EXPLANATORY MEMORANDUM TO

THE ZOONOSES AND ANIMAL BY-PRODUCTS (FEES) (ENGLAND) (NO. 2) REGULATIONS 2008

2008 No. 3196

1. This explanatory memorandum has been prepared by 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 instrument provides the Secretary of State with powers to charge farmers and operators of private laboratories in order to recover costs incurred by the government in providing the following services:

- official sampling and testing of Salmonella in laying flocks of domestic fowl
- official sampling and testing of Salmonella in breeding flocks of domestic fowl
- approval of private laboratories to carry out testing under The Control of Salmonella in Poultry Order 2007 and the Animal By-Products Regulations 2005

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

For official sampling and testing under the laying flocks NCP

- The estimate of total costs to business in England for official sampling and testing of laying flocks ranges per annum ranges from **£57,600 to £57,600 per annum.**
- The cost per annum for each holding would range from **£120** to **£170.**

For optional testing under the laying flocks NCP

- The instrument extend charging to cover optional sampling allowed for in Regulation (EC) 1237/2007. Since this testing is not compulsory Defra cannot give a meaningful estimate of the total costs to business in England without knowing how many producers will require it. This will not be possible until 2009 when this testing becomes available.
- The cost per annum for each holding which requires the optional testing would range from £105 for the enhanced environmental testing to detect Salmonella, to £3,300 for testing the internal organs from 300 carcases to confirm that Salmonella is present in the birds.

For official sampling and testing under the breeding flocks NCP

- The estimate of total costs to business in England for official sampling and testing of breeding flocks ranges per annum ranges from **£267,500 to £192,500 per annum.**
- The average cost per annum for each holding would range from **£385** to **£535**

For the laboratory approval scheme

- the total combined cost to laboratories in England was estimated to be **£19,235 per annum** (average **£418 per annum** per lab).

4. Legislative Context

4.1 The Zoonoses and Animal By-Products (Fees) (England) (No 2) Regulations 2008, ("The Fees Regulations (No 2)) revoke and remake The Zoonoses and Animal By-Products (Fees) (England) Regulations 2008 ("The Fees Regulations (No 1)) introduced in October 2008.

4.2 The Fees Regulations (No 2) allows for a phased increase in charges for the collection of official samples by the Competent Authority, and to extend charging to optional testing allowed for in Regulation (EC) 1237/2007 which has been requested by industry to exclude false positives.

4.3 This instrument is made under section 56(1) and (2) of the Finance Act 1973 which permits a Government department to require the payment of fees or other charges for the provision of any services or facilities or the issue of any authorisation, certificate or other document, in pursuance of any Community obligation. As an instrument made under the Finance Act 1973, the Regulations are subject to Treasury consent.

4.4 The Control of Salmonella in Poultry Order 2007 enforces National Control Programmes (NCP) for breeding and laying flocks of domestic fowl. The NCPs set out the new requirements for the monitoring and control of Salmonella in breeding flocks and laying flocks of Regulation (EC) No 2160/2003, Regulation (EC) No 1003/2005 and Regulation (EC) No 1168/2006.

4.5 In order to chart progress towards meeting the reduction target specified in the EC legislation breeding flocks will be required to provide official control samples on three occasions during the production cycle, and each laying holding must provide at least one official sample from one flock each year. Official control samples will then be tested at the National Reference Laboratory. Charges are made to recover costs incurred by Animal Health in their role in managing the collection of official samples on behalf of the Secretary of State and by the Veterinary Laboratories Agency (VLA) in examining any samples received.

4.6 The Poultry Order also requires operators of breeding and laying flocks to provide the Secretary of State with certain information relating to those flocks, and imposes record-keeping requirements. This legislation was the subject of a full public consultation in 2007. An Impact Assessment was prepared and is available at http://www.opsi.gov.uk/si/si2007/em/uksiem_20073574_en.pdf

4.7 The proposed fees regulation will also allow for VLA and Defra to recover costs for services in respect to the approved laboratory scheme. Under this scheme private laboratories are authorised by the competent authority to test operator samples for Salmonella under the National Control Programmes and Salmonella, Enterobacteriaceae, Clostridium Perfringens and other organisms as required under the Animal By-products Regulations 2005.

5. Territorial Extent and Application

5.1 This instrument applies to England.

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 This regulation will be introduced to ensure that the Secretary of State is able to recover costs for services provided by Government in relation the implementation of European Legislation on the control of Salmonella and other zoonotic diseases in primary production.

8 Consultation Outcome

8.1 The introduction of the NCPs for breeding and laying flocks followed a full public consultation in 2006 and 2007. Full details regarding our plans to revise the charging legislation were included in the consultations including detailed costings of the new requirements. When the Fees Regulations (No 1) were introduced industry was fully consulted and supported the preferred option for phasing in charges. Although in the Fees Regulations (No2) the charges have slightly increased the principles on which the increases have been based were set out in the Impact Assessment for The Fees Regulations (No 1) and have remained the same (i.e. the costs faced by Animal Health, VLA and Defra in providing services). Following discussions with the Treasury and the Department for Business, Enterprise & Regulatory Reform it was agreed that it was not necessary to consult again on these charging proposals. The charges have however been considered by industry representatives through our regular stakeholder forum. It was accepted that the increase in the cost of official control sampling was minimal and had been provided for when the Fees Regulations (No 1) were drafted. It was also agreed that it is not in industry's interests for Defra to delay implementation by a 12 week consultation, as it would deprive them of a mechanism by which producers can clear their flocks from restrictions. Furthermore all businesses directly affected, and relevant industry organisations, have been notified suitably in advance of the regulations coming into force.

9 Guidance

9.1 The charges to industry are set out on the face of the legislation. Further information on how the charges were arrived at is contained in the Impact Assessment. Guidance on the services for which The Fees Regulations (No 2) will recover costs are provided in the National Control Programmes for layers and breeders.

10. Impact

10.1 An Impact Assessment is attached to this memorandum which describes in detail the impact and associated costs related to the proposed legislation

11. Regulating small business

11.1 The legislation applies to small business.

11.2 The majority of the farm holdings affected by the proposed Fees Regulations (No 2) would be classed as small businesses (i.e. 20 people or less). It is not considered that these businesses would be disproportionately affected by the charges as the charges themselves are relatively small and fall equally across all parts of the industry. As explained above the views of the majority of farm operators are represented through the

Zoonoses Working groups. Laboratories testing under NCPs are also likely to fall under the small businesses category. The costs of services provided to these laboratories have only seen a £10 inflationary increase due to the cost of mixing quality test samples. They may decide to pass the costs solely on to their customers who submit samples to them for testing or to spread the costs over all customers using their services.

11.3 During the consultation process for the NCPs detailed discussions were held with industry on how to avoid placing unnecessary burdens on business. Defra continues to work closely with industry on their implementation. Whilst The Fees Regulations (No 2) are not able to provide a specific mechanism to reduce costs on small business (since nearly all the business they apply to could be classified as small business) charges placed on smaller holdings will be lower since it will take less Animal Health time to collect samples.

12. Monitoring and review

12.1 The financial objective should be full cost recovery for the services provided. In principle the full cost should be recovered each year. The full cost should be calculated on an accruals basis. It is the total cost of all the resources used in providing the service (direct and indirect costs, including a full proportional share of overhead costs and any selling and distribution expenses, insurance, depreciation and cost of capital, etc, both cash and "non-cash" costs).

12.2 Annual accounts will be produced to assess progress against the target of full cost recovery for the provision of the relevant services. It is intended that the level of fees will be reviewed annually. The applicable fees will also be published on the Defra website.

13. Contact

13.1 John Conway at the Department of Environment, Food and Rural Affairs.
Tel 020 7238 5922 or e-mail: john.conway@defra.gsi.gov.uk can answer any queries regarding the instrument.

Summary: Intervention & Options		
Department /Agency: Department for Environment, Food and Rural Affairs	**Title:** Impact Assessment of The Zoonoses and Animal By-Products (Fees) (England) (No 2) Regulations 2008	
Stage: Final Proposal	**Version:** 1	**Date:** xxxxxxxxx
Related Publications: Impact Assessment of The Control of Salmonella in Poultry Order 2008		

Available to view or download at:
http:/www.defra.gov.uk/corporate/consult
Contact for enquiries: John Conway **Telephone:** 020 7238 5922

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

Salmonella National Control Plans (NCP) introduced under Regulation (EC) 2160/2003 require official samples to be taken on farm. The Zoonoses and Animal By-Products (Fees) England Regulations 2008 (henceforth 'Fees Regulations No 1') were introduced to recover costs incurred by Animal Health in their role in managing the collection of official samples, and by the Veterinary Laboratories Agency (VLA) in examining samples. The proposed regulations are intended to amend the Fees Regulations No 1 to cover incremental increase in certain charges and to include charges for optional testing (see Evidence Base for more details on charges).

This IA does not seek to consider the costs and benefits of the NCPs which were the subject of separate legislation. The IA looks at the distributional impacts of updating the The Fees Regulations: in effect the transfer of costs from Government to industry.

What are the policy objectives and the intended effects?

The policy objective is to amend the Fees Regulations to (i) take into account the full cost of collecting official control samples, and (ii) include the cost of optional testing to exclude false positives under the layers NCP provided by Regulation 1237/2007. No other charges are affected.

The intended effect is to ensure full cost recovery for services provided by Government in relation to the implementation of European legislation on the control of Salmonella and other zoonotic diseases in primary production.

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

The Fees Regulations No 1 introduced a phased approach under which cost recovery would be phased in over two years. Only one policy option has been considered under the proposed regulations, i.e. to raise the phased Animal Health charges and cover charges for the optional tests under Regulation 1237/2007 (see Evidence Base for details). Since the potential cost of the optional testing to government if recovery powers were not in place would be unacceptable, alternative options to the introduction of the Fees Regulations (No 2) have not been considered.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

Charges will be reviewed on an annual basis.

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: 14th December 2008

Summary: Analysis & Evidence	
Policy Option:	**Description: Raise phased charges for official control sampling and introduce charges for optional testing**

COSTS

ANNUAL COSTS TO INDUSTRY		Description and scale of **key monetised costs** by 'main affected groups'
One-off (Transition)	**Yrs**	Cost to laying flocks of increase in charges for official control sampling: Increase of £7,680 in 2009 and £8,640 from 2010 onwards Cost to breeding flocks of increase in charges for official control sampling: Increase of £8,000 in 2009 and £9,000 from 2010 onwards Cost of charges for optional testing: £38,520 per annum
£0	3	
Average Annual Cost (excluding one-off)		
£55,507	3	**Total Cost** (PV) **£155,446**

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

Nil

BENEFITS

ANNUAL BENEFITS TO GOVERNMENT		Description and scale of **key monetised benefits** by 'main affected groups'
One-off	**Yrs**	Government savings as public funds will not be used to support the cost of the services provided. This is merely a transfer of the costs of performing sampling from Govt to Industry. Therefore, the benefit to Govt is equal to the cost to industry.
£ 0	3	
Average Annual Benefit		
£55,507	3	**Total Benefit** (PV) **£155,446**

Other **key non-monetised benefits** by 'main affected groups' Nil

Key Assumptions/Sensitivities/Risks: 20% of laying holdings will undertake optional testing every year. The three types of optional tests are equally likely to be used.

Price Base Year **2008**	Time Period Years **3**	**Net Benefit Range** (NPV) **£ 0**	**NET BENEFIT** (NPV Best estimate) £**0**

What is the geographic coverage of the policy/option?			England		
On what date will the policy be implemented?			Jan 2009		
Which organisation(s) will enforce the policy?			Animal Health/VLA		
What is the total annual cost of enforcement for these organisations?			£Nil		
Does enforcement comply with Hampton principles?			Yes		
Will implementation go beyond minimum EU requirements?			N/A		
What is the value of the proposed offsetting measure per year?			£ 0		
What is the value of changes in greenhouse gas emissions?			£ 0		
Will the proposal have a significant impact on competition?			No		
Annual cost (£-£) per organisation	Micro	Small[1]	Medium	Large	
Are any of these organisations exempt?	No	No	N/A	N/A	

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

Increase of £ Nil Decrease of £ Nil **Net Impact** **£** Nil

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

[1] See small firms impact assessment

Evidence Base

1 Introduction

1.1 The proposed Zoonoses and Animal By-Products (Fees) (England) (No 2) Regulations 2008 ("Fees Regulations No 2"), revokes and remakes The Zoonoses and Animal By-Products (Fees) (England) Regulations 2008 ("Fees Regulations No 1"). This replaced legislation introduced in August 2007, and imposed new costs on operators of laying flocks for the collection and examination of official controls under the national control programme (NCP) for *Salmonella* in laying flocks which started on 1 February 2008. It also updated costs for operators of breeding flocks for testing under the National Control Programme for breeding flocks. The Fees Regulations (no 2) is required to allow for a phased increase in charges for official samples by Animal Health, and to extend charging to optional testing allowed for in Regulation (EC) 1237/2007 which has been requested by industry to exclude false-positives. Industry were fully consulted on the phased in charges, which were the preferred option when the Fees Regulations No 1 were drafted.

1.2 The Control of *Salmonella* in Poultry Order 2008 enforces the National Control Programmes (NCP) for breeding and laying flocks of domestic fowl. The Poultry Order also requires operators of breeding and laying flocks to provide the Secretary of State with certain information relating to those flocks, and imposes record-keeping requirements. This legislation was the subject of a full public consultation in 2007. An Impact Assessment was prepared and is available at
http://www.opsi.gov.uk/si/si2007/em/uksiem_20073574_en.pdf

1.3 This IA does not seek to re-consider the costs and benefits of the NCPs which are the subject of separate legislation. This IA looks at the distributional impacts of the fees regulations, in effect the transfer of costs from Government to industry.

2 Basis for charging

2.1 Charging for these services identified in the proposed legislation is in accordance with Defra's **overall rationale** for charging. If an industry or group or individual undertakes an activity that has the potential to cause an adverse effect on others (such as pollution or risk of disease which requires regulation, or receives benefits from the regulation or service, it should face the cost of enforcing and implementing the regulation. Furthermore where charges are applied for services they should aim for full cost recovery.

2.2 HM Treasury guidance[2] indicates that charges should be set with the aim of recovering the full cost of the service provided but that Ministers may decide on a financial target short of full cost recovery and, in such cases, there should be a plan to achieve full cost recovery within a reasonable period.

2.3 A table summarising the proposed charges under Zoonoses and Animal By-Products (Fees) (England) (No 2) Regulations 2008 is set out in section 6 of this Impact Assessment.

3 Options

3.1 When the Fees Regulations No 1 were drafted it was recognised that the full costs to Animal Health in providing this service had risen sharply and were not anticipated by industry when Defra consulted on the implementation of the NCP for laying flocks in 2007. In the most part these increases were due to changes in the mechanism for government accounting between Defra and Animal Health. The new accounting procedures provide a more accurate reflection of the

[2] HM Treasury: Managing Public Money (October 2007) – Chapter 6, Fees, Charges and Levies

costs to Animal Health in providing these services as costs are no longer subsumed/subsidised by core Defra.

3.2 The overall Defra charge to Animal Health for Shared Services had increased to £2.9m from £900k in 2007 (322% increase). These shared services provide many of Animal Health's back office finance functions. The increases of costs also affect the charges for the collection of samples from breeding flocks.

3.3 Defra recognised pressures facing the poultry industry including rising fuel and feed costs, increases in investment needed to ensure regulatory compliance and increased competition from imports. The preferred option under the Fees Regulations No 1 therefore proposed phasing in the increased cost of the shared service component of this administration charge over a 2 year period: 50% of the increase of this component in 2007/8; 75% in 2008/9; and 100% in 2009/10. Due to a re-assessment of the cost of Shared Services by Animal Health this plan has been modified slightly. The cost will be phased-in with 75% of the increase from 1 January 2009 and 100% from 1 April 2009.

3.4 The proposed amendment to the Fees Regulations would result in a Base fee of £55 plus investigation fee of £25 per ½ hour (or part thereof) from 1 January 2009. From 1 April 2009 according to the current Animal Health estimate it would be £63 reflecting the full economic cost of the testing activity. The Fees Regulations No 2 will also cover the cost of testing the optional samples provided for by EU Regulation 1237/2007.

Costs to operators of laying flocks for official control sampling

3.5 Under the Fees Regulations No 1, the charge to operators of laying flocks was derived from a base fee of £45 plus investigation fee of £25 per ½ hour (or part thereof). Under The Fees Regulations No 2, the charge is derived from a base fee of £55 plus investigation fee of £25 per ½ hour (or part thereof). The £15 charge for VLA to examine each official control sample has not changed. All official samples are examined by the VLA.

3.6 In order to estimate costs it is assumed that each eligible laying holding would require a visit by Animal Health once in each production cycle for the purpose of collecting or supervising the collection of one official sample from one flock on that holding and that one production cycle lasts roughly one year. Animal Health charges are based on the cost of visits rather than the total number of samples taken and it is anticipated that Animal Health would collect or supervise the collection of official samples from one flock on a holding at a single visit, which would last between 1 and 2 hours. It is estimated that 1200 holdings in UK are eligible for official control sampling under the *Salmonella* National Control Programme in Laying holdings.

3.7 Defra have approved an industry control programme managed by The British Egg Industry Council within the scope of the National Control Programme. This authorises an independent body, National Britannia Certification to act on behalf of the Competent Authority to collect official samples and submit them to VLA for examination from all eligible holdings which are members of BEIC's Lion Code Assurance Scheme. 60% of eligible holdings (720 holdings) will be sampled under the industry control programme. For Lion Code holdings the only fee payable to Government will be for the examination of samples (£15). The remaining 480 holdings will have to pay the costs of official sample collection by Animal Health in addition to the cost of examining samples.

3.8 Total costs to laying flocks for official control sampling are shown in the table below.

Table 1. Change in total costs to laying flocks for official control sampling

	Current charges		From 1 January 2009		From 1 April 2009 (provisional only)	
	High estimate (£)	**Low estimate (£)**	**High estimate (£)**	**Low estimate (£)**	**High estimate (£)**	**Low estimate (£)**
Holdings sampled by Animal Health (480 holdings)						
Average cost of AH visit	145	95	155	105	163	113
Examination of sample (by VLA)	15	15	15	15	15	15
Average cost per holding	**160**	**110**	**170**	**120**	**178**	**128**
total sampling revenue	69,600	45,600	74,400	50,400	78,240	54,240
total testing revenue	7,200	7,200	7,200	7,200	7,200	7,200
total revenue	76,800	52,800	81,600	57,600	85,440	61,440
Lion Code Holdings (720 holdings)						
total testing revenue	10,800	10,800	10,800	10,800	10,800	10,800
total costs to industry	**87,600**	**63,600**	**92,400**	**68,400**	**96,240**	**72,240**

Note
For high estimates sampling time is 2 hours
For low estimates sampling time is 1 hour

3.9 Accordingly, the increase in total costs to industry will be £7,680 in 2009 (based on a weighted average of the cost increases in the first quarter and subsequent quarters) and £8,640 in subsequent years.

Examples

3.10 Costs for small and large producers are unlikely to be significantly different. For holdings with more than 1,000 birds an official control sample will be taken from one flock once a year. It may take slightly longer to collect the sample on a large holding (100,000+ birds) than a small holding (e.g. 5,000 birds) but as noted above the difference in costs are may not be large.

3.11 Many egg producers would be classified as a small business as they employ fewer than 250 full time equivalent employees.

Costs to operators of breeding flocks for official control sampling

3.12 The charge would be derived from a base fee of £55 plus investigation fee of £25 per ½ hour (or part thereof). Breeding flocks were subject to official control sampling in 2007/8. The charges for 2009 would result in a £10 (from £45 to £55) increase in the base fee for each visit.

3.13 The charge for VLA to examine each official control sample is still set at £15.

3.14 In order to estimate costs it is assumed that each breeding flock would require a visit by Animal Health once in each production cycle for the purpose of collecting or supervising the collection of

the official samples and that one production cycle last roughly one year. It is anticipated that Animal Health would collect or supervise the collection of official samples from all the flocks on a holding at a single visit.

3.15 It is estimated that visits to breeder holdings by Animal Health staff would take between three and six hours. The time taken depends on the size and complexity of each holding. Therefore a range of costs for Animal Health component of the charge for official testing has been produced below. The higher cost assumes that a visit lasts six hours. The lower cost assumes that a visit takes three hours. It is estimated that 500 holdings in UK are eligible for official control sampling under the *Salmonella* National Control Programme in breeding flocks.

3.16 The table below includes costs of examining the official samples at the Veterinary Laboratories Agency. The estimates also include the costs of examining at the VLA the two other official samples which are taken by the operator under direction of Animal Health. It is assumed that an average holding contains 4 flocks, on which basis each holding will supply 4 official samples on three occasions (total 12) each year for examination by VLA.

Table 2. Change in total costs to breeding flocks for official control sampling

	Current charges		**From 1 January 2009**		**From 1 April 2009**	
	High estimate (£)	**Low estimate (£)**	**High estimate (£)**	**Low estimate (£)**	**High estimate (£)**	**Low estimate (£)**
Average cost of AH visit	345	195	355	205	363	213
Examination of samples (by VLA)	180	180	180	180	180	180
Average cost per holding (change from 2008)	**525**	**375**	**535 (+10)**	**385 (+10)**	**543 (+18)**	**393 (+18)**
total sampling revenue	172,500	97,500	177,500	102,500	181,500	106,500
total testing revenue	90,000	90,000	90,000	90,000	90,000	90,000
total costs to industry	262,500	187,500	267,500	192,500	271,500	196,500
Change from 2008 in total costs (%)			5,000 (1.9%)	5,000 (2.7%)	9,000 (3.4%)	9,000 (4.8%)

Note
For high estimates sampling time is 6 hours
For low estimates sampling time is 3 hours

3.17 Accordingly, the increase in total costs to industry will be £8,000 in 2009 (based on a weighted average of the cost increases in the first quarter and subsequent quarters) and £9,000 in subsequent years.

Examples

Small breeding flock holding with 2 flocks of 400 birds

3.18 Collection of samples (1 per year per flock): £205 (£10 increase from the Fees Regulations No 1)
Examination of samples (all samples from all flocks 3 times per year: £90 (no change from The Fees Regulations No 1)

Total: £295 (£5 increase from 1 Jan 2009)

Large breeding holding with 6 flocks of 1000 birds

3.19 Collection of samples (1 per year per flock): £355 (£10 increase from The Fees Regulations No 1)
Examination of samples (all samples from all flocks 3 times per year): £270(no change from The Fees Regulations No 1)

Total: £625 (£5 increase from 1 Jan 2009)

4 Optional testing

4.1 Annex 1 of Regulation (EC) 1237/2007 sets out three additional optional tests which may be carried out after SE or ST has been detected in an official sample to rule out false positive results. These tests are at the discretion of the competent authority and will only take place if specifically requested by the producer. These include:

- enhanced faeces and dust sampling (6 faecal samples and 1 dust sample); or
- sampling caeca and oviducts of 300 birds; or
- sampling 4,000 eggs

4.2 These additional tests allowed by Regulation 1237/2007 were negotiated by the UK on the understanding that they are vital to keep the continued co-operation of producers. The rationale for the inclusion of caecae and eggs in the testing regime was that industry considered that detection of *Salmonella* in eggs/organs was directly related to the risk to the consumer (of contracting salmonellosis from infected egg products).

4.3 These samples will be collected by the Competent Authority under full cost recovery. The collection of these samples will need to be supervised by the Competent Authority – in practice AH or EMI staff while on the holding, the visit charges for which are not included above. It is assumed that it will take 5 hours for AHOs/EMIs to oversee the collection of the eggs and carcasses and 4 hours to oversee the collection of the faecal and dust samples. The cost will be a base fee of £55 plus investigation fee of £25 per ½ hour (or part thereof). It will be the responsibility of the operator to ensure that these samples are delivered to the VLA for testing. The laboratory charges for these tests and assumed collection fees are:

Table 3. Cost of optional tests

Optional Tests for Layer Flocks permitted under regulation 1237/2007.	**VLA**	**Animal Health**	**Total**
a) Testing 4,000 eggs for the presence of *Salmonella*	**£ 2,150**	**£55 + £250 = £305**	**£2,455**

b) Testing internal organs from 300 carcasses for the presence of *Salmonella*	**£ 3,300**	**£55 + £250 = £305**	**£3,605**
c) Enhanced Environmental testing to 6 feacal samples and 1 dust.	**£ 105** **(7 x 15.00)**	**£55 + £200 = £255**	**£360**

4.4 The cost to the industry of charging for optional tests is difficult to estimate as it is not known how many holdings would choose to undertake voluntary testing. Current *Salmonella* prevalence in laying flocks is about 7.2%. This means that about 86 of the 1,200 laying holdings eligible for official control sampling would be found to be infected. It is assumed here that about 20% of infected holdings would choose to undertake optional testing, and that equal proportions of these holdings would choose the three testing methods listed in the table above (6 holdings each per year).

4.5 Using these assumptions, the total cost of optional testing to industry is estimated to be £38,520 per annum.

5 Financial implications to Defra of phased approach to increased Animal Health Administration costs.

5.1 By phasing-in the full increase in the shared service component of the AH administration cost industry were charged £18 less than full economic cost for each visit to a holding by Animal Health officers during 2008 (£45 against £63). From April 2009 this will reduce to zero.

5.2 It is estimated that Animal Health will visit 480 layer holdings each year and 500 breeding holdings (the number of layer holdings visited by Animal Health is reduced from the total number of 1,200 layer holdings subject to official controls as around 60% of these holdings will be independently audited as part of an approved industry control programme). Accordingly the cost to government of not passing on the full increase in the administration costs in the first year is estimated to be nearly £18,000 (i.e. £18 times 980) in January 2009 and zero from April 2009.

6 Summary of proposed charges

6.1 Under The Fees Regulations (No 2) government, including VLA and Animal Health, would recover the majority of costs in relation to the collection and testing of official control samples under the NCPs for breeding and laying flocks. Costs in relation to the Defra Approved laboratory scheme would also be recovered in full.

6.2 The Fees Regulations 2008 (No 2) is required to allow for phased in changes for official samples by Animal Health and voluntary testing to exclude false-positives. Industry were fully consulted on the phased in charges which were the preferred option before The Fees Regulations 2008 (No 1) were brought into force. The voluntary testing allowed for in Regulation (EC) 1237/2007 has been requested by industry to exclude false-positives.

6.3 Activities are set out as they would appear in the schedule to the Zoonoses and Animal By-products (Fees) (England) (No 2) Regulations 2008. In this table, as in the proposed fees regulation, "the European Regulation" means Regulation (EC) No 2160/2003 and "the Regulations" means the Animal By-Products Regulations 2005.

Activities	2008 charge (£)	Charge from 1 Jan 2009
Taking or supervising the taking of official control samples	Base fee £45 plus investigation fee of £25 per ½ hour (or part thereof).	Base fee £55 plus investigation fee of £25 per ½ hour (or part thereof)
Examining official control samples	15.00	15.00
Processing of an application for approval of a laboratory under Regulation 21 of the Regulations or Article 12 of the European Regulation	13.00	13.00
Processing of annual registration documentation in respect of a laboratory approved under Regulation 21 of the 2005 Regulations or Article 12 of the European Regulation	31.00	31.00
Inspecting a laboratory, for the purpose of Regulation 21 of the Regulations or Article 12 of the European Regulation, for a) one test b) two tests c) three tests d) four tests	 631.00 650.50 670.00 689.50	 631.00 650.50 670.00 689.50
Administering a quality control test, under Regulation 21 of the Regulations or Article 12 of the European Regulation, for a) *Salmonella* b) Enterobacteriaceae c) Clostridium Perfringens	 37.00 67.00 67.00	 37.00 67.00 67.00
Optional testing for layer flocks to exclude false-positives a) Testing 4,000 eggs for the presence of *Salmonella* b) Testing internal organs from 300 carcases for the presence of *Salmonella* c) Enhanced environmental testing to detect *Salmonella*	 N/A N/A N/A	 2,150 3,300 105

Note - this fees Regulation covers activities required under the Control of *Salmonella* in Poultry Order 2007 (CSPO) and the Animal By-products Regulations 2005 (ABPR).

Full details of individual charges are set out in the annex to this IA.

Specific Impact Tests: Checklist

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	Yes/No
Small Firms Impact Test	Yes/No	Yes/No
Legal Aid	Yes/No	Yes/No
Sustainable Development	Yes/No	Yes/No
Carbon Assessment	Yes/No	Yes/No
Other Environment	Yes/No	Yes/No
Health Impact Assessment	Yes/No	Yes/No
Race Equality	Yes/No	Yes/No
Disability Equality	Yes/No	Yes/No
Gender Equality	Yes/No	Yes/No
Human Rights	Yes/No	Yes/No
Rural Proofing	Yes/No	Yes/No

Annexes

Annex I

1. Small Firms Impact Test.

1.1 Almost all egg producers (laying flock holdings) would be classified as small businesses, as they employ fewer than 250 full time equivalent employees at the site level. For both options considered in the Impact Assessment, costs for small and large producers are unlikely to be significantly different. It may take slightly longer to collect the sample on a large holding (100,000+ birds) than a small holding (e.g. 5,000 birds). However, the upper range of costs per year are estimated to be around £170 and lower range of costs estimated at £120.

1.2. Using the criteria for small businesses employing fewer than 250 full time equivalent employees it is assumed that all operators of breeding flocks would be classed as small businesses. Accordingly it should be noted that the examples given in sections 3.1.2 and 3.2.2 are likely to apply small business such that the very smallest businesses may see a small increase in costs - £10 increase in the examples given.

1.3. Again approved laboratories under the scheme are likely to fall under the small business category. The costs of the services provided to these business under the Fees Regulations (No 2) for quality assurance tests have seen a £10 increase. The increase is inflationary and is due to the cost of mixing quality test samples. Industry was warned of this increase in the Impact Assessment for The Fees Regulations (No 1).

1.4. In summary the majority of the operators affected by the proposed Fees Regulations (No 2) would be classified as small businesses. It is not considered that these businesses would be disproportionately affected by the proposed charges as the charges themselves are relatively small and fall equally across all parts of the industry.

2. Carbon Impact

2.1. The legislation is not believed to result in any significant change in carbon emissions.

Annex II: Outcome of Specific Impact Tests

Legal Aid

The Proposal does not create new criminal sanctions or civil penalties.

Carbon Impact Assessment

The Proposal will have no significant effect on carbon emissions.

Other Environmental Issues

The Proposal has no implications in relation to climate change, waste management, landscapes, water and floods, habitat and wildlife or noise pollution.

Health Impact Assessment

No impacts

Race /Disability/Gender

The legislation does not impose any restriction or involve any requirement which a person of a particular racial background, disability or gender would find difficult to comply with. Conditions apply equally to all individuals and businesses involved in the activities covered by the legislation.

Human Rights

No impacts noted

Rural Proofing

The majority of producers affected by the charging legislation are based in rural areas.

Annex III: Charges (for 2008/9) relating to official control samples under the *Salmonella* National Control Programmes for breeding flocks and laying flocks

1. Basis for published charges

The proposed fees regulations provide the Secretary of State with powers to recover costs for the activities undertaken on his behalf with regard to:

- sampling and testing official control samples required under point 2.1.2.2 of the Annex to Commission Regulation (EC) No 1003/2005 implementing Regulation (EC) No 2160/2003 as regards a Community target for the reduction of the prevalence of certain *Salmonella* serotypes in breeding flocks of *Gallus gallus* and amending Regulation (EC) No 2160/2003.
- sampling and testing official control samples required under point 2.1 of the Annex to Commission Regulation (EC) No 1168/2006 implementing Regulation (EC) No 2160/2003 as regards a Community target for the reduction of the prevalence of certain *Salmonella* serotypes in laying flocks of *Gallus gallus* and amending Regulation (EC) No 1003/2005.
- sampling and testing optional samples under point 4 (b) of Annex I to Commission Regulation (EC) No 1237/2007 amending Regulation (EC) No 2160/2003 of the European Parliament and of the Council and Decision 2006/696/EC as regards the placing on the market of eggs from *Salmonella* infected flocks of laying hens.
- the authorisation of approved laboratories under the Animal By-Products Regulations 2005 [or/and] Regulation (EC) No 2160/2003.

The applicable fees for each service are published in the schedule to these fees regulations. The charges are derived on the basis of the following principles of the HM Treasury Fees and Charges Guide (2004).

- The financial objective should be full cost recovery for the services provided. In principle the full cost should be recovered each year.
- The full cost should be calculated on an accruals basis. It is the total cost of all the resources used in providing the service (direct and indirect costs, including a full proportional share of overhead costs and any selling and distribution

expenses, insurance, depreciation and cost of capital, etc, both cash and "non-cash" costs).

- The costs should be actual whenever possible, with estimates (e.g. based on periodic surveys) used only when the actual information is not available (or only available at disproportionate cost). Whenever possible, the method of assessing costs should be that used for the operating cost statement of departments' resource accounts (or other public bodies' annual accounts). Where necessary, a method of apportioning overhead costs should be determined and applied consistently.

The items which make up the costs of the services which are intended to be recovered by the charges specified in the proposed fees legislation cover:

(a) travel costs in relation to sampling, supervision, inspection and testing.
(b) personnel costs in relation to sampling, supervision, inspection, testing and any application.
(c) accommodation costs in relation to sampling, supervision, inspection, testing and any application.
(d) equipment costs in relation to sampling, supervision, inspection, testing and any application.

The details of the proposed charges are set out in the following pages including information about the purpose of each charge and how each charge is derived. Some rounding (to the nearest 50 pence) has been applied to the proposed charges to simplify invoicing and collection.

2. Details of each charge proposed

(a) Taking or supervising the taking of official control samples

Purpose of charge

This charge covers duties carried out by Animal Health, on behalf of the Secretary of State, in visiting and collecting or supervising the collection of official control samples from breeding flock holdings or laying flock holdings for the purpose of verifying progress towards *Salmonella* reduction targets specified in Regulation (EC) 2160/2003, Regulation (EC) 1003/2005 (breeding flocks) and Commission Regulation (EC) No 1168/2006 (laying flocks).

Proposed 2009 Charge:
Base fee £55 plus investigation fee of £25 per ½ hour (or part thereof).

How the charge is derived:

The charge is based on two components

a) The base charge is a fixed fee that covers costs that are associated with the supervision of or the taking of official control samples on all holdings. Costs are derived on estimates of the time taken to process an application (e.g. organising visits, systems inputs, checking test results etc.) by the various grades of staff involved. These

estimates of time have been multiplied by the Animal Health charge out rate. The Animal Health charge out rates are based upon the average employment costs for each grade of Animal Health staff (includes salary, employer's NIC and employer's pension contributions) plus overheads and notional costs (taken from the Animal Health budgets for 2007/08). These rates are then adjusted for productivity. An hourly rate is then calculated by dividing the annual rate by 215 working days and 7.4 hours per day. The 215 working days are arrived at by taking 260 weekdays and adjusting for holiday and estimated other non delivery time (e.g. training and sick).

The other costs relating to the 'Basic Application Fee' are based upon estimates from Defra Shared Service Division (SSD) which provides most of Animal Health's back office functions including: accounts receivable, accounts payable, human resources costs, etc. Due to changes in the mechanism for government accounting between Defra and Animal Health, the overall SSD charge to Animal Health has increased to £2.9m from £900k in 2007 (322% increase). This change provides a more accurate reflection of the costs to Animal Health in providing these services as costs are no longer subsumed/subsidised by core Defra.

When the Fees Regulations (No 1) were drafted the full cost for shared services for 2008/09 was calculated at £35. Including this cost in full would have led to a base fee of £56 for 2008/09. In the previous fees regulations the costs of these services for breeding flock operators was only partially reflected in the charge to operators. We recognised that passing on this increased charge to operators in full in a single year would represent a significant and unexpected increase and so we decided to phase these increases and an estimate of the total annual cost of these services in relation to official control sampling was calculated and spread over the estimated number of tests required per annum to produce a fixed charge.

As noted in the table below, the component of the charge for Shared service costs for 2007/8 (item 8) was £13. The full cost for shared services for 2008/09 calculated at £35. Including this cost in full would have led to a base fee of £63 for 2008/09. This would have represented a 97% increase on the £32 charge for 2007/8. By passing on 50% of the estimated shared service costs this year the 2008/9 base fee would be £55 compared to £32 for 2007/8. This represents option 2 in the Impact Assessment for The Fees Regulations (No 1).

Analysis of basic application fee by cost factors -		**2007/8** £	**2008/9** £
1.	Salaries, overtime, national insurance and superannuation costs	15	16
2.	Recruitment and training costs	1	1
3.	Travel and incidental expenses	1	-
4.	Office accommodation, equipment and services	2	3
5 & 6.	Protective clothing and equipment	-	-
7.	Sampling and analysis costs	-	-
8.	Shared service costs	13	35
Total		**32**	**55**

b) The additional investigation fee is a time based charge calculated on a per test basis. The rate for this part of the charge is based on the hourly rate of an Animal Health

Officer (AHO) who would be conducting the official visit for the purpose of supervising the collection of official samples. This charge has remained the same at £25 per half hour.

This is based on the different elements of salary, overhead and other charges as follows:

Component	**2009**
Salary (£)	15
Overheads (£)	4.50
Other charges including accommodation and shared services (£)	5.50
Total	**25**

Note that costs are rounded to nearest 50p

(b) Examining official control samples

This charge has not changed.

Purpose of charge

This charge covers duties performed by the VLA, on behalf of the Secretary of State, in examining the official control samples collected by Animal Health under (a). This examination will determine the presence or absence of *Salmonella* in the sample.

Proposed 2009 Charge (£)
15.00

How the charge is derived:

A single charge is applicable for the examination by the VLA of all official samples supplied to them. The cost derives from an average time to perform the test plus necessary test consumables and reagents. The cost of staff time is based mainly on the approved rate for a VLA grade F in the Laboratory Testing Department.

Pay costs per chargeable hour	£24.70
Non pay	£6.92
Overhead	£13.18
Total cost per chargeable hour	**£44.80**

A small proportion of the £15 charge takes account of weekend work that may be needed to process a proportion of all samples received. Weekend work is charged at an increased rate. This increase will be spread across all samples and so samples received at VLA over a weekend will not be subject to a surcharge.

(c) Processing of an application for approval of a laboratory under Regulation 21 of the Regulations or Article 12 of the European Regulation

This charge has not changed.

Purpose of charge

This charge covers duties performed by Defra in administering an application for a private laboratory to be authorised under the approved laboratory scheme. This charge only applies where the laboratory is not included in the scheme at the time of the application (i.e. this charge is additional to the annual registration charge under the scheme).

Proposed 2009 Charge (£)
13.00

How the charge is derived:

This charge is based on a Defra official at the AO grade spending 0.5 hours to complete this initial administration of an application. The AO hourly rate is £26.40 which includes salary costs (pay, pension and national insurance contribution), accommodation and general overheads.

The charge has been rounded down to the nearest 50 pence.

(d) Processing of annual registration documentation for laboratory approval

This charge has not changed

Purpose of charge

This charge covers duties performed by Defra in processing an application from a private laboratory for annual registration to the approved laboratory scheme and for administration of that registration during the year. This charge would be levied for each year that the laboratory would wish to remain part of the approved laboratory scheme.

Proposed 2009 Charge (£)
31.00

How the charge is derived:

This charge is based on a Defra official at the AO grade spending 1 hour 10 minutes to complete the administration of a successful application. The AO hourly rate is £26.40 which includes salary costs (pay, pension and national insurance contribution), accommodation and general overheads.

The charge is levied at the same rate as for charge (d) as many of the functions of this service are the same.

The charge has been rounded up to the nearest 50 pence.

(e) Inspecting a laboratory for the purpose of Regulation 21 of the Regulations or Article 12 of the European Regulation

This charge has not changed.

Purpose of charges

This charge covers duties performed by the VLA, on behalf of the Secretary of State, and Defra in arranging and carrying out inspections of approved laboratories. Inspections will be scheduled on a regular basis (every two to three years) or in response to a laboratory's failure to correctly identify a succession of quality assurance samples. The VLA carries out the inspection and Defra provides administrative support to this function.

Proposed 2009 Charge (£)

Number approved tests carried out by lab inspected	VLA component	Defra administration charge	Total
1 test	604.50	26.50	631.00
2 tests	624.00	26.50	650.50
3 tests	643.50	26.50	670.00
4 tests	663.00	26.50	689.50

1 test e.g. *Salmonella* testing for CSPO or *Salmonella* testing for ABPR
3 tests e.g. 2 of ABPR tests with *Salmonella* test for CSPO.

How the charge is derived

The charge is made up of two parts. Most of the cost covers VLA activities but a smaller amount covers Defra administrative costs. Costs have been rounded to the nearest 50 pence.

a) The VLA part of the charge is derived to take account of the time taken by VLA Band C staff to prepare for, attend and carry out the inspection and produce a report following the inspection. The charge includes travelling time to the customer and return, inspection time, consideration time, writing the report and answering customer queries.

The proposed 2009 prices have increased by around 2.8% compared with 2007/8 costs (with 50p rounding as usual). This is an estimated figure based on expected VLA staff rates for 2008/09. The time allocated for a laboratory inspection is 8.5 hours.

b) The Defra part of the charge is based on a Defra official at the AO grade spending one hour to liaise with VLA inspectors to arrange the laboratory visit, issue paperwork regarding the visit and keep a record of the outcome of the visit. This results in a Defra administration charge of £26.40 per visit, which is rounded up to £26.50. The AO hourly rate is £26.40 which includes salary costs (pay, pension and national insurance contribution), accommodation and general overheads.

(f) Administering a quality control test under Regulation 21 of the Regulations or Article 12 of the European Regulation

This charge has not changed.

Purpose of charges

This charge covers duties performed by the VLA, on behalf of the Secretary of State, and Defra in managing a quality assurance scheme for approved laboratories. VLA issue samples to laboratories that are required to examine the sample to determine the presence or absence of specific organisms and then return results to VLA. Defra provides administrative support to this function.

The charges below relate to a single distribution of a QA sample for each organism listed. As noted in the main section of the RIA one QA sample per organism will be distributed when a laboratory first applies to join the scheme. Thereafter 4 QA samples will be distributed to approved laboratories each year for each organism for which they are approved.

Proposed 2009 Charge (£)

Organism tested	VLA component	Defra administration charge	Total
Salmonella (CSPO)	35.00	2.00	37.00
Salmonella (ABPR)	35.00	2.00	37.00
Enterobacteriaceae (ABPR)	65.00	2.00	67.00
Clostridium Perfringens (ABPR)	65.00	2.00	67.00

How the charge is derived:

The charge is made up of two parts. Most of the cost covers VLA activities but a small amount covers Defra administrative costs.

a) The VLA cost derives from staff time at the approved rate/hour for the appropriate grade (which includes all salary costs and overheads), test consumables and reagents, and postage and packaging.

A charge for postage and packaging of samples has been incorporated into the unit cost for each quality control test this year and this charge accounts for most of the increases compared with 2007/8 costs. In previous years an annual charge for postage and packaging was charged by VLA to Defra separately for each organism tested but was not included in the Fees Regulations. This charge was estimated in 2002 at £17 per organism. This charge has been recalculated on the basis of current costs.

The cost of staff time is based on the approved rate for a VLA grade F in the Quality Assurance Unit:

Pay costs per chargeable hour £	£24.70
Non pay	£6.92
Overhead	£13.18
Total cost per chargeable hour	**£44.80**

b) The Defra part of the charge is based on a Defra official at the AO grade spending five minutes per sample issued to check that each sample has been issued and to note the results of each sample completed. This results in a Defra administration charge of £2.11 per QA sample – which is rounded down to £2.00. The AO hourly rate is £26.40 which includes salary costs (pay, pension and national insurance contribution), accommodation and general overheads.