

Explanatory Memorandum to The Animal Health (Poultry Compartments and Animal Gatherings) (Fees) (Wales) (Amendment) Order 2022

This Explanatory Memorandum has been prepared by the 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

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Animal Health (Poultry Compartments and Animal Gatherings) (Fees) (Wales) (Amendment) Order 2022. I am satisfied the benefits justify the likely costs.

Lesley Griffiths MS
Minister for Rural Affairs and North Wales, and Trefnydd
10 November 2022

1. Description

The Animal and Plant Health Agency (APHA) deliver a wide range of services for a wide range of end users. It is appropriate to consider applying a charge to businesses which benefit from a service in order to recover the full cost 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.

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

None

3. Legislative background

This Order is being made by the Welsh Ministers in exercise of the powers conferred by paragraph 84 of the Animal Health Act 1981 and is subject to the negative resolution procedure. The Order amends the Poultry Compartments (Fees) (Wales) Order 2010 and the Animal Gatherings (Fees) (Wales) Order 2018.

The Poultry Compartments (Fees) (Wales) Order 2010 provides for the payment of fees for inspections in relation to applications for recognition as a compartment under the Poultry Compartments (Wales) Order 2010. This Order revokes provisions in the 2010 Order that provide for Value Added Tax (VAT) to be added to fees charged under that Order.

The Animal Gatherings (Fees) (Wales) Order 2018 sets out fees payable to the Welsh Ministers in relation to the licensing of certain animal gatherings. This Order substitutes a new Schedule to the 2018 Order providing for increased fees.

Whilst the functions of charging fees are Welsh Minister's functions, the charges are levied by APHA, acting as an agent of the Welsh Ministers pursuant to section 83 of the Government of Wales Act 2006.

As APHA is an executive agency of the different administrations, Scottish Government, Welsh Government and Defra lawyers have worked together to ensure a uniform fee structure.

4. Purpose & intended effect of the legislation

Officials from each of the 3 GB Administrations in liaison with APHA have been taking forward a project to review existing APHA charges.

The purpose of this instrument is to provide for a revision in the fees payable in relation to statutory services delivered by the APHA, as part of a move towards full cost recovery of such fees.

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.

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.

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

5. Consultation

APHA initial communications were published on GOV.UK on 18 August. Emails have also been issued directly to main stakeholders.

6. Regulatory Impact Assessment - Introduction

This RIA is limited to the negative SI covering changes to the Animal Gatherings Order. The SI also reflects minor changes in text to the Poultry Compartmentalisation scheme delivered by APHA (No fee increase).

Three options are considered:

- Option 0 - Do nothing
- Option 1 - Increase fees on a phased basis, leading to full cost recovery after one year
- Option 2 - Increase fees to achieve full cost recovery without phasing

HMT have agreed with the APHA approach to cap travel time at 90 minutes per visit (including the return journey). This will ensure businesses are not disadvantaged who are located further away from APHA offices or are based in remote locations.

Travel time will be charged from the closest APHA field office to the premises. APHA will combine visits wherever possible to ensure travel costs are minimised.

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.

Within the boundaries set by HMT guidance, APHA have been able to apply a cap to travel time charges and are also able to phase in fees towards full cost recovery. This may be considered as options applied to help mitigate the impact of charges.

7. Risks and Benefits

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.

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 in Wales would be a gap in funding provisions which, the Welsh Government is likely to become liable for.

APHA would face difficulties in having to apply different fees for the same services across borders and this could result in increased costs to industry and all 3 GB Administrations.

The main risks if the requirement to introduce full cost recovery-based charges is implemented is the increase in charges proposed may:

- 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.

These costs are transferred to industry by charging. Essentially, there is a cost to the industry and an equivalent benefit to government as the revenue is paid to APHA. This arrangement avoids the implicit subsidisation of the private sector at taxpayer expense.

The intended effects are a fair and transparent set of charges for users of the services, and more efficient use of public resources.

Detailed Regulatory Impact Assessment

8. Animal Gatherings Order (Fee increase only)

We are recommending phasing the new fees over two years:

- December 2022 to November 2023 – 50% uplift of the fees
- December 2023 – Full Cost Recovery using the latest charging methodology

The Animal Gatherings Order 2010 (SI 2010/460) (the “2010 Order”) provides for the licensing of premises for the gathering of cattle, deer, goats, sheep and pigs for sale, show or exhibition, collection for onward consignment within Great Britain and inspection to confirm the animals possess specific breed characteristics. APHA veterinary inspectors provide services to inspect, approve and licence animal gatherings. The 2010 Order forms part of the measures in place to reduce the risk of spread of disease, specifically Foot and Mouth Disease (FMD) to which all the listed farmed animals are susceptible.

The Animal Gatherings (Fees) (Wales) Order 2018 (SI 2018/645 W.119) (the “2018 Fees Order”), which came into force on 30 June 2018, introduced fees to enable staged full cost recovery for APHA services involved in processing licence applications under the 2010 Order.

Due to a variety of factors, the fees in the 2018 Fees Order have not been refreshed since their introduction and are currently failing to achieve full-cost recovery. We wish to amend the 2018 Fees Order to deliver full cost recovery, following the cost recovery principles of the Managing Public Money guidelines. No additional margins or profits have been included.

Fee Schedules illustrating the impact of a phased increase in fees over 2 years, achieving FCR in 2023. The fees will be uplifted by 50% of the total increase in the first 12 months before moving to FCR.

Full table overleaf.

	Wales volumes (adjusted to pre-Covid levels)	Option 0 Current Fees	Option 1 Proposed phased fees from 1 December 2022 to 30 November 2023	Option 2 FCR Fees from 1 December 2023
Market Application -				
Market - Application - Basic Visit	0	£ 256.00	£ 318.00	£ 379.00
Market - Application - with Additional Visit	0	£ 414.00	£ 550.00	£ 685.00
Market Re-application -				
Market - Re-approval - Basic Visit	95	£ 217.00	£ 279.00	£ 340.00
Market - Re-approval - with Additional Visit	0	£ 342.00	£ 414.00	£ 486.00
Market Additional In-Year Visits/Convert Provisional to Full Licence -				
Market - Additional In-Year - 1 Visit	0	£ 173.00	£ 246.00	£ 318.00
Shows -				
Show - Applications - Basic Visit	0	£ 114.00	£ 175.00	£ 236.00
Show - Applications - Larger Show Visit	0	£ 245.00	£ 327.00	£ 408.00
Show - Re-approval - No Visit	2	£ 91.00	£ 130.00	£ 168.00
Show - Re-applications - with Visit – LOW RISK	0	£ 110.00	£ 141.00	£ 171.00
Show - Re-applications - with Visit – MEDIUM/HIGH RISK	0	£ 157.00	£ 193.00	£ 229.00
Add-on charges				
Additional Veterinary Officer Time (per 15 minutes) ex travel	0	£ 16.00	£ 22.00	£ 22.00
Veterinary Officer Travel Time (per 15 minutes)	0	£ 21.00	£ 22.00	£ 22.00
Totals	97	£20,797	£26,765	£32,636

Animal gatherings (markets, shows etc.) are places where animals from different holdings are gathered together. This has the potential to spread infectious disease. Spread of disease is a negative externality which can impose economic costs on unwitting third parties - costs which are not fully borne by those responsible for the spread of disease. Animal gatherings are licenced in accordance with existing regulations to ensure the risk of disease spread is adequately mitigated. For higher risk and all new gatherings, an inspection is required to verify conditions of a licence can be met. The specific proposal is to charge for these licences and inspections in line with UK government policy on fees and charges.

9. Expected level of business impact

For the purposes of this assessment gatherings have been grouped into markets, collection centres and shows.

Markets bring together animals for sale (change of ownership) and onward movement either to another farm or to a slaughterhouse. Markets tend to be held at long established venues, although from time to time they move to a new venue or there are significant changes to the infrastructure or type of business conducted. Volume of animal movements through markets tends to be high, with some venues holding several sales a week. There are a few local markets which operate infrequently in response to local demand or seasonal events. Markets are generally issued with a single licence to cover all their business for a year. Markets tend to have the largest financial turnover of the categories and will generally be a company limited by liability or other form of company, often part of a larger auction business. Based on APHA figures (pre-Covid), charges were levied for 95 markets in Wales.

Collection centres are primarily used to allow efficient logistics in the distribution of animals from or to multiple destinations over longer distances and are therefore of benefit to hauliers. Collection centres for export are outside the scope of this legislation so therefore no fee is proposed for the approval of export assembly centres. Whilst the business of collection centres is less complex, many are held at farms and therefore can present a higher risk of disease transmission between resident and transitory animals. Collection centres are generally issued with a single licence to cover all their business for a year. Collection centres move location more frequently requiring new or amended licences. These tend to be smaller businesses. Based on APHA figures there are 45 collection centres in England & 42 in Wales (included within the 95 Market Re-applications). It is understood collection centres tend to have few employees (less than 50).

Shows bring together animals from multiple locations for showing to public and producers. APHA have included in this category gatherings to inspect animals specific breed characteristics. Animals tend to return to their farm of origin. Animals attending shows usually are of a high health status, whereas those at markets and collection centres are usually of mixed status. Shows tend to occur just once a year at each location. They typically last one or 2 days but the largest last up to a week. Most shows are therefore issued a licence for the event only. Many shows are annual so are licenced each year and this relicensing is straightforward, where the structure of the show is unchanged. A licence for a show tends to represent lower risk since shows are single events rather than multiple events in a single year. A proportion of the smaller shows move location each year and licencing at the new venue is more complex. Many shows are registered charities and, apart from the largest agricultural shows, turnover is relatively low. Based on APHA 21/22 figures, charges were only levied for 2 shows in Wales. (Small scale local shows for 1 day don't incur charges)

An exemption from fees will apply to an animal gathering on premises, or on a separate part of a premises to which the licence relates, involves only shows or exhibitions open to the public for not more than one day at a time, and no public sale or auction of animals take place at the premises, or separate part of premises to which the licence relates, where such one-day shows or exhibition take place. A person is also exempt from any fee where the licence is related to premises, or separate part of a premises, used solely for the purpose of a gathering for inspection to confirm animals possess specific breed characteristics.

The majority of businesses will only receive one invoice annually therefore it is believed the impact will be minimal.

All gatherings will already have systems in place for the payment of charges. The proposal is to require payment at time of application, and this should reduce processing burdens. It is estimated a typical cost to a business of processing a fee payment in this manner will be approximately £2.50 per licence.

All gatherings charge clients a fee, typically an entry fee for shows or a transactional fee for markets. Our expectation is the costs of licencing will be passed on to customers as part of this fee but for the purposes of this RIA we have ascribed the costs to the animal gathering businesses. In practice for most gatherings the proposed fees are small relative to their other operating costs and turnover. It is understood the level of charges proposed will not have a significant impact on the viability of businesses. It is therefore assumed the volume of licences issued annually will not be affected.

In view of the data, option 1 is recommended, as this will allow businesses time to adjust to the increased charges. Option 2 would result in an immediate move to full cost recovery, removing the opportunity for business to adjust to the changes, therefore this is not the preferred approach.

10. Competition Filter Test – Animal Gatherings

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?	Yes
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	Yes
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	Yes
Q4: Would the costs of the regulation affect some firms substantially more than others?	No

The competition filter test	
Question	Answer yes or 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