

EXPLANATORY MEMORANDUM TO THE
Charges for Residues Surveillance Regulations 2006

SI 2006 No. [2285]

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 This SI increases the fees charged in some sectors. The fees remain the same in other sectors, and will decrease for poultry meat from 1 January 2007. In respect of poultry meat the current Community legislation requires that a minimum charge of 1.35 euros per tonne is made. This was set in 1997 and exceeds the costs of the surveillance programme for the sector. However, from 1 January 2007 Member States may implement Council Regulation 882/2004 on Official Controls on Food and Feed (“OFFC”) (see Article 67). This allows Member States to charge the actual costs of surveillance. The opportunity has therefore been taken to reduce the charge for poultry by 25% to 62.23 pence per tonne from 1 January 2007. This will save the industry about £250,000 in a full financial year.

3.2 In 2004 the VMD consulted on increases in the egg charge of 25% per annum for each of the three years. Subsequent discussions with the British Egg Industry Council resulted in them agreeing to pay the cost of the surveillance direct to the VMD and recover the cost from the larger egg packers as the BEIC saw fit. SI 2005/12 enabled the Secretary of State to enter into a formal agreement, which was made in April 2005. This had the effect that the increase in charges to the egg industry has been 6% for the years 2004/2005, 2005/2006 and will remain so for 2006/2007 owing to the VMD only having to deal with one customer, which reduces its administrative costs. However, this SI retains an increase of 25% in case the agreement is terminated and the VMD has to revert to collecting from several hundred poultry producers directly.

3.3 Under the current legislation Member States are not obliged to recover the cost of its surveillance programme for honey. This changes under OFFC. However, Member States need not impose a charge until the latest date for transposition which is 1 January 2008 (see Article 27(3)), which is what the UK intends to do in respect of honey.

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 (Council Directive 85/73/EEC as amended) requires a charge to be made on the industries covered to fund the surveillance.

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. Council Directive 85/73/EC is implemented under “The Charges for Inspections and Controls Regulations 1997” SI 2893. The primary enabling power to make charges is section 45 of the Food Safety Act 1990 (c.16).

4.3 Article 27 of Council Regulation 882/2004 can be applied by Member States from 1 January 2007 as explained earlier.

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. A review of the current 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 three years.

7.3 In 2004 the VMD consulted on a three-year plan to achieve these aims. The responses to that consultation accepted that the cost increases were unwelcome but necessary and welcomed their spread over three years. The consultation on the second year elicited seven responses of which four were basically acknowledgements, suggesting that industry had accepted the charges, which were broadly those outlined for that year in the original consultation. This SI covers the third year of the plan. There are two points to note for the charges for 2006/2007.

7.4 The aims of the amendments in the charges in these Regulations is to implement the third year of the three year plan to:

- achieve full cost recovery for running the NSS in the financial year 2006/07 and
- adjust the burdens between the sectors by 2006/07, whilst still achieving full cost recovery.

7.5 In accordance with Government policy, an extensive consultation on the proposed charges for 2006/07 has taken place over a three-month period. Approximately 220 organisations, together with over 1,500 producers of red meat, poultry, game, milk and fish were consulted. Only six responses have been received. None raised any issues of substance. The low response is probably because the proposed charges for each sector for the 2006/7 financial year are the same as those forecast last year and included in the 2005 consultation letter to stakeholders.

8. 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 2006

**Summary of the values of the various livestock sectors and residue charges for 2006/07
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	1,168,000	0.4352	20,000	10,880,000	8,700	4,500	2,448,000	1,958
Pigs	678,000,000	687,000	0.0707	204,000	15,871,200	14,423	2,000	155,600	141
Sheep	697,000,000	440,000	0.0561	157,000	7,159,000	8,808	8,000	364,800	449

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 *	1,230,000,000	982,000	0.8297 0.6223	13,500	10,341,000	9,675	9	6,894	6
Farmed fish									
Salmon	300,000,000	223,000	2.0449	2,000	4,409,949	4,090	135	297,672	276
Trout**	30,000,000	32,000	1.7303	55	103,774	95	10	18,868	17
Game			1.0461						

Sector	Value of industry (£)	Cost of Residue Testing (£)	Charge (£)	Typical Business			Small Business		
				Throughput	Value (£)	Cost of Residue Testing (£)	Throughput	Value (£)	Cost of Residue Testing (£)
Eggs***	432,000,000	135,000							
Milk	2,728,000,000	258,000	0.0244	1,737,900L	333,677	42	300,000L	57,600	7

* Based on 82.97 pence per tonne until 31 December 2006 and thereafter 62.23 pence per tonne.

** = Charge is levied per tonne of feed

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

¹ The industry production values were taken from the 2004 Defra Agricultural census and other sources.

The Charges for Residues Surveillance Regulations 2006

Transposition table for Articles 27 of Regulation 882/2004

Article	Objective	Implementation	Cross Reference to Regulation
27.1 and 2	Member States must charge a fee for inspections and controls carried out under Council Directive 96/23/EC	The Residues Surveillance Charges Regulations 2006 specify the animals and animal products to which charges relate and specifies who is liable to pay them.	Regulation 3(1) (that a charge is to be made), Regulation 3(2) (who is liable to pay) and Schedule 1 (animals and animal products covered).
27.3 and Annex IV	The charges for inspections and controls must be at or above the minima set out in in Annex IV for domestic produce and Annex V for imports, subject to Article 27.4.	The charges are set at the amount required to achieve full cost recovery which is generally above the minima set out (see 27.4) This SI does not deal with imports so does not implement Annex V concerning charges for imports.	Regulation 3(1) read with Schedule 1 specifies the particular charge. The charge from 1 January 2007 is the same as previously for all sectors save poultrymeat as the basis of the charge under the Regulation is the same as under the current Directive for those sectors (the actual costs of the control).
27.4 and Annex VI	Prohibits the charges to be levied from being higher than the costs involved in relation to the controls – this enables the requirement in Art 27.3 for minima to be observed to be overridden in cases where the minima is above the actual costs of control (as	The charge for the poultry industry is set at the actual costs, rather than the minimum set in Annex IV This SI does not deal with imports so does not implement the Annex V charges for imports.	See charge for poultrymeat from 1 January 2007 in Schedule 1.

	<p>is the case with poultrymeat charges in GB).</p> <p>In GB, the minimum rate in Annex IV would result in overcharging the poultry industry.</p>		
27.5,	Specifies the factors that Member States may take into consideration when calculating the cost of official controls	No transposition required in legislation as this provision only binds Member States.	
27.6	Specifies the conditions when a reduced charge for official controls may be set	No transposition required in legislation as this provision only binds Member States.	
27.7	Requires that where more than one official control is carried out at the same time, they are charged for together.	no transposition required as all residues controls are carried out separately to other official controls	
27.8	Fees for import controls are to be paid by the operator to the competent authority in charge of import controls	This SI does not deal with imports so does not implement Annex V concerning charges for imports.	
27.9	Fees shall not directly or indirectly be refunded, unless unduly collected.	No transposition required in legislation as this provision only binds Member States.	
27.10	Member States shall not collect any fees other than those referred to in this Article for the	No transposition required in legislation as this provision only binds Member	

	implementation of this Regulation.	States.	
27.11	Operators shall receive proof of their payment of fees.	No transposition required in legislation as this provision only binds Member States.	
27.12	The Member States shall make public the method of calculation of fees and communicate it to the Commission	No transposition required in legislation as this provision only binds Member States.	

REGULATORY IMPACT ASSESSMENT

The Charges for Residues Surveillance Regulations 2006

Purpose and intended effect of the proposal

Issue:

Under European Communities (EC) law (Council Directive 85/73 as amended by Directive 96/43), 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). Charges to the egg sector were reduced by 25% in 2000, but charges to the poultry sector continue to exceed costs owing to the requirement in Council Directive 96/43/EC to make a minimum charge. We are able to reduce the charge from 1 January 2007, when new charging provisions come into force.

In 2004 the VMD explained that if there were no increases it would mean the VMD would be unable to achieve full cost recovery, which would result in some of the costs being met out of public funds. The VMD also explained that it would phase in the price changes over three financial years. This proposal covers the third of those three years – the financial year 2006/07.

Objectives:

To achieve full cost recovery for running the NSS in the financial year 2006/07 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 plays 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 residues. 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 some £3.9m 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:Ben Bradshaw.....

Date :22nd August 2006.....

Table 2. Summary of the values of the various livestock sectors and residue charges for 2006/07 with compliance costs for typical and small businesses².

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	1,168,000	0.4352	20,000	10,880,000	8,700	4,500	2,448,000	1,958
Pigs	678,000,000	687,000	0.0707	204,000	15,871,200	14,423	2,000	155,600	141
Sheep	697,000,000	440,000	0.0561	157,000	7,159,000	8,808	8,000	364,800	449

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 *	1,230,000,000	982,000	0.8297 0.6223	13,500	10,341,000	9,675	9	6,894	6
Farmed fish									
Salmon	300,000,000	223,000	2.0449	2,000	4,409,949	4,090	135	297,672	276
Trout**	30,000,000	32,000	1.7303	55	103,774	95	10	18,868	17
Game			1.0461						

Sector	Value of industry (£)	Cost of Residue Testing (£)	Charge (£)	Typical Business			Small Business		
				Throughput	Value (£)	Cost of Residue Testing (£)	Throughput	Value (£)	Cost of Residue Testing (£)
Eggs***	432,000,000	135,000							
Milk	2,728,000,000	258,000	0.0244	1,737,900L	333,677	42	300,000L	57,600	7

* Based on 82.97 pence per tonne until 31 December 2006 and thereafter 62.23 pence per tonne.

** = Charge is levied per tonne of feed

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

² The industry production values were taken from the 2004 Defra Agricultural census and other sources.

