STATUTORY INSTRUMENTS

2006 No. 756

FOOD

The Charges for Inspections and Controls (Amendment) Regulations 2006

Made - - - -	*12th March 2006*
Laid before Parliament	*16th March 2006*
Coming into force - -	*6th April 2006*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 45 and 48(1)(b) and (c) of the Food Safety Act 1990(**a**) and now vested in her(**b**).

In accordance with section 48(4A) of that Act she has taken into account views of the Food Standards Agency on the proposal to make the Regulations.

In accordance with Article 9 of Regulation (EC) No.178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(**c**), she has consulted with those whom she considers likely to be affected by the Regulations.

Title and commencement

1. These Regulations may be cited as the Charges for Inspections and Controls (Amendment) Regulations 2006 and come into force on 6th April 2006.

Amendment of the Charges for Inspections and Controls Regulations 1997

2.—(1) The Charges for Inspections and Controls Regulations 1997(**d**) are amended in accordance with paragraphs (2) and (3).

(**a**) 1990 c.16. Sections 45 and 48 were amended by section 40(1) of and Schedule 5 to the Food Standards Act 1999 (c. 28): paragraphs 7, 8 and 20 of that Schedule amended section 45 and paragraphs 7, 8 and 21 amended section 48.

(**b**) The powers, so far as they are exercisable in relation to England, were transferred by article 2(6) of the Transfer of Functions (Agriculture and Food) Order 1999 (S.I. 1999/3141) to the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly, and by article 2(3) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794) to the Secretary of State. In so far as they are exercisable in relation to Scotland, they were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c.46) but the Secretary of State retains a concurrent power to exercise them under section 57(1) of that Act. In so far as they are exercisable in relation to Wales, they were transferred to the National Assembly for Wales by article 2(a) of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) but the Ministers of the Crown responsible retain a concurrent power to exercise them under paragraph 5 of Schedule 3 to the Government of Wales Act 1998 (c.38); that concurrent power became vested in the Secretary of State in consequence of section 40(1) of and Schedule 5 to the Food Standards Act 1999 (c.28), but subject to any power of the Minister of Agriculture, Fisheries and Food, saved by regulation 13 of S.I. 2000/656, to join in making regulations concerning charges for inspection in relation to residues of veterinary products; that joint power was transferred to the Secretary of State by article 2(3) of S.I. 2002/794.

(**c**) OJ No. L31, 1.2.2002, p. 1.

(**d**) S.I. 1997/2893; relevant amending instruments are S.I. 1998/2880, 2005/12.

(2) In regulation 2(1)—

(a) in the definition of "eggs", for "Council Regulation (EC) No. 818/96", substitute "Council Regulation (EC) No. 1039/2005(**a**)"; and

(b) delete the definitions of "egg packing centre" and "raw milk collection establishment".

(3) For regulation 4, substitute—

"Recovery of and liability for charges

4.—(1) Subject to paragraph (8), any charge under these Regulations shall be payable to the Secretary of State, and shall be recoverable by her on demand as a debt owed to her by the person liable to pay the charge under paragraph (2).

(2) The person liable to pay the charge, where it relates to—

(a) any animal other than wild game, is the operator of the business slaughtering the animal for sale or supply for human consumption;

(b) wild game, is the operator of the business preparing the carcase of the wild game for sale or supply for human consumption;

(c) fish, is the operator of the business producing the fish;

(d) milk, is the operator of the dairy collecting the milk, or, in the case of milk that is not collected in a dairy before being sold or supplied for human consumption, its producer; and

(e) eggs, subject to paragraph (6), is the operator of the business packing the eggs.

(3) Where any person referred to in sub-paragraph (a), (b), (d) or (e) of paragraph (2) has paid a charge under that sub-paragraph, he may recover on demand a sum equal to that charge as a debt owed to him by the person on whose behalf he slaughtered the animal, prepared the wild game, collected or produced the milk or packed the eggs (as the case may be) in respect of which he made payment.

(4) Where the charge under regulation 3(1) concerns the inspection and control of eggs, the Secretary of State may enter into an agreement with an organisation providing for the organisation to make payments to her in accordance with paragraph (6), if she reasonably considers that the organisation is supported by persons falling within paragraph (2)(e).

(5) If the Secretary of State enters into an agreement pursuant to paragraph (4), she shall, before the date on which the agreement comes into effect, publicise—

(a) the fact of having done so;

(b) its duration; and

(c) if not of a fixed term, the way in which she will notify its termination,

in a manner she considers suitable for informing persons concerned in the egg trade.

(6) While an agreement under paragraph (4) has effect, paragraph (2)(e) shall not apply, and the organisation shall pay the Secretary of State the total cost of her inspections and controls on eggs.

(7) Where paragraph (6) applies—

(a) the Secretary of State shall demand payment in writing specifying the period to which the demand relates; and

(b) in any proceedings for recovery brought by the Secretary of State a certificate made by her stating the amount recoverable shall be evidence of the amount in question.

(8) The Secretary of State and any manufacturer of feed for sale to or for use by the operator of any business producing brown trout or rainbow trout may enter into an

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(**a**) OJ No. L172, 5.7.2005, p. 1.

agreement providing that the charge payable by that operator under paragraph (2)(c) is to be paid to that manufacturer as agent for the Secretary of State.".

Ben Bradshaw
Parliamentary Under Secretary of State
12th March 2006 Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Charges for Inspections and Controls Regulations 1997 (S.I. 1997/2893) ('the principal Regulations') which give effect to Article 2 of Council Directive 85/73/EEC on the financing of veterinary inspections and controls covered by Directives 89/662/EEC, 90/425/EEC, 90/675/EEC and 91/496/EEC (OJ No. L32, 5.2.85, p. 14), which was last amended by Council Directive 97/79/EC (OJ No. L24, 30.1.98, p. 31).

Article 2, as read with Article 5(3), requires Member States to collect the fees set out in Annex B or, if the actual costs of inspections are higher, the actual costs, to cover checks in animals and animal products for residues of veterinary medicines and other substances. Annex B was inserted by article 1 of Council Directive 96/43/EC amending and consolidating Directive 85/73/EEC in order to ensure financing of veterinary inspections and controls on live animals and certain animal products and amending Directives 90/675/EEC and 91/496/EEC (OJ No. L162, 1.7.96, p. 1).

The amendments are consequential to the Food Hygiene (England) Regulations 2005 (S.I. 2005/2059), which revoked several instruments referred to in definitions in the principal Regulations (regulation 2(2)(b) and (3)).

The Regulations also update a reference to Community legislation to account for amendments made to it (regulation 2(2)(a)).

A full Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on the costs of business.

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