

Environment, Planning & Countryside Committee

EPC(2)-07-06(p8) Annex 2

To: Business Committee

From: Carwyn Jones

Minister for Environment, Planning and Countryside

Explanatory Memorandum

Animals, Wales

Animal Health

The Transmissible Spongiform Encephalopathies (TSE) (Sheep & Goats) Compensation (Wales) Regulations 2006

Summary

These Regulations will allow for compensation rates for ewes/ female goats and lambs/kids killed and destroyed under the Compulsory Scrapie Flocks Scheme to be adjusted. The proposed adjustment in compensation rates will bring them in line with market values thus reducing the risk of possible abuse under the current scheme.

The Regulations will also allow for new provisions for the arrangement of a valuation in exceptional circumstances to enable clear cases of overpayment to particular flocks to be addressed.

This Memorandum is submitted to the Assembly's Business Committee in relation to the Transmissible Spongiform Encephalopathies (Sheep & Goats) Compensation (Wales) Regulations 2006, in accordance with Standing Order 24.6.

A copy of the Instrument is submitted with this Memorandum.

Enabling Power

The powers enabling this Instrument to be made are 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 is to allow for some of the compensation rates for animals killed and destroyed under the Compulsory Scrapie Flocks Scheme to be adjusted. A table showing the revised compensation rates is attached at Annex A to the Regulatory Appraisal. The proposed adjustment in compensation rates will bring them in line with market values thus reducing the risk of possible abuse under the current scheme.

The Regulations will also allow for new provisions for the arrangement of a valuation in exceptional circumstances to enable clear cases of overpayment to particular flocks to be addressed. The new provision allows the National Assembly for Wales to have a valuation by a Royal Institution of Chartered Surveyors (RICS) nominated valuer in cases where it believes the compensation rate to be too high in relation to the animal's commercial value. This will discourage farmers from using the scheme for fraudulent purposes or financial gain.

Target Implementation

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

There are a number of implications if the coming into force date is not met, namely:

there will be a continuation of the different rates of scrapie compensation across GB, which is inequitable;

there will be a continuation of paying compensation rates for ewes and lambs in Wales which are over the market rate. This will mean unnecessarily high UK Government expenditure and difficulties for the National Scrapie Plan (NSP) budget.

currently around 43% of cases in the compulsory scrapie flocks scheme are in Wales. This percentage is likely to increase if Welsh farmers realise that they will get a higher rate of compensation than other GB farmers;

there will not be a provision for an independent valuation for both farmer and the National Assembly for Wales in cases where either party believes the compensation rate is too high or too low; and

industry concerns in relation to the compensation rates will not have been taken on board.

Financial Implications

There are no financial implications for the Assembly as a result of the making of these Regulations. All costs associated with TSEs are met by the Department for Environment, Food and Rural Affairs. (Defra).

Adjusting some of the compensation rates for animals killed and destroyed under the Compulsory Scrapie Flock Scheme will mean that new farmers in the scheme will receive reduced payments. For example, in 2005 in Wales, the 63,640 lambs and 16,846 ewes culled at the current compensation rates (£90 per ewe and £50 per lamb) would have realised £4,698,140 compared to £3,640,590 at the new rates (£65 per ewe and £40 per lamb). These costs were met by Defra which holds the budget of this GB scheme. Therefore, there will be financial savings for Defra as a result of implementing these Regulations.

Flocks vary in size considerably, and farmers with larger flocks would be subject to greater reduction in payments than those with smaller flocks. Based on a flock of 500 with 5 rams, 200 ewes and 295 lambs, the loss from the reduction in standard rates if all the ewes and lambs were culled would be £7,950. However, farmers who think their animals are worth more than the value provided by the compensation rates can arrange a valuation at their own expense, which may lead to a higher payment. The nomination of a RICS valuer will cost the farmer £115 and the valuation fees will vary depending on the number of animals to be valued.

Regulatory Appraisal

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

Consultation

With Stakeholders

A consultation exercise was undertaken between 5 September and 24 October 2005 to seek the views of consultees on proposals to change some of the compensation rates paid under the Compulsory Scrapie Flock Scheme (CSFS). A list of consultees is attached at Annex B to the Regulatory Appraisal.

There was opposition amongst consultees' responses to the lowering of some of the compensation rates paid under CSFS, specifically the rate for ewes that were culled and for the 50% reduction in rates where the whole flock was culled. As a result the proposals for the 50% reduction were dropped but the rate for a female sheep or goat was reduced, as was the rate for lambs. A summary of the consultation responses is attached at Annex C to the Regulatory Appraisal.

With Subject Committee

The Environment, Planning and Countryside (EPC) Committee was informed of the consultation

exercise on the 5 September 2005 and provided with copies of the associated documents.

The Scrapie compensation provisions were originally incorporated in the Transmissible Spongiform Encephalopathies (Wales) Regulations 2006 (the TSE Regulations 2006). The TSE Regulations 2006 were notified to the EPC Committee, via the list of forthcoming legislation on 13 April 2005 (EPC 2) - 04-05 (p.3) Annex 2, item No. 70, CFA 33). 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 of these Regulations and inviting the Committee to scrutinise them. The Regulations were identified for detailed scrutiny. .

Recommended procedure

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

Compliance

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).

This Memorandum has been cleared with the Legal Services Department and the Assembly Compliance Officer (ACO)

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Carwyn Jones April 2006
Minister for Environment, Planning and Countryside