

Final Business and Regulatory Impact Assessment

Title of Proposal

To introduce legislation relating to the incidence of bovine TB (TB) in specified non-bovine species (Camelids (Alpacas, Llamas, Guanacos, Vicunas) Goats (farmed or domestic) Sheep, Pigs and Deer (farmed)).

Purpose and intended effect

Background

TB is a serious infectious disease of cattle, caused by the bacterium *Mycobacterium bovis* (*M. bovis*) and a major challenge currently facing large parts of the UK cattle farming industry. The disease is characterised by the development of "tuberculosis" lesions in any organ of the body. It mainly affects cattle but can be passed between most mammals. It is also a Zoonotic disease which means it can be passed from infected animals to people, causing an illness similar to human TB. However, the risk of people contracting TB from cattle in Great Britain (GB) is considered to be very low.

Scotland was recognised as being officially TB free (OTF) by the European Commission in September 2009 and this is a unique position within the United Kingdom (UK). Maintaining that OTF status and Scotland's reputation for high quality produce is crucial to the continuing success of the Scottish cattle industry, which is already strictly regulated in terms of controls for TB by the Tuberculosis (Scotland) Order 2007 and EU Council Directive 64/432/EEC.

Although the cattle industry are strictly regulated for TB, there are no legal powers in Scotland specifically covering controls (testing and slaughter) of non-bovine species, except deer, where TB is strongly suspected or confirmed. Where disease is suspected, for example in animals traced from confirmed breakdown herds elsewhere in GB, we are reliant on herd owner cooperation to resolve these incidents using the more general legal provisions available for movement controls, isolation and testing.

As a consequence of this lack of powers, there is no Scottish Government (SG) policy in place to support payment of non-bovine compensation other than in relation to deer except an *ex gratia* payment which is offered for some species of reactor animals that are subsequently slaughtered with the owners agreement. This *ex gratia* payment is set at £750 for camelids and £200 for goats and was introduced as a temporary measure in 2012 to meet an immediate need, with the intention to legislate in the longer term.

Objective

The objective of this proposal is to address the current lack of bespoke statutory powers for specific non-bovine species and introduce a regime of TB controls covering Camelids (Alpacas, Llamas, Guanacos, Vicunas) Goats (farmed or domestic) Sheep, Pigs and Deer (farmed) and to provide a framework of compensation values at a fair and reasonable level for those animals that are subsequently removed for slaughter as TB reactors.

Position in the rest of GB

England – Following recommendations by the Animal Health and Welfare Board for England (AHWBE) in 2013, Defra announced a series of new measures for camelids which included;

- A voluntary code of practice on TB surveillance and herd accreditation, including pre and post movement testing and recording of camelid movements.
- A consultation on statutory compensation for owners of camelids that are slaughtered for TB control to enable a more effective testing regime for herds that experience new TB break downs.

The above mentioned Defra consultation on TB animal disease controls for deer and camelids closed on 6 May 2014 - the purpose of the consultation was;

- To consolidate the provisions of the current GB Tuberculosis in (Deer)Orders in England, and
- To introduce a statutory TB compensation scheme for camelids later this year at the same fixed rate as currently paid under the non-statutory arrangement (£750 per animal)

The AHWBE are currently reviewing compensation generally and Defra are proposing to review compensation for both deer and camelids once this review is completed.

Their current approach to TB in other non-bovine species (particularly goats, sheep & pigs) is considered by Defra to be proportionate but will be kept under close review.

Wales – Following a consultation on TB in Non Bovines back in 2010 the Welsh Government introduced the Tuberculosis (Wales) Order 2011 which revoked and replaced the GB Tuberculosis in (Deer) Orders in Wales and made provision for testing and movement of non-bovine animals (Camelids, Deer & Goats) and also in respect of compensation to be paid for these non-bovine species slaughtered for TB.

Ad hoc arrangements are in place for the rare cases found in sheep and pigs to facilitate speedy removal from farm.

Rationale for Government intervention

The SG is committed to maintaining current low levels of TB in cattle and other species and to safeguard Scotland's OTF status. This includes minimising all potential sources of infection and reducing the risk of disease spread as far as possible.

There are currently no specific legal powers in Scotland to allow testing and slaughter of non-bovine species, except deer, where TB is suspected or confirmed. Instead, general powers to test are provided under the Movement of Animals (Restriction) (Scotland) Order 2003, but with no follow up powers to slaughter or to compensate for reactors, Scottish Ministers are currently reliant on owner cooperation to voluntarily release for slaughter any reactor animals, and they may of course refuse to do so, resulting in their premises being placed under movement restrictions indefinitely.

A TB Order for specified non-bovine species will provide Scottish Ministers and the Animal and Plant Health Agency (APHA) with the powers needed to deal effectively and quickly with TB incidents in camelids, deer, goats, sheep and pigs. With the introduction of statutory compensation also, it is proposed that the new Order will make it clear in one piece of legislation what keepers can expect in terms of testing of their animals and the removal of TB reactors.

Consultation

- **Within Government**

SG have consulted with colleagues in both Defra and the Welsh Government to look at what disease control provisions and levels of compensation are in place in other parts of GB and to identify what changes are currently being proposed or considered for the future in relation to non-bovine animals.

SG has also consulted with APHA to obtain figures, where available, in relation to unit testing costs for TB.

- **Public Consultation**

A full 12 week public consultation ran from Monday 29 September until Monday 22 December 2014, as part of the consultation process we also engaged directly with the various livestock sectors through invitation to attend a meeting or series of meetings as appropriate to discuss any issues raised by the consultation itself.

- **Business**

SG have consulted with Scotland's Rural College in relation to the cross species compensation figures and category's included in the proposal to ensure that they are fair and reasonable reflection of commercial values in the current market. Face to face discussions with representatives of the various livestock sectors affected took place during the public consultation period and are listed below.

- British Deer Farm and Parks Association
- British Deer Society
- British Goat Society
- British Veterinary Camelid Society
- Dr Glenn Scott – Central Scotland Pig Producers Association
- National Sheep Association
- Velvet Hall Alpacas
- Veterinary Deer Society

Options

Two policy options have been considered:

1. Do Nothing

Under this option, further regulation will not be introduced and current arrangements in relation to non-bovine animals will continue. This means we would continue to use limited existing legal powers to restrict, isolate and test while relying on owner agreement for voluntary slaughter and offering ex gratia compensation for camelids and goats.

Although the veterinary assessment of the risk of non-bovine to bovine TB transmission is low, this option could result in criticism from the cattle industry for not taking action to

address the lack of powers that allows infected animals to remain on farm as a possible disease risk to any neighbouring cattle. If the risk did materialise then there would be potential to impact on Scotland's OTF status.

2. Introduce a non-bovine TB Order (preferred option)

The second option is to introduce specific non-bovine legislation. The proposed Order would contain a number of provisions, including:

- A requirement that keepers of the specified non-bovine animals mark or identify their animals in an appropriate way.
- Requirements relating to testing for the disease and notifications in the event of disease being either suspected or confirmed.
- Requirements that reactors are kept in isolation and movements are restricted
- Precautions to be taken against the spread of infection
- Prohibitions on vaccination and treatment
- A prescribed mechanism for the payment of compensation to keepers of animals slaughtered as TB reactors.

It should be emphasised that the intention is not to use this Order to introduce a regular TB testing regime for non-bovine animals or to introduce pre or post movement testing (as exists for cattle), instead the powers will only be used where a TB incident is disclosed. In particular, non-bovine animals would be tested in the following circumstances:

- Where disease is identified through post mortem examination
- Where animals are "back traced" from known breakdown herds
- Where disease is identified on contiguous premises
- Other epidemiological situations where APHA believe testing is warranted.

Sectors and groups affected

Those owning or keeping a non-bovine animal (Camelid, Deer, Goat, Sheep, Pig) on premises in Scotland that may be affected or suspected of being affected by TB caused by *Mycobacterium bovis* (M.bovis), the bacterium that causes TB in cattle and other animals

Costs

Option 1

No additional costs are anticipated with this option although ex-gratia payments would continue to be made to keepers of camelids and goats which are removed and slaughtered as TB reactors. Testing costs would continue to be met by Scottish Government.

Option 2

As the Order will provide Scottish Ministers with powers enabling them to act in the event of a TB incident being disclosed in a non-bovine animal. The cost associated with the Order will depend upon the number of future incidents and the number of individual animals affected. Testing costs will continue to be met by Scottish Government.

In recent years the incidence of identified TB in non-bovines animals, particularly camelids, has been rising in some areas of GB. Scotland has however only recently been the destination for tracings of camelids from known breakdown herds in

England, which resulted in the first known test positive case of TB in alpacas in Scotland. There is therefore no direct experience of the potential for disease spread between species in Scotland.

APHA publish annual statistical information collected from their regional field services relating to the number of premises affected by TB and the number of individual animals tested and removed as TB reactors. The 2011 - 2013 data for GB as a whole and separately for Scotland is summarised in the tables below and a link to the full statistical tables is also provided.

| GB | | | | | | |
|--------------|---|-----------|-----------|---|-------------------|------------------|
| Species | No of premises placed under restriction | | | Number of animals tested and (number removed as Reactors) | | |
| | 2011 | 2012 | 2013 | 2011 | 2012 | 2013 |
| Camelids | 10 | 71 | 21 | 960 (79) | 1261 (401) | 834 (59) |
| Deer | 3 | 2 | 4 | 422 (44) | 331 (3) | 116 (4) |
| Goats | 2 | 2 | 7 | 358 (2) | 603 (2) | 125 (15) |
| Sheep | 6 | 2 | 3 | 734 (3) | 6189 (71) | 602 (22) |
| Pigs | 12 | 18 | 21 | 79 (4) | 156 (26) | 21 (0) |
| Other | 5 | 0 | 7 | 24 (0) | 0(0) | 10 (0) |
| Total | 38 | 95 | 63 | 2577(132) | 10132(503) | 1708(100) |

| Scotland | | | | | | |
|--------------|---|----------|----------|---|--------------|--------------|
| Species | No of premises placed under restriction | | | Number of animals tested and (number removed as Reactors) | | |
| | 2011 | 2012 | 2013 | 2011 | 2012 | 2013 |
| Camelids | 2 | 2 | 1 | 0 | 14 (0) | 10 (0) |
| Deer | 0 | 0 | 0 | 0 | 0 | 0 |
| Goats | 0 | 1 | 0 | 0 | 11 (0) | 0 |
| Sheep | 0 | 0 | 1 | 0 | 0 | 0 |
| Pigs | 1 | 0 | 7 | 0 | 0 | 0 |
| Other | 0 | 0 | 0 | 0 | 0 | 0 |
| Total | 3 | 3 | 9 | 0 | 25(0) | 10(0) |

<https://www.gov.uk/government/statistical-data-sets/other-tb-statistics>

It is not possible to predict the number of herds that will be affected by any potential future TB incident affecting non-bovine animals, nor is it possible to predict the number of animals in the herds affected. We have not therefore attempted to estimate the cost associated with introducing the Order.

We have attempted to source the unit costs associated with TB testing in the specified non-bovine species, however, the available data is limited due to the low volume of tests carried out in these species in recent years. APHA were able to provide figures on the cost to Government for TB testing in camelids and these are presented in the table below for illustrative purposes only and it is assumed that the cost per animal in the other specified non-bovine species would be broadly similar. There will also be some additional cost to Government for Tuberculin (used for the skin test) and laboratory testing of blood samples but these should be minimal and have therefore not been costed for the purposes of this BRIA.

We are aware also that there will be a small time related cost to the keepers of these animals for collection and penning for testing purposes. This is also expected to be minimal but no current figures are available. The Welsh Government previously estimated this back in 2010 at £3.50 per animal.

| TB Skin Test (comparative) by APHA (includes all field & travel costs) | TB Skin Test (Single) by APHA (includes all field & travel costs) | TB Blood Sampling by APHA (includes all field & travel costs) | TB Skin Test by Official Vet (testing only) |
|--|---|---|---|
| £22.00 | £18.00 | £64.00 | £6.54 |

Compensation – The proposed Order will introduce a statutory mechanism for the payment of compensation to the keepers of specific non-bovine animals, for the slaughter of affected animals under section 32(3) of the Animal Health Act 1981. Such payments represent a cost to the tax payer but SG is required under the Animal Health Act 1981 to pay compensation where Scottish Ministers require reactor animals to be slaughtered for disease control purposes.

The following compensation options were considered;

Compensation Option 1 - Pay market value for each animal based on individual valuation by a specialist valuer.

This option is in line with how compensation is paid for TB in cattle, but SG is aware that individual valuations in some cases, particularly for specialist breeds, can run to many thousands of pounds and would create a disparity with compensation payments made by the other Devolved Governments.

SG is aware that this is the option preferred by the non-bovine livestock sectors but it could result in an additional financial burden on the public purse.

Compensation Option 2 – To introduce a flat rate payment for each non-bovine species covered by the Order.

This option is nearer to current arrangements for Camelids and goats where a set ex gratia payment has been agreed by Scottish Ministers for each species, £750 & £200 respectively. Current statutory compensation for Deer is also similar with a set payment of the lesser of £600 or 50% of the current market value. It is also within compensation payment limits currently offered by the other Devolved Governments.

The summary of responses to the Welsh Governments consultation on TB in non-bovines back in 2010 indicated that a single flat rate was considered by the non-bovine sectors to be inappropriate and overly simplistic. There is unlikely to be much support for this option from industry.

Compensation Option 3 – To introduce a range of compensation payments graded by species and category of species. **(preferred option)**

This option is similar to the current compensation payments offered by the Welsh Government in the Tuberculosis (Wales) Order 2011. Payments are categorised by species and within each species are broken down by class of animal (i.e. breeding female or stud male).

The relevant amounts that would be prescribed in the Order are set out in the table below: Figures are based on those provided in the Tuberculosis (Wales) Order 2011 and from information relating to ad hoc payments in sheep and pigs in Wales also – figures have been reviewed by SRUC to ensure they are fair and reasonable.

The summary of responses to the Welsh Governments consultation on TB in non-bovines back in 2010 indicated that a tiered system would be a fairer alternative to a flat rate (option 2). We are aware that these figures will not satisfy all the non-bovine livestock sectors but we consider that they strike a balance between a fair deal for keepers of these animals and the taxpayer.

The compensation table below has been amended as a result of the consultation responses and face to face discussion with the various livestock sectors.

| Species | Category | Compensation amount |
|--|---|---------------------|
| Camelid (Alpaca, Guanaco, Llama and Vicuna) | 18 months old or less | £750 |
| | Non-breeding and over 18 months old | £750 |
| | Breeding female and over 18 months old | £1500 |
| | Stud male and over 18 months old | £1500 |
| Deer | Hinds and young stock under 2 years old | £400 |
| | Working Stags | £1500 |
| Sheep | Lamb – 1 year old or less | £80 |
| | Breeding Ewe over 1 year old | £130 |
| | Breeding Ram over 1 year old | £350 |
| Goat | 1 year old or less | £80 |
| | Non-breeding and over 1 year old | £160 |
| | Breeding female and over 1 year old | £250 |
| | Stud male – over 1 year old | £350 |
| Pigs | Suckler | £30 |
| | Weaner | £40 |
| | Finisher | £90 |
| | Breeding female (Gilt/Sow) | £250 |
| | Breeding Male | £350 |

Benefits from the preferred options

There is a high degree of uncertainty as to how frequently the proposed powers will be required and so it is not possible to monetise the impact that the Order will have in relation to the number of TB incidents or the spread of disease.

However, introducing a TB Order specifically for non-bovine species will provide Scottish Ministers and the APHA with;

- Improved control of TB and the powers needed to deal effectively and quickly with TB incidents in camelids, deer, goats, sheep and pigs when they arise.
- A possible welfare gain of quickly culling infected animals rather than leaving them to die from TB.
- The ability to provide animal keepers with statutory compensation for animals slaughtered. While any such payment represents a cost to the public purse it is also a benefit to the individual keeper.

Scottish Firms Impact Test

The consultation period ran from Monday 29 September until Monday 22 December and as part of the consultation process SG met with a range of industry representatives and individual stakeholders to discuss the proposal and ascertain views on any likely resulting impacts.

The consultation asked for views on whether the proposed arrangements would create any unnecessary burdens for keepers of non-bovine animals. The overall response to the question was positive with the generally held view that any additional burdens would be small and proportionate to the risk that TB could become firmly established in Scotland. A small number of respondents (10%) indicated that the levels of compensation proposed for deer and camelids could result in a financial burden in some cases, where animals affected were of greater than average value because of high genetic potential.

Competition Assessment

A competition assessment has been undertaken as provided below, but no detrimental effects on competition are envisaged from this Order.

| Question | Answer |
|---|---|
| 1) Will the proposal directly limit the number or range of suppliers? e.g. will it award exclusive rights to a supplier or create closed procurement or licensing programmes? | No |
| 2) Will the proposal indirectly limit the number or range of suppliers? e.g. will it raise costs to smaller entrants relative to larger existing suppliers? | No - The potential cost of these proposals is greater for keepers with a large number of non-bovine animals than those with small herds. However, statistical evidence shows that the number of herds/animals affected is likely to be very low and only relevant in the event of a TB breakdown in the herd. |

| | |
|---|----|
| 3) Will the proposal limit the ability of suppliers to compete? e.g. will it reduce the channels suppliers can use or geographic area they can operate in? | No |
| 4) Will the proposal reduce suppliers' incentives to compete vigorously? e.g. will it encourage or enable the exchange of information on prices, costs, sales or outputs between suppliers? | No |

Test run of business forms

No new business forms are required to be completed by the herd owners affected by this legislation, any forms, notices, licences or approvals that are required will be issued by APHA and will reflect those that are already available for TB in cattle and for TB in non-bovine animals in Wales.

Legal Aid Impact Test

The Legal Aid Board have been consulted and do not expect the proposal to have any impact on the legal aid fund.

Enforcement, sanctions and monitoring

APHA is responsible on behalf of Scottish Ministers for all aspects of disease control for TB in non-bovine animals (reporting, inspections, testing, reactor removal and compensation) for reported or suspected cases of disease including any follow up in relation to non-compliance and all activity associated with the judicial process.

Local authorities would be responsible for enforcement of the Order under the Animal Health Act 1981 due to potential health risk to both humans and animals for non-compliance.

Where a keeper fails to co-operate with the APHA testing requirements they will under the proposed new Order be liable to reimburse the SG for any testing costs and expenses reasonably incurred in carrying out any actions arising from the default.

Where a keeper refuses to allow animals to be tested he will be deemed to be committing an offence under the Animal Health Act 1981 and the herd will be placed under movement restrictions until the disease risk is determined by APHA to have ended.

The Order will be made under the Animal Health Act 1981 and so inspector powers of entry, testing, seizure and slaughter are all contained in that "Act". Obstruction of inspectors in exercise of their duties and non-compliance with any requirements of the Order will be prosecuted under the "Act". A person guilty of an offence under the "Act" is liable on summary conviction to a term not exceeding 6 months imprisonment or to a fine not exceeding level 5 on the standard scale or to both.

Implementation and delivery plan

SG have carefully considered all responses to the consultation which along with the face to face discussions have helped shape our policy on bovine TB in specified non-bovine species (alpacas, guanaco, llama, vicuna, deer (farmed), goats, sheep and pigs). Some of the legislative arrangements relating to identification and compensation proposed in

the consultation have been revised as a result of the information provided in the consultation responses.

We now intend to revoke the existing “TB in Deer Orders” so far as they relate to Scotland and have begun working with Scottish Government Legal Directorate on the legislative process for introduction of the Tuberculosis in Non-bovine Animals (Scotland) Order 2015 to take effect sometime in the last quarter of 2015.

Post-implementation review

As mentioned previously there is a high degree of uncertainty as to how frequently the proposed powers will be required, to date the number of premises that have been placed under restriction are low. APHA are already required to record all cases of non-bovine TB reported. This provides an up to date record of individual cases and an audit trail for all actions taken, it also acts as a reporting tool for producing statistics that are used for monitoring purposes and will ultimately allow us to consider any impact of the new Order on the number of cases reported, how they are resolved.

Summary and recommendation

The SG is committed to a comprehensive, practical and proportionate programme of actions in order to maintain current low levels of TB in cattle and other species and to safeguard Scotland’s OTF status. This includes minimising all potential sources of infection and reducing the risk of disease spread as far as possible. For this reason the recommended options are;

- **Option 2** – the introduction of specific non-bovine legislation
- **Compensation Option 3** - To introduce a range of compensation payments graded by species and category of species.

There are currently no specific legal powers in Scotland to allow testing and slaughter of non-bovine species, except deer, where TB is suspected or confirmed. Instead, general powers to test are provided under the Movement of Animals (Restriction) (Scotland) Order 2003, but with no follow up powers to slaughter or to compensate for reactors, Scottish Ministers are currently reliant on owner cooperation to voluntarily release for slaughter any reactor animals, and they may of course refuse to do so, resulting in their premises being placed under movement restrictions indefinitely.

A TB Order for specified non-bovine species will provide Scottish Ministers and the Animal and Plant Health Agency (APHA) with the powers needed to deal effectively and quickly with TB incidents in camelids, deer (farmed), goats (farmed, domestic), sheep and pigs. With the introduction of statutory compensation also, SG propose that the new Order will make it clear in one piece of legislation what keepers can expect in terms of testing of their animals and the removal of TB reactors.

It will also help safeguard Scotland’s Official TB Free Status by the prevention and management of incidents of bovine TB in these animals.

• **Summary costs and benefits table**

| Option 1 – Do nothing | Option 2 – Introduce legislation for specified non-bovine species |
|--|--|
| Costs | Costs |
| 1) No additional costs to industry or government | <p>1) Statutory requirement to test may result in an increase in testing costs to Government, but number of animals tested based on recent years figures are expected to be low and therefore costs minimal.</p> <p>2) Statutory compensation arrangements will result in increased payment of compensation by Government to keepers for any reactor animals slaughtered. The numbers of reactors identified is expected to be low and so any related increase in compensation is expected to be low also.</p> |
| | Compensation Options Considered |
| | <p>1) Pay market value for each animal - It is likely this is the option preferred by Industry but high valuations for specialist breeds could result in an additional burden on the public purse.</p> |
| | <p>2) Flat rate payment for each species – this is the option nearest to current arrangements but aware this was previously considered overly simplistic by industry.</p> |
| | <p>3) Introduce a range of compensations graded by species and category of species – Similar to what has been introduced in Wales. Figures have been reviewed by SRUC to ensure they are fair and reasonable. We consider this option strikes a balance between a fair deal for the keepers and the taxpayer.</p> |
| Benefits | Benefits |
| None | <ol style="list-style-type: none"> 1. Improved control of TB and the powers needed to deal effectively and quickly with TB incidents in the specified non bovine species. 2. Possible welfare gain in quickly culling infected animals. 3. The ability to provide statutory compensation for animals slaughtered. While this represents a cost to the public purse it is also a benefit to the individual keepers. |

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:**Date:**

Richard Lochhead MSP
Cabinet Secretary for Rural Affairs, Food and the Environment

Scottish Government Contact point:

Angela McMorland
Agriculture Food & Rural Communities Directorate
Animal Health & Welfare Division
Animal Disease Control Branch
P Spur
Saughton House
Broomhouse Drive
Edinburgh, EH11 3XD