

**2008 No. 98**

**FOOD**

**The Meat (Official Controls Charges) (Scotland)  
Regulations 2008**

<i>Made</i>	- - - -	<i>6th March 2008</i>
<i>Laid before the Scottish Parliament</i>		<i>7th March 2008</i>
<i>Coming into force</i>		<i>31st March 2008</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of and paragraph 1A of Schedule 2 to the European Communities Act 1972(a) and all other powers enabling them to do so.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Scottish Ministers that it is expedient for the references to Community instruments defined in Schedule 1 to be construed as references to those instruments as amended from time to time.

There has been consultation as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(b).

**Citation, commencement, period of effect and extent**

1.—(1) These Regulations may be cited as the Meat (Official Controls Charges) (Scotland) Regulations 2008, come into force on 31st March 2008 and cease to have effect on 1st January 2010.

(2) These Regulations extend to Scotland only.

**Interpretation**

2.—(1) In these Regulations—

“accounting period” means a period of less than a year determined by the Agency;

“the Agency” means the Food Standards Agency;

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(a) 1972 c.68 (“the 1972 Act”). Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3) and the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”), section 27(1). The functions conferred on a Minister of the Crown under section 2(2) of the 1972 Act, so far as exercisable within devolved competence, were transferred to the Scottish Ministers by section 53 of the 1998 Act. In so far as not so transferred and in so far as relating to food (including drink) including the primary production of food, those functions were transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005 (S.I. 2005/849). Paragraph 1A of Schedule 2 to the 1972 Act was inserted by section 28 of the 2006 Act.

(b) O.J. No. L 31, 1.2.02, p.1. The Regulation was amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (O.J. No. L 245, 29.9.03, p.4) and Commission Regulation (EC) No. 575/2006 (O.J. No. L 100, 8.4.06, p.3).

“agreed slaughterhouse staff costs” means, in respect of any slaughterhouse at which poultry or lagomorphs are slaughtered–

- (a) the proportion (expressed as a sum of money) of the salaries (including overtime payments and employers’ pension and National Insurance contributions) paid to the staff at that slaughterhouse in respect of an accounting period that the Agency and the operator of the slaughterhouse may agree as being attributable to any such staff assisting with official controls by carrying out certain tasks there during that period under Article 5.6 of Regulation 854/2004; plus
- (b) 25% of that sum;

“cutting plant” means an establishment which is used for boning and/or cutting up fresh meat for placing on the market and which–

- (a) is approved or conditionally approved under Article 31.2 of Regulation 882/2004; or
- (b) (although lacking the approval or conditional approval that it requires under Article 4.3 of Regulation 853/2004) was, on 31st December 2005, operating as licensed cutting premises under the Fresh Meat (Hygiene and Inspection) Regulations 1995(a) or the Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995(b);

“cutting up” has the meaning that it bears in Regulation 853/2004 and “cut up” shall be construed accordingly;

“Directive 2004/41”, “Regulation 178/2002”, “Regulation 852/2004”, “Regulation 853/2004”, “Regulation 854/2004”, “Regulation 882/2004”, “Regulation 1688/2005”, “Regulation 2073/2005”, Regulation 2074/2005”, “Regulation 2075/2005” and “Regulation 2076/2005” have the meanings respectively given to them in Schedule 1;

“domestic ungulates” has the meaning given to it in point 1.2 of Annex I to Regulation 853/2004;

“employers’ National Insurance contributions” means those social security contributions for which employers are liable under Part I of the Social Security Contributions and Benefits Act 1992(c);

“establishment” has the meaning given to it in Article 2.1(c) of Regulation 852/2004;

“farmed game” has the meaning given to it in point 1.6 of Annex I to Regulation 853/2004;

“food business operator” has the meaning given to it in Article 3.3 of Regulation 178/2002;

“fresh meat” has the meaning given to it in point 1.10 of Annex I to Regulation 853/2004;

“game” has the meaning that it bears in Regulation 853/2004;

“game-handling establishment” means any establishment in which game and game meat obtained after hunting are prepared for placing on the market and which–

- (a) is approved or conditionally approved under Article 31.2 of Regulation 882/2004; or
- (b) (although lacking the approval or conditional approval that it requires under Article 4.3 of Regulation 853/2004) was, on 31st December 2005, operating as a licensed wild game processing facility under the Wild Game (Hygiene and Inspection) Regulations 1995(d);

“game meat” has the meaning that it bears in Regulation 853/2004;

“lagomorphs” has the meaning given to it in point 1.4 of Annex I to Regulation 853/2004;

“meat” has the meaning given to it in point 1.1 of Annex I to Regulation 853/2004;

“official controls” means the controls performed by the Agency under Regulation 854/2004–

- (a) at slaughterhouses, game-handling establishments and cutting plants, for the verification of compliance with the provisions of Regulation 853/2004 in so far as

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(a) S.I. 1995/539, revoked with effect from 1st January 2006 by S.S.I. 2005/505.  
(b) S.I. 1995/540, revoked with effect from 1st January 2006 by S.S.I. 2005/505.  
(c) 1992 c.4.  
(d) S.I. 1995/2148, revoked with effect from 1st January 2006 by S.S.I. 2005/505.

they apply in relation to meat of domestic ungulates, meat from poultry and lagomorphs, meat of farmed game or as the case may be meat of wild game; and

- (b) at slaughterhouses, for the verification of compliance with the provisions of the Welfare of Animals (Slaughter or Killing) Regulations 1995<sup>(a)</sup> insofar as they apply in relation to animals slaughtered for human consumption there;

“official controls charge” means the charge calculated in accordance with Schedule 2 and notified in accordance with regulation 3(1), (2) or (3);

“operator” means a food business operator who is carrying on the business of a slaughterhouse, game-handling establishment or cutting plant or that operator’s duly authorised representative;

“placing on the market” has the meaning given to it in Article 3.8 of Regulation 178/2002;

“poultry”, except where the context otherwise requires, has the meaning given to it in point 1.3 of Annex I to Regulation 853/2004;

“premises” means any slaughterhouse, game-handling establishment or cutting plant;

“slaughterhouse” means an establishment used for slaughtering and dressing animals, the meat of which is intended for human consumption and which—

- (a) is approved or conditionally approved under Article 31.2 of Regulation 882/2004; or
- (b) (although lacking the approval or conditional approval that it requires under Article 4.3 of Regulation 853/2004) was, on 31st December 2005, operating as a licensed slaughterhouse under the Fresh Meat (Hygiene and Inspection) Regulations 1995 or the Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995;

“verification” means checking, by examination and provision of objective evidence; and

“wild game” has the meaning given to it in point 1.5 of Annex I to Regulation 853/2004.

(2) In these Regulations, any reference to a Community instrument defined in Schedule 1 is a reference to that instrument as amended from time to time.

## **Charges**

3.—(1) The Agency shall, subject to the following provisions of this regulation, notify the operator of each slaughterhouse, game-handling establishment and cutting plant in which official controls have been exercised in any accounting period of an official controls charge in respect of those official controls as soon as practicable after the end of that period.

(2) Where the Agency cannot comply with paragraph (1) because it has insufficient information available to it to enable it to calculate the official controls charge for any accounting period in respect of any such premises as are specified in that paragraph, it shall notify the operator of those premises of an interim charge, being such amount as the Agency estimates (having regard to the information it has) the official controls charge to be.

(3) Where the Agency has notified an operator of an interim charge in accordance with paragraph (2), and sufficient information becomes available to the Agency to calculate the official controls charge, it shall calculate that charge and—

- (a) where it exceeds the interim charge, notify the operator of the final charge, being the amount by which the official controls charge exceeds the interim charge; or
- (b) subject to paragraph (6), where it is less than the interim charge, credit to the operator the amount by which the interim charge exceeds the official controls charge.

(4) Any charge notified to an operator under paragraph (1), (2) or (3) shall be payable by the operator to the Scottish Ministers and shall be recoverable on demand by the Scottish Ministers or by the Agency acting on their behalf, as a debt from the operator concerned.

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(a) S.I. 1995/731, amended by S.I. 1999/400 and 1820, S.S.I. 2000/62, 2001/73 and 145, 2002/238, 2004/13, 2006/536 and 2007/150.

(5) Where any agreed slaughterhouse staff costs have been used to calculate a charge falling to be notified under paragraph (1), (2) or (3), those costs shall be set off against the amount of that charge in calculating the actual charge notified thereunder, provided that no refund shall be made to the relevant operator.

(6) Where under paragraph (3)(b) a sum is to be credited to an operator, the Scottish Ministers may if they so determine pay such sum to the operator concerned instead of crediting such sum to the operator.

#### **Withdrawal of official controls**

4. Where the Scottish Ministers, or the Agency acting on their behalf, have obtained decree against an operator of any premises for any sum which is payable to the Scottish Ministers under regulation 3(4) and the operator fails within a reasonable time thereafter to comply with that decree, the Scottish Ministers may (without prejudice to any other legal remedy open to them) direct the Agency not to exercise any further official controls at those premises in respect of which the debt accrued until the debt has been satisfied.

#### **Information**

- 5.—(1) Any person shall, on demand being made by the Agency, supply—
- (a) such information as the Agency may reasonably require for the purpose of calculating the official controls charge or notifying an operator of it; and
  - (b) such evidence as the Agency may reasonably require to enable it to verify information supplied under sub-paragraph (a).
- (2) Any person who—
- (a) without reasonable excuse, fails to comply within a reasonable time with a demand made under paragraph (1); or
  - (b) in purported compliance with paragraph (1), knowingly or recklessly supplies information which is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **Amendment of the Fishery Products (Official Controls Charges) (Scotland) Regulations 2007**

6.—(1) Regulation 2 (interpretation) of the Fishery Products (Official Controls Charges) (Scotland) Regulations 2007(a) is amended in accordance with paragraph (2).

- (2) In the definition of “third country import”, for “48(1)” substitute “54”.

#### **Revocation**

7. The Meat (Official Controls Charges) (Scotland) (No. 2) Regulations 2007(b) are revoked.

*S ROBISON*  
Authorised to sign by the Scottish Ministers

St Andrew's House,  
Edinburgh  
6th March 2008

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(a) S.S.I. 2007/537.  
(b) S.S.I. 2007/538.

## DEFINITION OF COMMUNITY INSTRUMENTS

“Directive 2004/41” means Directive 2004/41/EC of the European Parliament and of the Council repealing certain directives concerning food hygiene and health conditions for the production and placing on the market of certain products of animal origin intended for human consumption and amending Council Directives 89/662/EEC and 92/118/EEC and Council Decision 95/408/EC(a);

“Regulation 178/2002” means Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety;

“Regulation 852/2004” means Regulation (EC) No. 852/2004 of the European Parliament and of the Council on the hygiene of foodstuffs(b) as read with Commission Regulation (EC) No. 2073/2005;

“Regulation 853/2004” means Regulation (EC) No. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin(c) as read with Directive 2004/41/EC of the European Parliament and of the Council, Commission Regulation (EC) No. 1688/2005, Commission Regulation (EC) No. 2074/2005 and Commission Regulation (EC) No. 2076/2005;

“Regulation 854/2004” means Regulation (EC) No. 854/2004 of the European Parliament and of the Council laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption(d) as read with Directive 2004/41/EC of the European Parliament and of the Council, Commission Regulation (EC) No. 2074/2005, Commission Regulation (EC) No. 2075/2005 and Commission Regulation (EC) No. 2076/2005;

“Regulation 882/2004” means Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules(e) as read with Commission Regulation (EC) No. 2074/2005 and Commission Regulation (EC) No. 2076/2005;

“Regulation 1688/2005” means Commission Regulation (EC) No. 1688/2005 implementing Regulation (EC) No. 853/2004 of the European Parliament and of the Council as regards

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- (a) O.J. No. L 157, 30.4.04, p.33. The revised text of Directive 2004/41/EC is now set out in a Corrigendum (O.J. No. L 195, 2.6.04, p.12).
- (b) O.J. No. L 139, 30.4.04, p.1. The revised text of Regulation (EC) No. 852/2004 is now set out in a Corrigendum (O.J. No. L 226, 25.6.04, p.3) and is corrected by Corrigendum (O.J. No. L 204, 4.8.07, p.26).
- (c) O.J. No. L 139, 30.4.04, p.55. The revised text of Regulation (EC) No. 853/2004 is now set out in a Corrigendum (O.J. No. L 226, 25.6.04, p.22). The Regulation was amended by Regulation 2074/2005, Regulation 2076/2005, Commission Regulation (EC) No. 1662/2006 amending Regulation (EC) No. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin (O.J. No. L 320, 18.11.06, p.1), Council Regulation (EC) No. 1791/2006 adapting certain Regulations and Decisions in the fields of free movement of goods, freedom of movement of persons, company law, competition policy, agriculture (including veterinary and phytosanitary legislation), transport policy, taxation, statistics, energy, environment, cooperation in the fields of justice and home affairs, customs union, external relations, common foreign and security policy and institutions, by reason of the accession of Bulgaria and Romania (O.J. No. L 363, 20.12.06, p.1), Commission Regulation (EC) No. 1243/2007 amending Annex III to Regulation (EC) No. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin (O.J. No. L 281, 25.10.07, p.8) and corrected by Corrigendum (O.J. No. L 204, 4.8.07, p.26).
- (d) O.J. No. L 139, 30.4.04, p.206. The revised text of Regulation (EC) No. 854/2004 is now set out in a Corrigendum (O.J. No. L 226, 25.6.04, p.83). The Regulation was amended by Regulation 882/2004, Regulation 2074/2005, Regulation 2076/2005 and Council Regulation (EC) No. 1791/2006, and corrected by Corrigendum (O.J. No. L204, 4.8.07, p.29).
- (e) O.J. No. L 165, 30.4.04, p.1. The revised text of Regulation (EC) No. 882/2004 is now set out in a Corrigendum (O.J. No. L 191, 28.5.04, p.1). Regulation (EC) No. 882/2004 was amended by Commission Regulation (EC) No. 776/2006 amending Annex VII to Regulation (EC) No. 882/2004 of the European Parliament and of the Council as regards Community reference laboratories (O.J. No. L 136, 24.5.06 p.3), Council Regulation (EC) No. 1791/2006, and corrected by Corrigendum (O.J. No. L204, 4.8.07, p.29).

special guarantees concerning salmonella for consignments to Finland and Sweden of certain meat and eggs(a);

“Regulation 2073/2005” means Commission Regulation (EC) No. 2073/2005 on microbiological criteria for foodstuffs(b);

“Regulation 2074/2005” means Commission Regulation (EC) No. 2074/2005 laying down implementing measures for certain products under Regulation (EC) No. 853/2004 of the European Parliament and of the Council and for the organisation of official controls under Regulation (EC) No. 854/2004 of the European Parliament and of the Council and Regulation (EC) No. 882/2004 of the European Parliament and of the Council, derogating from Regulation (EC) No. 852/2004 of the European Parliament and of the Council and amending Regulations (EC) No. 853/2004 and (EC) No. 854/2004(c);

“Regulation 2075/2005” means Commission Regulation (EC) No. 2075/2005 laying down specific rules on official controls for *Trichinella* in meat(d); and

“Regulation 2076/2005” means Commission Regulation (EC) No. 2076/2005 laying down transitional arrangements for the implementation of Regulations (EC) No. 853/2004, (EC) No. 854/2004 and (EC) No. 882/2004 of the European Parliament and of the Council and amending Regulations (EC) No. 853/2004 and (EC) No. 854/2004(e).

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- (a) O.J. No. L 271, 15.10.05, p.17.
- (b) O.J. No. L 338, 22.12.05, p.1, corrected by Corrigenda at O.J. No. L 278, 10.10.06, p.32 and O.J. No. L 283, 14.10.06, p.62 and amended by Regulation (EC) No. 1441/2007 amending Regulation (EC) No. 2073/2005 on microbiological criteria for foodstuffs (O.J. No. L 322, 7.12.07, p.12).
- (c) O.J. No. L 338, 22.12.05, p.27, as amended by Commission Regulation (EC) No. 1664/2006 amending Regulation (EC) No. 2074/2005 as regards implementing measures for certain products of animal origin intended for human consumption and repealing certain implementing measures (O.J. No. L 320, 18.11.06, p.13) and Commission Regulation (EC) No. 1244/2007 amending Regulation (EC) No. 2074/2005 as regards implementing measures for certain products of animal origin intended for human consumption and laying down specific rules on official controls for the inspection of meat (O.J. No. L 281, 25.10.07, p.12).
- (d) O.J. No. L 338, 22.12.05, p.60, as amended by Commission Regulation (EC) No. 1665/2006 amending Regulation (EC) No. 2075/2005 laying down specific rules on official controls for *Trichinella* in meat (O.J. No. L 320, 18.11.06, p.46) and Commission Regulation (EC) No. 1245/2007 amending Annex I to Regulation (EC) No. 2075/2005 as regards the use of liquid pepsin for the detection of *Trichinella* in meat (O.J. No. L 281, 25.10.07, p.19).
- (e) O.J. No. L 338, 22.12.05, p.83, as amended by Commission Regulation (EC) No. 1666/2006 amending Regulation (EC) No. 2076/2005 laying down transitional arrangements for the implementation of Regulations (EC) No. 853/2004, (EC) No. 854/2004 and (EC) No. 882/2004 (O.J. No. L 320, 18.11.06, p.47), Commission Regulation (EC) No. 479/2007 amending Regulation (EC) No. 2076/2005 laying down transitional arrangements for the implementation of Regulations (EC) No. 853/2004, (EC) No. 854/2004 and (EC) No. 882/2004 and amending Regulations (EC) No. 853/2004 and (EC) No. 854/2004 (O.J. No. L 111, 28.04.07, p.46) and Commission Regulation (EC) No. 1246/2007 amending Regulation (EC) No. 2076/2005 as regards the extension of the transitional period granted to food business operation importing fish oil intended for human consumption (O.J. No. L 281, 25.10.07, p.21).

## CALCULATION OF THE OFFICIAL CONTROLS CHARGE

**The official controls charge**

1. Subject to paragraph 2, the official controls charge payable by the operator of any premises for any accounting period shall be the lower of—

- (a) the sum of—
  - (i) the standard charge incurred in relation to those premises for that period; and
  - (ii) any additional charge incurred in relation to those premises for that period; and
- (b) the time costs generated by those premises for that period.

2.—(1) This paragraph applies where the official controls charge calculated under paragraph 1 for any accounting period (amount A), when added to the official controls charge payable in respect of all earlier accounting periods falling within the same financial period (amount B), produces a total (amount C) which is greater than the amount of the official controls charge which would be payable under paragraph 1 if those accounting periods were one accounting period (amount D).

(2) Where this paragraph applies, the official controls charge payable by an operator for an accounting period shall be the amount by which amount D exceeds amount B.

(3) In this paragraph “financial period” means—

- (a) the period commencing on 31st March 2008 and ending on 29th March 2009; and
- (b) thereafter, the period commencing on 30th March 2009 and ending on 31st December 2009.

**The standard charge**

3. The standard charge for any accounting period payable by the operator of a slaughterhouse shall be calculated—

- (a) for the period commencing on 31st March 2008 and ending on 31st December 2008, by multiplying the rate specified in the following Table applicable to a given type of animal by the number of animals of that type slaughtered and/or dressed there in the period; and
- (b) for the period commencing on 1st January 2009 and ending on 31st December 2009—
  - (i) in the same manner; or
  - (ii) by multiplying the rate in Euros specified in Chapter I of Section B of Annex IV to Regulation 882/2004 applicable to a given type of animal specified in the following Table by the number of animals of that type slaughtered and/or dressed there in the period and converting the resulting sum into Sterling by multiplying it by the Euro/Sterling conversion rate published in the C series of the Official Journal of the European Union on 1st September 2008 or, if no rate is published in it on that date, the first rate published in it thereafter,

whichever results in the higher charge.

4. The standard charge for any accounting period payable by the operator of a game-handling establishment in respect of wild game dressed there during that period shall be calculated—

- (a) for the period commencing on 31st March 2008 and ending on 31st December 2008, by multiplying the rate specified in the following Table applicable to a given type of animal that is categorised as wild game by the number of animals of that type dressed there in the period; and

- (b) for the period commencing on 1st January 2009 and ending on 31st December 2009–
- (i) in the same manner; or
  - (ii) by multiplying the rate in Euros specified in Chapter III of Section B of Annex IV to Regulation 882/2004 applicable to a given type of animal that is categorised as wild game and is specified in the following Table by the number of animals of that type dressed there in the period and converting the resulting sum into Sterling by multiplying it by the Euro/Sterling conversion rate published in the C Series of the Official Journal of the European Union on 1st September 2008 or, if no rate is published in it on that date, the first rate published in it thereafter,
- whichever results in the higher charge.



<i>Type of animal</i>	<i>Rate per type of animal in Pounds Sterling</i>
Bovine animals	
–aged less than 8 months at slaughter	1.9084
–aged 8 months or more at slaughter	3.4350
Solipeds and equidae	3.3587
Pigs	
–carcase weight less than 25 kg	0.3817
–carcase weight equal to or greater than 25 kg	0.9924
Sheep and goats	
–carcase weight less than 12 kg	0.1336
–carcase weight between 12 and 18 kg inclusive	0.2672
–carcase weight greater than 18 kg	0.3817
Ducks and geese	
–weighing less than 2 kg	0.0077
–weighing at least 2 kg (except those which are adult and weigh at least 5 kg)	0.0153
–adult and weighing at least 5 kg	0.0305
Turkeys	
–any weight (except those which are adult and weigh at least 5 kg)	0.0169
–adult and weighing at least 5 kg	0.0305
Poultry of a type not mentioned above	
–all broilers; all cast hens; other poultry weighing less than 2 kg	0.0077
–poultry (not being broilers or cast hens) weighing at least 2 kg (except those which are adult and weigh at least 5 kg)	0.0153
–poultry (not being broilers or cast hens) being adult and weighing at least 5 kg	0.0305
Farmed rabbits	
–weighing less than 2 kg	0.0077
–weighing at least 2 kg (except those which are adult and weigh at least 5 kg)	0.0153
–adult and weighing at least 5 kg	0.0305
Small game birds	
–weighing less than 2 kg	0.0077
–weighing at least 2 kg (except those which are adult and weigh at least 5 kg)	0.0153
–adult and weighing at least 5 kg	0.0305

<i>Type of animal</i>	<i>Rate per type of animal in Pounds Sterling</i>
Small ground game	
–weighing less than 2 kg	0.0077
–weighing at least 2 kg (except those which are adult and weigh at least 5 kg)	0.0153
–adult and weighing at least 5 kg	0.0305
Ratites	0.9924
Land mammals of a type not mentioned above	
–boars	1.0136
–ruminants of carcase weight no more than 18 kg	0.3379
–ruminants of carcase weight greater than 18 kg	0.3817

5. The standard charge for any accounting period payable by the operator of a cutting plant or of a game-handling establishment in respect of meat brought into the plant or establishment during that period for the purposes of being cut up or boned there shall be calculated–

- (a) for the period commencing on 31st March 2008 and ending on 31st December 2008, by multiplying by £2.29 the number of tonnes of such meat; and
- (b) for the period commencing on 1st January 2009 and ending on 31st December 2009–
  - (i) in the same manner; or
  - (ii) by multiplying the rate in Euros specified in Chapter II of Section B of Annex IV to Regulation 882/2004 applicable to meat derived from a given type of animal by the number of tonnes of meat derived from animals of that type brought into the plant or establishment during that period for the purposes of being cut up or boned there and converting the resulting sum to Sterling by multiplying it by the Euro/Sterling conversion rate published in the C Series of the Official Journal of the European Union on 1st September 2008 or, if no rate is published in it on that date, the first rate published in it thereafter,

whichever results in the higher charge.

#### **The additional charge**

6.—(1) Where in respect of an accounting period the Agency incurs increased costs because of inefficiency in the operation of premises, it may, in accordance with this paragraph, add an additional charge to the standard charge incurred in relation to the premises for that period.

(2) The additional charge shall be a sum equal to the time costs generated by the inefficiency for the accounting period concerned.

(3) The Agency may not make an additional charge in accordance with this paragraph unless it has notified the operator of its intention to do so.

(4) The notification referred to in sub-paragraph (3) shall be given as soon as is practicable after the Agency has concluded that it wishes to make an additional charge in accordance with this paragraph.

(5) For the purposes of this paragraph “inefficiency” means inefficiency on the part of the operator and shall include in particular–

- (a) delay in the start of slaughtering attributable to the operator;
- (b) mechanical breakdown caused by lack of maintenance;
- (c) enforcement action taken by the Agency or an inspector;

- (d) under-employment of inspectors caused by the operator's failure to adhere to the working hours or working practices agreed for the purposes of this paragraph pursuant to sub-paragraph (6);
- (e) insufficient provision of slaughter staff caused by the operator's failure to adhere to the working hours or working practices agreed for the purposes of this paragraph pursuant to sub-paragraph (6);
- (f) delays caused by risks to the health or safety of inspectors attributable to the operator; and
- (g) any change to the working hours or working practices agreed for the purposes of this paragraph pursuant to sub-paragraph (6) which is attributable to the operator.

(6) For the purposes of sub-paragraph (5)(d), (e) and (g), the Agency and the operator shall agree working hours and working practices and shall keep the working hours and working practices so agreed under review.

(7) Where, following any such review, it appears to the Agency and the operator that it is appropriate to do so, they may by further agreement vary any working hours or working practices agreed pursuant to sub-paragraph (6).

(8) Where any working hours or working practices have been varied pursuant to sub-paragraph (7) they shall be treated as having been agreed pursuant to sub-paragraph (6).

(9) No additional charge may be made in accordance with this paragraph in respect of any increased costs incurred because of any variation in working hours or working practices which does not alter the working hours or working practices which have been agreed in accordance with sub-paragraph (6).

7.—(1) An operator who does not agree that an additional charge is justified under paragraph 6 may request that the question be determined by a person nominated for the purpose pursuant to sub-paragraph (3)(a).

(2) A request under sub-paragraph (1) shall be made within 1 week of the Agency giving the operator notice under paragraph 6(3).

(3) Where an operator makes a request under sub-paragraph (1)–

- (a) the Agency shall nominate a person to determine the question from the list established under sub-paragraph (4);
- (b) the person so nominated shall give the operator and the Agency an opportunity to make representations on the question to be determined; and
- (c) the person so nominated shall, within 1 month of being nominated, decide whether an additional charge is payable and shall notify the operator and the Agency of the decision.

(4) The Agency shall establish and maintain a list of people who may be nominated for the purposes of this paragraph and shall consult those organisations appearing to represent operators before including any person on the list.

### **Time costs**

8. The time costs generated by any premises in any accounting period shall (subject to paragraphs 9 and 10) be calculated by–

- (a) multiplying the time (expressed in hours and fractions of an hour) spent by each inspector exercising official controls at those premises in the period by the hourly rate applicable to that inspector determined or varied in accordance with paragraphs 11 to 13;
- (b) adding the results together; and
- (c) adding any agreed slaughterhouse staff costs for the period.

9. The time costs in respect of any official controls shall include any overtime payments or other similar allowances made to the inspector concerned under that inspector's contract of employment or contract for services for exercising those official controls.

**10.** In determining the total time spent in exercising official controls, any time spent by an inspector—

- (a) in travelling to or from premises at which that inspector exercises official controls and for which that inspector is paid under a contract of employment or contract for services;
- (b) at any premises to which that inspector has gone for the purpose of exercising official controls and for which that inspector is paid under a contract of employment or contract for services (regardless of whether or not that inspector is able to exercise official controls there); and
- (c) at any other place—
  - (i) when that inspector is available for exercising official controls but is not in fact exercising any such controls; and
  - (ii) for which that inspector is paid under that inspector’s contract of employment or contract for services,

shall be counted as if it were time when the inspector was exercising official controls.

**11.** The Agency shall determine the hourly rate applicable to inspectors, and may determine different rates for different inspectors or different classes of inspector, having regard to the level of qualifications and experience of different inspectors or classes of inspector and to the cost of exercising official controls by different inspectors or classes of inspector.

**12.** The hourly rate for any inspector or class of inspector shall be calculated so as to reflect such proportion of the costs of the items listed in Annex VI to Regulation 882/2004 incurred by that inspector or class of inspector in exercising official controls (excluding any additional costs taken into account pursuant to paragraph 9) as the Agency considers it proper to apportion to that hourly rate.

**13.** The Agency may vary any rate determined pursuant to paragraph 11 where, having regard to variations in the costs referred to in paragraph 12, it appears to it to be necessary to do so.

**14.** Prior to determining or varying hourly rates in accordance with paragraphs 11 to 13, the Agency shall consult such operators as are likely to be affected by those rates.

## **Definitions**

**15.** In this Schedule—

- (a) “inspector” means an official veterinarian or an official auxiliary;
- (b) “official auxiliary” and “official veterinarian” have the meanings respectively given to them in Article 2.1(h) and (f) of Regulation 854/2004;
- (c) “the additional charge” means the charge for any accounting period that is incurred in relation to any premises calculated in accordance with paragraph 6;
- (d) “the standard charge” means the charge for any accounting period that is incurred in relation to a slaughterhouse, game–handling establishment or cutting plant and calculated in accordance with paragraph 3, 4 or 5, as the case may be;
- (e) “time costs” means, in relation to any establishment for any accounting period, the costs calculated in accordance with paragraphs 8 to 10; and
- (f) any other expression used both in this Schedule and in Regulation 882/2004 has the meaning that it bears in Regulation 882/2004.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations extend to Scotland only. They revoke and replace the Meat (Official Controls Charges) (Scotland) (No. 2) Regulations 2007.

These Regulations provide for the execution and enforcement in relation to Scotland of Articles 26 and 27 of Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules, in so far as those provisions–

- (a) require or, in the case of certain types of poultry (e.g. quail), permit fees to be collected to cover the costs occasioned by official controls performed on meat of domestic ungulates, meat from poultry and lagomorphs, meat of farmed game and meat of wild game under Regulation (EC) No. 854/2004 of the European Parliament and of the Council laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption and;
- (b) require fees to be collected to cover the costs occasioned by official controls performed to verify compliance with the animal welfare rules set out in Council Directive 93/119/EC (O.J. No. L 340, 31.12.93, p.21) in so far as they apply in relation to animals slaughtered for human consumption at slaughterhouses.

These Regulations–

- (a) provide that references to the Community instruments defined in Schedule 1 are to be construed as references to those instruments as they may be amended from time to time (regulation 2(2));
- (b) require the Food Standards Agency (“the Agency”) to notify the operator of each slaughterhouse, game-handling establishment and cutting plant in which official controls have been exercised of the official controls charge that has arisen in relation to those official controls (the terms “slaughterhouse”, “game-handling establishment”, “cutting plant”, “official controls” and “official controls charge” are all defined in regulation 2) (regulation 3);
- (c) provide that any official controls charge so notified is payable by the operator to the Scottish Ministers on demand (regulation 3);
- (d) allow the Scottish Ministers to direct the Agency not to exercise any further official controls at given premises where, despite a Court decree requiring the operator of the premises to pay the official controls charge for which the operator is liable, that operator fails to comply with the decree (regulation 4);
- (e) require persons to supply the Agency on demand–
  - (i) with such information as the Agency may reasonably require for the purpose of calculating the official controls charge or notifying the operator of it; and
  - (ii) with such evidence as the Agency may reasonably require to verify that information (regulation 5); and
- (f) provide that a person who–
  - (i) without reasonable excuse, fails to comply within a reasonable time with a demand for information or evidence; or
  - (ii) in response to a demand for information or evidence, knowingly or recklessly gives false or misleading information,is guilty of an offence (regulation 5).

Schedule 2 to these Regulations sets out how the official controls charge is to be calculated.

A full regulatory impact assessment of the effect that this instrument will have on business costs has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Food Standards Agency, 6th Floor, St Magnus House, 25 Guild Street, Aberdeen, AB11 6NJ.



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**FOOD**

**The Meat (Official Controls Charges) (Scotland)  
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