

EXPLANATORY MEMORANDUM TO THE MEAT (OFFICIAL CONTROLS CHARGES) (WALES) (NO.2) REGULATIONS 2007

This explanatory memorandum has been prepared by the Food Standards Agency and is laid before the National Assembly for Wales.

1. Description

The Meat (Official Controls Charges) (Wales) (No.2) Regulations 2007 require the Food Standards Agency (FSA) to charge the operators of approved meat premises in Wales in order to recover a proportion of the costs incurred by the Agency's Executive Agency, the Meat Hygiene Service (MHS), in carrying out official controls at such premises in respect of applicable meat hygiene and animal welfare at slaughterhouse requirements.

2. Matters of special interest to the Subordinate Legislative Committee

None.

3. Legislative Background

The powers enabling this instrument to be made are contained in section 2(2) of the European Communities Act 1972. The Welsh Ministers are designated for the purpose of section 2(2) by virtue of the European Communities (Designation) (No.2) Order 2005 (SI 2005/1971) (which function has been transferred to them by virtue of paragraphs 28 and 30 of Schedule 11 to the Government of Wales Act 2006), in respect of measures relating to food (including drink) including the primary production of food.

4. Purpose and Intended Effect of the Legislation

The proposed regulations implement in Wales the financing provisions of Regulation (EC) 882/2004 on Official Feed and Food Controls (the EC OFFC Regulation¹) that relate to the requirement to charge minimum fees, for specified throughput categories, for meat hygiene official controls at approved meat establishments by 1 January 2008.

The charges to which this explanatory memorandum relates are currently implemented in Wales by the Meat (Official Controls Charges) (Wales Regulations 2007 (current regulations) and by similar regulations in Scotland, England and Northern Ireland. In Great Britain these charges are paid by food business operators to the MHS.

The current regulations make use of a transitional provision in the EC OFFC Regulations which permits Member States to retain the Community fees of Council Directive 85/73 until 1 January 2008, though from 1 January 2007 they became minima rather than fixed amounts.

From 1 January 2008, the transitional arrangements of the EC OFFC Regulation will cease and amended domestic legislation is required to implement the EC OFFC throughput categories and to increase some of the current standard charge rates so that at least the specified EC OFFC minima are charged. The majority of the current rates applicable in Wales and the rest of the UK are above the OFFC minima and the proposed regulations would not increase these.

¹ Regulation (EC) No 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and welfare rules

In implementing the EC OFFC throughput categories, the regulations will maintain the current charges structure (i.e. that derived from Council Directive 85/73) insofar as this is possible. This enables the regulations to continue to specify different standard charge rates for different weights of animals (e.g. poultry) so that current differentials are maintained, as far as possible, to take into consideration the types of businesses concerned, as required by Article 27.5 of the EC OFFC Regulations. However, the OFFC throughput categories for cattle are not the same as the current ones. This will result in a small number of cattle being charged at a lower rate than at present.

The changes to the current regulations that are required to meet the OFFC requirements will affect slaughterhouses that process cattle, boars and some ruminants (mainly deer), slaughterhouses that process turkeys and game handling establishments that process boars and/or ruminants (mainly deer).

All operators will continue to pay the lesser of a charge calculated from hourly rates (time costs) or from standard charge rates (throughput charge).

The MHS will remain responsible in GB for administering the meat hygiene charging provisions set out in the regulations and for their enforcement, for sanctions and for monitoring. The total cost of this work will be unchanged by the proposed regulations. The Department of Agriculture and Rural Development (DARD) will continue to have operational responsibility for the similar charges applicable in Northern Ireland.

5. Implementation

It is intended these Regulations will come into force on 31 December 2007. Separate but parallel legislation will be made for Scotland, England and Northern Ireland.

6. Consultation

Interested parties, including all approved meat establishments, industry representative bodies and farming unions, were invited to comment on the draft Regulations and to provide any supporting financial or other relevant data.

7. Regulatory Impact Assessment

7.1 Options

In respect of the legislation, the 'do nothing' option is not an option, as it would ultimately lead to infraction proceedings against the Welsh Ministers by the European Commission.

Option 1 – Implement the throughput categories and minimum standard charge rates applicable to meat hygiene and animal welfare official controls in approved meat establishments, as required by the OFFC Regulation. This option would ensure continuing compliance with the EC law. There are no additional administrative costs associated with this option.

Option2 – Implement the requirements of the EC OFFC Regulation as described above, but increase the standard charge rate by more than the amount needed to ensure compliance with the required minima.

Option 1 is proposed

7.2 Costs and Benefits

Impact on Red Meat Slaughterhouses

Red meat slaughterhouses will be affected by a 6.2% increase in the standard charge rate for adult bovines from £3.18 to £3.38 (at the current exchange rate²).

The total charge for the GB red meat slaughterhouse sector is estimated to increase by £329,000 per annum or 1.8% (approximately £28,000 in Wales). The impact will be small on average, but will vary across plants depending on their degree of specialisation in the slaughter of cattle.

The estimates do not take account of the fact that the OFFC throughput categories for bovines are not the same as the current ones. This change will result in cattle that are slaughtered between six weeks and eight months of age being charged the throughput rate that currently applies to animals aged less than six weeks at slaughter. They will be charged £1.77 per animal rather than the current charge of £3.18, a reduction of 44%. It is not known how many cattle between these ages are slaughtered, although the number is relatively small.

In addition to the changes regarding cattle, some slaughterhouses will be affected by increases in four of the standard charge rates:

- I. The rate for boar weighing less than 25kg will increase from £0.3534 to £1.0136 (+187%);
- II. The rate for boar weighing 25kg and more will increase from £0.9189 to £1.0136 (+10%);
- III. The rate for ruminants (other than cattle, sheep and goats) weighing less than 12kg will increase from £0.1237 to £0.3379 (+37%);
- IV. The rate for ruminants (other than cattle, sheep and goats) weighing between 12 and 18kg inclusive will increase from £0.2474 to £0.3379 (+37%).

Only a small number of boars and these ruminants (less than 1,500 in total) are processed in GB slaughterhouses and it is estimated that the total increase in charges on account of this will be very small (less than £200). Furthermore, as some of the plants may be paying time costs, the overall increase in the final charge may be even less than £200 across all plants.

Impact on Poultry Slaughterhouses

Implementation of the OFFC minima will only affect the poultry sector through the need for an increase in throughput rates for turkeys:

- I. The rate for turkeys weighing less than 2kg will increase from £0.0071 to £0.0169 (+138%);
- II. The rate for young turkeys weighing more than 2kg and adult turkeys weighing 2-5kg will increase from £0.0142 to £0.0169 (+19%).

Detailed analysis of the charge increase cannot be carried out from MHS data as throughput is currently not recorded separately for turkeys. In addition, it is not possible to establish from the data which businesses solely slaughter turkeys, as all poultry slaughterhouses may be approved to slaughter several species of birds. However, it is clear that the first rate increase, while high in percentage terms, is almost irrelevant as the vast majority of turkeys

² All proposed increases in throughput rates from 31 December 2007 have been converted from Euros to Sterling at the exchange rate applicable to 2007, i.e. as published in the C Series of the Official Journal of the European Communities on 4 September 2007 (Euro/Sterling 0.67575).

weigh more than 2kg at slaughter³. The second rate increase is expected to apply to most of the turkeys slaughtered in GB⁴, which is estimated to be in the range of 17 million birds.

The increase in charges paid by GB poultry slaughterhouses is estimated to be £46,000 per annum (approximately £800 in Wales) or 1.5% of the current charge. This increase, in spite of the 19% increase in the standard charge rate, is explained by the fact that turkeys only account for 2% of all poultry slaughtered in the UK.

Altogether, the economic impact on poultry slaughterhouses is expected to be small and comparable in magnitude to that described for red meat abattoirs. However, there could be a particularly adverse effect on plants specialising in the slaughter of turkeys.

Impact on Game Handling Establishments

Game handling establishments will also be affected by the increase in four of the standard charge rates:

- I. The rate for boar weighing less than 25kg will increase from £0.3534 to £1.0136 (+187%);
- II. The rate for boar weighing 25kg and more will increase from £0.9189 to £1.0136 (+10%);
- III. The rate for ruminants (other than cattle, sheep and goats) weighing less than 12kg will increase from £0.1237 to £0.3379 (+37%);
- IV. The rate for ruminants (other than cattle, sheep and goats) weighing between 12 and 18kg inclusive will increase from £0.2474 to £0.3379 (+37%).

The assessment of impact on game handling establishments is tentative as it relies on an MHS data set for the period December 2004 to November 2005. With that caveat, the total charge for GB game handling establishments is estimated to increase by £5,488 (approximately £700 in Wales) or 14.9%. However, establishments that concentrate on the processing of roe and fallow deer (the main types included in ruminants weighing between 12 and 18kg inclusive) will be affected the most, as relatively few of the other categories of animals that are affected by increased rates are processed. In particular, there are few boars existing in the wild in GB and very low numbers have been presented to game handling establishments for processing.

Impact on Individual Businesses

The impact of implementing the OFFC minimum standard charge rates will vary between businesses depending on the type and numbers of the animals they process. The following table gives examples of how the throughput rates will change and is provided to help food business operators assess the impact of the proposals on their business:

³ The average weight of a turkey at slaughter in the UK was 12.8kg in 2006 according to DEFRA's slaughter statistics.

⁴ It is estimated that about 250,000 turkeys are slaughtered that are adult and weigh at least 5kg.

Examples current and proposed charges per 100 animals ⁵

	2007 charge £ per 100 animals	Proposed charge £ per 100 animals	Increase	
			£	%
Bovine - adult	318.06	337.88	19.82	+6.2
Bovine - young	176.70	176.70	None	Nil
Sheep less than 12kg	12.37	12.37	None	Nil
Sheep 12 –18kg	24.74	24.74	None	Nil
Sheep over 18kg	35.34	35.34	None	Nil
Pigs less than 25kg	35.34	35.34	None	Nil
Pigs 25kg or more	91.89	91.89	None	Nil
Boar less than 25kg	35.34	101.36	66.02	+186.8
Boar 25kg or more	91.89	101.36	9.47	+10
Other ruminants less than 12kg	12.37	33.79	21.42	+173.2
Other ruminants 12 – 18kg	24.74	33.79	9.05	+36.6
Other ruminants 18kg or more	35.34	35.34	None	Nil
All broilers	0.71	0.71	None	Nil
Turkey less than 2kg	0.71	1.69	0.98	+138
Turkey over 2kg, except as below	1.42	1.69	0.27	+19
Turkey – adult 5kg or more	2.82	2.82	None	Nil

Small Firms Impact Test

Operators of low throughput approved meat establishments are generally charged on the basis of their throughput and would be affected by the proposed increase in charges. It is not considered that the impact on small businesses in general will be significant.

7.3 Competition Assessment

The proposals are unlikely to significantly affect competition as the impact of the increased throughput fees will be small. All food business operators will continue to pay the lesser of time costs or throughput charges.

7.4 Consultation

The Food Standard Agency Wales carried out a public consultation between 30 July and 22 October 2007. Eighty-two stakeholders in Wales, including approved meat establishments, industry representative bodies and farming unions, were invited to comment on the draft Regulations and the draft Regulatory Impact Assessment, and to provide any supporting financial or other relevant data. (A list of stakeholders is attached at Annex A).

One substantive response was received to the consultation exercise, one in England and one in Scotland. The responses received were considered in finalising the national legislation. (A summary of the consultation comments and Departmental responses is attached at Annex B.)

⁵ Due to roundings, the numbers do not necessarily calculate to the figures shown.

7.5 Post Implementation Review

The MHS will monitor the delivery of the proposals in GB (DARD in Northern Ireland) in accordance with their usual procedures. The policy will be reviewed in June 2008 to establish its actual costs and benefits and the achievement of its desired objectives.

7.6 Summary

Although the Regulations will impose additional costs on business, the impact of the increased charges will, in general, be small. It will be more significant for businesses that specialise in the animals subject to a throughput rate increase. The overall increase in charges to approved meat establishments in Wales is estimated to be approximately £30,000 (£380,000 across GB).

	All approved/licensed meat establishments
V Taylor	County Land and Business Association
Moss Jones	Farm Assured Welsh Livestock
Nick Fenwick	Farmers' Union of Wales
Gethin Williams	Federation of Small Businesses
Prys Morgan	Hybu Cig Cymru (Meat Promotion Wales)
Rabbi Dafydd Jarrett	National Farmers Union Cymru
Mary James	National Farmers Union Cymru
John Mercer	National Farmers Union Cymru
William Lloyd-Williams	National Federation of Meat and Food Traders
Helen Davies	National Sheep Association
David Walters	Royal Welsh Agricultural Society
Alan Horine	The Guild of Welsh Lamb and Beef
Huw Brodie	Welsh Assembly Government
Lindsay Kearton	Welsh Consumer Council
Richard Howells	Welsh Lamb and Beef Promotions
David Cov	Welsh Quality Meats
Julie M Thomas	Women's Food & Farming Union Livestock Committee

ISSUE – request for information on the number of cattle that are slaughtered between 6 weeks and 8 months of age that would be charged at the rate that currently applies to cattle aged less than 6 weeks at slaughter.

Respondent	Method of Response	Comment	FSA Response
Farmers' Union of Wales	Letter	Agrees that the changes in the bovine throughput categories will see reduced charges for producers of bovine animals aged 6 weeks to 8 months, but producers of bovine animals over 8 months will see an increase in charges which cancels out the benefits that the changes produce.	Noted. The increase in charges for bovine animals over 8 months of age is required under relevant EC law to comply with the minimum charge rates for these animals. We agree that there will be a compensatory effect between this increase and the reduction in charges for bovine animals aged 6 weeks to 8 months.

ISSUE - request for information on the impact of the proposed throughput charge rate increases for boars and ruminants (other than cattle, sheep and goats, i.e. mainly deer) on those slaughter houses that process these animals.

Respondent	Method of Response	Comment	Response
Farmers' Union of Wales	Letter	Feels the changes in the throughput rate categories will make the system simpler especially in terms of ruminants, turkeys and wild boar, but the reduction in categories means producers of lighter animals (i.e. light lambs) have an increased burden in terms of the charges.	Agreed. The reduction in categories does not apply to sheep, which will continue to be subdivided into three weight categories: less than 12kg, between 12 and 18kg and greater than 18kg. No increase in the throughput charge rates for any of these

			categories has been proposed from 31 December 2007.
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ISSUE - request for views on whether to make the minimum changes to the charging structure for ruminants (other than cattle, sheep and goats), as was proposed, or whether to charge a single rate. We asked this because applying the minimum OFFC throughput fee for these ruminants requires a charge of £0.3371 for each animal with a carcass weight of no more than 18kg (i.e. to amalgamate the current “less than 12kg” and “12 - 18kg categories”). This leaves the current rate for animals over 18kg (£0.3534) only a little higher than the fee for the smaller animals.

Respondent	Method of Response	Comment	Response
None			

ISSUE – request for information on the impact of the proposed throughput charge rate increase for turkeys for which we have insufficient data to carry out a detailed analysis.

Respondent	Method of Response	Comment	Response
British Poultry Council	Face to face meeting and letter.	Believes that 90% of turkeys in the UK are slaughtered in species specific slaughterhouses, which should enable the total number of turkeys subject to official controls to be broken down by weight categories for a detailed analysis of the effect of the increase in charge rates. Considers that the lack of an impact assessment in relation to turkeys is an unacceptable basis from which to make changes to the charging system for turkeys.	A detailed analysis of the charge increase by weight category cannot currently be carried out across the poultry sector. This is because businesses, may be approved to slaughter several species of birds. As the current throughput charge rates are the same for all bird species, the total throughput of all species by the three different weight categories is recorded. This is to minimise the administrative burden on multi-species operators and on running the charging system. The analysis in the Impact Assessment is based on the estimated total number of turkey slaughterings (drawn from Defra slaughter statistics for 2006). It is likely to slightly

			overestimate the total cost to the turkey sector as it was not possible to take account of the number of adult turkeys weighing at least 5kg that are slaughtered and for which no increase in the throughput charge rate was proposed.
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ISSUE - request for information on the impact of the proposed throughput charge rate increases for boars and ruminants (other than cattle, sheep and goats, i.e. mainly deer) processed by game-handling establishments for which we have insufficient data to carry out a detailed analysis.

Respondent	Method of Response	Comment	Response
None			

ISSUE - request for information on typical numbers of animals processed by low throughput slaughterhouses and game handling establishments.

Respondent	Method of Response	Comment	Response
None			Examples of the effect of the proposed increase in charges per week for micro and small businesses have been added to the final Impact Assessment using throughput numbers derived from Meat Hygiene Service' data.

OTHER COMMENTS:

Respondent	Method of Response	Comment	Response
British Poultry Council	Face to face meeting and letter.	Acknowledged the legal necessity to implement the requirements of the OFFC Regulations. Considers that the proposed increase of 19% in Sterling	Noted. The proposed increase in both £ Sterling (from

	<p>(25% in Euros) in the minimum rate for turkeys of any weight (except those that are adult and weigh at least 5kg) is untenable at this time.</p>	<p>£0.0142 to £0.0169) and in Euros (from €0.0210 to €0.0250) is 19%.</p> <p>The increase is being implemented as close as possible to the 1 January 2008 deadline required by EC law (one day early to coincide with the start of the Meat Hygiene Services January charging period).</p> <p>In response to a point made in discussion with the BPC we have reviewed the increased cost of these proposals to the turkey sector and confirm the figure of £46,000 per annum or 1.5% of the current charge, as stated in the consultation Impact Assessment.</p>
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	<p>Feels that the minimum rate stipulated in the OFFC Regulations is already being met by the UK Government. Requests consideration be given to:</p> <p>i. charging a single rate for turkeys rather than a higher rate for an estimated 250,000 adult turkeys weighing at least 5kg;</p>	<p>Assuming that all turkeys would be processed at plants that pay throughput charge rates (i.e. not time costs), this would reduce the total charge from around £290k to £287k, a reduction of less than £3k to the GB turkey sector. Also, charging a single rate would be contrary to the FSA policy of making the minimum changes to throughput categories at this time given the intention to introduce a new system of charging from April 2009. We are not persuaded that the reduction in total turkey charges is sufficient to justify this, particularly as to do so would be counter to the need for industry to pay an increasing proportion of official control costs.</p>
	<p>ii. comply with the OFFC</p>	<p>Disagree,</p>

		<p>minima for turkey slaughtering and cutting by introducing a single throughput charge rate for those activities when they are carried out at a single establishment.</p> <p>Believes that item ii would comply with the stipulation in the OFFC Regulations that, when several official controls are carried out at the same time in a single establishment, those controls shall be considered a single activity and that a single fee should be charged.</p>	<ol style="list-style-type: none"> 1. The OFFC regulation stipulates different throughput charge categories and rates for slaughtering and cutting with the clear implication that the charge for each must be calculated separately. 2. Introducing the suggested system for co-located slaughtering and cutting plants would be inconsistent and unfair (and thus not sound legally) in respect of stand-alone cutting plants that process turkey meat and of turkey slaughterers that do not cut turkey meat. 3. Introducing the suggested system would be contrary to the FSA policy of making the minimum changes to throughput categories at this time given the Agency's intention to introduce a new system of charging from April 2009 and would be complex to implement.
Scottish Association of Meat Wholesalers	Letter	Supports the proposals.	Noted.
Farmers' Union of Wales	Letter	<p>Feels that the changes in throughput charge rates will put increased pressure on the abattoirs, especially the small abattoirs upon which the majority of the Welsh agricultural industry relies. As the small abattoirs cannot absorb the cost, this will be passed on to the producers.</p> <p>FUW agrees that the proposal to state throughput rates in £ sterling would make trading easier and more transparent in the UK,</p>	<p>Noted, but only those charges that are below the minima required by EC law will be increased and they will be increased by the smallest possible amount.</p> <p>We estimate, on advice from Defra, that two-thirds of the additional costs may generally be passed by slaughterhouse operators to producers. We acknowledge that this will vary in individual circumstances.</p> <p>Noted.</p> <p>Noted. However, the EU regularly publishes Euro exchange rates that are available free on its Europa website at:</p>

		but can make comparing rates with other European member states difficult.	http://eur-lex.europa.eu/JOIndex.do?ihmlang=en
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SUMMARY OF CHANGES MADE: None.

ACTIONS TO BE IMPLEMENTED:

The Meat Hygiene Service will configure the charging database to reflect, from 31 December 2007, the revised throughput categories and throughput charge rates.

List of Respondents

to England consultation:

1. British Poultry Council
2. Meat Livestock Commission No comments.

to Scotland consultation:

3. Deer Commission for Scotland No comments.
4. The Royal Environmental Health Institute of Scotland No comments.
5. Scottish Association of Meat Wholesalers

to Wales consultation:

6. Farmers' Union of Wales
7. Hybu Cig Cymru (Meat Promotion Wales) No comments.