

Environment, Planning & Countryside Committee

EPC(2)-07-06(p8) (Annex 3)

Regulatory Appraisal

Animals, Wales

Animal Health

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

Background

Since the introduction of the Transmissible Spongiform Encephalopathies (Wales) Regulations 2002 (the TSE Regulations 2002), which apply and enforce Regulation (EC) No 999/20041, there have been a large number of changes to the EU Regulation. Amendments have been made to our national enforcing Regulations as necessary but there has been no consolidation of the text. Thus a consolidation exercise began in 2004 to ensure that the Transmissible Spongiform Encephalopathies (Wales) Regulations 2006 (the TSE Regulations 2006) properly applied all the EU measures.

Also included in the TSE Regulations 2006 was the legislative provision to implement the new Table Valuation system of compensation for cattle suspected of having Bovine Spongiform Encephalopathy (BSE). The TSE Regs 2006 were due to go to Plenary on 7 March and come into force on 10 March.

On 6 March, it was decided that, rather than take the TSE Regulations 2006 to Plenary on 7 March, to wait until the Environment, Planning and Countryside Committee had scrutinised the Cattle Compensation (Wales) Order 2006 on 8 March. The Cattle Compensation (Wales) Order 2006 includes legislative provisions to implement the new Table Valuation system of compensation for cattle suspected of having bovine TB, Brucellosis and Enzootic Bovine Leukosis.

On 29 March 2006 the Minister for Environment, Planning and Countryside agreed that the Compulsory Scrapie Flocks Scheme compensation provisions previously contained within the draft TSE Regulations 2006 be removed and placed into a separate Statutory Instrument.

Purpose and Intended Effect of the measure

The intended effect of these Regulations is to allow for compensation rates for ewes/ females goats and lambs/kids killed and destroyed under the Compulsory Scrapie Flocks Scheme to be adjusted. A table showing the revised compensation rates is attached at Annex A. The proposed adjustment in compensation rates will bring them in line with market values thus reducing the risk of over-valuation that is incumbent under the current scheme.

The Regulations will also allow for new provisions to allow the National Assembly for Wales to arrange valuation of a flock in exceptional circumstances, to enable clear cases of overpayment to particular flocks to be addressed.

Risk Assessment

The changes in compensation rates were designed to tackle complaints from the industry that some farmers were "buying in" scrapie to benefit from the compensation rates.

Failure to make these Regulations in Wales will result in :

- inequitable rates across GB for the same disease i.e. farmers in Wales will receive a higher rate of compensation than farmers in the rest of GB;

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.

- confusion in the industry at differing rates across the UK;
- a possible mis-use of public money if there is no power to enforce a Government valuation; and
- continued incentive for abuse of the system in Wales and this may look like we have not taken any notice of industry feedback.

Options

Option 1: Do Nothing: In respect of this legislation, the "Do nothing option" is not an option as it would lead ultimately to infraction proceedings against the National Assembly for Wales by the European Commission. Therefore, the "Make the legislation" option, to implement the changes required to comply with the European legislation, is being recommended.

Option 2: Make the Legislation

: Adjusting some of the compensation rates for animals killed and destroyed under the Compulsory

Scrapie Flocks Scheme should help reduce their attractiveness and the risk of possible abuse under the scheme. It should lead to reduced expenditure on compensation, which will benefit the taxpayer. It will provide access to 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.

Benefits

Adjusting some of the compensation rates and the provision of powers for the National Assembly to seek an independent valuation will remove the incentive for abuse. It will lead to reduced expenditure on compensation by reflecting more closely the market value of the animals killed and destroyed, which will benefit the taxpayer. Farmers who believe their animal(s) is of higher value than the compensation rate will retain access to an independent valuation under these regulations.

The new provision for National Assembly for Wales to arrange a valuation where it believes the compensation rate to be too high in relation to the animal's commercial value will enable clear cases of overpayment to particular flocks to be addressed, thus benefiting the taxpayer and discouraging farmers from using the scheme for fraudulent purposes or financial gain.

Costs

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 (£90 per ewe and £50 per lamb) rates would have realised £4,698,140 compared to £3,640,590 at the new rates (£65 per ewe and £40 per lamb). The latter cost could, possibly, be reduced further should the National Assembly for Wales invoke its powers for independent valuation. 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 valuation fees will vary depending on the number of animals to be valued.

Consultation with small businesses: the Small Firms' Impact Test

The majority of sheep and goat farmers could be classified as small businesses. Lead representatives of the National Sheep Association, the Farmers' Union of Wales, National Farmers Union Cymru and the Goat Society have seen the draft Regulatory Appraisal when it was circulated on 22 June 2005 as part of the wider draft regulatory appraisal on the TSE (Wales) Regulations 2006. They did not make any comments.

Issues of Equity or Fairness

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

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). The consultation was sent to 43 organisations in Wales and 10 responses were received. A list of consultees is attached at Annex B.

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 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.

The Minister for Environment, Planning and Countryside 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.

Monitoring and review

The Transmissible Spongiform Encephalopathies (TSE) (Sheep & Goats) Compensation (Wales) Regulations 2006 will be reviewed on an ongoing basis and amended as required to reflect changes in European legislation and changes in industry practices. Monitoring and reviewing of the Regulations will be carried out as part of the Business Plan of the Welsh Assembly Government's Office of the Chief Veterinary Officer.

Summary and recommendation

It is recommended that these Regulations be implemented in order to allow for the adjustment of some of the compensation rates for animals killed and destroyed under the Compulsory Scrapie Flocks Scheme. This should help reduce the attractiveness and the risk of possible abuse under the scheme. It should lead to reduced expenditure on compensation, which will benefit the taxpayer. However, farmers would still be provided with reasonable compensation rates and access to an independent valuation if required. It will also provide access to 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