

EXPLANATORY MEMORANDUM TO THE ZONOSSES AND ANIMAL BY PRODUCTS (FEES) (WALES) (AMENDMENT) REGULATIONS 2009

This Explanatory Memorandum (EM) has been prepared by the Office of the Chief Veterinary Officer and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

Description

1. This instrument provides the Welsh Ministers with powers to charge fees for conducting tests that farmers and operators may request under Commission Regulation (EC) No 646/2007 (OJ No L151, 13.06.2007, p21). These regulations amend the Zoonoses and Animal By-Products (Fees) (Wales) Regulations 2008.

Matters of Special Interest to the Subordinate Legislation Committee

2. There are no matters of special interest to the Committee.
3. Treasury consent to these regulations has been obtained.

Legislative Background

4. Commission Regulation (EC) 2160/2003 requires the introduction of *Salmonella* National Control Plans in order to improve public health through the detection and control of salmonellas of human health significance in primary production. A key component of these plans is the need for official samples to be taken on farm. Commission Regulation (EC) No 646/2007 implements (EC) 2160/2003 with regard to broilers.
5. The proposed Zoonoses and Animal By-Products (Fees) (Wales) (Amendment) Regulations 2009, amend the Zoonoses and Animal By-Products (Fees) (Wales) Regulations 2008 (SI 2008/2716 (W 245)).
6. Welsh Ministers make this instrument under section 56 (1) and (2) of the Finance Act 1973. This permits a Government department to require the payment of fees or other charges for the provision of any services or facilities or the issue of any authorisation, certificate or other document, in pursuance of any Community obligation. The powers are vested in Welsh Ministers by section 59(5) of the Government of Wales Act 2006. As an instrument made under the Finance Act 1973, the Regulations are subject to Treasury consent, which was received on 20th August 2009.
7. These Regulations follow the negative resolution procedure.

Purpose and Intended Effect of the Legislation

8. The proposed Zoonoses and Animal By-Products (Fees) (Wales) (Amendment) Regulations 2009, amend the Zoonoses and Animal By-Products (Fees) (Wales) Regulations 2008 (SI 2008/2716 (W 245)), impose new costs on operators of broiler flocks for the collection and examination of official controls under the national control programme (NCP) for Salmonella in Broiler Flocks which started on 1 January 2009. The Control Programme for Salmonella in Broilers Order 2009 enforces the NCP for Salmonella in Broiler Flocks.
9. The Regulations allow for cost recovery for services provided in relation to Salmonella control programmes and DEFRA's laboratory scheme. In order to reflect changes in the administration costs faced by delivery agents, Animal Health and Veterinary Laboratory Agency (VLA), in providing services, the Fees Regulations also provide Welsh Ministers with the powers to amend the level of charging for official sampling and charges to laboratories under the approved laboratory scheme.
10. In order to reflect changes in the costs faced by delivery agents, Animal Health and VLA, in providing services, the Amendment Regulation also gives Welsh Ministers the powers to charge fees at an appropriate level on the basis of certain criteria. The fees will be published on the Welsh Assembly Government website and will not appear on the face of the Regulations themselves.
11. The objective is to provide the Welsh Ministers with powers to set fees at a level to achieve full cost recovery. The fees will therefore be amended to reflect more clearly the charges that are applicable under current legislation and to take account of administrative costs.

Implementation

12. The instrument was laid on 7th September 2009 and is intended to come into force on 28th September 2009. The equivalent Regulations in England came into force on 17th August 2009.

REGULATORY IMPACT ASSESSMENT

Consultation

13. No formal consultation was conducted, as the issue is specialised with a limited range of stakeholders. There was a full consultation on the introduction of the National Control Plans (NCP) for broiler flocks in autumn 2008. The proposed charges have been considered by industry representatives through the GB wide regular stakeholder forum which meets on a monthly basis.
14. A full regulatory impact assessment was carried out on the implementation of the National Control Plan of Salmonella in Broiler Flocks. This includes an assessment of costs to industry of salmonella testing. A copy of this can be accessed via the attached link;

<http://www.defra.gov.uk/corporate/consult/broilers-ncp/ncp-broilers-consultdoc.pdf>

15. Failure to bring the Zoonoses and Animal By-Products (Fees) (Wales) (Amendment) Regulations 2009 into force would mean that Welsh Ministers could not recover the costs incurred for the services provided by Animal Health and VLA for the taking or supervising of official samples required by the National Control Plan for Salmonella in Broiler Flocks.

Competition Assessment

16. We do not believe there will be a competitive impact as a result of these proposals. It is not considered that the proposed regulations will affect the market structure or erect barriers to entry for new firms.

Post Implementation Review

17. Annual accounts will be produced (by DEFRA) to assess progress against the target of full cost recovery for the provision of the relevant services. It is intended that the level of fees will be reviewed annually.

Summary

18. The costs will be borne by industry. The proposed charges have been considered by industry representatives through the GB wide regular stakeholder forum.