

## SCHEDULE 1

Regulation 2(1)

### DEFINITIONS OF COMMUNITY LEGISLATION

“Directive 2004/41” (“*Cyfarwyddeb 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](#)(1);

“Regulation 178/2002” (“*Rheoliad 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(2);

“Regulation 852/2004” (“*Rheoliad 852/2004*”) means Regulation (EC) No. [852/2004](#) of the European Parliament and of the Council on the hygiene of foodstuffs(3) as read with Regulation [2073/2005](#);

“Regulation 853/2004” (“*Rheoliad 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(4) as read with Directive [2004/41](#), Regulation [1688/2005](#), Regulation [2074/2005](#) and Regulation [2076/2005](#);

“Regulation 854/2004” (“*Rheoliad 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(5) as read with Directive [2004/41](#), Regulation [2074/2005](#), Regulation [2075/2005](#) and Regulation [2076/2005](#);

“Regulation 882/2004” (“*Rheoliad 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(6) as read with Regulation [2074/2005](#) and Regulation [2076/2005](#);

“Regulation 1688/2005” (“*Rheoliad 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 special guarantees concerning salmonella for consignments to Finland and Sweden of certain meat and eggs(7);

“Regulation 2073/2005” (“*Rheoliad 2073/2005*”) means Commission Regulation (EC) No. [2073/2005](#) on microbiological criteria for foodstuffs(8);

(1) OJ No. L157, 30.4.2004, p.33. The revised text of Directive [2004/41/EC](#) is now set out in a Corrigendum (OJ No. L195, 2.6.2004, p.12).

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

(3) OJ No. L139, 30.4.2004, p.1. The revised text of Regulation (EC) No. [852/2004](#) is now set out in a Corrigendum (OJ No. L226, 25.6.2004, p.3).

(4) OJ No. L139, 30.4.2004, p.55. The revised text of Regulation (EC) No. [853/2004](#) is now set out in a Corrigendum (OJ No. L226, 25.6.2004, p.22). Regulation (EC) No. [853/2004](#) was last amended as at the making of this instrument by 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 Romanian (OJ No. L363, 20.12.2006, p.1.).

(5) OJ No. L139, 30.4.2004, p.206. The revised text of Regulation (EC) No. [854/2004](#) is now set out in a Corrigendum (OJ No. L226, 25.6.2004, p.83). Regulation (EC) No. [854/2004](#) was last amended as at the making of this instrument by Council Regulation (EC) No. [1791/2006](#).

(6) OJ No. L165, 30.4.2004, p.1. The revised text of Regulation (EC) No. [882/2004](#) is now set out in a Corrigendum (OJ No. L191, 28.5.2004, p.1). Regulation (EC) No. [882/2004](#) was last amended as at the making of this instrument by Council Regulation (EC) No. [1791/2006](#).

(7) OJ No. L271, 15.10.2005, p.17.

(8) OJ No. L338, 22.12.2005, p.1, as read with the corrigenda at OJ No. L283, 14.10.2006, p.62.

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“Regulation 2074/2005” (“Rheoliad 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<sup>(9)</sup>;

“Regulation 2075/2005” (“Rheoliad 2075/2005”) means Commission Regulation (EC) No. 2075/2005 laying down specific rules on official controls for *Trichinella* in meat<sup>(10)</sup>; and

“Regulation 2076/2005” (“Rheoliad 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<sup>(11)</sup>.

## SCHEDULE 2

Regulation 2(1)

### 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 will 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 by virtue of paragraph 7; 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 will be the amount by which amount D exceeds amount B.

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

- (c) the period commencing on 26 March 2007 and ending on 30 March 2008; and
- (d) thereafter, the period commencing on the Monday immediately following the last Sunday in March in any year and ending on the last Sunday in March in the following year.

(9) OJ No. L338, 22.12.2005, p.27, as last amended as at the making of this instrument by Council 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 (OJ No. L320, 18.11.2006, p.13).

(10) OJ No. L338, 22.12.2005, p.60, as last amended as at the making of this instrument by Council Regulation (EC) No. 1665/2006 amending Regulation (EC) No. 2075/2005 laying down specific rules on official controls for *Trichinella* in meat (OJ No. L.320, 18.11.2006, p.46)..

(11) OJ No. L338, 22.12.2005, p.83 Regulation (EC) No. 853/2004 was last amended as at the making of this instrument by Council Regulation (EC) No. 1666/2006 amending Regulation (EC) No. 2076/2005 laying down transitional arrangement for the implementation of Regulation (EC) No. 853/2004, (EC) No. 854/2004 and (EC) No. 882/2004 of the European Parliament and of the Council.

**The standard charge**

3. The standard charge for any accounting period (expressed in Euros) payable by the operator of a slaughterhouse is to be calculated 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 or as the case may be dressed there in the period.

4. The standard charge for any accounting period (expressed in Euros) payable by the operator of a game-handling establishment in respect of wild game dressed there during that period is to be calculated by multiplying the rate specified in the following Table applicable to a given type of animal by the number of animals of that type dressed there in the period.

<i>Type of animal of animal in</i>	<i>Rate per type Euros</i>
Bovine animals	
• aged 6 weeks or more at slaughter	4.7183
• aged less than 6 weeks at slaughter	2.6213
Equidae and other solipeds	4.6134
Pigs including wild boar	
• carcase weight less than 25 kg	0.5243
• carcase weight greater than or equal to 25 kg	1.3631
Sheep, goats and other ruminants not listed elsewhere in this Table	
• carcase weight less than 12 kg	0.1835
• carcase weight between 12 and 18 kg inclusive	0.3670
• carcase weight greater than 18 kg	0.5243
Poultry, rabbits, small game birds and ground game	
• all broilers; all cast hens; other poultry, rabbits, small game birds and ground game weighing less than 2 kg	0.0105
• poultry (not being broilers or cast hens), rabbits, small game birds and ground game weighing at least 2 kg (except those which are adult and weigh at least 5 kg)	0.0210
• poultry (not being broilers or cast hens), rabbits, small game birds and ground game (all being adult) and weighing at least 5 kg	0.0419
Ostriches and other ratites	1.3631
Land mammals and birds of a type not mentioned above	1.3631

5. The standard charge for any accounting period (expressed in Euros) payable by the operator of a cutting plant or of a game-handling establishment in respect of meat brought into the plant or establishment for the purposes of being cut up or boned there is to be calculated by multiplying by

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3.1455 the number of tonnes of meat brought into the plant or establishment concerned during that period to be cut up or boned there.

6. The standard charge (expressed in Euros) is converted into sterling by multiplying it by the Euro / sterling conversion rate applicable in the year the official controls giving rise to the charge were carried out.

7.—(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 is 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) must 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” (“*aneffeitholonrwydd*”) means inefficiency on the part of the operator and includes 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 official;
- (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 must agree working hours and working practices and 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 must 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).

8.—(1) An operator who does not agree that an additional charge is justified under paragraph 7 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) must be made within 1 week of the Agency giving the operator notice under paragraph 7(3).

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

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

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

### **Time costs**

**9.** The time costs generated by any premises in any accounting period is (subject to paragraphs 10 and 11) 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 12 to 14;
- (b) adding the results together; and
- (c) adding any agreed slaughterhouse staff costs for the period.

**10.** The time costs in respect of any official controls include any overtime payments or other similar allowances made to the inspector concerned under his or her contract of employment or contract for services for exercising those official controls.

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

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

**12.** The Agency must 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.

**13.** The hourly rate for any inspector or class of inspector is to 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

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taken into account pursuant to paragraph 10) as the Agency considers it proper to apportion to that hourly rate.

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

15. Prior to determining or varying hourly rates in accordance with paragraphs 12 to 14, the Agency must consult such operators as are likely to be affected by those rates.

## Definitions

16. In this Schedule —

- (a) “official auxiliary” (“*cynorthwydd swyddogol*”) and “official veterinarian” (“*milfeddyg swyddogol*”) have the meanings respectively given to them in Article 2.1(h) and (f) of Regulation 854/2004;
- (b) “inspector” (“*arolygydd*”) means an official veterinarian or an official auxiliary;
- (c) “the standard charge” (“*y ffi safonol*”) means, in relation to any slaughterhouse, game-handling establishment or cutting plant for any accounting period, the charge calculated in accordance with paragraph 3, 4 or 5, as the case may be, converted into sterling in accordance with paragraph 6;
- (d) “the Euro / sterling conversion rate” (“*cyfradd drosi Ewro / sterling*”) applicable in respect of any given year is —
  - (i) for 2007, 1 Euro = £0.67410, and
  - (ii) in each subsequent year, the rate published in the C Series of the Official Journal of the European Communities on the first working day of the September of the preceding year or, if no rate is published in it on that day, the first rate published in it thereafter; and
- (e) “time costs” (“*costau amser*”) means, in relation to any establishment for any accounting period, the costs calculated in accordance with paragraphs 9 to 11.