EXPLANATORY MEMORANDUM TO
THE CHARGES FOR RESIDUES SURVEILLANCE
(AMENDMENT) REGULATIONS 2009.

2009 No. 2779

1. This Explanatory Memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the Instrument

2.1 This Statutory Instrument updates the charges that the Veterinary Medicines Directorate (VMD) makes to carry out surveillance for residues of veterinary medicines and certain other substances in food animals and animal products. This surveillance is a requirement under Community law, as is making a charge on the various livestock sectors to fund the surveillance.

2.2 The Statutory Instrument also amends the definition of 'Dairy' in the original 2006 Regulations.

3. Matters of Special Interest to the JCSI

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.

4. Legislative Context

4.1 The surveillance of animals and animal products for residues of veterinary medicinal products and certain other substances is a requirement under Community Law (Council Directive 96/23/EC). Council Regulation 882/2004 requires a charge to be made on the various sectors 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" SI 1729. The charges required by Regulation 882/2004 are 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. Territorial Extent and Application

5.1. The SI applies to Great Britain. Parallel legislation is being passed by the Northern Ireland authorities.

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. The VMD takes the minimum number of samples required under the EU legislation.

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 2009/10. 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 2010/11 and 2011/12 have also been estimated for this exercise, as in previous years.

8. Consultation

8.1. Approximately 250 companies and 750 producers were consulted over a twelve week period. Four responses were received. These were from the NFU Scotland (NUFS), the Scottish Association of Meat Wholesalers (SAMW) and the National Beef Association (NBA) in the meat sector. (The NFUS and SAMW responded in the last two consultations.) The British Egg Industry Council (BEIC) also responded, querying the proposed 3% rise in their charges (about £4,000). This has now been waived following a recalculation of costs for the sector.

8.2. The responses from the meat sector emphasised that the current slim margins in the cattle sector mean that the extra costs proposed are not affordable. The respondees also expressed concern that the VMD did not appear to take account of the cumulative burden imposed by these increases.

8.3 It was suggested that no increase in charges should take place until the European legislation relating to residues surveillance has been revised, and a more risk-based approach is taken. Realistic proposals in this area have been expected for some time, and the Commission has now indicated that it should be able to take this forward shortly. 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 NFUS, SAMW and NBA setting out the latest position.

9. Guidance

9.1 The effect of the changes in charges is straightforward. They were fully explained in the VMD's consultation letter, but will be brought to the attention of stakeholders again in a letter on the VMD's website.

10. Impact

10.1 An Impact Assessment is attached to this memorandum.

11. Regulating small businesses

11.1 The changes in charges will lead to some charges being increased, whilst some will be decreased or stay the same. No new administrative burdens are placed on small businesses by the amendment.

12. Monitoring and Review

12.1 The VMD review all of the costs associated with the National Surveillance Scheme each year before making recommendations for amended charges to Defra Ministers.

13. Contact

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Jim Fitzpatrick
MINISTER OF STATE
MINISTER FOR FOOD, FARMING AND ENVIRONMENT
DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS

Summary: Intervention & Options

Department /Agency:	Title:	
Department for Food, Environment and Rural Affairs	**Impact Assessment of The Charges For Residues Surveillance (Amendment) Regulations 2009**	
Stage: Consultation	**Version:** Version 2 #214079	**Date:** April 2009
Related Publications:		

Available to view or download at:

http://www.vmd.gov.uk/Publications/Consultations/consultations.htm

Contact for enquiries: David Webb **Telephone:** 01932 338327

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 make at least a minimum charge towards covering 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 £**32,000**. Amendment of the charges for residues surveillance is therefore necessary to permit the VMD to get close to full cost recovery.

To reduce the costs of administration, the milk charge is made on businesses collecting milk from farms (they are entitled to charge this back to the farm). Government needs to amend the definition of 'dairy' in the SI to ensure all of the companies that should be charged are covered.

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 deficit would result, which would need to be covered by the public purse.

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.

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 UK would support a change to the current scheme to become more risk-based. The VMD reviews the costs and achievement of the scheme each year.

Ministerial Sign-off For consultation 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:

Jim Fitzpatrick

.....Date: 12th October 2009

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 £4.041m per annum. The additional costs imposed by the amended charges on the livestock industry would be £32K.
One-off (Transition)	**Yrs**	
£ 0	1	
Average Annual Cost (excluding one-off)		
£ 32,000	1	**Total Cost** (PV) **£ 32,000**

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 £32k 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'

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.

Price Base Year 2008	Time Period Years 1	**Net Benefit Range** (NPV) **-£32,000**	**NET BENEFIT** (NPV Best estimate) **-£32,000**

What is the geographic coverage of the policy/option?				Great Britain	
On what date will the policy be implemented?				1 October 2009	
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 **£1**	Medium **£5**	Large **£300**	
Are any of these organisations exempt?	Yes	Yes	N/A	N/A	

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

Increase of £ 0 Decrease of £ **Net Impact** **£0**

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

Evidence Base (for summary sheets)

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 make at least a minimum charge towards 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 2009/10 is set out in the consultation letter to interested parties. A forecast of amendments to charges for the financial years 2010/11 and 2011/12 is 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 1 October 2009.

In addition to the price amendments, a change in the definition of 'Dairy' will be made. Government needs to amend the definition of 'dairy' in the SI to ensure all of the companies that should be charged are covered.

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.

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 would mean that the VMD would be unable to achieve full near cost recovery as required by Ministers. Some of the costs of the VMD would have to be met out of existing public funds.

- Reducing the scale of the surveillance reduced. His would not meet the EU's requirement for the full surveillance plan to be met.
- The preferred option is that the charges are amended in line with the schedule in Annex I. The VMD would be able to meet the UK's surveillance 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 £4.041 m. It is anticipated that this will rise to £4.073m. The proposed amendments in charges are intended to achieve cost recovery of the additional £**32,000**.

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.

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 (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.

Total compliance costs:
The total costs amount to some £**4.073** million per annum, with the amendments this year amounting to an increase of some £**32,000**.

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

Table I **Price Schedules for the 2009/10 and estimated adjustments for 2010/11 and 2011/12***

	2008/09 Price	2009/10		2010/11		2011/12	
		Percentage Change	Price	Percentage Change	Price	Percentage Change	price
Cattle	0.4981	2.5	0.5106	9	0.5565	9	0.6066
Sheep	0.0603	-2.5	0.0588	2.5	0.0603	2.5	0.0618
Goat	0.0603	-2.5	0.0588	2.5	0.0603	2.5	0.0618
Soliped	0.3450	2.5	0.3536	9	0.3855	9	0.4201
Pigs	0.0572	-2.5	0.0558	2.5	0.0572	2.5	0.0586
Game	1.0461	0	1.0461	0	1.0461	0	1.0461
Poultry	0.6538	2.5	0.6701	7.5	0.7204	7.5	0.7744
Eggs **	0.0214	3	0.0221	3	0.0227	3	0.0234
Milk	0.0279	3	0.0287	5	0.0302	5	0.0317
Fish other than salmon and trout	2.0960	2.5	2.1484	2.5	2.2021	2.5	2.2572
Salmon	2.0960	2.5	2.1484	2.5	2.2021	2.5	2.2572
Trout	1.7736	2.5	1.8179	2.5	1.8634	2.5	1.9100

* Estimates of the likely charges for 2010/11 and 2011/12 are also included to help industry plan.

** 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 where 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 increase for 2009/10 and estimated adjustments for 2010/11 and 2011/12 for the egg industry**

Current total cost to the industry (£000s)	2009/10		2010/11		2011/12	
	Percentage Change	Price (£000s)	Percentage Change	Price (£000s)	Percentage Change	Price (£000s)
145.4	0	145.4	2.5	149.0	2.5	152.8

These are the actual charges the VMD intends to make on the BEIC. The figure in Table 1 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, none of the charges in 2009 will increase by more than 3 % with some reductions in other sectors.

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.