

Explanatory Memorandum to The Charges for Residues Surveillance (Amendment) (Wales) Regulations 2024

This Explanatory Memorandum has been prepared by the Office of the Chief Veterinary Officer within the Department for Local Government, Housing, Climate Change and Rural Affairs of the Welsh Government and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Cabinet Secretary's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Charges for Residues Surveillance (Amendment) (Wales) Regulations 2024.

Huw Irranca-Davies MS

Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

20 September 2024

Part 1

1. Description

These Regulations amend the Charges for Residues Surveillance Regulations 2006 (the 2006 Regulations) to update the charges payable to the Veterinary Medicines Directorate (VMD) in relation to the surveillance for residues of veterinary medicines and certain other substances in food animals and animal products as part of the National Residues Control Programme (NRCP). They are made using powers conferred by the Food Safety Act 1990 ('the 1990 Act').

2. Matters of special interest to the Legislation, Justice and Constitution Committee

In accordance with section 11A(4) of the Statutory Instruments Act 1946, the Llywydd has been informed that the Charges for Residues Surveillance (Amendment) (Wales) Regulations 2024 will come into force less than 21 days after the instrument has been laid. This legislation is necessary to ensure that the appropriate costs of delivering the NRCP are able to be recovered. The coming into force date of 1 October has been agreed with UK Government and Scottish Ministers. Divergence would result in different rates being charged in Wales to the rest of GB and a failure to align with a GB wide approach agreed at the Animal and Disease Policy Group. This would lead to considerable disruption to industry.

3. Policy Context

The NRCP is a statutory industry-funded programme that is delivered by the VMD. The NRCP helps to protect human health by taking samples of meat or other animal products to test for unsafe levels of residues of veterinary medicines, or other prohibited substances which may be harmful. The NRCP helps to provide assurances about the safety of food products, and by doing so also supports UK food exports worth approximately £12 billion to the UK economy. The NRCP conforms to international standards which are underpinned by the World Trade Organisation agreement on sanitary and phytosanitary measures.

The programme operates on a full cost recovery basis, so each of the livestock sectors that take part are invoiced each year. The programme currently costs approximately £5 million per annum, and this is forecast for Great Britain is to reach approximately £8m per annum by 2028. This is due to a rise in the costs of procured services which are necessary to deliver the programme such as sampling, testing, and consumables. Without the revisions to the current charges that industry pays, it is forecast that there will be an under recovery of the costs of the programme by £1.2 million in the 2024-2025 financial year, and the deficit is expected to rise to £3 million per annum by 2029.

The principles of how the VMD charges fees are set by HM Treasury in Managing Public Money. The basic principle is to set statutory fees and charges to recover full costs. This means that the regulated industries bear the cost of regulation and the VMD does not profit from fees or make a loss which must then be subsidised by Government departments or the UK taxpayer. To achieve this for the NRCP, the VMD calculates charges for each sector for the financial year ahead, based on the costs

provided by the contractors collecting and analysing the samples and the forecast throughput for the sectors.

Residues policy and surveillance testing is a devolved matter, so the VMD works in close partnership with the Welsh Government and the Scottish Government to deliver the NRCP in Great Britain.

Consultation and methodology

Between 17 January 2024 and 28 March 2024, the VMD, the Scottish Government, and the Welsh Government published a joint consultation on revised charges for the NRCP. The consultation was conducted using Citizen Space, the UK government's online consultation tool. The consultation document explained the reasons behind the need to increase charges for businesses covered by the NRCP. It set out the following three options with a recommendation for Option C:

- a) do nothing. charges would be maintained at current levels. This would risk food safety and international trade obligations.
- b) a flat rate 65% increase to the charges applied across all sectors taking part in the NRCP. This would risk sectors cross subsidising others.
- c) a specific percentage increase tailored for each industry sector based on their specific sampling plan and production levels.

A summary of the consultation responses and the Government's response can be found at: [Summary of responses and government response - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/summary-of-responses-and-government-response-to-the-consultation-on-revised-charges-for-the-nrcp)

Where Regulations are made using powers conferred by the 1990 Act, section 48(4A) of that Act requires that: "*Before making any regulations or order under this Act, the Secretary of State shall have regard to any relevant advice given by the Food Standards Agency*". In Wales, functions were transferred to the National Assembly for Wales by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) as read with [section 40\(3\)](#) of the Food Standards Act 1999 Act. Those functions are now exercisable by the Welsh Ministers by virtue of [section 162](#) of, and [paragraph 30 of Schedule 11](#) to, the Government of Wales Act 2006. Welsh Government officials have consulted, and received advice, from the Food Standards Agency (FSA) Wales in respect of this instrument.

What was the previous policy, how is this different?

The statutory instrument increases the charges paid by food business operators that are part of the NRCP. The charges are being increased from 1 October 2024, with a further increase that will apply from 1 April 2025. The extent to which the charges have been uplifted varies as it reflects the anticipated production levels and specific costs of the activities involved in delivering the services for each industry sector.

The level of increase for the charges are set out in Schedule 1 of the Instrument.

How has the law changed?

The surveillance of animals and animal products for residues of veterinary medicinal products and certain other substances is a requirement under Assimilated Regulation (EU) 2017/625 which replaced EU Directive 96/23/EC. The 2006 Regulations make provision for the charges payable to the VMD in relation to the inspections and controls required as part of that surveillance. This Instrument amends the 2006 Regulations, updating the statutory charges to ensure the VMD recovers the costs of its regulatory activities.

The Instrument also confers functions on the relevant Competent Authorities to levy the charges and confers enforcement functions in respect of the 2006 regulations on the Welsh Ministers.

The territorial application of this Instrument is Wales only. The Scottish Government and the UK Government will lay separate statutory instruments to amend the charges applicable in the rest of Great Britain.

Part 2

4. Impact

Regulatory Impact Assessment (RIA)

In line with the Welsh Minister's RIA Code, an RIA is not necessary for this instrument. The relevant exception is set out in paragraph 3.2, namely '*Where the subordinate legislation simply increases a statutory fee by a predetermined formula, such as the rate of inflation*'.

Impact on businesses, charities and voluntary bodies

The VMD, the Scottish Government and the Welsh Government works closely with various specialist delivery partners such as Fera Ltd, the Food Standard Agency (FSA), The Centre for Environment, Fisheries and Aquaculture Science (CEFAS), the Animal and Plant Health Agency (APHA) and others to deliver the programme. Therefore, the NRCP has the following main cost elements which are all required to deliver the programme:

External contracted costs

- sampling costs
- testing costs
- processing costs

Other external factors which impact costs

- species production levels (which determines the level of surveillance required)
- a long-term commercial contract for specialist testing of samples

VMD internal costs

- staff cost and overheads to deliver the scheme

The approach to calculating the new industry charges was based on the following assumptions about future cost drivers

- external contracted costs are forecast to increase by 10% each year
- the VMD's internal costs are forecast remain static for the next 5 years
- employment costs and overheads are forecast to increase by 5% each year

Based on the assumptions, the overall financial impact on all business that are covered by the NRCP is estimated to be £500,000 in 2024 – 2025 and £1.5 million in 2025 – 2026 across GB. The specific financial impact on individual businesses in the NRCP will differ based on their sector and their annual level of production. For illustrative purposes the likely financial impact on one sector within the NRCP and on a typical producer is as follows:

- Based on an estimated annual total throughput of 2,284,913 carcasses processed by the UK beef sector, companies in the sector would in total

pay approximately £1.2m during the 2023 to 2024 financial year. This sum will increase to £1.4 million between 2024 to 2025, and £1.7 million between 2025 – 2026 under this Instrument.

- A typically high throughput bovine producer with a throughput of 99,559 carcasses would in total pay approximately £60,000 during 2024 to 2025, and approximately £75,000 during 2025 to 2026 under this Instrument.

The legislation applies to activities that are undertaken by small businesses. No specific action is proposed to minimise regulatory burdens on small businesses. The VMD will continue to monitor the operation of the scheme and will bring forward a further public consultation if other changes are required.

There is no significant impact on charities, voluntary bodies, or the public sector.

5. Monitoring and review

The approach to monitoring this legislation is for the VMD to monitor the charges on an ongoing basis to ensure they are set at a level to recover full costs incurred in relation to the NRCP.