

Environment, Planning and Countryside Committee

EPC(2)-04-06 (p5) Explanatory Memorandum

Animals, Wales

Animal Health

The Cattle Compensation (Wales) Order 2006

Summary

This Order revokes and replaces the Brucellosis and Tuberculosis (England and Wales) Compensation Order 1978 and the Enzootic Bovine Leukosis (Compensation) Order 1980. It also introduces a rationalised compensation system for cattle slaughtered for the following diseases: Bovine TB, Brucellosis and Enzootic Bovine Leukosis. (Separate legislation (the TSE (Wales) Regulations 2006) has been proposed to introduce the new system in respect of BSE). Under this system, compensation will be determined using table valuations, based on average market price for pre-determined cattle categories. There is also a provision for individual valuations to be used, at the discretion of the National Assembly for Wales, should supporting sales data be inadequate or unavailable for a particular category in any particular month or months.

1. This Memorandum is submitted to the Assembly's Business Committee in relation to the Cattle Compensation (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 section 32(3) and 34(7) of the Animal Health Act 1981. The powers enabling this instrument to be made have been transferred to the National Assembly for Wales by the National Assembly for Wales Transfer of Functions Order 1999 (S. I. 1999/672) and the National Assembly for Wales Transfer of Functions Order 2004 (S.I. 2004/3044). Responsibility for issues relating to the content of this Order has been delegated to my portfolio as Minister for Environment, Planning and Countryside.

Effect

4. This Order requires, with a small number of exemptions, that the compensation payable by the National Assembly for Wales is to be the animal's "market value" or a certain percentage of that value, depending on the disease in question. This market value is currently required to be determined either by agreement or by a valuer conducting an individual valuation of the particular animal which has been slaughtered. The new instrument will enable the National Assembly for Wales to apply compensation rates which are far more in line with real "market value" as originally intended, by employing a system of fixed table values based on sales prices achieved from a wide range of sources.

5. The Order will revoke and replace the Brucellosis and Tuberculosis (England and Wales) Compensation Order 1978 and the Enzootic Bovine Leukosis (Compensation) Order 1980.

6. There are four main reasons why the National Assembly for Wales is changing compensation policy:

- There is significant evidence of overcompensation, particularly for bovine TB, which places an unfair burden on taxpayers and may provide a disincentive for some cattle owners to implement robust bio-security controls. Based on 2005 data, we expect that compensation based on table values for all cattle culled to control bovine TB will be in the region of 65% of that paid under the previous system.
- To ensure owners of all animals affected by Brucellosis are not under-compensated.
- Simplification of the compensation regime through a table valuation system will reduce bureaucracy and increase transparency.
- To facilitate the speedier removal of diseased animals.

Target Implementation

7. It is intended that the proposed instrument be made on 23 May 2006 with a coming into force date of 25 May 2006.

8. The Department for Environment, Food and Rural Affairs introduced the new cattle compensation system using table valuations in England in respect of bovine TB, Brucellosis and Enzootic Bovine Leukosis on 1 February 2006 and will introduce the new system for BSE by way of separate subordinate legislation at a later date. Separate legislation (the TSE (Wales) Regulations 2006) has been proposed to introduce the new system in respect of BSE in Wales.

9. As in England, implementation of the legislation has been delayed in Wales until more robust market price information was available and also in order to address industry concerns, following consultation, about the proposed cattle categories.

Financial Implications

10. There are no additional financial implications for the Assembly which are not already covered by existing budgets as a result of the making of the proposed Statutory Instrument. The costs of procuring the sales data and those associated with informing the industry of the change in the compensation system will mainly fall to the Department for Environment, Food and Rural Affairs and the State Veterinary Service.

11. The Meat and Livestock Commission has been commissioned by Defra to collect and provide livestock sales data from a range of sources including markets, dispersal sales and breed sales. The data will need to include values for pedigree animals and for classes of cattle that are not regularly traded.

12. Evidence suggests that the compensation currently paid to cattle owners experiencing an outbreak of bovine TB, exceeds the market value of the cattle. In contrast, owners of cattle with either BSE or Brucellosis tend to be undercompensated. The introduction of a system of table valuations is likely to result in a reduction in compensation to owners of bovine TB infected cattle but an increase in compensation for some owners of BSE or Brucellosis infected cattle. Given that the number of bovine TB cases is currently far greater than that of BSE or Brucellosis, the overall result is expected to be a reduction in compensation payments. Based on the above calculations, the total cost to cattle owners as a whole is estimated to be between £3.3m and £4.7m per annum.

13. One off adjustment and information costs associated with the transition to the new system are estimated to be £100,000.

Regulatory Appraisal

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

Consultation

With Stakeholders

15. In October 2003, the Welsh Assembly Government consulted on proposals to rationalise compensation for notifiable disease control. As an interim measure, and following concerns that the present bovine tuberculosis compensation system was leading to over-compensation of farmers, the Assembly Government issued a consultation document on 5 November 2004 outlining proposals for a new cattle compensation system using table valuations. A list of consultees can be found at Annex A. The Scottish Executive and the Department for Environment, Food and Rural Affairs consulted separately on similar lines. The consultation in Wales lasted for 8 weeks and closed on 31 December 2004.

16. In light of the responses received to the consultation, (summary of which can be found at Annex B)

it was decided that the introduction of a new cattle compensation system based on table valuations be deferred until more robust market price information was available and to address industry concerns about the proposed cattle categories.

17. Following this further work, including increasing the number of categories from 29 to 47, the Welsh Assembly Government announced on 15 December 2005 that it had decided to introduce a new cattle compensation system in Wales using table valuations.

With Subject Committee

18. This Order was notified to the Environment, Planning and Countryside Committee on 16 July 2003 under the title of Cattle Disease Compensation Order 2003 (EPC(2)-03-03 (p 3) – No. 47) and has remained on the list ever since. The Order has been identified for scrutiny at the Committee meeting to be held on 8 March 2006.

Recommended Procedure

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

Compliance

20. 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).

21. The information in this Memorandum has been cleared with the Directorate of Legal Services (DLS) and the Assembly Compliance Officer.

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Carwyn Jones AM February 2006

Minister for Environment, Planning and Countryside Committee