160,000	3,380	135	213,000	228
Trout	19,000,000		1.43*	55	82,500	92*	10	15,000	17*
Game		5,000	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	476,000,000	135,000	0.0083/case**	1.34m cases**	19,805,000	11,122	1,000 cases**	15,000	8
Milk	2,489,000,000	203,000	0.0177 / 1000 L	1,737,900 L	299,000	31	300,000 L	51,000	5

* = Charge is levied per tonne of feed

** = A case contains 360 eggs

[1] The industry production values were taken from the 2002 Defra Agricultural census and other sources.