

Environment, Planning and Countryside

EPC(2)-07-06(p7) (Annex 2)

Explanatory Memorandum

To: Business Committee

From: Carwyn Jones

Minister for Environment, Planning and Countryside

Animal Health, Wales

The Bovine Spongiform Encephalopathy (BSE) Compensation (Wales) Regulations 2006

Summary

These Regulations will introduce a rationalised compensation system for cattle suspected of having Bovine Spongiform Encephalopathy (BSE). Separate legislation, namely The Cattle Compensation (Wales) Order 2006, has been proposed to introduce the new system in respect of Bovine TB, Brucellosis and Enzootic Bovine Leukosis (EBL). 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.

This Memorandum is submitted to the Assembly's Business Committee in relation to The Bovine Spongiform Encephalopathy (BSE) Compensation (Wales) Regulations 2006, in accordance with Standing Order 24.6.

A copy of the Instrument is submitted with this Memorandum.

Enabling Power

The power enabling these Regulations to be made is contained in section 2(2) of the European Communities Act 1972. The National Assembly for Wales has been designated under section 2(2) of the 1972 Act to make Regulations in relation to measures in the veterinary field for the protection of public health by virtue of the European Communities (Designation) (No. 2) Order 2003 (SI 2003/1246). Assembly functions in relation to this designation have been delegated to the Minister for Environment, Planning and Countryside.

Effect

The intended effect of these Regulations, which apply in relation to Wales, is to introduce a rationalised compensation system for cattle slaughtered on suspicion of having BSE. Under this system, compensation will be determined using fixed table valuations covering 47 non-pedigree and pedigree bovine categories, based on sales prices achieved from a wide range of sources (e.g. markets, dispersal sales and breed sales). There is also a provision for individual valuations to be used, at the discretion of the Minister should there be inadequate supporting sales data for a particular category in any particular month or months.

Target Implementation

It is intended that the proposed instrument be made on 13 June 2006 and come into force on 14 June 2006.

The Department for Environment, Food and Rural Affairs (Defra) introduced the new cattle compensation system using table valuations in England in respect of bovine TB, Brucellosis and EBL on 1 February 2006 and for BSE on 1 March 2006. Separate legislation has been proposed to introduce the new system in respect of bovine TB, Brucellosis and Enzootic Bovine Leukosis in Wales, which is due to come into force on 1 June 2006. The implications of the coming into force date not being met for The Bovine Spongiform Encephalopathy (BSE) Compensation (Wales) Regulations 2006 are that the inequity of having different rates of compensation for different diseases - within Wales and across GB - would be further prolonged and lead to confusion and practical difficulties in respect of carrying out valuations in the field.

Financial Implications

The Meat and Livestock Commission (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.

Evidence suggests that cattle owners experiencing an outbreak of BSE are under-compensated. The introduction of a system of table valuations is likely to result in an increase in compensation for some owners of BSE-infected cattle.

There are no financial implications for the Assembly as a result of the making of these Regulations. All BSE compensation is paid by Defra. 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 Defra and the State Veterinary Service (SVS).

Regulatory Appraisal

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

Consultation

With Stakeholders

During November and December 2004, an 8-week consultation was undertaken with stakeholders on stage 1 of proposals to rationalise compensation for notifiable disease control. The stage 1 proposals covered 4 diseases, including BSE, and provided for table valuations based on extensive market information. After the consultation, further work was undertaken on the proposals to meet respondents' concerns. For example, the number of categories in the Tables were increased from 29 to 47. All respondents were sent a copy of the summary of the responses. The summary was also published on the Assembly's Internet site (www.countryside.wals.gsi.gov.uk/se/master.asp?n1=1&n2=15). A list of consultees is attached at Annex A to the Regulatory Appraisal and a summary of consultation responses is attached at Annex B to the Regulatory Appraisal.

With Subject Committee

The Environment, Planning and Countryside (EPC) Committee was informed of the consultation exercise and provided with copies of the associated documents.

The BSE compensation table valuation provisions were originally incorporated within the draft Transmissible Spongiform Encephalopathies (Wales) Regulations 2006 (the TSE Regulations 2006). The TSE Regulations 2006 were notified to the EPC Committee on 13 April 2005 (EPC 2 -04-05 (p.3) Annex 2 item No. 70, CFA33). They were not identified for detailed scrutiny.

I wrote to the Chair of the Environment, Planning and Countryside Committee on 29 March 2006, notifying him that I intended to introduce the Bovine Spongiform Encephalopathy (BSE) Compensation (Wales) Regulations 2006 and inviting the Committee to scrutinise them. The Regulations were identified for detailed scrutiny.

Recommended procedure

15. Subject to the views of the Business Committee, I recommend that the Regulations proceed to Plenary under the Standard procedure, in order to give Members an opportunity to debate these Regulations.

Compliance

16. 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).

17. This Memorandum has been cleared with the Legal Services Department and the Assembly Compliance Officer

18. Drafting lawyer – Huw Rowlands Ext: 5034.

19. Head of Division – Dr Christianne Glossop Ext: 3377

20. Policy Division contact – David Miles Ext: 5461

Carwyn Jones April 2006 Minister for Environment, Planning and Countryside