

REGULATORY APPRAISAL

The Cattle Compensation (Wales) Order 2006

Background

1. At present, the level of compensation for notifiable animal diseases is, to some extent, dependent on the nature of the disease and the disease status of the animal. It does not in all cases reflect full market value. This has resulted in fragmented and inequitable compensation payments. The instrument is being made to address the irregularities in the current cattle compensation systems, and, in particular, to reduce the level of over-compensation (for bovine TB), provide a more consistent approach for determining compensation, and enhance disease controls. The new valuation system will be introduced, initially, for the diseases covered. Revising the valuation system for other notifiable diseases would require revisions to primary legislation and inevitable delays in implementation.
2. The Animal Health Act 1981, Section 32, sets out the obligation to pay “compensation of such amounts as may be determined in accordance with scales prescribed by order” where the National Assembly for Wales orders an animal to be slaughtered (Section 32(3)). The instruments made under this enabling power (and Section 34(7) of the same Act) which currently prescribe the methods by which compensation for cattle slaughtered for the relevant diseases is to be determined are the Brucellosis and Tuberculosis (England and Wales) Compensation Order 1978 (as amended) and the Enzootic Bovine Leukosis (Compensation) Order 1980.

Purpose and intended effect of the measure

3. This Order revokes and replaces the Brucellosis and Tuberculosis (England and Wales) Compensation Order 1978 and the Enzootic Bovine Leukosis (Compensation) Order 1980 in so far as they apply to Wales only. This Order 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 there be inadequate supporting sales data for a particular category in any particular month or months.
4. The proposed instrument is being made to address irregularities in the current cattle compensation systems, and, in particular, to reduce the level of over-compensation (for bovine TB), provide a more consistent approach for determining compensation, and to enhance disease controls. Current compensation regimes for the diseases covered are detailed in secondary legislation, and so can be revised more easily than those in place for other animal diseases.

5. The purpose of the proposed legislation is to:

- Simplify valuation arrangements for cattle by introducing a table valuation system based on price data collected continuously from a wide range of sources;
- Ensure that compensation payments will more accurately reflect market value, and address the problems of inconsistent compensation levels, which have arisen under existing systems.

Risk Assessment

6. Failure to implement this legislation would result in differing compensation systems in Wales compared to that in England. It will also result in continued overcompensation, particularly for bovine TB, which may be placing an unfair burden on taxpayers and providing a disincentive for livestock owners to invest in bio-security. There is also the possibility of continued under-compensation for certain BSE affected animals, and for animals affected by Brucellosis. Simplification of the compensation regime through a table valuation system will reduce bureaucracy and increase transparency.

Options

Option 1 - Do nothing

7. Continue with the existing valuation systems.

Option 2 – Make the legislation

8. Table values for all cattle categories (including pedigrees) with compensation rates for commercial and pedigree cattle to be published monthly.

Option 3

9. Compensation payments based on market values taking into account the diseased state of the animal or the fact that they have been exposed to disease.

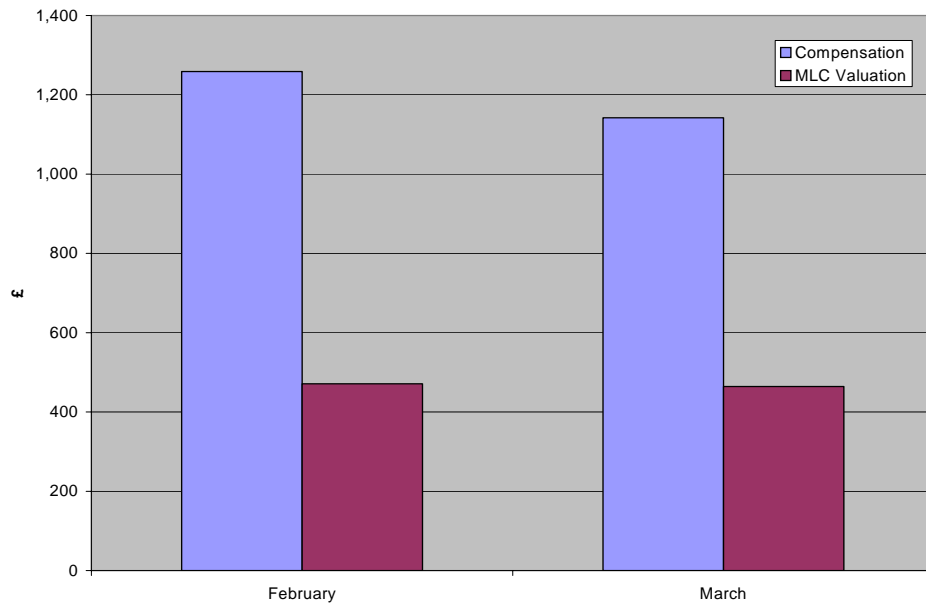
Benefits

Option 2 – Make the legislation

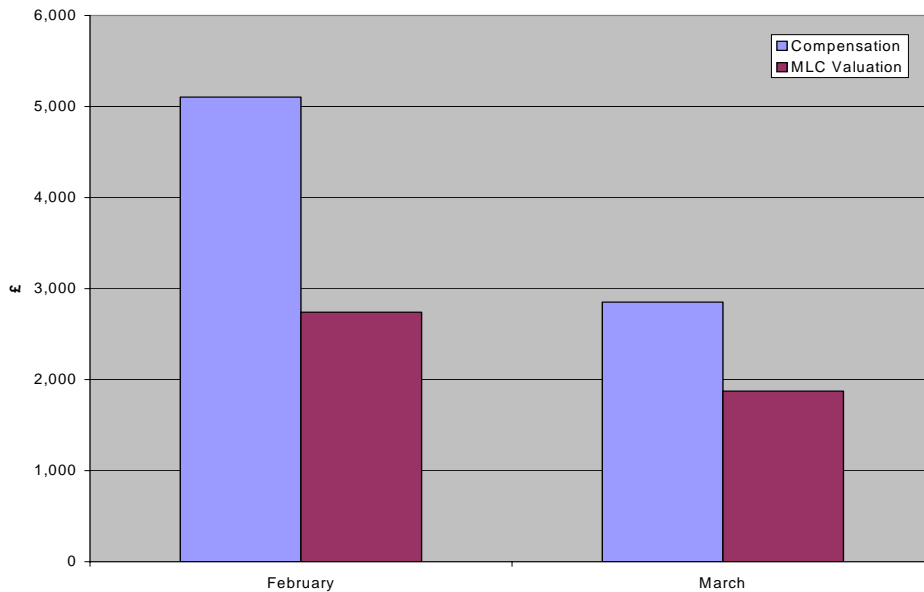
10. Total bovine TB compensation payments in 2004 were £9.4 million. Of this total, approximately 49% was for pedigree animals and 51% for commercial animals.

11. The two charts below show a comparison of average compensation payments to Meat and Livestock Commission (MLC) valuations for commercial and pedigree animals respectively for February and March 2005. It should be noted that the number of pedigree animals included in the MLC data is relatively small.

Comparison of average compensation payments to MLC valuations for commercial culled cattle (2005)



Comparison of average compensation payments to MLC valuations for pedigree culled cattle (2005)



12. Based on this two-month comparison, compensation payments for commercial animals appear to exceed MLC valuations by approximately 60%. Compensation payments for pedigree animals exceeded MLC valuations by approximately 40% in February and March 2005.

13. Assuming that the figures for February and March 2005 are indicative of a general trend then total overcompensation in 2004 was approximately £4.7million or 50% of the total. There are a number of uncertainties in this analysis such as how the market will react to the introduction of the new system and whether February and March are representative of the general

trend in overcompensation. DEFRA have assumed savings to the taxpayer of between 35% and 50%. On this basis, the savings in Wales would be between £3.3m and £4.7m per annum.

14. There are also unquantifiable benefits associated with adopting this system in Wales. The Department for Environment, Food and Rural Affairs have introduced the table valuation system in England on 1 February 2006 and there would be clear benefits from having the same system operating in Wales.

Costs

15. The MLC 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.
16. 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.

Compliance costs

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

Business sectors affected

18. **Cattle Industry** - In Wales in 2003 there were 3,100 dairy holdings, 16,400 other cattle and sheep holdings and 600 mixed holdings, all of which could be affected by these proposals. Bovine TB usually affects cattle owners in certain 'hotspot' areas. In Wales, these 'hotspot' areas include Powys, Monmouthshire and South West Wales. On 31st July 2005 there were 1,372 herds in Wales under movement restrictions due to a bovine TB incident or an overdue bovine TB test.
19. **Valuation services** – Any introduction of a table valuation system is expected to reduce the Assembly's demand for valuers. However, they will continue to be required in the interim period where there is insufficient market data to provide a corresponding and reflective price against a category of animal. Consultation with valuers' organisations has suggested that carrying out individual valuations is a non-profitable part of their work. Given the time needed for on-farm visits and travelling costs, such work was seen by many as a "loss-leader", with little or no financial

benefit to the valuer, whose core work was taken up with auctioneering and other aspects of livestock management.

20. **Livestock Insurance** – It is anticipated that there will be an increase in the number of farmers taking out livestock insurance in a bid to guarantee a level of return in the event of an outbreak. Owners of pedigree cattle in particular are expected to increase their level of insurance cover.

Issues of equality and fairness

21. There is no unequal impact by gender, age, disability, or by race. It is not expected that any impact on particular income groups will be significant.

Consultation

With Stakeholders

22. 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 TB 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.

23. 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.

24. 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

25. 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.

Monitoring and review

26. DEFRA are proposing to set up an advisory group on cattle compensation. It is envisaged that such a group would assist Government in reviewing existing compensation systems and also, in the longer term, consider how full rationalisation of compensation systems, for notifiable diseases, could be achieved.

Summary

27. There is evidence of overcompensation of cattle owners whose animals are infected with a notifiable disease. This is particularly true for bovine TB infected animals. The intention is that the new cattle compensation system will reduce the overcompensation, increase the incentives for cattle owners to invest in bio-security and reduce the length of time taken for a diseased animal to be disposed of. For this reason it is recommended that **Option 2** be implemented.