

**EXPLANATORY MEMORANDUM TO
THE CHARGES FOR RESIDUES SURVEILLANCE (AMENDMENT)
REGULATIONS 2007**

2007 No. 2439

1.1 This Explanatory Memorandum has been prepared by the Veterinary Medicines Directorate (VMD), an Executive Agency of the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

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

2. Description

2.1 It is a requirement of Community law that Member States operate a National Surveillance Scheme for residues of veterinary medicines and certain other substances in food animals and animal products. It is also a Community law requirement that charges are made in the sectors covered by the surveillance (red meat, poultry, eggs, milk, farmed fish and wild and farmed game) to recover the costs of operating the scheme. This SI amends the charges made in some sectors in this financial year.

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

3.1 Committee members were advised in previous years that the VMD has an agreement with the British Egg Industry Council, whereby the BEIC pays the cost of the surveillance direct to the VMD and recovers the cost from the larger egg packers as the BEIC sees fit. SI 2005/12 enabled the Secretary of State to enter into a formal agreement, which was made in April 2005. This has the effect that the increase in charges to the egg industry are much lower owing to the VMD only having to deal with one customer, which reduces its administrative costs. However, this SI again contains provision for the percentage increase which would be needed if the agreement is terminated and the VMD has to revert to collecting from several hundred egg packing stations directly.

4. Legislative Background

4.1 The surveillance of animals and animal products for residues of veterinary medicinal products and certain other substances is a requirement under Community Law (Council Directive 96/23/EC). Community law requires a charge to be made on the industries covered to fund the surveillance, which was previously applied under the provisions of Council Directive 85/73/EEC as amended. This has now been replaced by Council Regulation 882/2004 (Article 27 in particular), which was applied in Great Britain from 1 January 2007 in respect of surveillance charges for residues of veterinary medicines.

4.2 The surveillance scheme is implemented in Great Britain under “The Animals and Animal Products (Examination for Residues and Maximum Residue Limits) Regulations 1997” SI 1729. Regulation 882/2004 is implemented by The Charges for Residues Surveillance Regulations 2006. The primary enabling power to make charges is section 45 of the Food Safety Act 1990 (c.16).

5 Extent

5.1 This instrument applies to Great Britain.

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 The VMD runs the National Surveillance Scheme (NSS) for residues of veterinary medicines and certain other substances. Each year over 30,000 samples are collected from abattoirs and farms throughout the United Kingdom. These are analysed to check that they do not contain residues that may harm human health. This fulfils the UK’s obligations under Council Directive 96/23/EC. The sampling programme and charges levied are based on national throughput in the sectors.

7.2 The VMD has a ministerial target to achieve full cost recovery of the costs of the scheme. The charges had not been increased since 1995 for red meat and 1998 for the other sectors until 2004. A review of the charging levels in each sector in 2004 revealed that they were insufficient to recover all the costs of the surveillance scheme. The review also identified that the balance of burdens in the charging structure would need to be remedied over the following financial years.

7.3 This SI sets out the amended charges for 2007/08. Proposed charges for 2008/9 and 2009/10 have also been calculated. These however are best estimates and cannot be considered as final figures.

7.4 The aims of the amendments in the charges in these Regulations are to:

- achieve full cost recovery for running the NSS in the financial year 2007/08 and,
- continue to adjust the burdens between the sectors.

7.5 In accordance with Government policy, an extensive consultation on the proposed charges for 2007/08 and the estimates for 2008/09 and 2009/10 took place over a three-month period. Approximately 250 organisations, together with over 750 producers of red meat, poultry, game, milk and fish were consulted. Only three responses have been received, with one raising an objection.

7.6 The Scottish Association of Meat Wholesalers (SAMW) expressed concern at the proposed level of increases for cattle and sheep over the three year period, and noted that the Government is committed to full cost recovery on several other fronts at a time when profitability across the industry is poor for various reasons. The organisation also noted that there is a review of the legislation governing the surveillance programme underway, and suggested that there should be no increases until the review is completed. This is unrealistic, as the review of the EU legislation is not expected to be finalised until 2009 – to avoid any increases in the cattle and sheep sectors until then would affect the recovery of full costs. In responding to SAMW officials will reiterate the intention to keep any further increases necessary as low as possible.

Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

8.2 The impact on the public sector is negligible.

9. Contact

David Webb
Residues Surveillance Unit
Veterinary Medicines Directorate
Woodham Lane
New Haw
Addlestone
Surrey
KT15 1LS

Telephone. 01932 338327

Fax. 01932 336618

E mail: d.webb@vmd.defra.gsi.gov.uk

Department for Environment, Food and Rural Affairs
August 2007

Table 2. Summary of the values of the various livestock sectors and residue charges for 2007/08 with compliance costs for typical and small businesses¹.

Sector	Value of industry (£)	Cost of Residue Testing (£)	Charge per animal (£)	Typical Business			Small Business		
				No of animals	Value (£)	Cost of Residue Testing (£)	No of animals	Value (£)	Cost of Residue Testing (£)
Cattle	1,266,000,000	1,045,000	0.4744	20,000	9,207,273	9,488	4,500	2,071,636	2,135
Pigs	687,000,000	609,000	0.0636	204,000	16,024,240	12,974	2,000	157,100	127
Sheep	702,000,000	775,000	0.0603	157,000	6,663,080	9,467	8,000	339,520	482

Sector	Value of industry (£)	Cost of Residue Testing (£)	Charge per tonne (£)	Typical Business			Small Business		
				Tonnes	Value (£)	Cost of Residue Testing (£)	Tonnes	Value (£)	Cost of Residue Testing (£)
Poultry	1,315,000,000	819,000	0.6379	13,500	11,221,555	8,612	9	7,481	5.7
Farmed fish									
Salmon	300,000,000	248,000	2.0449	2,000	3,550,296	4,090	135	239,645	276.1
Trout*	30,000,000	32,000	1.7303	55	103,774	143	10	18,868	26
Game			1.0461						

Sector				Typical Business			Small Business		
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¹ The industry production values were taken from the 2005 Defra Agricultural census and other sources (<http://statistics.defra.gov.uk/esg/publications/auk/2005/excel.asp>).

	Value of industry (£)	Cost of Residue Testing (£)	Charge (£)	Throughput	Value (£)	Cost of Residue Testing (£)	Throughput	Value (£)	Cost of Residue Testing (£)
Eggs**	432,000,000	142,000							
Milk	2,501,000,000	288,000	0.0266	1,737,900	316,799	46	300,000	54,687	7.98

* = Charge is levied per tonne of feed

** = A single charge is made to the British Egg Industry Council

REGULATORY IMPACT ASSESSMENT

The Charges for Residues Surveillance (Amendment) Regulations 2007

Purpose and intended effect of the proposal

Issue:

Under European Communities (EC) law (Regulation 882/2004), the Secretary of State (operationally carried out by the Veterinary Medicines Directorate) should recover the costs of running the National Surveillance Scheme (NSS) for residues of veterinary medicines and certain other substances in animals and animal products.

Before 2004 charges had not increased for the red meat sector since 1995, and not at all for the poultry, eggs, milk, fish and game sectors since their introduction in January 1998 (1999 for game). In 2004, the VMD consulted on proposed price adjustments for various sectors in the financial year 2004/05 and outlined forecasts for the financial years 2005/06 and 2006/07, based on projections of income and costs. From 1 January 2007, we were able to reduce the charge on the poultry industry by 25%, owing to the introduction of new charging arrangements in the Official Food and Feed Controls Regulations (882/2004). This enabled the VMD to charge the actual costs of surveillance in the poultry sector rather than the minimum charge per tonne included in the previous legislation.

In consulting on the proposed price increases for 2006, we explained that we would this year look again at the costs of the scheme. Partly this was to assess the effect of Regulation 882/2004 on the surveillance programme, such as the requirement for the VMD, as Competent Authority, to assess the performance of the contractors (control bodies) in the collection and analysis of NSS samples. The review also assessed our assumptions about income over the previous three years, based on throughput, and how this matched the costs of the programme.

The review has been completed and the proposed amendments to charges for the financial year 2007/08 are laid out in the consultation letter to interested parties. This RIA covers this financial year, with changes due to come into effect on 1 October 2007. A forecast of amendments to charges for the financial years 2008/09 and 2009/10 is also included in the letter. As in previous years, the accuracy of this forecast is dependent on factors such as the throughput in each sector.

Objectives:

To achieve full cost recovery for running the NSS in the financial year 2007/08 and so comply with EU law.

Risk assessment:

If the revised fee scales are not introduced, full cost recovery will not be achieved. This would risk infraction proceedings against the UK by the EU.

Options:

1. To leave charges unchanged – the VMD would be unable to achieve full cost recovery. Some of the costs of the VMD would have to be met out of existing public funds.
2. To amend the charges in line with the attached schedule.

Issues of equity and fairness:

The charges are made on all operators based on their output (see below), rather than just those from whom samples are taken. The underlying principle behind this is that it would not be reasonable for a particular operator to bear the cost of samples taken from their premises, when the whole industry benefits from the assurance given to consumers by the published results.

Benefits:

The existence of such wide-ranging surveillance programmes and the regular publication of their results play a major role in maintaining consumer confidence in the food products concerned and in preventing a misunderstanding or misrepresentation of the food safety aspects of veterinary medicines. Also, World Trade Organisation rules allow the UK authorities to test imports from Non-EU countries as we have equivalent testing of home produce – acting to further reassure consumers over food safety. As such, all producers, processors and consumers benefit from the funding of a robust, open and transparent surveillance programme for veterinary residues that is capable of acting where illegal residues are found.

Compliance Costs:

Business sectors affected:

Table 1. Businesses invoiced by the VMD to support the National Surveillance Scheme

Industry Sector	Number of Customers
Red meat	300
Poultry	85
Farmed fish	50
Milk	250
Eggs	1*
Game	60

* The British Egg Industry Council collects the costs of egg industry surveillance on behalf of the VMD.

Compliance Costs for a “typical” business:

The costs for typical and small businesses in each of the industry sectors are given in Table 2.

There should be no non-recurring costs.

Total compliance costs:

The total costs amount to just over £4 million per annum.

Impact on small business:

The interests of small businesses are protected by charging based on the size, as judged by the throughput of animals.

Other Costs:

This being a Regulation to increase charges for inspections, there are no other costs.

Results of Consultations:

These will be published soon after the end of the consultation period.

Summary and recommendations:

It is recommended that the charges be amended as set out in the attached schedule.

Enforcement, sanctions, monitoring and review:

These proposals will not change existing arrangements for enforcement, sanctions, monitoring and review.

Contact Point:

Enquiries and comments on this compliance cost assessment should be addressed to:

David Webb
Veterinary Medicines Directorate
Woodham Lane
New Haw
Addlestone
Surrey
KT15 3LS

Telephone No: 01932 338327
Fax No : 01932 336618

Declaration: (to be completed for final RIA only).

I have read the Regulatory Impact Assessment and I am satisfied that the balance between cost and benefit is the right one in the circumstances.

Signed by the responsible Minister:Jonathan Shaw.....

Date :14th August 2007.....

Table 2. Summary of the values of the various livestock sectors and residue charges for 2007/08 with compliance costs for typical and small businesses^a.

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