

To: Business Committee

From: Carwyn Jones

Minister for Environment, Planning and Countryside

EXPLANATORY MEMORANDUM

ANIMALS, WALES

THE TUBERCULOSIS (WALES) ORDER 2006

Summary

This Order, which applies in Wales only, revokes and re-enacts the Tuberculosis (England and Wales) Order 1984 with alterations. It also introduces an obligation to test cattle over 15 months old from 1 and 2 year testing parishes, with some exceptions, prior to movement.

1. This Memorandum is submitted to the Assembly's Business Committee in relation to The Tuberculosis (Wales) Order 2006, in accordance with Standing Order 24.6.
2. A copy of the Instrument is submitted with this Memorandum.

Enabling Power

3. The powers enabling this Instrument to be made are contained in sections 1, 7(1), 8(1), 15(4), 25, 32(2), 83(2), 87(2) and 88(2) of the Animal Health Act 1981. Responsibility for issues relating to the contents of the Order has been delegated to my portfolio as Minister for Environment, Planning and Countryside.

Effect

4. The Regulations will make it a statutory requirement for farmers to TB test cattle over 15 months old from 1 and 2 yearly testing parishes, with some exemptions, before they are moved off farm. Cattle are currently routinely tested according to disease status of the area where the farm is located, referred to as a parish.

Target Implementation

5. It is intended that the proposed Instrument will be made on 4 April 2006 and come into force date on 12 April 2006. Similar legislation will come into force in England on 20 February 2006. The legislation could not be implemented in Wales at the same time as in England due to the requirements of the legislative process in Wales. Therefore, there will be a short period of cross border inconsistency between England and Wales, which will put pressure on the State Veterinary Service in managing and

administering different regimes each side of the Wales-England border. Any further delay in implementing this legislation in Wales will add to this pressure. There is similar legislation already in place in Scotland for pre and post-movement testing.

Financial Implications

6. The costs, to the Assembly, of making the Order will be met from existing divisional administration cost budgets. The pre-movement test will cost around £9 per animal and this cost will be borne by farmers. There may be implications for the veterinary sector as there will be increased demand from industry to test cattle prior to movement. A pilot scheme to train lay TB testers is currently underway in Wales and England and, it is hoped that this measure will alleviate pressure on veterinary practices. Defra is responsible for, and will meeting all costs associated with the lay TB testing pilot.

Regulatory Appraisal

7. A Regulatory Appraisal has been carried out in relation to this Instrument and is attached.

Consultation

With Stakeholders

8. A 16 week consultation entitled 'Preparing for a GB Strategy on Bovine Tuberculosis', which took place between 9 February 2004 and June 2004, sought the views of stakeholders on the principles on which a new 10 year strategy should be based to achieve a sustainable control policy for GB and detailed proposals for measures to be implemented in the short term. This was a Wales-only consultation; however, a similar consultation was undertaken by Defra in England. A list of consultees is attached at Annex A to the Regulatory Appraisal.
9. One of these principles was to reduce the risk of spreading TB from high to low incidence areas by requiring pre-movement testing of all cattle moving from one and two yearly testing herds to other herds. The majority of consultees who responded to this section of the consultation were in favour of the proposal. It was, however, suggested that Government should fund pre-movement testing for the duration of the 10 year strategy. Those respondents not supporting the proposal pointed to the practical difficulties in introducing pre-movement testing; that these would outweigh the benefits, and to concerns about the reliability of the current skin test. Concerns were also raised about the additional workload that this proposal would place on farmers and the possible expense to farmers who may be struggling to run a viable business. A summary of the consultation responses is attached at Annex B to the Regulatory Appraisal.

With Subject Committee

10. This Order was notified to the Environment, Planning and Countryside Committee, via the list of forthcoming legislation on 16 July 2003, EPC(2)-03-03(p.3) - item number 49. It has been identified for detailed scrutiny at the committee meeting to be held on 19 January 2006.

Recommended Procedure

11. Subject to the views of the Business Committee, I recommend that this Order proceed to plenary under the Standard procedure in order to give Members a further opportunity debate the Order.

Compliance

12. The proposed legislation will (as far as is applicable):

- have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998 section 120);
- be compatible with the Assembly's scheme for sustainable development (section 121);
- be compatible with Community law (section 106);
- be compatible with the Assembly's human rights legislation (Section 107); and
- be compatible with any international obligations binding the UK Government and the Assembly (section 108).

13. This Memorandum has been cleared with the Directorate of Legal Services (DLS) and the Assembly Compliance Office (ACO)

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CARWYN JONES

DECEMBER 2005

MINISTER FOR ENVIRONMENT, PLANNING AND COUNTRYSIDE