

EXPLANATORY MEMORANDUM TO
THE MEAT (OFFICIAL CONTROLS CHARGES) (ENGLAND)
REGULATIONS 2006

2006 No. 2705

1. This explanatory memorandum has been prepared by the Food Standards Agency and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This instrument requires the Food Standards Agency to charge the operators of approved meat premises in England in order to recover the costs incurred by the Agency's Executive Agency, the Meat Hygiene Service (MHS), in carrying out official controls at such premises for the purpose of checking compliance with applicable meat hygiene requirements.

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

3.1 None

4. Legislative Background

4.1.1 The instrument is being made to continue to provide for the collection of meat hygiene official controls charges in England, as required by EC legislation. It needs to come into force from 1 January 2007 when the finance provisions contained in Article 27 of Regulation (EC) 882/2004 on Official Feed and Food Controls (OFFC Regulation) take effect in all Member States and form the legal basis for charging for official controls. From that date, the Meat (Official Controls Charges) (England) Regulations 2005, which currently provide for recovery of meat hygiene official controls charges in England, will be revoked. This is because the Council Directive on which they are based, Directive 85/73/EEC, as last amended by Directive 96/43, (the Charging Directive), will be superseded by OFFC Regulation from that date.

4.1.2. The OFFC Regulation allows, with one exception, the current charging arrangements to continue until 1 January 2008 and this instrument has that effect. The exception is that, from 1 January 2007 the current requirement in the Charging Directive that charges for meat hygiene official controls must not be lower than 45% of the amount calculated on the basis of specified throughput rates (the 45% rule) is revoked.

4.2. Scrutiny History

4.2.1. A Scrutiny history in respect of the OFFC Regulation is attached at Appendix 1.

5. Extent

- 5.1 This instrument applies to England. Parallel legislation is being introduced in Scotland, Wales and Northern Ireland.

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 Policy

- 7.1.1. The finance provisions of the OFFC Regulation set minimum throughput rates that must be charged for specified meat hygiene official controls, but allow higher rates to be charged provided that the total charge does not exceed the actual cost of inspection. There is flexibility as to implementation, which allows the present charging system to be continued, that is to charge slaughterhouses, game handling establishments and meat cutting businesses the lesser of the amount calculated from current EC minimum throughput rates or the time cost of exercising the controls. This system is to ensure that charges are affordable by small to medium sized businesses.

- 7.1.2. The retention of the current EC minimum throughput rates is permitted until 1 January 2008 by a transitional provision in the OFFC Regulation.

- 7.1.3. The instrument reflects the above and the only change to the current charging system made by the instrument is the removal of a requirement that charges must not be lower than 45% of the amount calculated on the basis of EC throughput rates. This rule currently means that where charges based on time costs are lower than the throughput charge, the amount payable must be increased to at least 45% of the throughput charge.

7.2. Consultation

- 7.2.1. Around 100 stakeholders in England were consulted in line with Cabinet Office best practice over a 12-week period, including organisations representing slaughterhouse, game handling establishments and meat cutting sectors. In addition, the operators of all approved slaughterhouses, game handling establishments and meat cutting businesses were sent a letter alerting them to the consultation and giving the opportunity for them to respond either directly or via a representative organisation. Six responses were received: there were only four substantive comments, all of which welcomed the proposed abolition of the 45% minimum charge rule. A summary of the responses may be found at:
<http://www.food.gov.uk/multimedia/pdfs/consultationresponse/meatcontrolchargeengresponse.pdf>

7.3. Guidance

- 7.3.1. The MHS will issue an industry guide to operators of approved meat premises before the instrument comes into force.

7.4. Sanctions

7.4.1 The MHS will remain responsible for enforcement, sanctions and monitoring for the meat hygiene charging provisions set out in the Regulations.

8. Impact

8.1 The instrument will not impose additional cost implication on businesses, instead, some businesses will benefit from reduced charges. A Regulatory Impact Assessment is attached to this memorandum.

9. Contacts

9.1 Mrs Olukayode Odukoya at the Food Standards Agency Tel: 020 72768326 or e-mail: olukayode.odukoya@foodstandards.gsi.gov.uk can answer any queries regarding the instrument.

7.1 Part 1

7.1 PARLIAMENTARY SCRUTINY HISTORY RELEVANT TO A PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL CONCERNING OFFICIAL FEED AND FOOD CONTROLS

7.1

7.1 EUROPEAN PARLIAMENT AND COUNCIL REGULATION No. 178/2002

| | |
|-----------------------|--|
| Legislation | European Parliament and Council Regulation No. 178/2002 |
| Adopted | 28 January 2002 |
| Official Journal | L31 of 1 February 2002 (Page 1 – 24) |
| Explanatory Memoranda | 5761/00 of 2 February 2000 14174/00 of 21 January 2001 11445/01 of 11 October 2001 |

7.1 EXPLANATORY MEMORANDUM 5761/00

7.1 SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|--|--|------------------------------------|---|
| Politically important – for debate | Date: 1 March 2000 Report ref: (20875) HC 23 – x (Session 1999-2000) Paragraph 2 | Referred to Sub-Committee (List B) | Date: 8 February 2000 Sub-Committee D |
| Debated in European Standing Committee C | Date: 12 April 2000 | Recommended for debate | Date: 16 May 2000 7 th Report HL Paper 66 (Session 1999-2000) |
| | | Debated | Date: 23 June 2000 |

7.1 EXPLANATORY MEMORANDUM 14174/00

7.1 SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|--|--|---------------------------|--|
| Legally and politically important – for debate on the floor of the House | Date: 14 March 2001 Report Ref: (21886) HC 28 – viii (Session 2000-2001) Paragraph 1 | Referred to Sub-Committee | Date: 21 January 2001 Sub-Committee D |

| | | | |
|---|---|---------|--|
| Legally and politically important - cleared | Date:31 October 2001 Report Ref: (21886) HC 152 – iii (Session 2001 – 2002) Paragraph 5 | Cleared | Date: 23 March 2001 10 th Report HL Paper 66 (Session 2000-2001) |
|---|---|---------|--|

7.1 EXPLANATORY MEMORANDA 11445/01

SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|---|--|------------------------------|------------------------|
| Legally and politically important - cleared | Date: 31 October 2001 Report ref: (21886)(22675) HC 152 - iii (Session 2001-01) Paragraph 5 | Sifted to Sub-Committee D | Date: 17 October 2001 |
| | | Cleared (Sub-Committee D) | Date: 14 November 2001 |

COUNCIL DIRECTIVE 95/53/EC

| | |
|-----------------------|---|
| Legislation | Council Directive 95/53/EC |
| Adopted | 25 October 1995 |
| Official Journal | L265 of 8 November 1995(Page 17-22) |
| Explanatory Memoranda | 9612/93 of 30 November 1993 8897/94 of 29 September 1994 |

EXPLANATORY MEMORANDUM 9612/93

SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|--------------------------------------|------------------------|---------------------|-----------------------|
| Not legally or politically important | Date: 15 December 1993 | Cleared (List A) | Date: 6 December 1993 |

EXPLANATORY MEMORANDUM 8897/94

SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|--------------------------------------|-----------------------|---------------------|-----------------------|
| Not legally or politically important | Date: 19 October 1994 | Cleared (List A) | Date: 10 October 1994 |

COUNCIL DIRECTIVE 70/373/EEC

| | |
|-----------------------|------------------------------------|
| Legislation | Council Directive 70/373/EEC |
| Adopted | 20 July 1970 |
| Official Journal | L170 of 3 August 1970 (Page 2 – 3) |
| Explanatory Memoranda | No Details available |

COUNCIL DIRECTIVE 89/397/EEC

| | |
|-----------------------|-----------------------------------|
| Legislation | Council Directive 89/397/EEC |
| Adopted | 14 June 1989 |
| Official Journal | L186 of 30 June 1989 (Page 23-26) |
| Explanatory Memoranda | 4101/87 6442/89 5028/88 |

7.1 EXPLANATORY MEMORANDUM 6442/89

7.1 SCRUTINY COMMITTEES' RECOMMENDATIONS

| | | | |
|--|---------------------|------------|------------------|
| Commons | | Lords | |
| Deferred | Date: 19 April 1989 | Listed 'A' | Date: 2 May 1989 |
| Not legally or politically important – cleared | Date: 3 May 1989 | | |

COUNCIL DIRECTIVE 93/99/EEC

| | |
|-----------------------|---|
| Legislation | Council Directive 93/99/EEC |
| Adopted | 29 October 1993 |
| Official Journal | L290 of 24 November 1993 (Page 14 – 17) |
| Explanatory Memoranda | 4690/92 of 6 March 1992 11221/92 of 29 February 1993 9990/93 of 3 February 1994 6007/98 of 12 March 1998 |

EXPLANATORY MEMORANDUM 4690/92

SCRUTINY COMMITTEES' RECOMMENDATIONS

| | | | |
|--------------------------------------|---|---------------------------------|--------------------|
| Commons | | Lords | |
| Politically important not for debate | Date: 11 March 1992 Report ref: (13524) HC 24-xv (Session 1991-92) Paragraph 16 | Cleared without Report (List A) | Date: 9 March 1992 |

EXPLANATORY MEMORANDUM 11221/92

SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|---|---|---------------------------------------|--------------------------|
| Politically important not for debate | Date: 3 February 1993 Report ref: (14248) HC 79-xvii (Session 1992-93) Paragraph 6 | Cleared without Report (List A) | Date: 8 February 1993 |

EXPLANATORY MEMORANDUM 9990/93

SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|---|--------------------------|---------------------------------------|--------------------------|
| Not legally or politically important | Date: 9 February 1994 | Cleared without Report (List A) | Date: 7 February 1994 |

EXPLANATORY MEMORANDUM 6007/98

SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|--------------------|--|---------------------------------------|---------------------|
| Date: 1 April 1998 | | Cleared without Report (List A) | Date: 16 March 1998 |

COUNCIL DIRECTIVE 89/662/EEC

| | |
|-----------------------|---|
| Legislation | Council Directive 89/662/EEC |
| Adopted | 11 December 1989 |
| Official Journal | L395 of 30 December 1989 (Page 13 – 22) |
| Explanatory Memoranda | 8062/88 of 7 November 1988 8062/88 SEM of 13 December 1988 8062/88 2 nd SEM of 26 March 1990 8062/883 rd SEM of 27 April 1990 8062/88 4 th SEM of 13 June 1990 |

EXPLANATORY MEMORANDUM 8062/88

7.1 SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|--------------------------------------|---|--|--|
| Politically important not for debate | Date: 9 November 1988 Report Ref : (10534) HC 43-xxxix Session 1987-1988 paragraph 9 | Referred to Sub-Committees D & E: (List B) | Date : 14 November 1988 |
| Debated | Date : 5 June 1990 2nd Standing Committee on European Community Documents | Cleared without Report (List C) | Date : 27 January 1989 Committees D & E |

EXPLANATORY MEMORANDUM 8062/88 AND SUPPLEMENTARIES

SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons |
|---|
| At its meeting on 9 November 1988, The House of Commons Select Committee on European Legislation considered the subject of Explanatory Memorandum 8062/88 to be politically important but not for debate ([10534] HC 43-xxxix[Session 1987 –1988] Paragraph 9). At its meeting on 20 December 1989, the Committee also considered the first Supplementary Explanatory Memorandum to be politically important but not for debate. However, at its meeting on 9 May 1990, the Committee considered the subject of both the second and third Supplementary Explanatory Memoranda to be politically important and recommended the proposal for debate ([10534] HC 11-xxi [Session 1989-90] Paragraph 1). At its meeting on 13 June 1990, the Committee considered the fourth Supplementary Explanatory Memorandum and confirmed the earlier recommendation that the proposal was politically important and for debate ([10534] HC 11-xxv [Session 1989-90] paragraph 2.) The proposal was debated in the Second Standing Committee on European Community Documents. |

| Lords |
|--|
| At its meeting on 14 November 1988, the House of Lords Select Committee on the European Communities referred Explanatory Memorandum 8062/88 to Sub-Committees D and E where it cleared on 27 January 1989. At its meeting on 18 December 1989 and 26 March 1990 respectively, the Committee referred the first and second Supplementary Memoranda to Sub-Committee D and they were subsequently debated, together with the original Explanatory Memorandum, on 5 April 1990. The first and second Supplementary Memoranda were cleared by Sub-Committee D on 24 April 1990. At its meeting on 30 April and 18 June 1990 respectively, the Committee referred the third and fourth Supplementary Explanatory Memoranda to Sub-Committee D and they were subsequently cleared without report on 4 December 1990. |

COUNCIL DIRECTIVE 96/43/EC

| | |
|-----------------------|--|
| Legislation | Council Directive 96/43/EC |
| Adopted | 26 June 1996 |
| Official Journal | L8 of 11 January 1997 (Page 32) |
| Explanatory Memoranda | 11316/95 of 23 October 1995 SEM 11316/95 of 2 February 1996 |

EXPLANATORY MEMORANDUM 11316/95

SCRUTINY COMMITTEES' RECOMMENDATIONS

| | |
|---------|-------|
| Commons | Lords |
|---------|-------|

| | | | |
|--|---|---------------------|------------------------|
| Politically important – not for debate at this stage – further information requested | Date: 1 November 1995 Report Ref : (16491) HC 70-xxvi (Session 1994-95) Paragraph 9 | Cleared (List A) | Date : 30 October 1995 |
|--|---|---------------------|------------------------|

SUPPLEMENTARY EXPLANATORY MEMORANDUM 11316/95

SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|--|--|---------------------|------------------------|
| Politically important – not for debate | Date: 14 February 1996 Report Ref : (16491) HC 51-ix (Session 1995-96) Paragraph 7 | Cleared (List A) | Date : 5 February 1996 |

Part 2

PARLIAMENTARY SCRUTINY HISTORY RELEVANT TO A PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL CONCERNING OFFICIAL FEED AND FOOD CONTROLS

EUROPEAN PARLIAMENT AND COUNCIL REGULATION No. 178/2002

| | |
|-----------------------|--|
| Legislation | European Parliament and Council Regulation No. 178/2002 |
| Adopted | 28 January 2002 |
| Official Journal | L31 of 1 February 2002 (Page 1 – 24) |
| Explanatory Memoranda | 5761/00 of 2 February 2000 14174/00 of 21 January 2001 11445/01 of 11 October 2001 |

7.1 EXPLANATORY MEMORANDUM 5761/00

SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|--|--|---------------------------------------|---|
| Politically important – for debate | Date: 1 March 2000 Report ref: (20875) HC 23 – x (Session 1999-2000) Paragraph 2 | Referred to Sub-Committee (List B) | Date: 8 February 2000 Sub-Committee D |
| Debated in European Standing Committee C | Date: 12 April 2000 | Recommended for debate | Date: 16 May 2000 7 th Report HL Paper 66 (Session 1999-2000) |
| | | Debated | Date: 23 June 2000 |

7.1 EXPLANATORY MEMORANDUM 14174/00

SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|--|--|---------------------------|--|
| Legally and politically important – for debate on the floor of the House | Date: 14 March 2001 Report Ref: (21886) HC 28 – viii (Session 2000-2001) Paragraph 1 | Referred to Sub-Committee | Date: 21 January 2001 Sub-Committee D |
| Legally and politically important - cleared | Date: 31 October 2001 Report Ref: (21886) HC 152 – iii (Session 2001 – 2002) Paragraph 5 | Cleared | Date: 23 March 2001 10 th Report HL Paper 66 (Session 2000-2001) |

7.1 EXPLANATORY MEMORANDUM 11445/01

7.1 SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|---|--|------------------------------|------------------------|
| Legally and politically important - cleared | Date: 31 October 2001 Report ref: (21886)(22675) HC 152 - iii (Session 2001-01) Paragraph 5 | Sifted to Sub-Committee D | Date: 17 October 2001 |
| | | Cleared (Sub-Committee D) | Date: 14 November 2001 |

COUNCIL DIRECTIVE 95/53/EC

| | |
|-----------------------|---|
| Legislation | Council Directive 95/53/EC |
| Adopted | 25 October 1995 |
| Official Journal | L265 of 8 November 1995(Page 17-22) |
| Explanatory Memoranda | 9612/93 of 30 November 1993 8897/94 of 29 September 1994 |

EXPLANATORY MEMORANDUM 9612/93

SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|--------------------------------------|------------------------|---------------------|-----------------------|
| Not legally or politically important | Date: 15 December 1993 | Cleared (List A) | Date: 6 December 1993 |

EXPLANATORY MEMORANDUM 8897/94

SCRUTINY COMMITTEES' RECOMMENDATIONS

| | | | |
|--------------------------------------|-----------------------|------------------|-----------------------|
| Commons | | Lords | |
| Not legally or politically important | Date: 19 October 1994 | Cleared (List A) | Date: 10 October 1994 |

COUNCIL DIRECTIVE 99/20/EC (LAST AMENDMENT TO COUNCIL DIRECTIVE 95/53/EC)

| | |
|-----------------------|------------------------------------|
| Legislation | Council Directive 99/20/EC |
| Adopted | 22 March 1999 |
| Official Journal | L80 of 25 March 1999 (Page 20- 21) |
| Explanatory Memoranda | 10514/98 of 5 October 1998 |

EXPLANATORY MEMORANDUM 10514/98

SCRUTINY COMMITTEES' RECOMMENDATIONS

| | | | |
|--|-----------------------|------------------|-----------------------|
| Commons | | Lords | |
| Not legally or politically important - cleared | Date: 21 October 1998 | Cleared (List A) | Date: 12 October 1998 |

COUNCIL DIRECTIVE 70/373/EEC

| | |
|-----------------------|------------------------------------|
| Legislation | Council Directive 70/373/EEC |
| Adopted | 20 July 1970 |
| Official Journal | L170 of 3 August 1970 (Page 2 – 3) |
| Explanatory Memoranda | No Details available |

COUNCIL DIRECTIVE 89/397/EEC

| | |
|------------------------|-----------------------------------|
| Legislation | Council Directive 89/397/EEC |
| Adopted | 14 June 1989 |
| Official Journal | L186 of 30 June 1989 (Page 23-26) |
| Explanatory Memorandum | 4101/87 6442/89 5028/88 |

7.1 EXPLANATORY MEMORANDUM 6442/89

SCRUTINY COMMITTEES' RECOMMENDATIONS

| | | | |
|--|---------------------|------------|------------------|
| Commons | | Lords | |
| Deferred | Date: 19 April 1989 | Listed 'A' | Date: 2 May 1989 |
| Not legally or politically important – cleared | Date: 3 May 1989 | | |

COUNCIL DIRECTIVE 93/99/EEC

| | |
|-----------------------|---|
| Legislation | Council Directive 93/99/EEC |
| Adopted | 29 October 1993 |
| Official Journal | L290 of 24 November 1993 (Page 14 – 17) |
| Explanatory Memoranda | 4690/92 of 6 March 1992 11221/92 of 29 February 1993 9990/93 of 3 February 1994 6007/98 of 12 March 1998 |

EXPLANATORY MEMORANDUM 4690/92

SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|--------------------------------------|---|---------------------------------|--------------------|
| Politically important not for debate | Date: 11 March 1992 Report ref: (13524) HC 24-xv (Session 1991-92) Paragraph 16 | Cleared without Report (List A) | Date: 9 March 1992 |

EXPLANATORY MEMORANDUM 11221/92

SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|--------------------------------------|--|---------------------------------|-----------------------|
| Politically important not for debate | Date: 3 February 1993 Report ref: (14248) HC 79-xvii (Session 1992-93) Paragraph 6 | Cleared without Report (List A) | Date: 8 February 1993 |

EXPLANATORY MEMORANDUM 9990/93

SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|--------------------------------------|-----------------------|---------------------------------|-----------------------|
| Not legally or politically important | Date: 9 February 1994 | Cleared without Report (List A) | Date: 7 February 1994 |

EXPLANATORY MEMORANDUM 6007/98

SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|--------------------|--|------------------------|---------------------|
| Date: 1 April 1998 | | Cleared without Report | Date: 16 March 1998 |

| | | |
|--|----------|--|
| | (List A) | |
|--|----------|--|

COUNCIL DIRECTIVE 92/118 (LAST AMENDMENT TO COUNCIL DIRECTIVE 89/662)

| | |
|------------------------|---|
| Legislation | Council Directive 92/118/EEC |
| Adopted | 17 December 1992 |
| Official Journal | L 62 of 15 March 1993 (Page 49) |
| Explanatory Memorandum | 4796/90 of 12 March 1990 SEM 4796/90 of 12 June 1992 |

EXPLANATORY MEMORANDUM 4796/90

SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|--|--|------------------------------------|--|
| Politically important – for debate in Standing Committee | Date: 28 March 1990 Report Ref: (11908) HC 11-xvi (Session 1989–90) Paragraph 10 | Referred to Sub-Committee (List B) | Date: 19 March 1990 Sub-Committee B |
| Debated | Date: 5 June 1990 | Cleared (List C) | Date: 24 April 1990 |

SUPPLEMENTARY EXPLANATORY MEMORANDUM 4796/90

SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|--|---|------------------------------------|---------------------------------------|
| Politically important – not for debate | Date: 24 June 1992 Report Ref: (11908) HC 79-ii (Session 1992-93) Paragraph 4 | Referred to Sub-Committee (List B) | Date: 22 June 1992 Sub-Committee B |
| | | Cleared (List C) | Date: 27 October 1992 |

7.1 COUNCIL DIRECTIVE 97/78/EC

| | |
|-----------------------|--------------------------------------|
| Legislation | Council Directive 97/78/EC |
| Adopted | 18 December 1997 |
| Official Journal | L24 of 30 January 1998 (Page 9 – 30) |
| Explanatory Memoranda | |

7.1 COUNCIL DIRECTIVE 96/43/EC

| | |
|-----------------------|---------------------------------|
| Legislation | Council Directive 96/43/EC |
| Adopted | 26 June 1996 |
| Official Journal | L8 of 11 January 1997 (Page 32) |
| Explanatory Memoranda | 11316/95 of 23 October 1995 |

| | |
|--|---------------------------------|
| | SEM 11316/95 of 2 February 1996 |
|--|---------------------------------|

EXPLANATORY MEMORANDUM 11316/95

SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|--|---|---------------------|------------------------|
| Politically important – not for debate at this stage – further information requested | Date: 1 November 1995 Report Ref : (16491) HC 70-xxvi (Session 1994-95) Paragraph 9 | Cleared (List A) | Date : 30 October 1995 |

SUPPLEMENTARY EXPLANATORY MEMORANDUM 11316/95

SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|--|--|---------------------|------------------------|
| Politically important – not for debate | Date: 14 February 1996 Report Ref : (16491) HC 51-ix (Session 1995-96) Paragraph 7 | Cleared (List A) | Date : 5 February 1996 |

COUNCIL DIRECTIVE 85/73/EEC

| | |
|-----------------------|---------------------------------------|
| Legislation | Council Directive 85/73/EEC |
| Adopted | 29 January 1985 |
| Official Journal | L32 of 5 February 1985 (Page 14 – 15) |
| Explanatory Memoranda | No details available |

EUROPEAN PARLIAMENT AND COUNCIL REGULATION (EC) No. 999/2001

| | |
|-----------------------|--|
| Legislation | European Parliament and Council Regulation (EC) No. 999/2001 |
| Adopted | 22 May 2001 |
| Official Journal | L.147 of 31 May 2001 (Page 1 – 40) |
| Explanatory Memoranda | |

COUNCIL DIRECTIVE 89/662 (LAST AMENDED BY COUNCIL DIRECTIVE 92/118)

| | |
|-------------|------------------------------|
| Legislation | Council Directive 89/662/EEC |
| Adopted | 11 December 1989 |

| | |
|-----------------------|--|
| Official Journal | L395 of 30 December 1989 (page 13) |
| Explanatory Memoranda | 8062/88 of 7 November 1988 8062/88 SEM of 13 December 1988 8062/88 2nd SEM of 26 March 1990 8062/88 3rd SEM of 27 April 1990 8062/88 4th SEM of 13 June 1990 |

EXPLANATORY MEMORANDUM 8062/88 AND SUPPLEMENTARIES

SCRUTINY COMMITTEES' RECOMMENDATIONS

| |
|--|
| Commons |
| <p>At its meeting on 9 November 1988, The House of Commons Select Committee on European Legislation considered the subject of Explanatory Memorandum 8062/88 to be politically important but not for debate ([10534] HC 43-xxxix [Session 1987-88] paragraph 9). At its meeting on 20 December 1989, the Committee also considered the first Supplementary Explanatory Memorandum to be politically important but not for debate. However,</p> <p>at its meeting on 9 May 1990, the Committee considered the subject of both the second and third Supplementary Explanatory Memoranda to be politically important and recommended the proposal for debate ([10534] HC 11-xxi [Session 1989-90] paragraph 1). At its meeting on 13 June 1990, the Committee considered the fourth Supplementary Explanatory Memorandum and confirmed the earlier recommendation that the proposal was politically important and for debate ([10534] HC 11-xxv [Session 1989-90] paragraph 2). The proposal was debated in the Second Standing Committee on European Community Documents</p> |

| |
|--|
| Lords |
| <p>At its meeting on 14 November 1988, the House of Lords Select Committee on the European Communities referred Explanatory Memorandum 8062/88 to Sub-Committees D and E where it cleared on 27 January 1989. At its meeting on 18 December 1989 and 26 March 1990 respectively, the Committee referred the first and second Supplementary Explanatory Memoranda to Sub- Committee D and they were subsequently debated, together with the original Explanatory Memorandum, on 5 April 1990. The first and second Supplementary Explanatory Memoranda were cleared by Sub-Committee D on 24 April 1990. At its meeting on 30 April and 18 June 1990 respectively, the Committee referred the third and fourth Supplementary Explanatory Memoranda to Sub-Committee D and they were subsequently cleared without report on 4 December 1990.</p> |

COUNCIL DIRECTIVE 91/67/EEC (LAST AMENDED BY COUNCIL DIRECTIVE 98/45/EC)

| | |
|------------------------|-----------------------------------|
| Legislation | Council Directive 91/67/EEC |
| Adopted | 28 January 1991 |
| Official Journal | L 46 of 19 February 1991 (Page 1) |
| Explanatory Memorandum | 4783/90 of 14 March 1990 |

EXPLANATORY MEMORANDUM 4783/90

SCRUTINY COMMITTEES' RECOMMENDATIONS

| | |
|---------|-------|
| Commons | Lords |
|---------|-------|

| | | | |
|--|---|------------------------------------|---------------------|
| Politically important – for debate in Standing Committee | Date: 28 March 1990 Report Ref: (11892) HC 11-xvi (Session 1989 - 90) Paragraph 6 | Referred to Sub-Committee (List B) | Date: 19 March 1990 |
| Debated with 4699/90 and 4779/90 | 7 June 1990 | Cleared without report (List C) | Date: 24 April 1990 |

COUNCIL DIRECTIVE 98/45/EC (LAST AMENDMENT TO COUNCIL DIRECTIVE 91/67/EEC)

| | |
|------------------------|--------------------------------|
| Legislation | Council Directive 98/45/EC |
| Adopted | 24 June 1998 |
| Official Journal | L 189 of 3 July 1998 (Page 12) |
| Explanatory Memorandum | 8823/96 of 30 July 1996 |

EXPLANATORY MEMORANDUM 8823/96

SCRUTINY COMMITTEES' RECOMMENDATIONS

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|--------------------------------------|-----------------------|------------------|----------------------|
| 7.1 Commons | | Lords | |
| Not legally or politically important | Date: 16 October 1996 | Cleared (List A) | Date: 9 October 1996 |

COUNCIL DIRECTIVE 93/43

| | |
|------------------------|--------------------------------|
| Legislation | Council Directive 93/43 |
| Adopted | 14 June 1993 |
| Official Journal | L 175 of 19 July 1993 (Page 1) |
| Explanatory Memorandum | Dept of Health lead |
| | |

7.1 EXPLANATORY MEMORANDUM 10427/00

SCRUTINY COMMITTEES' RECOMMENDATIONS

| | | | |
|---|---|------------------------------------|-----------------------|
| Commons | | Lords | |
| Legally and politically important – for debate in European Standing Committee C | Date: 17 January 2001 Report Ref. (21499) HC 28-iii (Session 2001) Paragraph 1 (Third Report of Session 2000-2001) | Referred to Sub-Committee (List B) | Date: 3 October 2000 |
| Legally and politically important – cleared | Date: 3 May 2002 Report Ref. 21499 HC 152 – xxv and HCP 152 – xxvi 25 th and 26 th Reports of Session 2001 – 2002 | Cleared without report | Date: 27 October 2000 |

7.1 EXPLANATORY MEMORANDUM 10427/00

SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|---|---|------------------------------------|-----------------------|
| Legally and politically important – for debate in European Standing Committee C | Date: 17 January 2001 Report Ref. (21499) HC 28-iii (Session 2001) Paragraph 1 (Third Report of Session 2000-2001) | Referred to Sub-Committee (List B) | Date: 3 October 2000 |
| Legally and politically important – cleared | Date: 3 May 2002 Report Ref. 21499 HC 152 – xxv and HCP 152 – xxvi 25 th and 26 th Reports of Session 2001 – 2002 | Cleared without report | Date: 27 October 2000 |

7.1 EXPLANATORY MEMORANDA 8868/02 & 8869/02

SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|--|---|---------|-----------------------------------|
| Not legally or politically important - cleared | Date: 26 June 2002 Report Refs. (23566 & 23567) HC 152-xxxiv (Session 2001-02) Paragraph 16 | Cleared | Date: 25 June 2002 (Sift 1108) |

COUNCIL DIRECTIVE 96/23/EC

| | |
|-----------------------|------------------------------------|
| Legislation | Council Directive 96/23/EC |
| Adopted | 29 April 1996 |
| Official Journal | L125 of 23 May 1996 (Page 10 – 32) |
| Explanatory Memoranda | 8988/93 Part II |

EXPLANATORY MEMORANDUM 8988/93 PART II

SCRUTINY COMMITTEES' RECOMMENDATIONS

| Commons | | Lords | |
|---|--|---|--|
| Legally and politically important- not for debate | Date: 19 January 1993 Report Ref : (14869) HC 48 –iv (Session 1993-94) Paragraph 5 | Referred to Sub-Committee (List B) | Date: 10 January 1994 Sub-Committee D |
| | | Cleared (List F cleared by letter to the Minister) | Date: 29 March 1994 |

Summary of responses to consultation on:

The Meat (Officials Controls Charges) (England) Regulations 2006, to come into effect on 1 January 2007

7.1 Consultation Issued: **23 June 2006**
 7.1 Consultation ended: **15 September 2006**

| No. | Organisation | Summary of Comments |
|-----|--------------|--|
| 1. | BMPA | 7.1 Agrees with the proposed approach of making minimal change from 1/01/07 |
| 2. | CFG | 7.1 Welcomes the abolition of the minimum charge and supports the EC requirement for Member States to charge for official controls. Considers it more appropriate for the charge to reflect the actual cost incurred rather than being based on throughput, but recognises that the latter might be relatively simple and cheap to administer. |
| 3. | MLC | Welcomes the abolition of the minimum charge. |
| 4. | NFU | 7.1 Accepts the abolition of the minimum charge, as this would reduce costs to small and medium sized meat cutting plants. Very keen to prevent the hourly rate from increasing to compensate for the decrease in income derived from the removal of the minimum charge. |

| | | |
|------|-----|-------------------------------------|
| BMPA | 7.1 | British Meat Processors Association |
| CFG | 7.1 | Consumers' Food Group |
| MLC | 7.1 | Meat and Livestock Commission |
| NFU | 7.1 | National Farmers Union |

Full Regulatory Impact Assessment

1. Title of the Proposal

- 1.1. The proposal is for a Statutory Instrument titled: The Meat (Official Controls Charges) (England) Regulations 2006.

2. Purpose & intended effect

2.1 The Objective

- 2.1.1. The objective of the proposed regulations is to implement in England the provisions of Regulation (EC) 882/2004 on Official Feed and Food Controls (OFFC Regulation) that relate to the requirement to charge for meat hygiene official controls at approved meat establishments.
- 2.1.2. The OFFC Regulation includes a new framework for the financing of official controls that will apply from 1 January 2007. It will form the legal basis for any charges for official controls in Member States.
- 2.1.3. The OFFC Regulation is directly applicable, i.e. it has automatic legal effect from the date it comes into force, in each Member State. It continues to require Member States to collect charges to cover the costs occasioned by meat hygiene official controls. There is flexibility in the means of giving effect at national level to some of its provisions, for which domestic legislation is necessary, and this is the purpose of the proposed Regulations.
- 2.1.4. The scope of this proposal extends only to charging for meat hygiene official controls at approved meat establishments in England and its principal purposes are:
 - i. to enable the collection of charges by the Food Standards Agency (FSA) to cover the costs occasioned by meat hygiene official controls; and
 - ii. to ensure that charges collected are not higher than the cost borne by the FSA in relation to the controls.

2.2. Devolution

- 2.2.1. The proposed regulations will apply in England only. Scotland, Wales and Northern Ireland will make separate legislation.

2.3. Background

- 2.3.1. The charges to which this RIA relates are currently implemented in England by the Meat (Official Controls Charges) (England) Regulations 2005 (current regulations). These charges are paid to the Meat Hygiene Service (MHS), an Executive Agency of the Food Standards Agency. The current regulations implement EC requirements that are set out in Council Directive 85/73, as last amended by Directive 96/43 (the Charging Directive). This lays down standard Community fees for relevant official controls. In the case of slaughterhouses the fees are

per animal or bird slaughtered and/or dressed there. For game-handling establishments the fees are headage charges per bird or animal dressed there. For meat cutting plants and game-handling establishments the fee is a fixed amount per tonne of meat entering the premises to be cut up or boned there. The Directive allows some flexibility in the way Member States may charge for meat hygiene controls but stipulates that, as a minimum, charges must not be lower than 45% of the standard Community fees.

2.3.2. From 1 January 2007, the OFFC Regulation will form the legal basis for charging for official controls in Member States and will supersede the current charging Directive. This will mean that the current national legislation for charging will no longer be effective or compliant with EC law and new national legislation will be needed to implement EC requirements for charging for meat hygiene official controls.

2.3.3. It is proposed to make use of a transitional provision in the OFFC Regulation that allows, with one exception, the current charging arrangements to continue until 1 January 2008. The exception is that the OFFC Regulation stipulates that from 1 January 2007 official control charges must not exceed the cost of the official control. This has the effect of abolishing the current Charging Directive requirement that charges for meat hygiene controls must not be lower than 45% of the charge calculated from standard Community throughput fees (the 45% rule). The application of this current rule to the UK system of meat hygiene charges means that where charges based on time costs are lower than the throughput charge, the amount payable must be at least 45% of the throughput charge. Abolishing the 45% rule will benefit about 80 operators of approved meat plants who currently pay charges that exceed the time costs of the controls they receive.

2.4. Rationale for Government intervention

2.4.1. The proposed regulations are required to ensure continued compliance with the EC requirements to charge for meat hygiene official controls and to ensure that the charge does not exceed the cost of the official controls.

3. Consultation

3.1. The Agency conducted a full public consultation with Stakeholders and has taken the views of Stakeholders into account in the SI that this RIA accompanies.

4. Options

4.1. Charges for meat hygiene official controls

4.1.1 The OFFC Regulation requires charges to be made in all Member States for meat hygiene official controls at approved meat establishments. The options considered to implement this requirement in England are:

- i. Option 1 - do nothing;
- ii. Option 2 - make use of the transitional provision in the OFFC Regulation to maintain the current charging system, amended to the minimum necessary to ensure compliance with the OFFC Regulation;
- iii. Option 3 - amend the current charging system more significantly.

4.1.2. Analysis of options

- i. Option 1 (doing nothing) would breach an EU obligation to apply the OFFC Regulation and leave the UK open to infraction proceedings by the Commission for failing to comply with the meat hygiene official controls charges requirements of the Regulation (which might have cost implications). In addition, there would be no legal basis for charging for the costs occasioned by meat hygiene official controls.
- ii. Option 2 would ensure continuing compliance with EC law and minimum change to the current system whilst proposals for making more significant changes are developed. It would maintain the current system of charging with the exception that it would no longer require that charges must not be lower than 45% of the throughput charge, which stems from a current EC requirement. Removal of this provision would mean that no meat business operator would pay more than the official controls costs in respect of their business with the result that some would pay lower charges. There would be no economic, social or environmental impacts (on businesses) associated with this option. A one-off administration costs (to the Agency) to implement this option would amount to an estimated £50,000
- iii. Option 3 would require detailed proposals to be developed for formal consultation and more time would be needed to complete this work. In addition, the further changes introduced by the OFFC Regulation do not need to take effect until 1 January 2008.

Doing the minimum necessary to ensure continued compliance with EC law (option 2) is preferred.

5. Costs and benefits

5.1. Sector and groups affected

5.1.1. Operators of approved meat establishments.

5.1.2. We consider that the proposal will have no impact on racial equality, social or environmental issues.

5.2. Benefits

5.2.1. Operators of approved meat establishments in England will benefit from the abolition of the 45% rule as none will be required to pay official control charges that exceed the cost of those controls. This will reduce charges by an estimated £820,000 per annum at current rates.

5.3. Costs

5.3.1. The proposed regulations will continue to provide the current meat hygiene official control charges system and will not increase industry costs during the 2006/07 financial year. Industry stakeholders will be consulted on any proposed increases in charges for subsequent years.

5.3.2. The cost to the FSA in the 2006/07 financial year will be an estimated £205,000.

5.3.3. There will be a one-off cost of an estimated £50,000 to the MHS of implementing the abolition of the 45% rule and of amending the meat hygiene charges guide.

6. Small Firms Impact Test

6.1. The proposed regulations will not impose any regulatory change and will have no effect on the operation of approved meat establishments. Except for the abolition of the 45% rule described in paragraph 2.3.3., the Regulations will not affect the meat hygiene official control charges payable by the operators of approved meat establishments.

6.2. The abolition of the minimum charge due to the 45% rule will ensure that no operator of an approved meat establishment will be charged more than the cost of official controls in respect of their business. Any impact on small firms would be beneficial.

7. Test Run of Business Forms

- 7.1 No changes to the administration of the system for charging for meat hygiene official controls are intended as part of these proposals. No new or additional forms will be introduced.

8. Competition Assessment

- 8.1. The abolition of the minimum charge due to the 45% rule will ensure that no operator of an approved meat establishment will be charged more than the cost of official controls in respect of their business. The proposed regulation will not impose any new costs on businesses, nor affect market share or market structure. It will marginally improve the competitive position of businesses that benefit from the abolition of the 45% rule.

9. Enforcement, sanctions and monitoring

- 9.1. The MHS will remain responsible for the enforcement, sanctions and monitoring of the meat hygiene charging provisions set out in the proposed regulations.

10. Implementation and delivery plan

- 10.1. The MHS has re-programmed its computer-based charging system to implement the abolition of the 45% rule from 1 January 2007 and this is being tested. A back-up plan is in place to implement the abolition of the 45% rule manually if this proves to be needed.
- 10.2. Representative industry organisations and the operators of approved meat plants in England will be notified that the 45% rule will be abolished from 1 January 2007. The abolition will be reflected in the MHS Guide to the Charges made for Official Controls (The Charges Guide), as will the changes in terminology to mirror that of the OFFC regulation.

11. Post-implementation review

- 11.1. EC law will require from 1 January 2007 that official control charges must not exceed the cost of those controls. The MHS will monitor its charging arrangements to ensure that implementation is effective.

12. Summary and Recommendation

- 12.1. The proposed regulations will ensure continuing compliance with EC law and minimum change to the current system and will implement an EC requirement that comes into effect from 1 January 2007 that official controls charges must not exceed the costs of those controls.

12.2. Costs and benefits

The costs and benefits of option 1 (doing nothing) have not been analysed, as implementing this option would be in breach of EC charging requirements. It has not been possible to analyse the costs and benefits of making more significant changes to meat hygiene charges (option3) as proposals have not been developed.

Analysis of option 2 (minimum change)

| | Benefit per annum £m | | | | Cost per annum £m | | | | |
|---------------|---|------|-----|-----|---|-----|-----|-----|-------|
| | 1. total: 2, economic, 3. environmental, 4. social. | | | | 5. total: 6, economic, 7. environmental, 8. social, 9. policy and administrative. | | | | |
| | 1. | 2. | 3. | 4. | 5. | 6. | 7. | 8. | 9. |
| Meat industry | 0.82 | 0.82 | Nil | Nil | Nil | Nil | Nil | Nil | Nil |
| FSA/MHS | Nil | Nil | Nil | Nil | 0.87* | Nil | Nil | Nil | 0.87* |

* Estimated annual cost of the abolition of the 45% minimum charge rule (£820k) plus estimated one-off implementation cost (£50k).

13. Declaration and publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.

Signed: Caroline Flint

Date: 11 October 2006

**Caroline Flint
Minister for Public Health
Department for Health**