

SL(6)364 – The Animal By-Products, Pet Passport and Animal Health (Fees) (Wales) (Amendment) Regulations 2023

Background and Purpose

These Regulations amend the Animal By-Products and Pet Passport (Fees) (Wales) Regulations 2018 (“the Animal By-Products Regulations”) and the Animal Health (Miscellaneous Fees) (Wales) Regulations 2018 (“the Animal Health Regulations”) (together, “the 2018 Regulations”). The amendments modify the fees payable to the Welsh Ministers under the 2018 Regulations for services provided in the field of animal health by the Animal and Plant Health Agency to reflect full cost recovery of those services.

Regulation 2(4) amends the Animal By-Products Regulations to revoke the fees payable to the Welsh Ministers for blank identification documents and services carried out in relation to the provision of pet passport identification documents.

Regulation 2(5) amends the Animal By-Products Regulations to modify the fees payable to the Welsh Ministers for services carried out in relation to animal by-products. The fees, where increased, are increased by the medium average uplift of 41% from the current fees in two steps: the first increase applies on or after 5 July 2023, the second increase applies on or after 1 July 2024.

Regulation 3(6) amends the Animal Health Regulations to modify the fees payable to the Welsh Ministers for services carried out in relation to salmonella controls. The fees, where increased, are increased by the medium average uplift of 53% from the current fees in two steps: the first increase applies on or after 5 July 2023, the second increase applies on or after 1 July 2024.

Regulation 3(7) amends the Animal Health Regulations to modify the fees payable to the Welsh Ministers for services carried out in relation to the poultry health scheme. The fees are increased by the medium average uplift of 21% from the current fees. Regulation 3(7)(a) increases certain poultry health scheme fees in two steps: the first increase applies on or after 5 July 2023, the second increase applies on or after 1 July 2024. Regulation 3(7)(b) increases the remainder of the specified poultry health scheme fees in a single step, and the increase applies on or after 5 July 2023.

Regulation 3(8) to (10) amend the Animal Health Regulations to modify the fees payable to the Welsh Ministers for services carried out in relation to artificial breeding controls. The fees are increased by the medium average uplift of 65% from the current fees in two steps: the first increase applies on or after 5 July 2023, the second increase applies on or after 1 July 2024.



Regulation 3(11) amends the Animal Health Regulations to modify the fees payable to the Welsh Ministers for services carried out in relation to border control posts. The fees are increased by the medium average uplift of 34% from the current fees in a single step, and the increase applies on or after 5 July 2023.

These Regulations also make minor and consequential amendments to the 2018 Regulations.

Procedure

Draft affirmative.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

Technical Scrutiny

The following 5 points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(v) - that for any particular reason its form or meaning needs further explanation

Regulation 3(2)(a) introduces an amendment to the definition of "border inspection post" in the Animal Health Regulations. As a result of this amendment, in the Welsh language text, the new definition of "safle rheoli ar y ffin" will no longer appear in the correct alphabetical position in regulation 2 of the Animal Health Regulations.

2. Standing Order 21.2(vi) - that its drafting appears to be defective or it fails to fulfil statutory requirements

In the preamble, at the end of the first paragraph on page 3, "the Animal Health and Welfare Act 1984" is defined as "the 1984 Act", however the definition is not used elsewhere in the Regulations.

3. Standing Order 21.2(vi) - that its drafting appears to be defective or it fails to fulfil statutory requirements

Regulation 2(5)(a) and (b)(iii) substitute new columns 2 and 3 in Tables 1 and 2 in the Schedule to the the Animal By-Products Regulations. The original columns 2 and 3 included "Column 2" and "Column 3" at the head of the columns in the first row, but they have not been included in the new columns 2 and 3. Also to note, the new columns, as inserted by these Regulations are formatted differently to the original Tables and the original columns 1, which remain. The new columns have been separated by lines whereas the original Tables do not include such lines.



4. Standing Order 21.2(vi) - that its drafting appears to be defective or it fails to fulfil statutory requirements

Regulation 3(8)(a)(iii)(aa) amends the Table in Schedule 3 to the Animal Health Regulations. In the English language text, the words "an EC" appear twice in the sixth row of Column 1, therefore the description in regulation 3(8)(a)(iii)(aa) doesn't allow for differentiation between both instances, without including additional text.

5. Standing Order 21.2(vi) - that its drafting appears to be defective or it fails to fulfil statutory requirements

Regulation 3(11)(c) amends Table 2 in Schedule 6 to the Animal Health Regulations. Table note (2) is not part of Column 2, it is a note for the whole of Table 2, therefore this note should not have been included in the substitution for Column 2. It may have been more appropriate to amend table note (2) in a separate provision. The punctuation is also incorrect as the closing quotation marks appear after the final words of Column 2, which suggests only the text in Column 2 is being amended and there is no punctuation for the new table note (2).

Merits Scrutiny

The following 4 points are identified for reporting under Standing Order 21.3 in respect of this instrument.

6. 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 Regulations make modifications to the fees payable to the Welsh Ministers in relation to services delivered by the Animal Health and Plant Health Agency, under the 2018 Regulations.

7. 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.

In the preamble, section 10 of the Animal Health and Welfare Act 1984 is cited as one of the enabling powers. The powers in section 10 are varied, therefore specifying the relevant subsections would better assist the reader. For example, the Animal Health Regulations identify section 10(1) and (3)(c) of the Animal Health and Welfare Act 1984.

8. 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 preamble to the Regulations state that they are subject to the draft affirmative procedure in accordance with paragraph 1(8) of Schedule 7 of the European Union (Withdrawal) Act 2018 ("the 2018 Act"). Paragraph 1(8) relates to regulations under Part 1 of



Schedule 2 to the 2018 Act. These Regulations are made under Schedule 4 to the 2018 Act. The relevance of paragraph 1(8) of Schedule 7 to the 2018 Act to these Regulations does not become apparent unless read in conjunction with paragraph 12 of Schedule 7 to the 2018 Act. A reference to paragraph 12 of Schedule 7 to the 2018 Act, in a footnote or otherwise, would improve the accessibility of the law.

9. 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 states the following under the heading 'Consultation':

*APHA initial communications were published on GOV.UK on 18 August 2022.
Further information was issued on 10 March 2023.*

Can the Welsh Government please confirm whether or not there has been a consultation on these Regulations.

We were unable to locate the further information dated 10 March 2023. The communication of 18 August 2022 is not easily accessible on gov.uk, providing links in the Explanatory Memorandum would assist the reader.

Welsh Government response

A Welsh Government response is required to reporting points 1 to 5 and 7 to 9.

Legal Advisers

Legislation, Justice and Constitution Committee

21 June 2023



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee