EXPLANATORY MEMORANDUM TO

THE CHARGES FOR RESIDUES SURVEILLANCE (AMENDMENT) REGULATIONS 2008

SI 2008 No. 2999

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 a requirement of EU law that Member States operate a National Surveillance Scheme for residues of veterinary medicines and certain other substances in food animals and animal products. It is also an EU law 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 amends the charges made in some sectors in this financial year.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 Committee members were advised in previous years that the VMD has an agreement with the British Egg Industry Council, whereby the BEIC pays the cost of the surveillance direct to the VMD and recovers the cost from the larger egg packers as the BEIC sees fit. SI 2005/12 enabled the Secretary of State to enter into a formal agreement, which was made in April 2005. This has the effect that the increase in charges to the egg industry are much lower owing to the VMD only having to deal with one customer, which reduces its administrative costs. However, this SI again contains provision for the percentage increase which would be needed if the agreement is terminated and the VMD has to revert to collecting from several hundred egg packing stations directly.

3.2 The VMD will continue to monitor closely the costs and income from the various livestock sectors, to try and achieve the Ministerial target of full cost recovery.

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 (Regulation 882/2004) requires a charge to be made on the industries covered to fund the surveillance for residues of veterinary medicines, unauthorised substances and environmental contaminants.

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" SI 1729. Regulation 882/2004 is implemented by The Charges for Residues Surveillance Regulations 2006, as amended. The primary enabling power to make charges is section 45 of the Food Safety Act 1990 (c.16).

5 Extent

5.1 This instrument applies to Great Britain.

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

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 that 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. This SI sets out the amended charges for 2008/09. Some increases for this financial year forecast in last years consultation exercise have been reduced in recognition of the pressures on the industry. This may result in income not quite achieving the Ministerial target of full cost recovery. Proposed charges for 2009/10 and 2010/11 have also been estimated for this exercise, as in previous years.

7.3 The aims of the amendments to the charges in these Regulations are to:

- achieve near full cost recovery for running the NSS in the financial year 2007/08 and,
- continue to adjust the burdens between the sectors.

7.4 In accordance with Government policy, an extensive consultation on the proposed charges for 2008/09 and the estimates for 2009/10 and 2010/11 took place over a three-month period**.** Approximately 250 organisations, together with over 750 producers of red meat, poultry, game, milk and fish were consulted**.**

7.5 Four responses were received, of which one was basically an acknowledgement. Substantive responses were received from the NFU Scotland, the Scottish Association of Meat Wholesalers (SAMW) and the British Meat Processors Association, which were the main respondents to last years exercise. These all emphasised that the current slim margins mean that the extra costs proposed by FSA and Defra/VMD are not affordable, and expressed concern that the VMD did not appear to take account of the cumulative burden imposed by these increases. Whilst it was expected that industry would not be happy with any rise it is worth noting that the overall extra costs to the livestock industry are 2.5% - below the current rate of inflation. The overall extra costs to the red meat sector in Scotland are estimated to be some £7,700, representing a 2% increase from last year.

7.6 It was suggested that no increases in charges should take place until the European legislation relating to residues testing has been revised, and a more risk-based approach is taken. Realistic proposals in this area have been expected for some time but unfortunately the Commission does not have the resources to take this forward at present. In the meantime, the UK, like all other Member States, must continue to produce full plans based on the requirements of the current legislation. Officials will write to the NFU Scotland, SAMW and BMPA setting out the position.

Impact

8.1 An Impact Assessment is attached to this memorandum at Annex I.

8.2 The impact on the public sector is negligible.

9. Contact

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Department for Environment, Food and Rural Affairs
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Summary: Intervention & Options		
Department /Agency: Department for Food, Environment and Rural Affairs	**Title:** Impact Assessment of The Charges For Residues Surveillance (Amendment) Regulations 2008	
Stage: Final	**Version:**	**Date:** October 2008
Related Publications:		

Available to view or download at:

http://www.vmd.gov.uk/publications/consultations/current.htm#

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What is the problem under consideration? Why is government intervention necessary?

All EU Member States are required under Directive 96/23/EC to run a programme of surveillance for residues of veterinary medicines and certain other substances in animals and animal products. Separate legislation, Regulation 882/2004, requires Member States to recover the costs of that surveillance from the livestock industry. This is in accordance with the principle of cost sharing as the surveillance programme benefits the livestock industry by maintaining consumer confidence in food products.

Annual surveillance costs have increased by £100,000. Amendment of the charges for residues surveillance is therefore necessary to permit cost recovery.

The EU Directive also requires surveillance of farmed fish. Up to now, surveillance was only carried out on salmon and trout as they were the major farmed fish species in the UK. Since other species such as carp, cod, barramundi, tilapia etc are now being farmed, it is proposed to extend the definition of farmed fish to include these, in order to be compliant with the Directive.

What are the policy objectives and the intended effects?

By amending the charges, it would allow the VMD to come very close to covering all of the costs of the surveillance. If they were not amended, a substantial deficit would result in this, which would increase if nothing was done.

What policy options have been considered? Please justify any preferred option.

Leaving the charges unchanged, or introducing smaller changes than proposed, would assist industry in the short term. However, this would store up problems for the future when much larger increases would be needed to achieve full cost recovery. The preferred option is therefore to amend the charges at the rates indicated. In some cases these are lower than the charges forecast in last years consultation, and could lead to the Veterinary Medicines Directorate ,missing its Ministerial target of full cost recovery, although still remaining within the + or – 2% leeway allowed. For details see evidence base.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The EU has flagged its intention to undertake a full review of the legislation underpinning the surveillance scheme, when resources allow. The Veterinary Medicines Directorate reviews the costs and achievement of the scheme each year.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Jane Kennedy

..... Date: 15th November 2008

Summary: Analysis & Evidence	
Policy Option:	**Description:**

COSTS

ANNUAL COSTS		Description and scale of **key monetised costs** by 'main affected groups' The current cost of the surveillance scheme is some £4m per annum. The additional costs imposed by the amended charges on the livestock industry is some £100K. Administrative burden on fish farms from extending surveillance to other species of farmed fish is £600.
One-off (Transition)	**Yrs**	
£ 0	1	
Average Annual Cost (excluding one-off)		
£ 100,600	1	**Total Cost** (PV) **£ 100,600**

Other **key non-monetised costs** by 'main affected groups'

BENEFITS

ANNUAL BENEFITS		Description and scale of **key monetised benefits** by 'main affected groups' There is no additional benefit from the £100k increase in annual surveillance costs as the amended charges are required in order to carry out the same level of surveillance as before. If the charges were not amended, the additional cost would be borne by taxpayers rather than the livestock industry.
One-off	**Yrs**	
£0	1	
Average Annual Benefit (excluding one-off)		
£ 0	1	**Total Benefit** (PV) **£0**

Other **key non-monetised benefits** by 'main affected groups' The benefit of extending surveillance to farmed fish species other than salmon and trout has not been monetised. Salmon and trout still account for the bulk of fish farming in GB.

Key Assumptions/Sensitivities/Risks Future cost estimates of the residues surveillance scheme are based on assumptions about future throughputs of the livestock sector. Over or under-recovery of costs could occur if actual throughputs were very different from estimated throughputs, e.g. if there was a large-scale disease outbreak that reduced slaughterings. Also assumed to be about 24 fish farms producing fish other than salmon and trout.

Price Base Year 2008	Time Period Years 1	**Net Benefit Range** (NPV) **£-100,600**	**NET BENEFIT** (NPV Best estimate)

What is the geographic coverage of the policy/option?			Great Britain	
On what date will the policy be implemented?			October 2008	
Which organisation(s) will enforce the policy?			VMD	
What is the total annual cost of enforcement for these organisations?			£ 12,000	
Does enforcement comply with Hampton principles?			Yes	
Will implementation go beyond minimum EU requirements?			No	
What is the value of the proposed offsetting measure per year?			£ N/A	
What is the value of changes in greenhouse gas emissions?			£ N/A	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro **Nil**	Small **£2.50**	Medium **£14**	Large **£1000**
Are any of these organisations exempt?	Yes	Yes	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase of £ 600 Decrease of £ **Net Impact** **£600**

Key:	Annual costs and benefits:	(Net) Present

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Why is government intervention necessary?

Under European Communities (EC) law (Directive 96/23/EC), Member States must carry out surveillance for residues of veterinary medicines and certain other substances in animals and animal products. Other EC law (Regulation 882/2004), requires the Secretary of State should recover the costs of running the scheme. Operationally, this work is carried out by the Veterinary Medicines Directorate.

Each year, the VMD, in conjunction with all of its contractors calculates what the costs of running the scheme will be in each sector. Then, from estimates of the likely throughputs in those sectors, it calculates the charges that need to be collected to fund them. To help the industry plan, the VMD estimates the likely costs for the following two years as well.

The charges are made on operators based on their throughput, not just those from whom samples are taken in any particular period. The underlying principle is that it would not be fair for a particular operator to bear the costs of the scheme when a sample is taken from their premises, when the whole industry benefits from the assurance given to consumers by the published results.

This year's review has been completed and the proposed amendments to charges for the financial year 2008/09 were set out in the consultation letter to interested parties. A forecast of amendments to charges for the financial years 2009/10 and 2010/11 was also included in the letter. As in previous years, the accuracy of this forecast is dependent on factors such as the throughput in each sector.

The amended charges for this year are due to come into effect on 24 November 2008.

In addition to the price amendments, a change in the definition of farmed fish is proposed[1]. When the European legislation was originally transposed into domestic legislation, the only fish farming of any significance was of salmon and trout. However, other fish are starting to be farmed, such as cod, barramundi and tilapia. So the definition would apply to **all** farmed fish, rather than any specific species. The initial effect of this on the surveillance programme will be small. Currently over 30,000 samples are taken annually; an additional 5-6 samples might be taken to reflect the other fish species that we wish to include.

What are the policy objectives?

To ensure the welfare of farm animals it can be necessary to treat them with veterinary medicines. Part of the authorisation process assesses the time that should elapse, after a treatment with a veterinary medicine, before an animal can go for slaughter or products such as milk can go into the food chain. The surveillance here checks that any residues of authorised medicines in animals or animal products are within the agreed concentrations. The surveillance also checks that unauthorised or banned substances are not being used.

The existence of such wide-ranging surveillance programmes and the regular publication of their results play a major role in maintaining consumer confidence in the food products concerned and in preventing a misunderstanding or misrepresentation of the food safety aspects of veterinary residues. The surveillance scheme continues to give clear evidence that British farmers use medicines responsibly and residues of health concern are rare.

[1]Farmed fish includes fish produced solely for human consumption and also fish for restocking fisheries.

Also, World Trade Organisation rules allow the UK authorities to test imports from Non-EU countries because we have equivalent testing of home produce – acting to further reassure consumers over food safety. As such, all producers, processors and consumers benefit from the funding of a robust, open and transparent surveillance programme for veterinary residues that is capable of acting where illegal residues are found.

Options:

Leaving the charges unchanged is not a feasible option as this would mean that 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, or the scale of the surveillance reduced. The UK would also run the risk of infraction proceedings by the European Commission.

It is therefore proposed that the charges are amended in line with the schedule in Annex I. The VMD would be able to meet the UK's obligations under European law and meet its ministerial target of cost recovery. It would result in some increases in costs to industry.

Calculation of the costs

The costs of the scheme include all of the costs of collecting, transporting, analysing the samples and also carrying out follow-up investigations where residues above certain limits are found to determine if enforcement action is required. The VMD also includes its own costs in administering and running the surveillance scheme.

The overall cost of the scheme at present is about £4 m. It is anticipated that this will rise to £4.1 m. The proposed amendments in charges are intended to achieve cost recovery of the additional £100,000. The overall increase in costs is some 2.5%. The increase is mainly due to particular contractors charging extra for the coming year's work.

Administrative burdens

Some of the businesses that are affected by the charges are required to fill in a simple throughput form; either quarterly or every 6 months. This affects only the poultry, salmon and game sectors. In all others, the VMD uses figures that have been collected by others to avoid additional burdens on farmers.

This proposal introduces no extra administrative burden on the existing companies within the scheme; however, a small number of fish farming businesses may have to fill in throughput forms to allow us to calculate the charge that should apply and for us to collect the correct number of samples. The additional admin burden on fish farms from extending surveillance to fish species other than salmon and trout has been estimated by assuming that about 24 fish farms will be affected and that they will have to spend an additional 30 minutes every quarter on completing paperwork. This would result in a total admin burden of about £600.

Business sectors affected:

Table 1. Businesses invoiced by the VMD to support the National Surveillance Scheme

Industry Sector	Number of Customers
Red meat	300
Poultry	85
Farmed fish	50
Milk	250
Eggs	1*
Game	60

* The British Egg Industry Council collects the costs of egg industry surveillance on behalf of the VMD.

Total compliance costs:
The total costs amount to some £4.1 million per annum, with the amendments this year amounting to an increase of some £100,000.

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

Enforcement, sanctions, monitoring and review:
These proposals will not change existing arrangements for enforcement, sanctions, monitoring and review.

Specific Impact Tests

Competition Assessment

The proposed changes in charges for residues surveillance will have no effect on charities or the voluntary sector. It will not affect competition as, in general, the charges are applied in relation to the size of a business.

Small Firms Impact Test

The charges made to support the residues surveillance are related to the size of the business. There is a charge per bovine or per sheep that the company produces or processes – twice as many animals normally means twice the charge. There is also a minimum charge, below which the VMD does not collect. In these ways small firms are protected.

In the egg sector, the VMD has an arrangement by which the British Egg Industry Council pays the whole cost of surveillance in the sector. This has reduced the administrative costs of the VMD, which is reflected in a lower overall charge. The BEIC collect the costs of the scheme from only the larger egg businesses. This means that many smaller producers now pay nothing towards the costs of the residues surveillance, which is a benefit for smaller firms.

Legal Aid

As the proposal introduces no new penalties, it will not affect the legal aid budget.

Sustainable Development, Carbon Assessment and Other Environment

The proposal is not expected to change how people run their businesses, so it will not lead to any changes in greenhouse emissions and will have no other effects on the environment (or sustainable development).

Health Impact Assessment

By extending surveillance to a wider variety of farmed fish species and ensuring that residues of veterinary medicines in these species are within agreed concentrations, the proposal can be expected to have a positive impact on human health.

Race Equality, Disability Equality, Gender Equality, Human Rights

No impact

Rural Proofing

The measure affects the livestock industry so will affect rural businesses. Rural Proofing checklist is at Annex III.

Contact Point:

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

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Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	***Results in Evidence Base?***	***Results annexed?***
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	Yes

Annexes

Annex I **Price Schedules for the 2008/09 and estimated adjustments for 2009/10 and 2010/11***

	Current Price (£)	2008/09		2009/10		2010/11	
		Percentage Change	Price (£)	Percentage Change	Price (£)	Percentage Change	Price (£)
Cattle	0.4744	5	0.4981	9	0.543	9	0.5918
Sheep	0.0603	0	0.0603	-5	0.0573	-5	0.0544
Goat	0.0603	0	0.0603	-5	0.0573	-5	0.0544
Soliped	0.3333	5	0.3450	9	0.3815	9	0.4158
Pigs	0.0636	-10	0.0572	-2.5	0.0558	0	0.0588
Game	1.0461	0	1.0461	0	1.0461	0	1.0754
Poultry	0.6379	2.5	0.6538	7.5	0.7029	7.5	0.7556
Salmon	2.0449	2.5	2.0960	2.5	2.1484	2.5	2.2021
Other farmed fish* *	Not applicable		2.0960	2.5	2.1484	2.5	2.2021
Trout	1.7303	2.5	1.7736	2.5	1.8179	2.5	1.8633
Milk	0.0266	5	0.0279	5	0.0293	5	0.0301
Eggs ***	0.0168	27.5	0.0214	25	0.0268	3	0.0276

* Although this IA only pertains to charges set for 2008/09, estimates of the likely charges for 2009/10 and 2010/11 are also included in order to aid industry planning.

* * The current proposal will widen the definition of farmed fish, so that farmed fish other than salmon and trout will come within the scope of the surveillance and so attract a charge.

*** The actual charges that will be paid by the egg industry are set out in Table 2. That table reflects the administrative cost savings of the current arrangement whereby the British Egg Industry Council (BEIC) pays the costs of egg industry surveillance direct to the VMD. The BEIC recovers the costs as it sees fit from the larger egg packers. If this agreement were to be ended, the VMD would have to collect the charges set out above from individual packing stations or businesses.

Table 2. **Price adjustment for 2008 and estimated adjustments for 2009/10 and 2010/11 for the egg industry**

Current total cost to the industry (£000s)	2008/09		2009/10		2010/11	
	Percentage Change	Price (£000s)	Percentage Change	Price (£000s)	Percentage Change	Price (£000s)
142	2.5	145.6	3	149.9	3	154.4

These are the actual charge the VMD intends to make on the BEIC. The figure above is the charge that would have to be made if the agreement by which the BEIC pays the whole for the charge on behalf of the egg industry was to fall, for whatever reason.

Annex III: Rural Proofing Checklist

1. Will the policy affect the availability of public and private services?
No.

2. Is the policy to be delivered through existing service outlets, such as schools, banks and GP surgeries?
No

3. Will the cost of delivery be higher in rural areas where clients are more widely dispersed or economies of scale are harder to achieve?
No

4. Will the policy affect travel needs or the ease and cost of travel?
No

5. Does the policy rely on communicating information to clients?
The results of the surveillance and their context are published on the VMD and independent Veterinary Residues Committee websites and in an Annual Report. We consult on the charges very widely, writing to many interested representative groups and to all of the businesses that we invoice.

6. Is the policy to be delivered by the private sector or through a public-private partnership?
The policy is mainly delivered by the public sector. However, to guarantee best value, the VMD has for some years put the contract to analyse the samples taken scheme to open tender. The winner is the private sector LGC Ltd.

7. Does the policy rely on infrastructure (e.g. broadband ICT, main roads, utilities) for delivery?
No

8. Will the policy impact on rural businesses, including the self-employed?
As the EU Statutory surveillance is on livestock, it will have an effect on rural businesses and possibly the self-employed. However, the overall increase in charges of £100,000 across all livestock sectors in England Scotland and Wales represents a 2.5% rise and is modest in relation to the total value of the sector.

9. Will the policy have a particular impact on land-based industries and, therefore, on rural economies and environments?
As 8.

10.Will the policy affect those on low wages or in part-time or seasonal employment?
No.

11. Is the policy to be targeted at the disadvantaged?
No

12.Will the policy rely on local institutions for delivery?
No

13. Does the policy depend on new buildings or development sites?

No.