

Environment, Planning and Countryside Committee

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

Purpose

At the request of the Business Committee, this paper brings the above Regulations to the attention of Members of the Environment, Planning and Countryside Committee.

Background

Scrapie is a fatal neurological disease of sheep present in the national flock for over 250 years but not considered to be transmissible to humans. There is a theoretical risk that BSE is present in UK sheep, masked by scrapie, although it has not been found occurring naturally. The National Scrapie Plan (NSP) addresses the theoretical possibility of BSE being present in sheep. The Compulsory Scrapie Flocks Scheme (CSFS) was developed under the NSP.

All sheep flocks or goat herds that have reported and subsequently confirmed cases of scrapie from November 2004 are registered into the CSFS. The TSE (Wales) (Amendment) Regulations 2004 set out that not complying with this scheme is an offence punishable by fine or imprisonment. The action required involves either culling the whole flock or blood testing the flock to determine the genetic profile of the sheep and culling those that are more susceptible to scrapie. In the case of goats, culling of the whole herd is required. This is because goats are not known to possess genotypes that confer resistance or susceptibility to scrapie. There will be restrictions on the animals that can be sent off the holding for breeding or for the food chain.

Under the current legislation, compensation at standard rates will be paid for animals that have to be destroyed and that cannot go into the food chain. Alternatively farmers may have high value animals valued, at their own expense. Assistance will be given both with the genotyping and sourcing of replacement flocks and towards the cost of purchasing replacement rams of the most resistant genotype.

The State Veterinary Service (SVS) reported that some of the compensation rates for the CSFS are significantly higher than the value of the animals concerned. There were also concerns from some quarters of industry that the rates were attracting some participants for financial gain.

Consultation

The Assembly Government issued a consultation document on 5 September 2005 on changes to some of the compensation rates under the CSFS. Defra and the Scottish Executive consulted separately on similar lines. The main proposals in the consultation were:

To reduce the rates for female sheep and goats to from £90 to £65

Retain the £50 rate for lambs

Reduce the rates for adult sheep and lambs subject to a whole flock cull by 50%. The reason for this was that some farmers were insisting on whole flock culls when the veterinary advice was that the best approach for their flocks was a genotype and cull.

Introduce the option of valuation by a Royal Institution of Chartered Surveyors (RICS) valuer for the Welsh Assembly Government for use in exceptional circumstances

The consultation in Wales closed on 24 October 2005. This was less than the standard minimum period of 12 weeks for consultation exercises under the Government Code of Practice on Consultations because at that time it was intended to include the changes to the compensation rates in the proposed TSE (Wales) Regulations 2006. The TSE (Wales) Regulations 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 (Wales) Regulations 2006 (which also contained provisions dealing with BSE compensation) 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. On 29 March 2006 the Minister for Environment, Planning and Countryside agreed that the CSFS compensation provisions previously contained within the draft TSE (Wales) Regulations 2006 be removed and placed into a separate Statutory Instrument.

In light of the responses to the consultation, the Welsh Assembly Government Minister for Environment, Planning and Countryside decided that the following changes would be made:

For ewes and female goats a reduction in compensation from £90 to £65 was agreed. Farmers who consider their stock undervalued have the option of a valuation by a Royal Institution of Chartered Surveyors (RICS) nominated valuer.

For lambs a reduction from £50 to £40 was agreed. Again farmers who consider their stock undervalued have the option of a valuation by a RICS nominated valuer.

With regard to the proposal to introduce a 50% reduction in rates for animals subject to whole flock culls, it was agreed not to introduce this but to amend the wording in the scheme booklet to make it clear that the final decision for a whole flock cull rests with the SVS Veterinary Advisor.

It was also agreed that there could be a Welsh Assembly Government instigated valuation – carried out by a RICS nominated valuer – if it was considered that the standard rates were significantly higher than was reasonable for a particular flock.

Legislation

Defra introduced the new sheep and goat compensation rates on 1 March 2006 as part of the Transmissible Spongiform Encephalopathies Regulations 2006. Scotland introduced the new sheep and goat rates on 10 March 2006 as part of the TSE (Scotland) (Amendment) Regulations 2006. Wales is currently operating under the compensation rates set out in the TSE (Wales) (Amendment) Regulations 2004.

Financial Implications

There are no financial implications to the Welsh Assembly Government. All GB scrapie compensation costs are paid for by Defra, which has spent £14.6 million on the CSFS to date, of this £7.2 was spent in Wales. A Regulatory Appraisal (RA) has been prepared which sets out the costs and benefits associated with the 2 options considered (do nothing or decrease compensation rates). For option 2 of the RA there would have been an estimated reduction in expenditure on compensation of £1,057,550 in 2005.

Press and Publicity

Publicity for the new rates of compensation in Wales will build on and utilise that already in place by Defra for the earlier introduction of the system in England. Specific Wales publicity arrangements will include the Welsh Assembly Government GWLAD magazine, which is circulated to farmers in Wales on a monthly basis.

Compliance

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 portfolio of the Minister for Environment, Planning and Countryside. There are no issues of regularity or propriety.

Carwyn Jones AM

Minister for Environment, Planning and Countryside