EXPLANATORY MEMORANDUM TO

THE ANIMAL BY-PRODUCTS, PET PASSPORT AND ANIMAL HEALTH (FEES) (ENGLAND) (AMENDMENT) REGULATIONS 2023

2023 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs (Defra) and is laid before the House of Commons by Command of His Majesty.

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

2. Purpose of the instrument

2.1 This instrument amends the fees payable under the Animal Health (Miscellaneous Fees) (England) Regulation 2018 and the Animal By-Products and Pet Passport Fees (England) Regulation 2018 for various animal health services delivered by the Animal and Plant Health Agency (APHA), an executive agency of Defra, to enable staged full cost recovery in respect of those services by APHA.

3. Matters of special interest to Parliament

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

3.1 This instrument amends two earlier instruments, which contain provision for, or in connection with, the charging of fees or other charges that were made under section 56 of the Finance Act 1973. The changes to fees are being made to achieve full cost recovery. Under paragraph 12(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, this instrument therefore may not be made unless a draft has been laid before, and approved by a resolution of, each House of Parliament.

3.2 The fees have been calculated to achieve full cost recovery as stated in the HM Treasury's Managing Public Money document (available at www.gov.uk/government/publications/managing-public-money). The fee changes and increases relate to the collection of APHA's costs relating to the work being performed. There is no profit element. The fees are calculated using the true cost to the agency and are not uplifted using inflationary rates.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England only.

5. European Convention on Human Rights

5.1 The Rt Hon Lord Benyon has made the following statement regarding Human Rights:

"In my view the provisions of the Animal By-Products, Pet Passport and Animal Health (Fees) (England) (Amendment) Regulations 2023 are compatible with the Convention rights."

6. Legislative Context

6.1 The Animal Health (Miscellaneous Fees) (England) Regulation 2018 and the Animal By- Products and Pet Passport Fees (England) Regulation 2018 were made under section 56 of the Finance Act 1973 for fees relating to the implementation of EU obligations when the UK was an EU Member State, and section 10 of the Animal Health and Welfare Act 1984 ("the 1984 Act").

6.2 This instrument amends both sets of Regulations relying on powers in paragraph 7(2) of Schedule 4 and paragraph 21(b) of Schedule 7 to the European Union (Withdrawal) Act 2018 and section 10 of the 1984 Act. It amends fees covering seven different service areas provided by the APHA, an executive agency of Defra.

6.3 The Animal Health (Miscellaneous Fees) (England) Regulation 2018 provide for a system of fees associated with applications and approvals in various areas in the field of animal health.

6.4 The Animal By-Products and Pet Passports Fees Regulations 2018 provide for a system of fees associated with applications and approvals in relation to animal by-products and the issuing of pet passports.

7. Policy background

What is being done and why?

7.1 APHA is responsible in England for delivering a number of services (summarised below) aimed at facilitating trade in animals and plants, preventing the introduction and spread of animal diseases, safeguarding public health and carrying out various services in the area of animal health. Charging for services is consistent with the principle that businesses using and benefiting from the service provided should bear the cost of its provision. All of the fee changes included in this instrument have been calculated to ensure that the costs of services should be borne by users who benefit directly from the service provided.

7.2 The fees associated with these services no longer represent full cost recovery, as the fees have not been uplifted for a number of years. Therefore, there has been a compound effect over the fees in the relevant instruments.

7.3 The fees in this SI have been calculated to achieve full cost recovery as stated in the managing public money document and using the cost information at this point in time. The fee changes and increases relate to the collection of APHA's costs relating to the work being performed. There is no profit element. The fees are calculated using the true cost to the agency and are not uplifted using inflationary rates.

Salmonella National Control Programmes (zoonoses) – NCP

7.4 In line with Regulation (EC) No 2160/2003 of the European Parliament and Council on the control of Salmonella, as part of the Salmonella National Control Programmes the APHA collect and test official samples to verify progress in achieving agreed Salmonella reduction targets. It also provides services to maintain an approved private laboratory network and carries out proficiency tests for laboratories to ensure consistency on test results on Salmonella samples.

Poultry Health Scheme – PHS

7.5 Any poultry establishments that wish to export live poultry or hatching eggs to the EU and certain other countries must comply with requirements that are provided for in the "Poultry Health Scheme (PHS)". The PHS is operated by APHA as a mechanism to encourage the compliant export of poultry and eggs. It offers a system of registration and approval enabling establishments to comply with the relevant requirements applicable to the export of live poultry and hatching eggs.

Artificial Breeding Controls – ABC – (covering Bovine Semen, Porcine Semen and Bovine Embryos)

7.6 The Bovine Semen (England) Regulations 2007 control the collection, processing, and storage of bovine semen in respect of domestic trade and trade with the EU and certain other third countries. In addition to facilitating trade the 2007 regulations ensure the health status of donor animals. APHA provides a service of licensing artificial insemination centres and approval of donor animals.

7.7 The Artificial Insemination of Pigs (England and Wales) Regulations 1964 govern the domestic trade and regulation of porcine semen and the Artificial Insemination of Pigs (EEC) Regulations 1992 deal with the regulation of porcine semen for the purpose of exports to certain third countries. They control the collection, processing, and storage of porcine semen eligible for trade. In addition to facilitating trade, they also help guard against transmission of diseases that may be present in porcine semen. APHA inspect and approve collection centres for these purposes and take samples from boars with a view to their approval becoming donor animals.

7.8 The Bovine Embryo (Collection, Production and Transfer) Regulations 1995 facilitate trade, control the health of donor animals and guard against diseases which could be transmitted via embryos. APHA are responsible for approving and licensing bovine embryo teams and storage centres.

7.9 Border Control Posts - it is a requirement of Regulation (EU) 2017/625 that live animals (other than accompanied pets) arriving from countries to be inspected are to have documentary and identification checks by an authorised veterinarian at a Border Control Post. These veterinary checks are carried out by APHA in order to prevent the introduction of diseases harmful to animal and public health.

Animal By-Products – ABP

7.10 In conformity with Regulation (EC) No. 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption, The Animal By-Products (Enforcement) (England) Regulations 2013, SI 2013 No.2952 enforce the directly applicable EU Control Regulations. APHA provides services to approve and inspect premises and plants handling, storing, and disposing of materials or animal origin and pet food production facilities centres.

Pet Passports

7.11 Prior to the UK's Exit from the EU, pet passports were issued in Great Britain as part of the pet travel regime principally contained in Regulation (EU) 576/2013. Model pet passports were issued and provided to veterinary practices by APHA, and fees were payable in relation to this service. As pet passports are no longer issued in Great

Britain, the fees provided for in regulation 4 of the Animal By-Products and Pet Passport Fees (England) Regulation 2018 are no longer applicable, and they can therefore be removed.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 There are no plans to consolidate the legislation at this time.

10. Consultation outcome

10.1 Following full public consultation, new fees were last introduced in 2018, with a commitment to businesses that fees would be regularly reviewed to ensure the charges and exemptions were appropriate and any future efficiencies made by APHA are passed onto customers wherever possible.[1] Unfortunately, due to reviewed agency prioritisation (EU Exit work, Covid etc) these review periods were put on hold. APHA had already engaged with key stakeholders for the businesses affected and are planning to re-engage: Petfood Manufacturers Association; Food-chain & Biomass Renewables Association; Licensed Animal Slaughterers and Salvage Association, Laid in Britain, British Egg Industry, British Poultry Council, NFU Poultry Committee with the package of proposed changes.

11. Guidance

11.1 Details of the new fees will be listed on the APHA section of the GOV.UK website.

12. Impact

12.1 As there is an impact on business, charities, or voluntary bodies by the uplift of these fees, the effect has been mitigated by the phased introduction in respect of those relating to policy areas as described in 2.1 above.

12.2 There is no impact on the public sector.

12.3 The changes being made are to reduce the under recovery of costs and reduce the burden on the public purse.

12.4 The change to fees should not have a significant impact on service users, and to mitigate any impact they do have, increases will be phased in over a 2-year period.

12.5 An Impact Assessment has not been prepared for this instrument because a regulatory triage assessment was submitted to the Regulatory Policy Committee, they assessed this as suitable for low-cost fast track approval.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

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1 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/699061/charging-second-consultation-report.pdf

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

13.3 Due to the nature of the proposed introduction of fees and the governments stated aim of achieving full cost recovery where the payer receives a direct benefit, it is not feasible to reduce the impact on small or micro businesses.

14. Monitoring & review

14.1 The levels of fees will be reviewed periodically, with the view to ensuring that fees continue to reflect full cost recovery for the provision of these services and that the fees reflect any efficiency benefits that are adopted.

15. Contact

15.1 Ian Webster at the Animal and Plant Health Agency (APHA) Telephone: 07917856148 or email: ian.webster@apha.gov.uk can be contacted with any queries regarding the instrument.

15.2 Gareth Baynham-Hughes, Director for Animal and Plant Health and Welfare (APHW), at the Department for Environment, Food and Rural Affairs (Defra) can confirm that this Explanatory Memorandum meets the required standard.

15.3 Lord Benyon, Minister of State for Environment and Rural Affairs at the Department for Environment, Food and Rural Affairs (Defra) can confirm that this Explanatory Memorandum meets the required standard.