

2006 No. 2285

FOOD

The Charges for Residues Surveillance Regulations 2006

Made - - - - 22nd August 2006

Laid before Parliament 25th August 2006

Coming into force - - 1st October 2006

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 6(4), 45 and 48(1)(b) and (c) of the Food Safety Act 1990(a) and now vested in him(b).

In accordance with section 48(4A) of that Act he has had regard to advice given by the Food Standards Agency on the proposal to make the Regulations.

In accordance with 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(c), he has consulted those whom he considers likely to be affected by the Regulations.

Title, extent and commencement

1. These Regulations may be cited as the Charges for Residues Surveillance Regulations 2006, extend to Great Britain and come into force on 1st October 2006.

Interpretation

2. In these Regulations—

“animal” means any bovine animal, swine, soliped, sheep, goat, poultry, game or wild game;

“animal product” means milk or eggs;

(a) 1990 c.16. Sections 45 and 48 were amended by Schedule 5 to the Food Standards Act 1999 (c. 28): paragraphs 7, 8 and 20 of that Schedule amended section 45 and paragraphs 7, 8 and 21 amended section 48.

(b) The powers, so far as they are exercisable in relation to England, were transferred by article 2(6) of the Transfer of Functions (Agriculture and Food) Order 1999 (S.I. 1999/3141) to the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly, and by article 2(3) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794) to the Secretary of State. In so far as they are exercisable in relation to Scotland, they were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c.46) but the Secretary of State retains a concurrent power to exercise them under section 57(1) of that Act. In so far as they are exercisable in relation to Wales, they were transferred to the National Assembly for Wales by article 2(a) of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) but the Ministers of the Crown responsible retain a concurrent power to exercise them under paragraph 5 of Schedule 3 to the Government of Wales Act 1998 (c.38); that concurrent power became vested in the Secretary of State in consequence of section 40(1) of and Schedule 5 to the Food Standards Act 1999 (c.28), but subject to any power of the Minister of Agriculture, Fisheries and Food, saved by regulation 13 of S.I. 2000/656, to join in making regulations concerning charges for inspection in relation to residues of veterinary products; that joint power was transferred to the Secretary of State by article 2(3) of S.I. 2002/794.

(c) OJ No. L31, 1.2.2002, p. 1.

“brown trout” means any fish of the species *Salmo trutta* which has spent all of its life in fresh water;

“carcase” means the whole body of a slaughtered animal after bleeding and dressing;

“eggs” means hen eggs in shell, suitable for direct human consumption or for use in the food industry except for broken eggs, incubated eggs or cooked eggs;

“fish” means salmon, brown trout or rainbow trout;

“game” means—

- (a) land mammals which are reared and slaughtered in captivity, excluding—
 - (i) any living within an enclosed territory under conditions of freedom similar to those that they would enjoy if they were living in the wild,
 - (ii) any bovine animal, swine, soliped, sheep or goat, and
 - (iii) members of the Family *Leporidae*;
- (b) birds (including ratites but excluding poultry) which are not generally considered to be domestic but which are bred, reared and slaughtered in captivity; and
- (c) domestic rabbits;

“milk” means cows’ milk;

“poultry” means domestic fowls, turkeys, guinea fowls, ducks or geese;

“rainbow trout” means fish of the species *Oncorhynchus mykiss*;

“salmon” means fish of the species *Salmo salar*;

“wild game” means—

- (a) wild land mammals which are hunted (including wild land mammals living within an enclosed area under conditions of freedom similar to those that they would enjoy if they were living in the wild); or
- (b) wild birds.

Liability for and recovery of charges for residues surveillance

3.—(1) In respect of the costs incurred by the Secretary of State in carrying out the inspections and controls required by Directive 96/23 on the animals, fish or animal products listed in the first column of Schedule 1, he shall, except where paragraph (7) applies, for each animal, fish or animal product so listed, charge the amount specified opposite in the second column of that Schedule.

(2) Any charge under paragraph (1) is payable to the Secretary of State, and is recoverable by him on demand as a debt owed to him by the person liable to pay the charge under paragraph (3).

(3) The person liable to pay that charge is—

- (a) in relation to any animal other than wild game, the operator of the business slaughtering the animal for sale or supply for human consumption;
- (b) in relation to wild game, the operator of the business preparing the carcase of the wild game for sale or supply for human consumption;
- (c) in relation to fish, the operator of the business producing the fish;
- (d) in relation to milk, the operator of the dairy collecting the milk, or, in the case of milk that is not collected in a dairy before being sold or supplied for human consumption, its producer; and
- (e) in relation to eggs, the operator of the business packing the eggs.

(4) Where any person referred to in sub-paragraph (a), (b), (d) or (e) of paragraph (3) has paid a charge under that sub-paragraph, he may recover on demand a sum equal to that charge as a debt owed to him by any person on whose behalf he slaughtered the animal, prepared the wild game, collected the milk or packed the eggs (as the case may be) in respect of which he made payment.

(5) The Secretary of State may enter into an agreement with an organisation that he considers is supported by egg packing businesses providing for that organisation to pay for his inspection and control of eggs.

(6) If the Secretary of State enters into an agreement pursuant to paragraph (5), he shall, as soon as reasonably practicable thereafter, publicise—

- (a) the fact of having done so,
- (b) its duration, and
- (c) if the agreement is not of a fixed term, the way in which he will notify its termination,

in a manner suitable for informing persons concerned in the egg trade.

(7) Paragraph (1) shall not apply in respect of any inspection or control in respect of which an organisation is liable for payment by virtue of an agreement under paragraph (5).

(8) Where the Secretary of State has appointed any manufacturer of brown trout or rainbow trout feed as his agent to collect the charge for his inspection and control of brown trout or rainbow trout, the manufacturer may collect the charge by incorporating the amount of the charge in the price of such feed.

(9) As soon as reasonably practicable after making such an appointment, the Secretary of State shall publicise—

- (a) the name of the appointed manufacturer,
- (b) the duration of the appointment, and
- (c) if the appointment is not for a fixed term, the way in which he will notify its termination,

in a manner suitable for informing operators of businesses producing brown trout and rainbow trout.

(10) In this regulation, “Directive 96/23” means Council Directive 96/23/EC on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives 85/358/EEC and 86/469/EEC and Decisions 89/187/EEC and 91/664/EEC^(a) as amended on the date on which these Regulations are made^(b).

Information, offences and enforcement

4.—(1) Any person so required by the Secretary of State shall supply—

- (a) such information as the Secretary of State requires for the purpose of calculating charges payable under these Regulations; and
- (b) such evidence as the Secretary of State requires to enable him to verify information supplied under sub-paragraph (a).

(2) Any person who, without reasonable excuse, fails to comply within a reasonable time with a demand made under paragraph (1) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Any person who knowingly furnishes the Secretary of State with false or misleading information for him to use when calculating charges payable under these Regulations shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) These Regulations shall be enforced by the Secretary of State.

Revocations

5. The instruments specified in Schedule 2 are revoked.

(a) OJ No. L125, 23.5.1996, p. 10.

(b) The last amendment was made by 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 (OJ No. L 165, 30.4.2004, p. 1).

Transitional provision

6. Any agreement made under the revoked instruments, if subsisting on the date these Regulations come into force, shall be treated as an agreement made under these Regulations.

Ben Bradshaw

Parliamentary Under Secretary of State,

Department for Environment, Food and Rural Affairs

22nd August 2006

SCHEDULE 1

Regulation 3(1)

Residues surveillance charges

<i>Type of creature or animal product</i>	<i>Charge (£)</i>
Bovine	0.4352}
Goat	0.0561}
Sheep	0.0561} per carcase
Soliped	0.3058}
Swine	0.0707}
Game and wild game	1.0461}
Poultry—	
until 31st December 2006	0.8297} per tonne
from 1st January 2007	0.6223}
Eggs	0.0129 per 360
Milk	0.0244 per 1000 litres
Salmon	2.0449 per tonne of marketed product
Trout: brown and rainbow	1.7303 per tonne of fish food

SCHEDULE 2

Regulation 5

Revocations

<i>Regulations revoked</i>	<i>Reference</i>
The Charges for Inspections and Controls Regulations 1997	S.I. 1997/2893
The Charges for Inspections and Controls (Amendment) Regulations 1998	S.I. 1998/2880
The Charges for Inspections and Controls (Amendment) (No. 2) Regulations 2004	S.I. 2004/1871
The Charges for Inspections and Controls (Amendment) Regulations 2005	S.I. 2005/12
The Charges for Inspections and Controls (Amendment) (No. 2) Regulations 2005	S.I. 2005/2715
The Charges for Inspections and Controls (Amendment) Regulations 2006	S.I. 2006/756

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations—

- (a) require fees to be paid for the Secretary of State's surveillance of animals and animal products for residues of veterinary medicinal products and other substances (regulation 3(1));
- (b) lay down provisions relating to the liability for and recovery of fees (regulation 3);
- (c) enable the Secretary of State to require information and supporting evidence to be supplied to him for the purpose of enabling him to calculate fees (regulation 4(1));
- (d) create offences of failing to comply with a demand to supply information and supplying false or misleading information (regulation 4);
- (e) revoke the Charges for Inspections and Controls Regulations 1997 (S.I. 1997/2893) (regulation 5); and
- (f) make transitional provision for agreements made under any of the revoked instruments (regulation 6).

Changes to fees (by comparison with the Charges for Inspections and Controls Regulations 1997), ranging approximately from decreases of 25% to increases of 45%, are itemised in the table below. Other sums are the same as before.

<i>Type of creature or product</i>	<i>Current sum (£)</i>	<i>Replacement sum (£)</i>	
Bovine	0.4246	0.4352	
Goat	0.0387	0.0561	per carcase
Sheep	0.0387	0.0561	
Swine	0.0831	0.0707	
Eggs	0.0104	0.0129	per 360
Milk	0.0212	0.0244	per 1000 litres
Salmon	1.8590	2.0449	per tonne of marketed product
Trout: brown and rainbow	1.5730	1.7303	per tonne of fish food

An additional change is that the Secretary of State is required to publicise the appointment of fish feed manufacturers as his agent for the collection of the charge for the inspection and control of brown trout and rainbow trout (regulation 3(9)).

A further change is that it is now an offence knowingly to supply false or misleading information to the Secretary of State for the purpose of calculating charges payable under these Regulations, whether or not it is requested by the Secretary of State (regulation 4(3)). Previously, only supplying false or misleading information in response to such a request was an offence.

These Regulations give effect, until 1st January 2007, to Article 2 of Council Directive 85/73/EEC on the financing of veterinary inspections and controls covered by Directives 89/662/EEC, 90/425/EEC, 90/675/EEC and 91/496/EEC (OJ No. L32, 5.2.85, p. 14) ('the old rules'), which was last amended by Council Directive 97/79/EC (OJ No. L24, 30.1.98, p. 31).

From 1st January 2007, these Regulations give effect (except for honey) to Article 27, as read with Annex IV Section A, 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 (OJ No. L165, 30.4.2004, p.1, as corrected by the corrigendum in OJ No. L191, 28.5.2004, p. 1) instead of the old rules (see the entry for poultry in Schedule 1).

A Regulatory Impact Assessment of the effect of this instrument on the costs of business has been placed in the Library of each House of Parliament. Copies are available from the Veterinary Medicines Directorate, Woodham Lane, New Haw, Addlestone, Surrey KT15 3LS.

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