

Rural Affairs and Islands Committee

17th Meeting, 2023 (Session 6), Wednesday, 31 May

Subordinate legislation cover note

Title of Instrument:	Animal Health (Miscellaneous Fees) (Amendment and Revocation) (Scotland) Order 2023
Type of Instrument:	Negative (see paras 8 and 9)
Laid date:	10 May 2023
Reporting deadline:	18 June 2023
Coming into force:	1 July 2023
Instrument drawn to Parliament's attention by DPLRC:	No
Instrument made using powers conferred by:	Animal Health Act 1981
Supporting documentation:	Policy note attached Annexe A

Purpose of the Instrument

1. The purpose of the instrument is to amend the Poultry Compartments (Fees) (Scotland) Order 2010. The 2010 Order establishes a system for paying fees associated with inspection services related to applications for recognition as a poultry compartment and implements the Commission Regulation (EC) 616/2009, which has been retained and is currently in effect.
2. The amendment involves revoking provisions that currently allow VAT to be added to the fees charged for poultry compartments. According to HM Revenue & Customs, statutory fees that can only be performed by the Animal and Plant Health Agency (APHA) are not subject to VAT, so no VAT is applicable to them. Prior to 2015, VAT was included on invoices for the poultry compartments scheme; however, after a review in 2015 regarding out-of-scope statutory instruments, any VAT invoiced in the previous four years was refunded using credit notes. Since that review, no VAT has been charged for the poultry compartments scheme. Therefore, this instrument removes the ability to add VAT to the fees charged for poultry compartments.

3. The instrument also revokes the following two statutory instruments –
 - the Diseases of Animals (Fees for the Testing of Disinfectants) Order 1991 (S.I. 1991/1168); and
 - the Diseases of Animals (Waste Food) (Fees for Licences) Order 1992 (S.I. 1992/453).
4. The Diseases of Animals (Fees for the Testing of Disinfectants) Order 1991 established the fees to be paid by individuals submitting disinfectants for testing in accordance with article 7 of the Diseases of Animals (Approved Disinfectants) Order 1978. However, the 1978 Order was repealed by the Diseases of Animals (Approved Disinfectants) (Scotland) Order 2008. Currently, the Animal and Plant Health Agency (APHA) manages the approval scheme, and testing is conducted in their laboratory in England on behalf of all administrations in Great Britain. In Scotland, fees are not charged separately for testing disinfectants for approval; instead, the fees for testing in England are applied, and the same testing process is used for approving disinfectants in Scotland. As a result, the 1991 Fees Order no longer serves a purpose and will be revoked.
5. The Diseases of Animals (Waste Food) (Fees for Licences) Order 1992 establishes the fees to be paid for licenses under Article 7 of the Diseases of Animals (Waste Food) Order 1973. However, the 1973 Order was revoked in 1999 by the Animal By-Products Order 1999, rendering the licenses under the 1973 Order no longer applicable. As a result, the 1992 Fees Order no longer serves any purpose and will be revoked.
6. The explanatory note states that a consultation was not considered necessary and there will be no significant impact on business, charities and or voluntary bodies. The policy note also states the no business and regulatory impact assessment is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Consideration by the Delegated Powers and Law Reform Committee

7. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on [23 May 2023](#) and agreed that no points arose.

Parliamentary procedure – negative instruments

8. The negative parliamentary procedure is set out in Chapter 10 of the Parliament's Standing Orders. Instruments subject to the negative procedure come into force on a specified date and remain in force unless it is annulled by the Parliament. Thus, the Parliament does not need to agree to the instrument in order for it to come into force.
9. The Parliament may, however, and on the recommendation of the lead committee, recommend the instrument be annulled within 40 days of the instrument being

laid. Any MSP may by motion propose to the lead committee that the committee recommends “that nothing further is to be done under the instrument”. Any motion for annulment would be debated by the lead committee and a report made to Parliament.

For decision

10. The Committee is invited to note the instrument set out above.

**Rural Affairs and Islands Committee clerks
May 2023**

The Animal Health (Miscellaneous Fees) (Amendment and Revocation) (Scotland) Order 2023 SSI 2023/143 – policy note

The above instrument was made in exercise of the powers conferred by section 84(1) of the Animal Health Act 1981 and is subject to negative procedure.

Summary Box

The instrument adjusts the Poultry Compartments (Fees) (Scotland) Order 2010 to revoke provisions which currently allow Value Added Tax (VAT) to be added to fees charged. It also revokes 2 other fee charging instruments which are spent.

Policy Objectives

1. The purpose of the S.S.I. is to changes the Poultry Compartments (Fees) (Scotland) Order 2010. This change revokes provisions which currently allow Value Added Tax (VAT) to be added to fees charged. As regards VAT, HM Revenue & Customs have indicated that statutory fees which can only be performed by the Animal and Plant Health Agency (APHA) are out of scope for VAT, so no VAT is due upon them. VAT was included on invoices for the poultry compartments scheme prior to 2015, but following a review of the treatment of out of scope statutory instruments in 2015 all VAT invoiced in the previous four years was refunded using credit notes. No VAT has been charged against the poultry compartments scheme since that review. This instrument therefore removes the capability to add VAT to fees charged for poultry compartments.
2. The Poultry Compartments (Fees) (Scotland) Order 2010 provides for the payment of fees for inspections services in relation to applications for recognition as a poultry compartment under the Poultry Compartments (Scotland) Order 2010, S.S.I. 2010/150, which implemented now retained Commission Regulation (EC) 616/2009.
3. The instrument also revokes the following two statutory instruments--
 - the Diseases of Animals (Fees for the Testing of Disinfectants) Order 1991 (S.I. 1991/1168),
 - the Diseases of Animals (Waste Food) (Fees for Licences) Order 1992 (S.I. 1992/453).
4. The Diseases of Animals (Fees for the Testing of Disinfectants) Order 1991 (“the 1991 Fees Order”) set out the fees payable by a person who submitted a disinfectant for testing in accordance with article 7 of the Diseases of Animals (Approved Disinfectants) Order 1978. That 1978 Order was revoked by the Diseases of Animals (Approved Disinfectants) (Scotland) Order 2008. The current approval scheme is run by APHA and testing is carried out in their laboratory in England on behalf of all GB administrations. Fees are not being charged separately for testing on behalf of the Scottish Ministers for approval of a

disinfectant in Scotland, only the fees payable for the testing of a disinfectant for approval in England are being charged, with the testing being carried out also being used for approval of the disinfectant in Scotland. The 1991 Fees order no longer serves a purpose and therefore will be revoked.

5. The Diseases of Animals (Waste Food) (Fees for Licences) Order 1992 (“the 1992 Fees Order”) sets out the fees payable for licences under Article 7 of Diseases of Animals (Waste Food) Order 1973 (“the 1973 Order”). The 1973 Order was revoked in 1999 by the Animal By-Products Order 1999, and licences under the 1973 Order no longer exist. The 1992 Fees Order no longer serves any purpose and therefore will be revoked.

Consultation

6. A consultation was not considered necessary.

Impact Assessments

7. There is no, or no significant, impact on business, charities or voluntary bodies.

Financial Effects

8. The Cabinet Secretary for Rural Affairs and Islands confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Agriculture and Rural Economy Directorate
2 May 2023