

SL(6)279 – The Animal Health (Poultry Compartments and Animal Gatherings) (Fees) (Wales) (Amendment) Order 2022

Background and Purpose

This Order amends:

- the Poultry Compartments (Fees) (Wales) Order 2010 (S.I. 2010/1781) (W. 170) (“the 2010 Order”); and
- the Animal Gatherings (Fees) (Wales) Order 2018 (S.I. 2018/645) (W. 119) (“the 2018 Order”).

This Order revokes provisions in the 2010 Order which currently provide for Value Added Tax (VAT) to be added to fees charged under that Order.

It also uplifts fees payable to the Welsh Ministers for services provided by the Animal and Plant Health Agency in relation to the 2018 Order.

Article 2 amends the 2010 Order to omit the words “+ VAT” each time they occur in the table in the Schedule. As such, VAT will no longer payable in respect of the fees set out in the table.

Article 3 amends the 2018 Order, including to substitute a new Schedule providing for increased fees for the licensing of premises for animal gatherings.

This new Schedule provides as follows.

- Table 1 sets out fees payable for the licensing of premises for animal sales or collection centres that are not exempt. Column 2 provides for an interim increase for applications received and renewals undertaken on or before 30th November 2023. Column 3 applies to applications received and renewals undertaken after 30th November 2023 and provides for a further increase.
- Table 2 sets out fees payable for the licensing of premises for shows or exhibitions that are not exempt. Column 2 provides for an interim increase for applications received and renewals undertaken on or before 30th November 2023. Column 3 applies to applications received and renewals undertaken after 30th November 2023 and provides for a further increase.
- Table 3 sets out additional fees payable for the licensing of premises. Column 2 provides for an interim increase for veterinary visits undertaken on or before 30th November 2023. Column 3 applies to veterinary visits undertaken after 30th November 2023 and provides for a further increase.



Article 4 makes transitional provision so that these amendments do not apply in relation to an application made before the coming into force of this Order.

Procedure

Negative.

The Order was made by the Welsh Ministers before it was laid before the Senedd. The Senedd can annul the Order within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date it was laid before the Senedd.

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2 (vii) (that there appear to be inconsistencies between the meaning of its English and Welsh texts)

There is a difference between the English and Welsh texts of article 3(2). The English text has been drafted in the usual way when introducing amendments to both language texts of bilingual legislation. It suggests to the reader that amendments are being made to both the language texts.

However, the Welsh text of article 3(2) doesn't amend the Welsh text of the definition of "collection centre" in article 2 of the 2018 Order as it is already correct. So, it has added the words "yn y testun Saesneg" ("in the English language text") and the substituted words are noted in English only. This is the correct approach when it is only necessary to amend the English language text of a bilingual enactment, so that both language texts of the amending instrument will be making the same change to one language text of the existing legislation.

The English language text of article 3(2) of this Order should also have included the words "in the English language text" to identify that the amendment is only being made to the English language text of the existing text in article 2 of the 2018 Order.

Merits Scrutiny

The following points are identified for reporting under Standing Order 21.3 in respect of this instrument.

2. Standing Order 21.3(i) – that it imposes a charge on the Welsh Consolidated Fund or contains provisions requiring payments to be made to that Fund or any part of the government or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribes the amount of any such charge or payment.

The Order makes changes to the fees payable in relation to statutory services delivered by Animal and Plant Health Agency, pursuant to the 2010 Order and the 2018 Order.



3. Standing Order 21.3 (ii) (that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd)

The Explanatory Memorandum (“EM”) accompanying the Order does not explain the reason why VAT is being removed from the fees included in the Schedule to the 2010 Order. It is therefore difficult for a reader to understand the rationale for this change.

Additionally, the final paragraph of section 4 of the EM states as follows:

Due to the lack of Wales specific data has been presented and used to estimate the impact to businesses in Wales, where possible.

The meaning of this paragraph is unclear, which makes it difficult for the reader to understand what data has been used to estimate the impact to businesses in Wales, and whether it is sufficient.

Welsh Government response

A Welsh Government response is required in respect of points 1 and 3, above.

Legal Advisers

Legislation, Justice and Constitution Committee

23 November 2022



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

—

Welsh Parliament

Legislation, Justice and Constitution Committee