Explanatory Memorandum to The Charges for Residues Surveillance (Amendment) (Wales) Regulations 2026

This Explanatory Memorandum has been prepared by the Office of the Chief Veterinary Officer within the Department for Local Government, Housing, Climate Change and Rural Affairs of the Welsh Government and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Cabinet Secretary's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Charges for Residues Surveillance (Amendment) (Wales) Regulations 2026.

Huw Irranca-Davies MS
Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs
3 March 2026

PART 1

1. Description

1.1 These Regulations amend the Charges for Residues Surveillance Regulations 2006 ('the 2006 Regulations') to update the charges payable to the Veterinary Medicines Directorate ('VMD') in relation to the surveillance for residues of veterinary medicines and certain other substances in food animals and animal products as part of the National Residues Control Programme (NRCP). They are made using powers conferred by the Food Safety Act 1990 ('the 1990 Act').

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

2.2 None.

3. Legislative background

3.1 This Welsh subordinate legislation is made by virtue of section 45 and 48(1)(b) of the Food Safety Act 1990 ('the 1990 Act'). Section 45(1) enables the Welsh Ministers to make regulations to require or authorise charges to be imposed by enforcement authorities in respect of things done or to be done by them which they are required or authorised to do under the 1990 Act. Paragraph (2) enables the regulations to include such provision as the Welsh Ministers see fit as regards charges for which the regulations provide and the recovery of such charges.

3.2 Section 48(1)(b) enables regulations made under the 1990 Act to make different provision in relation to different cases or classes of case.

3.3 The relevant functions of the "the Ministers", so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) as read with section 40(3) of the Food Standards Act 1999. Those functions are now exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006

3.4 By virtue of section 48(3), these regulations will be subject to the Senedd annulment procedure.

4. Purpose and intended effect of the legislation

4.1 The Veterinary Medicine Directorate (VMD) is an executive agency of the UK Government.

4.2 The VMD manages the National Residues Control Programme (NRCP), an annual programme of testing and sampling of products of animal

origin (POAO) destined for the food chain (e.g. eggs, milk, honey, game, red meat, poultry meat and farmed fish). The samples are tested by a specialist laboratory for residues of veterinary medicines, including antibiotics, and other prohibited substances and contaminants harmful for human health.

4.3 For the financial year (FY) 2025/26, the costs of delivering the NRCP are expected to reach £6.6m, having risen from £4.7m in 2024/25 FY. These costs are forecast to rise to £6.8million per annum by 2026/27 FY and £7m by 2027/28. The main cost drivers are the rising costs of sampling, processing, and testing, but procuring contractors to carry out the sampling and testing is where the VMD has seen recent significant and unexpected cost pressures.

4.4 To attempt to cover these costs, the statutory maximum charging rate for food business operators in the scheme, as set out in Schedule 1 of the Charges for Residues Surveillance Regulations 2006 (as amended) ("The 2006 Regulations"), was updated in Wales via the Charges for Residues Surveillance (Amendment) (Wales) Regulations 2024 ("The 2024 Regulations") and the Charges for Residues Surveillance (Amendment) (Wales) Regulations 2025 ("The 2025 Regulations") .

4.5 Since the implementation of that increased maximum charge, costs have continued to exceed the maximum income that the VMD is permitted to generate. As a result, it is forecast to incur a deficit of £1.0m in FY 2026/27, rising to £1.2m in FY 2027/28.

4.6 It has therefore become necessary to further increase the rate ceilings to ensure the VMD is able to continue to recover the costs of delivering this programme in future. The charges that food business operators in the scheme pay are set out in Schedule 1 of the 2006 Regulations. To stem the financial losses incurred by the VMD in its operation of the NRCP, it is proposed that these statutory charges be raised over the next two financial years. This will ensure that the VMD are able to fully recover the costs for delivering the scheme, as required by HMT guidance on managing public money. Based on the VMD's internal assessments, this programme is not deemed suitable to be subsidised using taxpayer's money.

5. Consultation

5.1 A GB wide consultation, managed by VMD, was launched on 24 November 2025 and ran for 8 weeks until 19 January 2026 on the new proposed revised charges for the NRCP. The consultation was conducted using Citizen Space, the UK government's online consultation tool. The consultation document explained the reasons behind the need to increase charges for businesses covered by the NRCP. It set out the following three options with a recommendation for Option C:

a) do nothing. charges would be maintained at current levels. This would risk food safety and international trade obligations.

b) a flat rate 22% increase to the charges in Schedule 1, applied across all sectors taking part in the NRCP. This would risk sectors cross subsidising others.

c) a specific percentage increase tailored for each industry sector based on their specific sampling plan and production levels.

5.2 The consultation proposed a specific percentage increase tied to the specific sampling cost profile of each industry sector, and to avoid cross-subsidisation. This option recognised that not all sectors have the same cost profile due to different sampling and testing arrangements which are carefully decided each year based on risk assessments and other factors. Analysis of the consultation responses showed most respondents agreed with the recommendation.

5.3 A summary of the consultation responses and the Government's response will be published on gov.uk in due course.

5.4 Where Regulations are made using powers conferred by the 1990 Act, Section 48(4)(a) of that Act requires the Welsh Ministers to consult before making any Regulations. Further, Section 48(4A) requires the Welsh Ministers to have regard to any relevant advice given by the Food Standards Agency (FSA).

5.5 Welsh Government officials have consulted FSA Wales in respect of this instrument.

6. Regulatory Impact Assessment (RIA)

An RIA was not deemed necessary to implement the 2026 Regulations' legislative changes. Welsh Minister's RIA code sets out the relevant exception in paragraph 3.2, namely 'Where the subordinate legislation simply increases a statutory fee by a predetermined formula, such as the rate of inflation'.

7. Impact on businesses, charities and voluntary bodies

The VMD, the Scottish Government and the Welsh Government work closely with various specialist delivery partners such as Fera Ltd, the Food Standard Agency (FSA), The Centre for Environment, Fisheries and Aquaculture Science (CEFAS), the Animal and Plant Health Agency (APHA) and others to deliver the programme. Therefore, the NRCP has the following main cost elements which are all required to deliver the programme:

<u>External contracted costs:</u>

- sampling costs
- testing costs
- processing costs

Other external factors which impact costs:

- species production levels (which determines the level of surveillance required)
- a long-term commercial contract for specialist testing of samples

VMD internal costs:

- staff cost and overheads to deliver the scheme

The approach to calculating the new industry charges was based on the following assumptions about future cost drivers:

- external contracted costs are forecast to increase by 10% each year
- the VMD's internal costs are forecast remain static for the next 5 years
- employment costs and overheads are forecast to increase by 5% each year

There is no significant impact on charities, voluntary bodies, or the public sector.

8. Monitoring and review

The approach to monitoring this legislation is for the VMD to monitor the charges on an ongoing basis to ensure they are set at a level to recover full costs incurred in relation to the NRCP.