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Rural Affairs and Islands Committee

Subordinate legislation considered by the Rural Affairs and Islands Committee on 31 May 2023



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Rural Affairs and Islands Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Rural Affairs and Islands; and on matters relating to rural land use, wildlife crime and animal welfare falling within the responsibility of the Cabinet Secretary for Net Zero, Energy and Transport.



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Animal By-Products and Animal Health (Miscellaneous Fees) (Scotland) Regulations 2023

1. At its meeting on 31 May 2023, the Rural Affairs and Islands Committee considered the [Animal By-Products and Animal Health \(Miscellaneous Fees\) \(Scotland\) Regulations 2023](#). The instrument was laid on 10 May 2023 and will come into force on 1 July 2023.
2. The policy note states the purpose of the instrument is to modify the Animal and Plant Health Agency (APHA) fees structure in order to achieve full cost recovery (FCR) for various statutory services. According to the policy note, these modifications aim to ensure operators can engage in domestic and international trade.
3. The policy note states that the fee changes and increases are directly linked to covering APHA's costs for the services provided, and there is no profit included in the fees. The fees are calculated based on the actual cost incurred by APHA, without any adjustments for inflation. To minimise the impact on businesses, the fee changes (except for checking live animal consignments at a border control post) will be implemented gradually over a period of two years.
4. The charging provisions being modified include—
 - **Animal By-Products (ABPs) fees** – for approving and inspecting premises carrying out operations involving the handling of ABPs under retained EC Regulation 1069/2009 which lays down health rules as regards ABPs.
 - **Salmonella National Control Programme (NCP) (Zoonoses) fees** – activities, including inspection services, in relation to the control of Salmonella in accordance with the Salmonella National Control Programme for poultry and retained Regulation (EC) 2160/2003.
 - **Poultry Health Schemes (PHS)** – registration, approval, inspection and proficiency testing services for the poultry health scheme for verification of compliance with animal health rules applicable to poultry and hatching eggs to be exported from Great Britain to certain countries and territories.
 - **Bovine semen fees**: Regulation 7 and schedule 4 of the new SSI set out fees payable for the purposes of the Bovine Semen (Scotland) Regulations 2007.
 - **Porcine semen fees**: Regulation 8 and schedule 5 of the new SSI set out fees payable for the purposes of the Artificial Insemination of Pigs (Scotland) Regulations 1964 or the Artificial Insemination of Pigs (EEC) Regulations 1992.
 - **Bovine embryo (collection, production and transfer) fees**: Regulation 9 and schedule 6 of the new SSI set out fees payable for the purposes of the Bovine Embryo (Collection, Production and Transfer) Regulations 1995.
 - **Checking consignments of live animals from third countries at border**

control posts (BCP) fees : inspections services for traded consignments of live animals in accordance with the Trade in Animals and Related Products (Scotland) Regulations 2012 (TARP).

Background

5. The Animal and Plant Health Agency (APHA) in Scotland is accountable for providing several services that support trade in animals and plants, prevent the spread of animal diseases, protect public health, and offer various animal health services. Charging fees for these services aligns with the principle that businesses benefiting from the services should cover the costs. APHA has calculated the fee changes to ensure that the expenses of the services are borne by the users who directly benefit from them.
6. The policy note explains that the fees associated with these services no longer represent full cost recovery (FCR), as the fees have not been uplifted for a number of years. Currently, the APHA receives £2.6 million in fee income for the statutory services it provides to businesses through chargeable schemes. However, due to various resource constraints, the fees for these schemes have not been updated since at least 2018, resulting in a deficit of £0.9 million, as they fail to achieve FCR.
7. In 2015, Defra conducted a public consultation regarding the increase of statutory fees to achieve FCR for the delivery of certain statutory services. In 2018, after formal stakeholder engagement, animal by-products (ABP) were introduced with a 50% FCR, which transitioned to 100% FCR in 2019 within a year. FCR does not include any profit and only pertains to the activities related to the corresponding business.
8. In August 2022, APHA announced its commitment to working towards achieving FCR for its statutory services. As part of this effort, a review of all fees is being conducted. APHA has engaged with key business representatives and informed them about the intention to review fees, with plans to publicise the proposed changes by April 2023. These representatives have subsequently informed their respective sectors about the potential fee adjustments. APHA will reconnect with these representatives, presenting a detailed package of proposed changes to gather evidence of their impact. In cases where risks are significant, appropriate measures will be taken to mitigate them, such as phasing in fee increases.

Delegated Powers and Law Reform Committee consideration of the instrument

9. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on [23 May 2023](#) and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

Committee consideration of the instrument

10. At its meeting on 31 May 2023, the Committee held an evidence session with the Cabinet Secretary for Rural Affairs, Land Reform and Islands, accompanied by Scottish Government officials.
11. The Committee asked why these modifications were needed to ensure operators can engage in domestic and international trade. In response, a Scottish Government official explained that it is the schemes that the fees relate to which allow operators to trade and that, by adjusting fees to ensure FCR, there is no risk to the provision of these services or a higher cost to the taxpayer.

Committee consideration of the motion

12. After the evidence session, the Cabinet Secretary moved motion -[S6M-08906](#)
That the Rural Affairs and Islands Committee recommends that the Animal By-Products and Animal Health (Miscellaneous Fees) (Scotland) Regulations 2023 [draft] be approved.
13. The motion was agreed to without division.
14. The official report of the meeting can be accessed on the Scottish Parliament's website.

The Rural Affairs and Islands Committee recommends to the Scottish Parliament that the [Animal By-Products and Animal Health \(Miscellaneous Fees\) \(Scotland\) Regulations 2023](#) be approved.

