SCOTTISH STATUTORY INSTRUMENTS

2001 No. 89

FOOD

The Meat (Hygiene and Inspection) (Charges) Amendment (Scotland) Regulations 2001

Made - - - -	*12th March 2001*
Laid before the Scottish Parliament - - - -	*12th March 2001*
Coming into force - -	*2nd April 2001*

The Scottish Ministers, in exercise of the powers conferred by sections 17(1), 45 and 48(1) of the Food Safety Act 1990(**1**) and of all other powers enabling them in that behalf, having had regard in accordance with section 48(4A)(**2**) of that Act to advice given by the Food Standards Agency and after consultation in accordance with section 48(4) and 48(4B)(**3**) of that Act, and (insofar as these Regulations impose charges in relation to the monitoring of the requirements of the Welfare of Animals (Slaughter or Killing) Regulations 1995(**4**)) by section 2(2) of the European Communities Act 1972(**5**), hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Meat (Hygiene and Inspection) (Charges) Amendment (Scotland) Regulations 2001 and shall come into force on 2nd April 2001.

(2) These Regulations extend to Scotland only.

Amendments to the Meat (Hygiene and Inspection) (Charges) Regulations 1998

2.—(1) The Meat (Hygiene and Inspection) (Charges) Regulations 1998(**6**) shall be amended in accordance with the following paragraphs of this regulation.

(**1**) 1990 c. 16; section 17(1) was amended by the Food Standards Act 1999 (c. 28) ("the 1999 Act"), Schedule 5, paragraphs 8 and 12; sections 45 and 48(1) were amended by the 1999 Act, Schedule 5 paragraph 8; amendments made by Schedule 5 of the 1999 Act which extend to Scotland shall be taken as pre commencement enactments for the purposes of the Scotland Act 1998 (c. 46) by virtue of section 40(2) of the 1999 Act. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.
(**2**) Section 48(4A) was inserted by the Food Standards Act 1999, Schedule 5, paragraph 21.
(**3**) Section 48(4B) was inserted by the Foods Standards Act 1999, Schedule 5, paragraph 21.
(**4**) S.I.1995/731, to which there are amendments not relevant to these Regulations.
(**5**) 1972 c. 68; section 2(2) was amended by the Scotland Act 1998, Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.
(**6**) S.I. 1998/2095, amended by S.S.I. 2000/61 and 62

(2) In regulation 2(1) (interpretation), in the definition of "accounting period", the words "of less than a year" shall be inserted before the word "determined".

(3) In regulation 3 (charges), paragraphs (5) and (6) shall be omitted.

(4) In regulation 3(10), the words "or (5)" shall be omitted.

(5) In the Schedule (calculation of the inspection charge), for paragraphs 1 to 5 there shall be substituted the following paragraphs–

"**1.** Subject to paragraphs 2, 3, 4 and 5 below, the inspection charge payable by the occupier of any premises for any accounting period shall be the lower of–

(a) the sum of–

(i) the standard charge incurred in relation to those premises for that period; and

(ii) any additional charge incurred in relation to those premises for that period by virtue of paragraph 8A below; and

(b) the time costs generated by those premises for that period.

2.—(1) This paragraph applies where the inspection charge calculated under paragraph 1 above for any accounting period (amount A), when added to the inspection charge payable in respect of all earlier accounting periods falling within the same financial period (amount B), produces a total (amount C) which is greater than the amount of the inspection charge which would be payable under paragraph 1 above if those accounting periods were one accounting period (amount D).

(2) Where this paragraph applies, the inspection charge payable by an occupier for an accounting period shall be the amount by which amount D exceeds amount B.

(3) In this paragraph, "financial period" means a period commencing on the Monday immediately following the last Sunday in March in any year and ending on the last Sunday in March in the following year.

3. The inspection charge payable by the occupier of a re packaging centre shall be the time costs.

4. The inspection charge payable by the occupier of a slaughterhouse or cutting premises for any accounting period shall not be lower than 45% of the standard charge incurred in relation to those premises for that period.

5. The inspection charge payable by the occupier of a cold store shall be determined in accordance with paragraph 12 below.".

(6) In the Schedule, in paragraph 6, in the table, the entries in the table below shall be inserted at the end–

"Species	*Type*	*Rate per type of animal in ECU*
Ostriches and other ratites		1.3
Land mammals and birds not listed elsewhere in this table		1.3"

(7) In the Schedule, in paragraph 7–

(a) the words "any cutting operation carried out on" shall be omitted; and

(b) for the words "entering the cutting room" to the end there shall be substituted the words "brought into those premises during that period.".

(8) In the Schedule, the following paragraphs shall be inserted after paragraph 8–

"**8A.**—(1) Where in respect of an accounting period the Agency finds that it has incurred increased costs because of inefficiency in the operation of premises, the Agency may, in accordance with this paragraph, add an additional charge to the standard charge incurred in relation to the premises for that period.

(2) The additional charge shall be a sum equal to the time costs generated by the inefficiency for the accounting period concerned.

(3) The Agency may not make an additional charge in accordance with this paragraph unless it has notified the occupier of its intention to do so.

(4) The notification referred to in sub paragraph (3) above shall be given as soon as is practicable after the Agency has concluded that it wishes to make an additional charge in accordance with this paragraph.

(5) For the purposes of this paragraph "inefficiency" means an inefficiency on the part of the occupier and shall include in particular–

(a) delay in the start of slaughtering attributable to the occupier;

(b) mechanical breakdown caused by lack of maintenance;

(c) enforcement action taken by the Agency or an inspector;

(d) under-employment of inspectors caused by the occupier's failure to adhere to the working hours or working practices agreed for the purposes of this paragraph pursuant to sub paragraph (6) below;

(e) insufficient provision of slaughter staff caused by the occupier's failure to adhere to the working hours or working practices agreed for the purposes of this paragraph pursuant to sub paragraph (6) below;

(f) delays caused by risks to the health or safety of inspectors attributable to the occupier; and

(g) any change to the working hours or working practices agreed for the purposes of this paragraph pursuant to sub paragraph (6) below attributable to the occupier.

(6) For the purposes of sub paragraph (5)(d), (e) and (g) above, the Agency and the occupier shall agree working hours and working practices and shall keep the working hours and working practices so agreed under review.

(7) Where, following any such review, it appears to the Agency and the occupier that it is appropriate to do so, they may by further agreement vary any working hours or working practices agreed pursuant to sub paragraph (6) above.

(8) Where any working hours or working practices have been varied pursuant to sub paragraph (7) above they shall be treated as having been agreed pursuant to sub paragraph (6) above.

(9) No additional charge may be made in accordance with this paragraph in respect of any increased costs incurred because of any variation in working hours or working practices which does not alter the working hours or working practices which have been agreed in accordance with sub paragraph (6) above.

8B.—(1) An occupier who does not agree that an additional charge is payable in accordance with paragraph 8A above may request that the question be determined by a person nominated for the purpose pursuant to sub paragraph 3(a) below.

(2) A request under sub-paragraph (1) above shall be made within 1 week of the Agency giving the occupier notice under paragraph 8A(3) above.