POLICY NOTE

THE CHARGES FOR RESIDUES SURVEILLANCE AMENDMENT (SCOTLAND) REGULATIONS 2024

SSI 2024/218

The above instrument is made in exercise of the powers conferred by sections 6(4), 45 and 48(1) of the Food Safety Act 1990 and all other powers enabling the Scottish Ministers to do so.

The instrument is subject to negative procedure.

Summary Box

This instrument amends the Charges for Residues Surveillance Regulations 2006 (S.I. 2006/2285) ("the 2006 Regulations"), to allow costs incurred in carrying out the inspections and controls in relation to surveillance of animals and animal products for residues of veterinary medicinal products and other substances to be recoverable by the competent authority performing the official controls. These amendments also vary the fees required to be paid in relation to surveillance of animals and animal products for residues of veterinary medicinal products and other substances.

Policy Objectives

The Veterinary Medicines Directorate (VMD) works in close partnership with the Scottish Government and Welsh Government to deliver the National Residues Control Programme (NRCP) in Great Britain.

The NRCP [1] is a statutory industry-funded programme that is delivered by the VMD and 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 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 £12 billion to the UK economy. The NRCP conforms to international standards which are underpinned by the World Trade Organization agreement on sanitary and phytosanitary measures.

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 that industry pays, 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 is expected to rise to £3 million per annum by 2029.

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

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Minister for Agriculture and Connectivity, Jim Fairlie MSP, has made the following statement regarding children's rights:

"In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Charges for Residues Surveillance Amendment (Scotland) Regulations 2024 are compatible with the UNCRC requirements."

EU Alignment Consideration

Under EU law, Article 79 of Regulation (EU) 2017/625 requires competent authorities to collect fees or charges for certain official controls, including those carried out in slaughterhouses, cutting plants, game-processing plants, on milk production and on the production and placing on the market of fishery and aquaculture products. There is discretion for fees to either be charged at the amounts provided in Annex IV to Regulation (EU) 2017/625 or on a cost recovery basis calculated in accordance with Article 82(1).

The amendments in this instrument to the Charges for Residues Surveillance Regulations 2006 continue the existing approach of charging fees on a cost recovery basis as would be available under EU law.

These measures will not create any barriers to re-entry to the European Union**.**

Consultation
The Veterinary Medicines Directorate, the Scottish Government, and the Welsh Government published a joint consultation on revised charges for the NRCP between 17 January 2024 and 28 March 2024[2] . The consultation outlined the reasons behind the need to increase charges for businesses covered by the NRCP and set out three options with a recommendation to pursue Option C.

Option A
Do nothing, with charges being maintained at current levels. This would have risked food safety and international trade obligations.

Option B
A flat rate 65% increase to the charges applied across all sectors taking part in the NRCP. This would have caried the risk of sectors cross subsidising others.

Option C (preferred)
A specific percentage increase tailored for each industry sector based on their specific sampling plan and production levels.

The consultation paper 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 only change to the NRCP would be to the

[2] Public consultation on revised charges for the National Residues Control Programme published January 2024

charges paid by industry. The scientific methodology, and standards of the surveillance and testing regime are defined in separate legislation and were outside the scope of these proposals.

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. Respondent's other comments centred around the following themes:

- a request for a two-tier charging system to recognise that some sectors are dominated by large producers;
- a view that sectors or regions of greatest risk should be charged more - similar to the polluter pays principle; and
- a view that the current operating environment was challenging for food business operators due to increased overheads, reduced profit margins and competition with imported products – therefore farmers or importers should be asked to pay for the NRCP instead.

The VMD analysed all responses and considered the feedback received alongside the necessity of actions that need to be taken to operate on a cost recovery basis. A summary of the consultation responses and the UK Government's response has been published at the following link: National Residues Control Programme: revision of charges.

Food Standards Scotland was also consulted on the proposal to make the instrument

Impact Assessments

A Child Rights and Wellbeing Impact Assessment has been published. Other impact assessments have not been prepared for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

There is expected to be no significant impact on charities or voluntary bodies.

Financial Effects

This 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. The VMD will continue to monitor the operation of the scheme and will bring forward a further public consultation if other changes are required. An itemised table showing the changes to the fees is provided in the explanatory note to the instrument.

The Minister for Agriculture and Connectivity confirms that no BRIA is necessary as the instrument is not considered to have any, or any significant, financial effects on the Scottish Government, local government or on business.

Scottish Government
Agriculture and Rural Economy Directorate
27 August 2024