EXPLANATORY MEMORANDUM TO
THE MEAT (OFFICIAL CONTROLS CHARGES) (ENGLAND) REGULATIONS 2007

2007 No. 492

1. This explanatory memorandum has been prepared by the Food Standards Agency and is laid before Parliament by Command of Her Majesty.

2. Description

2.1. This instrument requires the Food Standards Agency ("FSA") to charge the operators of approved meat premises in England in order to recover a proportion of the costs incurred by the Agency's Executive Agency, the Meat Hygiene Service ("MHS"), in carrying out official controls at such premises in respect of applicable meat hygiene and animal welfare at slaughter requirements. References to "meat hygiene" below should be taken to include animal welfare at slaughter official controls.

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

3.1. None.

4. Legislative background

4.1. Background

4.1.1. The instrument will replace the Meat (Official Controls Charges) (England) Regulations 2006 ("the current Regulations") and will continue to provide for the collection of meat hygiene official controls charges in England, as required by Regulation (EC) 882/2004 on Official Feed and Food Controls ("the OFFC Regulation"). In addition the instrument will increase the throughput rates set out in the current Regulations by 3.5% above those that applied in 2006 to maintain them at broadly their 2006 level in real terms. The finance provisions of the OFFC Regulation took effect on 1 January in all Member States and form the legal basis for charging for official controls.

4.1.2. Apart from the increase to throughput rates, the instrument is also amended to reflect current practices more exactly in relation to setting hourly rates for inspectors. The amendment will continue to ensure that the hourly rates for inspectors may continue to be less than their full cost and may be gradually increased towards full cost recovery. The instrument will take effect from 26 March, which is the start of the MHS's 2007/08 financial period.

4.2. Scrutiny History

4.2.1. A scrutiny history that was produced for the European Scrutiny Committee in the House of Common and European Union Committee in the House of Lords during negotiation of the OFFC Regulation is attached at Appendix 1. In particular, the scrutiny of Council Directive 96/43/EC may help give context to the official controls charges required by the OFFC Regulation.

5. Extent

5.1. This instrument applies in England. Similar regulations have been proposed in Scotland, Wales and Northern Ireland.

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. Policy

7.1.1. The requirements laid down as regards charges for official controls were previously contained in Council Directive 85/73/EEC as last amended by Directive 96/43/EEC ("the Charging Directive"). The OFFC Regulation supersedes the Directive and requires that, from 1 January 2007, Member States must charge no more than actual costs and, other than in specified cases, no less than specified minimum Community fees for relevant official controls. However, as an alternative, the OFFC Regulation permits Member States to retain the Community fees set out in the Charging Directive until 1 January 2008, though as minima rather than standard amounts. The instrument continues to make use of this derogation.

7.1.2. The Community fees in the Charging Directive are throughput rates for inspection costs relating to the slaughter per species/type of animal or bird. For controls and inspections connected with cutting operations, the fee is per tonne of meat.

7.1.3. Some of the throughput rates in the instrument (e.g. for adult bovines) remain less than the minimum rates specified in the OFFC Regulation. The Food Standards Agency (FSA) will consult during 2007 on proposed changes to the chargeable throughput rates to ensure that the minima specified in the OFFC Regulation are applied appropriately on or before their required date of 1 January 2008.

7.1.4. The instrument continues the current meat hygiene charging system, which was introduced in 2001 to support smaller slaughterhouses and cutting plants. This was achieved by providing for official control charges to be the lower of time cost charges and the throughput charges calculated from Community fees. However, the level of support has grown over the years, largely because time cost charges have been increased to cover increases in inflation, whereas

Community fees have not been increased since their introduction and did not become minima until the charges provisions of the OFFC Regulation became applicable on 1 January 2007.

7.1.5. This has resulted in a significantly higher proportion of businesses paying charges calculated from Community fees than was intended and in those charges recovering an increasingly lower proportion of official control costs. As a result a significant gap now exists between the cost of controls and the amount of that cost which is recovered through charging. This gap is funded by the FSA using funding generated from general taxation. The Agency intends to reduce this gap in support of its general principle that it is inappropriate for it to subsidise business and that expenditure should be aligned more closely with its strategic objectives.

7.1.6. The instrument increases 2006 charges by 3.5% but a change in the Euro/Sterling exchange rate from the start of this year means that the increase is about 5% above the current rates. The increase is to preserve the rates at broadly the level they were during 2006 and is the first step towards reducing the gap between the cost of controls and the amount of that cost which is recovered through charging.

7.1.7. The amendment in the instrument that reflects the current practices more exactly in relation to the hourly rates for inspectors will continue to ensure that the hourly rates for inspectors may continue to be less than the cost of the official controls and may continue to be gradually increased towards full cost recovery.

7.2 Consultation

7.2.1. Around 100 stakeholders in England were consulted in line with Cabinet Office best practice over a 12-week period, including industry representative organisations. In addition, around 750 operators of approved slaughterhouses, game handling establishments and meat cutting businesses were sent a letter alerting them to the consultation and given the opportunity to respond to the consultation either directly or via a representative organisation. There were 11 responses and many of them commented on matters that were outside the purpose of the instrument. Only seven respondents commented on the proposal to increase throughput charges by 3.5% above those in 2006, with opinion being divided between opposition and acceptance or support. A summary of the responses is attached to this memorandum and may be found at:
www.food.gov.uk/multimedia/pdfs/consultationresponse/occresponseeng07.pdf.

7.3. Guidance

7.3.1. The current MHS Charges Guide for industry will continue to be applicable and the Operators of approved meat plants will be advised in advance about the new throughput rates that will come into force from the start of MHS 2007/08 financial period.

7.4. Sanctions

7.4.1. The MHS will remain responsible for enforcement, sanctions and monitoring for the meat hygiene charging provisions set out in the Regulations.

8. Impact

8.1. Although the instrument will impose additional costs on businesses in nominal terms, in real terms, it will broadly preserve charges at the 2006 level and continue to provide support to vulnerable businesses. A Regulatory Impact Assessment is attached to this memorandum.

9. Contact

9.1. Mrs Olukayode Odukoya at the Food Standards Agency Tel: 020 7276 8326 or e-mail: olukayode.odukoya@foodstandards.gsi.gov.uk can answer any queries regarding the instrument.

Full Regulatory Impact Assessment (RIA)

1. Title of the Proposal

1.1. The proposal is for a Statutory Instrument (SI) titled: The Meat (Official Controls Charges) (England) Regulations 2007.

2. Purpose & intended effect

2.1 The Objectives

2.1.1. The objectives of the proposed Regulations are to continue the current charging arrangements for meat hygiene official controls carried out by the Meat Hygiene Service ("MHS") in England and to increase throughput charges by 3.5% above those payable in 2006 from 26 March 2007.

.1.1.1 2.2. Devolution

2.2.1. The proposed Regulations will apply in England only. Similar Regulations have been proposed in Scotland, Wales and Northern Ireland.

.1.1.2 2.3. Background

2.3.1. The charges to which this RIA relates are currently implemented in England by the Meat (Official Controls Charges) (England) Regulations 2006 ("the current Regulations"). These charges are paid to the MHS, an Executive Agency of the Food Standards Agency. The current Regulations implement the finance provisions of Regulation (EC) 882/2004 on Official Feed and Food Controls (the OFFC Regulation), which became the legal basis for charging in Member States from 1 January 2007.

2.3.2. The OFFC Regulation requires that, from 1 January 2007, Member States must charge no more than actual costs and, other than in specified cases, no less than specified minimum Community fees for relevant official controls. However, as an alternative, the OFFC Regulation permits Member States to retain the Community fees set out in Council Directive 85/73 as last amended by Directive 96/43 (the Charging Directive) until 1 January 2008, though as minima rather than standard amounts. The proposed Regulations continue to make use of this derogation.

2.3.3. The Community fees prescribed in the Charging Directive are throughput rates for inspection costs relating to the slaughter per

species/type of animal or bird. For controls and inspections connected with cutting operations, the fee is per tonne of meat.

2.3.4. Some of the throughput rates in the proposed Regulations (e.g. for adult bovines) would remain less than the minimum rates specified in the OFFC Regulation but only until new charging arrangements are introduced in line with the OFFC Regulation from 1 January 2008 at the latest. The Food Standards Agency (FSA) will consult during 2007 on proposed changes to the chargeable throughput rates to ensure that the minima specified in the OFFC Regulation are applied appropriately on or before 1 January 2008.

2.3.5. The proposed Regulations would continue the current meat hygiene charging system, which was introduced in 2001 to support smaller slaughterhouses and cutting plants. This was achieved by providing for official control charges to be the lower of time cost charges and charges calculated from Community fees. However, the level of support has grown over the years, because the cost of controls and time cost charges have increased, whereas Community fees have not been increased since their introduction. It was not possible to charge rates higher than the Community fees until 1 January 2007 when the Community fees became minima under the provisions of the OFFC Regulation.

2.3.6. The FSA consulted industry stakeholders in Summer 2006 on the policy intention of the Agency to phase-in significant increases to meat hygiene charges to bring these charges closer to full cost recovery and to introduce charges for controls on the removal of specified risk material (SRM). Responses to this consultation raised concerns about the impact these charges would have on the meat industry, especially small vulnerable businesses. In view of these comments, and in light of possible cost sharing proposals from Rural Affairs Departments that might impose additional costs on the same businesses, the proposed Regulations provide for only a small increase to meat hygiene throughput charges to maintain these charges at broadly their 2006 level allowing for MHS cost inflation. The Agency's policy intention to make more significant increases to hygiene charges and to introduce charges for SRM controls is now being considered alongside the work

of Rural Affairs Departments on developing responsibility and cost sharing proposals. The FSA plans to consult on further increases to charges for hygiene controls and the introduction of charges for SRM controls later in 2007.

2.4. Rationale for Government intervention

2.4.1. The OFFC Regulation requires Member States to charge at or above minimum rates for meat hygiene official controls at approved meat plants. The current charging rates are those specified in Charging Directive 96/43, which, as stated above, it has not been possible to increase since they were implemented in the UK in 2001. This has resulted in a significantly higher proportion of businesses paying charges calculated from Community fees than was intended and in those charges recovering an increasingly lower proportion of official controls costs. As a result a significant gap now exists between the cost of controls and the amount of that cost which is recovered through charging. This gap is funded by the FSA using funding generated from general taxation. The Agency intends to reduce this gap and this first increase in throughput charging rates is the first step towards that end.

2.4.2. The proposed Regulations would increase meat hygiene throughput charges by 3.5% above those payable in 2006. This increase would preserve the rates at approximately their 2006 value and would take effect from 26 March 2007, which is the start of the MHS's 2007/08 financial period.

2.4.3. The proposed Regulations are also intended to reflect current time cost charging practices more exactly. The amendment would ensure that the hourly rates for inspectors may continue to be less than their full costs and may continue to be gradually increased towards full cost recovery. The background to this is that hourly rates are currently some 20 – 30% below their full cost, due to a price freeze announced by Ministers during 1999, and have been increased in recent years by 2% above MHS cost inflation to move them towards full cost recovery.

The MHS will carry out a consultation exercise on the proposed hourly rates for the 2007/08 financial year in the near future.

3. Consultation

3.1. The Agency conducted a full public consultation with Stakeholders. Around 100 stakeholders in England were consulted in line with Cabinet Office best practice over a 12-week period, including industry representative organisations. In addition, around 750 operators of approved slaughterhouses, game handling establishments and meat cutting businesses in England were sent a letter alerting them to the consultation and given the opportunity to respond to the consultation either directly or via a representative organisation. There were 11 responses and many of them commented on matters that were outside the purpose of the instrument. Only seven respondents commented on the proposal to increase throughput charges by 3.5% above those in 2006, with opinion being divided between opposition and acceptance or support. A summary of responses may be found at:

www.food.gov.uk/multimedia/pdfs/consultationresponse/occresponseeng07.pdf.

4. Options

4.1. Meat hygiene throughput rates

4.1.1 The options considered were:

i. Option 1 - do nothing, i.e. retain current throughput charges (which are about 1.3% lower than 2006 charges due to a change in the applicable €/£ exchange rate from 1 January 2007).

ii. Option 2 - revert to 2006 throughput charges.

iii. Option 3 - increase charges by 3.5% over their 2006 level.

iv. Option 4 - increase charges by less than 3.5% over their 2006 level.

v. Option 5 - increase charges by more than 3.5% over their 2006 level.

4.1.2. **Analysis of options**

Data from 369 slaughterhouses and 555 cutting plants were used to evaluate the impact of each option on the industry.

i. Option 1 (do nothing) – this would maintain the current gap between the cost of controls and the charges for those controls. It would continue a decrease in charges for around 350 slaughterhouses and 160 cutting plants, that occurred from 1 January 2007, due to throughput charges payable in 2006 being reduced by approximately 1.3% because of a change in the applicable €/£ exchange rate. Charges for around 20 slaughterhouses and 390 cutting plants would not change because they pay charges on a time cost basis. This Option would maintain the current number of large plants benefiting from support that was introduced to protect only small to medium sized businesses that were vulnerable to full cost recovery,

ii. Option 2 (retain 2006 throughput charges) - this would reverse the decreases in charges for around 335 slaughterhouses and 160 cutting plants that occurred due to a change in the applicable €/£ exchange rate from 1 January 2007. In doing so the current gap between the cost of controls and the charges for those controls would revert towards its 2006 level. Under this Option, the number of large plants benefiting from support that was introduced to protect only small to medium sized businesses that were vulnerable to full cost recovery would revert towards the 2006 level.

Both options would also be contrary to the Agency's general principle that it is inappropriate for it to subsidise the cost of official controls for business and that the level of this industry support should be reduced so that Agency expenditure may be aligned more closely with the Agency's strategic objectives.

iii. Option 3 (increase charges by 3.5% over their 2006 level) – This would increase current charges to approximately their 2006 value in real terms and would continue to provide a significant level of support to small and vulnerable plants. The proposed increase would provide for a moderate increase in throughput charges for those slaughterhouses and cutting plants that pay them (around 350 and 160 respectively in 2006) while charges for the remainder would remain the same because they pay on time cost (around 20 slaughterhouses and 390 cutting plants in 2006). It would begin the process of supporting the Agency's general principle that it is inappropriate for it to subsidise the cost of official controls for business and that the level of this industry support should be reduced so that Agency expenditure may be aligned more closely with the Agency's strategic objectives.

iv. Option 4 (increase charges by less than 3.5% over their 2006 level) – this would reduce the value of charges in real terms and would not support the Agency's general principle that it is inappropriate for it to subsidise business. By way of example, an increase of 2.5% to throughput charges would result in around 350 slaughterhouses and 160 cutting plants paying slightly higher charges, but this increase would be less than the likely increase in the costs of carrying out the controls.

v. Option 5 (increase charges by more than 3.5% above 2006 levels) – this option would lead to higher charges than the other options and would be the most beneficial in terms of increasing the level of cost recovery. The Agency is not proposing this option at this stage but intends to develop proposals to further increase cost recovery for consultation later in 2007. This work is being developed alongside the work of Rural Affairs Departments which are developing other responsibility and cost sharing proposals that may impact on the same businesses.

Option 3 is implemented by the Regulations.

5. Costs and benefits

.2 5.1. Sector and groups affected

5.1.1. All operators of approved meat establishments (over 500 plants in 2006) paying charges on a throughput basis would be affected. No

impacts on disability equality, racial equality, social, animal welfare or environmental issues due to the proposals have been identified.

5.2. Meat Hygiene throughput rates

5.2.1. Benefits

The following benefits have been identified.

i. Option 1 (do nothing) – This option would reduce throughput charges to the meat industry from those of 2006 by an estimated £160,000. The operators of over 500 approved meat plants that pay throughput charges would benefit and, because of inflation, this would be larger in real terms than the nominal value of the benefit stated above.

ii. Option 2 (retain 2006 throughput charges) – The operators of all approved meat plants that pay on throughput would benefit to the extent that the charges were not increased to take account of inflation.

iii. Option 3 (increase charges by 3.5% over their 2006 level) – This option will result in a nominal benefit to the FSA of an estimated £415,000. This option would preserve charges at approximately their 2006 value in real terms, as the increased charges would broadly cover inflation. This option would begin to support the Agency's general principle that it is inappropriate for it to subsidise the cost of official controls for business and that the level of this industry support should be reduced so that Agency expenditure may be aligned more closely with the Agency's strategic objectives.

iv. Option 4 (increase charges by less than 3.5%) – This option would result in a nominal benefit to the FSA. For example, an increase in throughput charges of 2.5% would generate an estimated £300,000. Note that if charges were increased by 2.5% or any other value less than 3.5%, the Agency could experience a cost (as opposed to a benefit) in real terms if the increase did not cover inflation.

v. Option 5 (increase charges by more than 3.5%) – This option would result in a nominal benefit to the FSA, for example, of an estimated £530,000 if throughput charges were increased by 4.5%. It would support the Agency's general principle that it is inappropriate for it to subsidise the cost of official controls for business and that the level of this industry support should be reduced so that Agency expenditure may be aligned more closely with the Agency's strategic objectives.

It should be noted that none of the above options are considered to impose any environmental or social benefits.

5.2.2. Costs

The following costs have been identified.

i. Option 1 (do nothing) – This option would result in a cost to the FSA (and to taxpayers) of an estimated £160,000 (that is, the same value as the nominal value of the benefit to industry). This option would continue to widen the gap between the cost of controls and the charges for those controls, and would represent a larger cost to the FSA in real terms than the value of the nominal cost stated above. It would also maintain the number of larger plants benefiting from the support meant for small and vulnerable plants.

ii. Option 2 (retain 2006 throughput charges) - This option would represent a cost to the Agency to the extent that the charges were not increased to take account of inflation. The number of larger plants benefiting from the support meant for small and vulnerable plants would revert towards the 2006 level.

iii. Option 3 (increase charges by 3.5% over 2006 levels) – This option would result in a cost to the meat industry of an estimated £415,000. The operators of over 500 approved meat plants that pay throughput charges would be affected. It should be noted that this option would preserve charges at approximately their 2006 level in real terms. Examples of the effect of the proposed increases are given in paragraph 7.1 below.

iv. Option 3 (increase charges by less than 3.5%) – This option would result in a cost to the meat industry, for example, of an estimated £300,000 if the increase was 2.5%. The operators of over 500 approved meat plants that pay throughput charges would be affected. It should be noted that although this option would impose a cost to the industry in nominal terms, it could represent a benefit to industry in real terms, if the percentage increase was less than the defined rate of inflation.

v. Option 4 (increase charges by more than 3.5%) – This option would result in a cost (in terms of reduced subsidy) to the meat industry, for example of and estimated £530,000 if the increase was 4.5%. The operators of over 500 approved meat plants that pay throughput charges would be affected. In real terms, the cost implication for industry of this option would be higher than the other options because this option provides for charges to move a little closer to full cost recovery.

None of the above options are considered to impose any environmental, social, policy or administrative costs. They represent a relatively minor change to throughput charges that would have little impact on the proportion of firms paying charges on a throughput basis and no impact on firms paying charges on a time cost basis.

5.2.3. Summary of Benefits and Costs

None of the above options involve a net benefit or cost; they simply alter their distribution between the industry and the FSA. Each benefit is matched by an equally-sized cost to the other party. A summary table of the benefits and costs to each party is presented below. Negative numbers in the table represent a cost to the stated party.

Option	**Estimated effect on industry (£ thousand)**	**Estimated effect on FSA (£ thousand)**
Option 1 (do nothing)	160	-160
Option 2 (retain 2006 charges)	Nil	Nil
Option 3 (2006 charges plus 3.5%)	-415	415
Option 4 (2006 charges plus less than 3.5%, e.g. +2.5%)	-300	300
Option 5 (2006 charges plus more than 3.5%, e.g. +4.5%)	-530	530

6. Administrative Burdens

6.1. There are no administrative burdens on business arising from these Regulations.

7. Small Firms Impact Test

Operators of low throughput approved meat establishments are generally charged on the basis of their throughput and would be affected by the proposed 3.5% increase in charges. Apart from fluctuations due to changes in the Euro/sterling exchange rate, this is the first increase in throughput rates since they were introduced in 2001. Given that business costs and the cost of meat hygiene controls have increased significantly since that time and that the increases will preserve the rates at approximately their 2006 value in real terms, we do not consider that the impact on small businesses will be significant.

7.1. The following table gives examples of the effect of the proposed 3.5% increase in charges per week for businesses with relatively low levels of throughput.

No of 2006 Proposed Increase

	animals	charge £	charge £	£
Slaughterhouse (mixed species)				
.2.1 Bovine > 6wks	100	307.31	318.06	10.76
Sheep < 12kg	100	11.95	12.37	0.42
Sheep 12 – 18kg	100	23.90	24.74	0.84
Sheep 18kg	500	170.73	176.72	5.99
Pigs > 25kg	100	88.78	91.89	3.11
Total	900	602.66	623.77	21.11
.3 Poultry Plant				
Poultry < 2kg	15000	102.44	106.17	3.74
Poultry 2 - 5kg	250	3.41	3.54	0.12
Poultry > 5kg	500	13.66	14.12	0.46
Total	15750	119.51	123.83	4.32
Game-handling establishment				
.4 Small game < 2kg	500	3.41	3.54	0.12
.5 Small game > 2kg	100	1.37	1.42	0.05
.6 Small game > 5kg (adult)	10	1.20	1.24	0.04
.7 Deer < 12kg	10	2.39	2.47	0.08
.8 Deer 12 – 18kg	50	17.07	17.67	0.60
.9				
	Tonnes			
.10 Cutting plant				
Meat	100	204.87	212.04	7.17

7.2. Small businesses and their representative organisations were invited to comment and provide relevant impact information that they envisaged as a result of the proposed increase. No detailed information was provided.

8. Test Run of Business Forms

8.1 No changes to the administration of the system for charging for meat hygiene official controls are intended as part of these proposals. No new or additional forms will be introduced.

9. Competition Assessment

9.1. The proposals apply to the operators of all approved meat establishments in England and similar proposals have been made in

Wales, Scotland and Northern Ireland. All operators would continue to pay the lesser of time costs or throughput charges. The proposal to enable the current time cost charging practice to continue and to increase throughput charges by 3.5% above 2006 levels would broadly maintain the present proportions of businesses that pay on a time cost or throughput basis, due to a likely increase in time cost rates to take account of MHS cost inflation, on which the MHS consults separately. Increasing throughput charges to preserve them at approximately their 2006 value in real terms would thus have a minimal effect on competition.

10. Enforcement, sanctions and monitoring

10.1. The Meat Hygiene Service, an Executive Agency of the Food Standards Agency, would remain responsible for enforcement, sanctions and monitoring for the meat hygiene charging provisions set out in the Regulations.

11. Implementation and delivery plan

The current MHS computer-based charging system is capable of implementing the new throughput rates from 26 March 2007. In addition, all Operators of approved meat plants will be advised about the new throughput rates that will be applicable from the start of MHS 2007/08 financial period in advance of them coming into effect.

12. Post-implementation review

The MHS will monitor the charging arrangements to ensure that implementation is effective and, as required by EC law, to ensure that official controls charges do not exceed the cost of those controls.

13. Summary and Recommendation

The proposed Regulations would ensure continued compliance with EC law and would provide for a moderate increase in throughput charging rates to preserve those rates at their 2006 level. This would support the Agency's general principle that it is inappropriate for it to subsidise the cost of official controls for business and that the level of this industry support should be reduced so that Agency expenditure may be aligned more closely with the Agency's strategic objectives.

14. Declaration and publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.

Signed **Caroline Flint**
Date **19th February 2007**

Minister for Public Health
Department for Health