

EXECUTIVE NOTE

THE TRANSMISSIBLE SPONGIFORM ENCEPHALOPATHIES (SCOTLAND) AMENDMENT (NO. 2) REGULATIONS 2008 SSI/2008/417

The above instrument was made by Scottish Ministers in exercise of the powers conferred by section 2(2) of the European Communities Act 1972. The instrument is subject to negative resolution procedure.

The above instrument enables the Scottish Ministers to exercise the rights conferred by Commission Decision 908/2008EC of 28 November 2008 authorising certain Member States to revise their annual BSE monitoring programme.

That Decision was published on 5 December 2008. It enables the Scottish Ministers to increase from 1 January 2009 the minimum age at which bovine animals must be tested for TSE to 48 months.

It was necessary, in order to ensure that the benefit of the reduced testing costs is passed on to industry in Scotland as quickly as possible, to bring the above instrument into force on 1 January 2009, without observing the 21 day rule.

The above instrument further amends the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006 (S.S.I. 2006/530) (“the 2006 Regulations”), which enforces Regulation (EC) No 999/2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (“the Community TSE Regulation”). It is anticipated that the 2006 Regulations will be consolidated in 2009.

The above instrument applies to Scotland only. Separate legislation is being enacted in England and Wales.

Policy Objectives

The above instrument has two main policy objectives.

1. Disposal of fallen adult cattle

From 12 January 2009 the free collection and disposal service for fallen adult cattle will end. Government will continue to pay for sample analysis. Farmers in Scotland, and elsewhere in the UK, will need to send cattle requiring BSE testing, to premises approved to take brainstem samples.

2. Reduced BSE surveillance

From 1 January 2009, the GB administrations will raise the age at which cattle born in the UK require to be tested for Bovine Spongiform Encephalopathy (BSE) surveillance purposes from to over 48 months.

The Commission decided that the reduction in BSE surveillance in eligible MS would be applied in a uniform way. The Commission only permits MSs to apply to increase to **48 months** the age above which **all** healthy slaughtered or risk cattle must be tested. This change was determined on the basis of advice from the European Food Safety Authority (EFSA).

Therefore, the age threshold for BSE testing of cattle for human consumption will increase from 30 months to 48 months, and the age threshold for BSE testing of fallen stock for surveillance purposes will increase from 24 to 48 months.

Consultation

The two policy objectives have been consulted on separately.

1. Disposal of fallen adult cattle

In March 2008 Scottish Government consulted on a contingency basis on a range of TSE cost sharing measures. This was done to allow stakeholders to comment in the event that Defra implemented its proposals to cease paying for certain animal health related activities from the GB Animal Health & Welfare budget. Around 250 stakeholders were consulted and 15 responses were received. Six of those commented on the proposal relating to BSE testing of fallen stock with a range of responses on the transfer of these costs.

2. Reduced BSE surveillance

Scottish Government, FSA and other UK Agriculture Departments have held regular discussions with stakeholders about proposals to increase the BSE testing age.

In January 2008, Defra sought consumer representative's views on proposals to reduce the level of active surveillance, subject to agreement by the Commission.

The Scottish Government consultation of March 2008, referred to above, also consulted on transferring the costs of BSE testing of cattle for human consumption and 6 out of 7 respondents disagreed with the transfer of these costs. On the question of levying charges for the approval of BSE testing labs, 6 respondents disagreed and two agreed, with reservations, with the proposal.

Consumer representatives agreed that the costly surveillance burden could be eased, provided this was explained carefully to the public and was subject to very tight industry control.

In September 2008, the FSA invited consumers and industry representatives to meetings in England, Wales, Scotland and Northern Ireland to discuss proposals to increase the age at which cattle slaughtered for human consumption must be tested for BSE.

As part of a UK wide exercise, Scottish Government conducted a joint written consultation exercise with FSA Scotland over a shortened 5 week period. In Scotland over 220 stakeholders were consulted and six responses were received. All were in favour of raising the BSE testing age of both fallen stock and cattle intended for human consumption to 48 months.

Financial effects

This is in part a **deregulatory** measure.

1. Disposal of fallen adult cattle

In 2007 approximately 36,000 fallen adult cattle were disposed of in Scotland at an estimated cost of £176 per head. This was paid for by Defra from the GB Animal Health & Welfare budget and this funding is being withdrawn from January 2009. An element of subsidy will continue in the first year after this change with £2m being made available in GB to the National Fallen Stock Scheme. The initial subsidy rate is being set at 20% but this will reduce over the period. This instrument allows for BSE monitoring to continue after the change in accordance with Community obligations.

2. Reduced BSE surveillance

Currently all healthy cattle presented for slaughter for human consumption aged over 30 months; all emergency slaughtered cattle, cattle with clinical signs at ante-mortem inspection aged over 24 months, and all fallen cattle aged over 24 months, require BSE testing.

Raising the testing threshold to all categories of cattle over 48 months will reduce the number of cattle that require testing by about 25% in each category. Approximately 60,000 OTM cattle are processed in Scotland annually, therefore an estimated 15,000 cattle will not require testing in 2009.

From 1 January 2009 abattoirs will have to pay for BSE tests so increasing the BSE testing age for cattle slaughtered for human consumption will reduce the cost to abattoirs by about £165,000 in Scotland (assuming a cost of about £11 per test). In addition, where cattle do not require testing, abattoirs will save on associated operational costs such as taking brainstem samples, transporting samples to laboratories and detaining carcasses until test results are available.

It is expected that other eligible Member States will raise the age threshold for BSE testing cattle slaughtered for human consumption, from 1 January 2009. There would be a competitive disadvantage for Scottish meat producers if the Scottish Government did not implement the surveillance age change to the same timetable.

A specific Regulatory Impact Assessment (RIA) has not been prepared for this consultation but the impact assessment for the March 2008 Responsibility and Cost Sharing consultation will be updated to reflect the proposed increase in the testing ages for cattle.

Scottish Government Rural Directorate
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