

Explanatory Memorandum to The Animal Health (Miscellaneous Fees) (Amendment and Revocation) (Wales) Order 2024

This Explanatory Memorandum has been prepared by Office of the Chief Veterinary Officer and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Cabinet Secretary Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Animal Health (Miscellaneous Fees) (Amendment and Revocation) (Wales) Order 2024. I am satisfied that the benefits justify the likely costs.

Huw Irranca-Davies MS

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

8 November 2024

PART 1

1. Description

- I. The Animal and Plant Health Agency (APHA) is an executive agency of the Department for Environment, Food & Rural Affairs, and also works on behalf of the Scottish Government and Welsh Government to deliver a range of services for a wide range of end users. It is appropriate to consider applying a charge to businesses that benefit from a service delivered by APHA to recover the full cost recovery (“FCR”) of delivering the service rather than looking to the taxpayer to subsidise it. APHA currently charges end-users for a number of services, however; charges for some services do not reflect the full cost of delivering the service.
- II. This Order amends the Animal Gatherings (Fees) (Wales) Order 2018 (S.I. 2018/645) (W. 119) (“the Animal Gatherings Order”). It increases fees payable to the Welsh Ministers under the Animal Gatherings Order for services provided by the Animal and Plant Health Agency.
- III. It also revokes the Diseases of Animals (Fees for the Testing of Disinfectants) Order 1991 (S.I. 1991/1168) (“the 1991 Order”) in relation to Wales.

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

- IV. None

3. Legislative background

- V. The Order is being made under section 84(1) of the Animal Health Act (“the 1981 Act”). The functions of making an SI under section 84(1) of the 1981 Act were conferred on “the Ministers”. Under section 86(1)(c) of the 1981 Act, “the Ministers” were defined, in relation to the whole of Great Britain as meaning the Minister for Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for Wales, acting jointly.
- VI. All functions of a Minister of the Crown under section 84(1) of the 1981 Act were, so far as exercisable in relation to Wales by the Secretary of State for Wales, transferred to the National Assembly for Wales (“the National Assembly”) by virtue of S.I. [1999/672](#). Any other functions of the Secretary of State for Scotland and the Secretary of State for Wales under section 84(1) of the 1981 Act were transferred to the Minister of Agriculture Fisheries and Food by SI 1999/3141. The Minister of Agriculture, Fisheries and Food's functions under section 84(1) of the 1981 Act were later transferred to the Secretary of State by S.I. [2002/794](#). These functions of Secretary of State were, in so far as exercisable in relation to Wales, then transferred to the National Assembly by S.I. [2004/3044](#). By virtue of section 162 of, and paragraph

30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32) they were transferred to the Welsh Ministers.

- VII. By virtue of paragraph 7 of Part 2 of Schedule 3 to the Government of Wales Act 2006, the Welsh Ministers may exercise the powers in section 84(1) of the 1981 Act without the requirement for Treasury approval.
- VIII. This Order is being made under the negative resolution procedure.

4. Purpose and intended effect of the legislation

- IX. Officials from each of the three GB Administrations in liaison with APHA have been taking forward a project to review existing APHA charges.
- X. The purpose of this Order is to provide for a revision in the fees payable in relation to statutory services delivered by APHA, on behalf of the Welsh Ministers to achieve FCR of such fees.
- XI. APHA delivers a wide range of services for a wide range of end users. These include for example, facilitating trade in animals and animal products through a range of inspection and certification services; approval and inspection of premises handling animal by-products and licensing of events where animals are gathered such as markets and shows. Businesses using the services range from large companies to small and micro businesses.
- XII. APHA is an executive agency of Defra but responsibility for funding policy delivery in Wales rests with the Welsh Government. The consequence of not introducing these changes would be a gap in funding provisions, which the Welsh Government is likely to become liable for.
- XIII. Wales specific data has been presented and used to estimate the impact to businesses in Wales.
- XIV. Additionally, this instrument revokes the Diseases of Animals (Fees for the Testing of Disinfectants) Order 1991 (“the 1991 Fees Order”). The ‘1991’ Fees Order sets out the fees payable by a person who submitted a disinfectant for testing in accordance with article 7 of the Diseases of Animals (Approved Disinfectants) Order 1978. That 1978 Order was revoked by the Diseases of Animals (Approved Disinfectants) (Wales) Order 2007. The current approval scheme is run by APHA and testing is carried out in their laboratory in England on behalf of all GB administrations. Fees are not being charged separately for testing on behalf of the Welsh Ministers for approval of a disinfectant in relation to Wales, only the fees payable for the testing of a disinfectant for approval in England are being charged, with the testing being carried out also being used for approval of the disinfectant in relation to Wales. The 1991 Fees order no longer serves a purpose and therefore will be revoked.

5. Consultation

- XV. A public consultation was launched on the 26 October 2015. The consultation sought views on proposals to introduce fees for services provided by APHA in order to achieve Full Cost Recovery. The proposals included a phased introduction of fees to recover the costs which APHA incurs in licensing animal gatherings, rising to full cost recovery.
- XVI. The Animal Gatherings (Fees) (Wales) Order 2018 introduced a phased increase to achieving full cost recovery. The 2018 Order was later amended by the Animal Health (Poultry Compartments and Animal Gatherings) (Fees) (Wales) (Amendment) Order 2022 to maintain fees at a level which would achieve full cost recovery. This Order introduces further revisions to fees to maintain full cost recovery.
- XVII. Prior to the making of Orders uplifting the fees to maintain full cost recovery, stakeholders are informed of the proposal to change fees. Information about the fee changes is published on GOV.UK. In relation to this Order, stakeholders were informed of the proposed changes on 7th November via email and information published on [Charges and fees for services provided by APHA - GOV.UK](#).

PART 2 – REGULATORY IMPACT ASSESSMENT

6. Options

- I. We are evaluating two options:
 - Option 1 - Retain existing fees.
 - Option 2 - Increase fees to achieve full cost recovery (FCR).

7. Costs and benefits

Option 1. Retain existing fees

This is the baseline option and, as such, the consequence of not introducing these changes would be a gap in funding provisions, which the Welsh Government is likely to become liable for.

Option 2. Increase fees to achieve FCR

Those businesses and organisations which use the relevant APHA services will incur increased costs due to having to pay higher fees from December 2024. As shown in the table below, fees will increase by between 9% and 92% depending upon the activity.

The revised fees have been calculated on the following basis:

- II. Animal Gatherings Order – AGO (Fee increase only): The fees have been amended assuming that the process maps remain unchanged, with the exception that in some instances visits have changed from Animal Health Officers (AHO) visits to Veterinary Officers (VO) visits. This is in line with actual changes within the agency.
- III. The fees have been calculated using 2024-25 Charge Out Rates (CoRs) and the latest SSCL invoicing costs.

In the 2023-24 financial year there were 254 invoices relating to Animal Gatherings. 27% of these related to Animal Gatherings in Wales. It is difficult to forecast which services will be used going forward and how frequently those services will be used. APHA are currently not operating at full cost recovery, therefore this fee increase will allow for this. The total income in 2023 for Wales was £19,986. However, if we assume the number and type of gatherings in future years will be the same as in 2023-24, this suggests the aggregate increase in costs in Wales will be approximately £2,850 per year.

- IV. Table showing the Proposed “FCR” fees (to be implemented from December 2024) compared to the Existing Fees.

Table 1 - Animal Gathering Order Fees

Activity	Current Fees	2024 Planned Fees	% Inc/(Dec) Planned/Current
Premises for animal sales or collection centres -			
Application for the issue or amendment of a licence for sale premises or a collection centre where such premises are assessed by a Veterinary inspector as presenting a low risk of disease. This fee includes up to 90 minutes of inspection time	£ 379.00	£ 433.00	14%
Application for the issue or amendment of a licence for sale premises or a collection centre where such premises are assessed by a Veterinary inspector as presenting more than a low risk of disease. This fee includes up to 2 X 90 minutes of inspection time	£ 685.00	£ 780.00	14%
Annual licence renewal fee for premises used for animal sales or for use as a collection centre, where such premises are assessed by a veterinary inspector as presenting a low disease risk required only one inspection visit for the determination of the renewal. This fee includes up to 75 minutes of inspection time.	£ 340.00	£ 387.00	14%
Annual licence renewal fee for premises used for animal sales or for use as a collection centre, where such premises are assessed by a veterinary inspector as presenting a more than low disease risk required only one inspection visit for the determination of the renewal. This fee includes up to 2 X 75 minutes of inspection time.	£ 486.00	£ 550.00	13%
Premises for shows or exhibitions -			
Application for a licence to organise shows or exhibitions on premises assessed by a veterinary inspector as presenting a low risk of disease. This fee includes up to 60 minutes of inspection time.	£ 236.00	£ 283.00	20%
Application for a licence to organise shows or exhibitions on premises assessed by a veterinary inspector as presenting more than a low risk of disease. This fee includes up to 90 minutes of inspection time.	£ 408.00	£ 467.00	14%
Annual licence renewal of show or exhibition premises where a veterinary inspector assesses no inspection visit is required.	£ 168.00	£ 201.00	20%
Annual licence renewal of show or exhibition premises where a veterinary inspector assesses a basic inspection visit is required. This fee includes up to 60 minutes of inspection time.	£ 171.00	£ 329.00	92%
Annual licence renewal of show or exhibition premises where a veterinary inspector assesses a more than a basic inspection visit is required. This fee includes up to 60 minutes of inspection time.	£ 229.00	£ 329.00	44%

Additional fees payable for the licensing of premises			
Extra Veterinary visits for the purpose of consideration of an application for a licence of follow-up non-compliance visit, that includes up to 75 minutes of veterinary inspector time for such visit/A veterinary visit for the purpose of consideration of a request for an in-year operational change, that includes up to 75 minutes of veterinary inspector time for such visit	£ 318.00	£ 362.00	14%
Additional charge on any visit where the veterinary inspection time exceeds the fixed time provided in this schedule.	£ 22.00	£ 24.00	9%
Time spent by a veterinary inspector travelling to and from the licensed premises or premises proposed to be licensed, for the purpose of licensing activities that are not exempt from fees under article 3(4) of this order.	£ 22.00	£ 24.00	9%

Benefits

- I. Government must recoup costs wherever possible to avoid cross-subsidisation by the general taxpayer. To stop providing the services altogether as a way of avoiding the need to apply charges is not considered an option due to the risk to animal and human health.
- II. Funding for delivery of animal health and welfare policies is subject to considerable pressures. There is a risk if government spending should decrease then services may become compromised, posing a risk to human or animal health. Introducing charges, which cover the cost of providing the service ensures services can continue to be provided.

Risks

- Reduce demand for the service if some market sectors become unprofitable
- Potentially increasing cost to domestic market and importers
- Increases the risk of non-compliance.

8. Competition Assessment

The competition filter test	
Question	Answer yes or no
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No

Q4: Would the costs of the regulation affect some firms substantially more than others?	No
Q5: Is the regulation likely to affect the market structure, changing the number or size of businesses/organisation?	No
Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q8: Is the sector characterised by rapid technological change?	No
Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

9. Post implementation review

The review of APHA's charges for services is an ongoing area of work. Officials have worked with APHA to review and amend charges, where required, since the Charging Project was first introduced in 2012. The project was paused from 2019 until 2021 because of EU Exit and Covid. Since 2021 the project is now being taken forward as several separate work streams.