EXPLANATORY MEMORANDUM TO

THE CHARGES FOR RESIDUES SURVEILLANCE (AMENDMENT) (ENGLAND) REGULATIONS 2024

2024 No. 892

1. Introduction

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 ("Defra"), and is laid before Parliament by Command of His Majesty.

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

2. Declaration

2.1 Baroness Hayman, Parliamentary Under Secretary of State (Minister for Biosecurity, Animal Health & Welfare) at the Department for Food and Rural Affairs confirms that this Explanatory Memorandum meets the required standard.

2.2 Abigail Seager, Chief Executive Officer at the Veterinary Medicines Directorate confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Callum Harris at the Veterinary Medicines Directorate, email: residues@vmd.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends the Charges for Residues Surveillance Regulations 2006 (S.I. 2006/2285) ("the 2006 Regulations"), to update the charges payable to the Veterinary Medicines Directorate (VMD) in relation to the surveillance for residues of veterinary medicines and certain other substances in food animals and animal products as part of the National Residues Control Programme (NRCP)[1].

Where does the legislation extend to, and apply?

4.2 The extent of this instrument is England and Wales.

4.3 The territorial application of this instrument is England.

5. Policy Context

What is being done and why?

5.1 The NRCP is a statutory industry-funded programme that is delivered by the VMD. The NRCP helps to protect human health by taking samples of meat or other animal products to test for unsafe levels of residues of veterinary medicines, or other

[1] The National Residues Control Programme: https://www.gov.uk/guidance/residues-surveillance

prohibited substances which may be harmful. The NRCP helps to provide assurances about the safety of food products, and by doing so also supports UK food exports worth approximately £12billion to the UK economy. The NRCP conforms to international standards which are underpinned by the World Trade Organisation agreement on sanitary and phytosanitary measures.

5.2 The programme operates on a full cost recovery basis, so each of the livestock sectors that take part are invoiced each year. The programme currently costs approximately £5 million per annum, and this is forecast to reach approximately £8m per annum by 2028. This is due to a rise in the costs of procured services which are necessary to deliver the programme such as sampling, testing, and consumables. Without the revisions to the current charges, it is forecast that there will be an under recovery of the costs of the programme by £1.2 million in the 2024-2025 financial year, and the deficit would be expected to rise to £3 million per annum by 2029.

5.3 The principles for how the VMD charges fees are set by HM Treasury in Managing Public Money[2]. The basic principle is to set statutory fees and charges to recover full costs. This means that the regulated bear the cost of regulation and the VMD does not profit from fees or make a loss which must then be subsidised by Government departments or the UK taxpayer. To achieve this for the NRCP, the VMD calculates charges for each sector for the financial year ahead, based on the costs provided by the contractors collecting and analysing the samples and the forecast throughput for the sectors.

What was the previous policy, how is this different?

5.4 This statutory instrument increases the charges paid by food business operators that are part of the NRCP. The charges are being increased from 1 October 2024, with a further increase that will apply from 1 April 2025. The extent to which the charges have been uplifted varies as it reflects the anticipated production levels and specific costs of the activities involved in delivering the services for each industry sector.

6. Legislative and Legal Context

How has the law changed?

6.1 The surveillance of animals and animal products for residues of veterinary medicinal products and certain other substances is a requirement under Assimilated Regulation (EU) 2017/625 which replaced EU Directive 96/23/EC. The 2006 Regulations make provision for the charges payable to the VMD in relation to the inspections and controls required as part of that surveillance. This Instrument amends the 2006 Regulations, updating the statutory charges to ensure the VMD recovers the costs of its regulatory activities.

6.2 Residues policy and surveillance is a devolved matter so the VMD works in close partnership with the Scottish government and the Welsh government to deliver the NRCP for Great Britain. The territorial application of this Instrument is England only. The Scottish Government and the Welsh Government will lay separate statutory instruments to amend the charges applicable in the rest of Great Britain.

[2] HM Treasury Managing Public Money: http://www.hm-treasury.gov.uk/d/mpm_whole.pdf

7. Consultation

Summary of consultation outcome and methodology

7.1 Between 17 January 2024 and 28 March 2024, the Veterinary Medicine Directorate, the Scottish Government, and the Welsh Government published a joint consultation on revised charges for the NRCP. The consultation was conducted using Citizen Space, the UK government's online consultation tool. The consultation document explained the reasons behind the need to increase charges for businesses covered by the NRCP. It set out the following three options with a recommendation for Option C:

(a) do nothing. charges would be maintained at current levels. This would risk food safety and international trade obligations.

(b) a flat rate 65% increase to the charges applied across all sectors taking part in the NRCP. This would risk sectors cross subsidising others.

(c) a specific percentage increase tailored for each industry sector based on their specific sampling plan and production levels.

7.2 The consultation paper also explained the methodology and rationale for setting the charges, including details about the individual cost elements, future projections, and how the VMD achieves value for money. It also stated that the scientific methodology, and standards of the surveillance and testing regime are set out in separate legislation and were outside the scope of these proposals.

7.3 7 organisations responded with substantive comments via Citizen Space (the online consultation tool). Respondents agreed with the recommendation that Option C would be the most equitable approach as it would avoid some sectors unfairly cross subsidising others.

7.4 The VMD has analysed all responses and considered the feedback received alongside the necessity of actions that must be taken to operate on a cost recovery basis. A summary of the consultation responses and the Government's response can be found online[3].

8. Applicable Guidance

8.1 Information regarding the charges payable to the VMD for residue surveillance can be found on the VMD's website[4]. Updated information on the new charges will be published in advance of this instrument coming into force.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the total cost impact is estimated to be less than £5 million per annum.

[3] https://www.gov.uk/government/consultations/national-residues-control-programme-revision-of-charges
[4] Residues surveillance guidance: https://www.gov.uk/guidance/residues-surveillance#charges

Impact on businesses, charities and voluntary bodies

9.2 The impact on business, charities or voluntary bodies is estimated to be £500,000 in 2024-2025 and £1.5 million in 2025-2026. The specific financial impact on individual businesses in the NRCP will differ based on their sector and their annual level of production.

9.3 The legislation does impact small or micro businesses.

9.4 No specific action is proposed to minimise regulatory burdens on small businesses. The VMD will continue to monitor the operation of the scheme and will bring forward a further public consultation if other changes are required.

9.5 There is no significant impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is for the VMD to monitor the charges on an ongoing basis to ensure they are set at a level to recover full costs incurred in relation to the NRCP.

10.2 The Instrument does not include a statutory review clause in accordance with section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015 because the power by which this instrument is made is being exercised to amend provisions imposing charges.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument increases the charges currently set out in the 2006 Regulations to ensure the MHRA recovers the cost of regulatory activities in relation to the surveillance for residues of veterinary medicines and certain other substances in food animals and animal products. These charges have not been amended since 2011, however, in recent years the costs of delivering the residues surveillance programme have increased significantly. The extent to which the charges have been uplifted varies as it reflects the anticipated production levels and specific costs of the activities involved in delivering the services for each industry sector. The level of increase for the charges are set out in section 6 of this memorandum.

12. European Convention on Human Rights

12.1 Baroness Hayman, Parliamentary Under Secretary of State (Minister for Biosecurity, Animal Health & Welfare) has made the following statement regarding Human Rights:

"In my view the provisions of the Charges for Residues Surveillance (Amendment) (England) Regulations 2024 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").