

**EXPLANATORY MEMORANDUM TO  
THE ANIMAL BY-PRODUCTS REGULATIONS 2005**

**2005 No. 2347**

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.
2. **Description**
  - 2.1 The Animal By-Products Regulations 2005 enforce Regulation (EC) No 1774/2002 and its supplementary and transitional measures. These measures specify how animal by-products must be used or disposed of. The Regulations replace the Animal By-Products Regulations 2003 and apply to England.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None.
4. **Legislative Background**
  - 4.1 Regulation (EC) No 1774/2002 is currently enforced by the Animal By-Products Regulations 2003. There is a need to update those Regulations to take account of EU measures which have been adopted since the Regulations were made. The Regulations also remove some redundant provisions from the Slaughterhouses Act 1974, where the EU Regulation now occupies the field, and a provision of the Dogs Act 1906 which conflicts with the EU Regulation.
  - 4.2 Like the 2003 Regulations, these Regulations are made under Section 2(2) of the European Communities Act 1972.
  - 4.3 No transposition note is necessary.
5. **Extent**
  - 5.1 This instrument applies to England.
6. **European Convention on Human Rights**
  - 6.1 Ben Bradshaw, the Parliamentary Under Secretary (Commons), has made the following statement regarding Human Rights:  
  
In my view the provisions of the Animal By-Products Regulations 2005 are compatible with the Convention rights.
7. **Policy background**

- 7.1 Regulation (EC) No 1774/2002 controls the transport, processing, use and disposal of animal by-products. Animal by-products are animal carcasses, parts of carcasses and products of animal origin which are not intended for human consumption. To protect animal and public health, the Regulation requires that animal by-products are processed or disposed of in approved premises, and specifies the standards to which those premises must operate if they are to be approved. It specifies how animal by-products must be transported and identified. It also provides for some derogations, for example to allow the feeding of unprocessed animal by-products to birds of prey or maggots farmed for fishing bait. Equivalent standards apply to imports.
- 7.2 The Animal By-Products Regulations 2003 currently provide for the enforcement of most provisions of Regulation (EC) No 1774/2002. They do not control the trade, import and export provisions of Regulation (EC) No 1774/2002 which are dealt with in separate instruments.
- 7.3 The Animal By-Products Regulations 2005 revoke and re-make the Animal By-Products Regulations 2003 with some amendments. They also enforce five new EU measures which were introduced to address specific difficulties encountered with Regulation (EC) No 1774/2002 and in the light of scientific advice on alternative methods and standards. These measures concern -
- (a) photographic gelatine produced from animal by-products (Commission Decision 2004/407/EC);
  - (b) animal by-products used for technical purposes (Commission Regulation (EC) No 878/2004);
  - (c) alternative processing methods (Commission Regulation (EC) No 92/2005);
  - (d) standards for the processing of fish and a template for a commercial document (Commission Regulation (EC) No 93/2005); and
  - (e) the feeding to livestock of milk and milk-based products (Commission Regulation (EC) No 79/2005).

Measures (a), (b) and (e) are transitional measures but have no expiry date. The European Commission intends to make them permanent if they obtain a scientific opinion supporting those measures. Thus they are dealt with in regulations 50-52 whereas those transitional measures with expiry dates (which are intended to allow the relevant industry sectors time to adjust to the full requirements of Regulation (EC) No 1774/2002) are dealt with in regulation 53 and Schedule 4.

- 7.4 The 2005 Regulations remove some requirements which experience has shown to be unnecessary, such as a requirement for composted material to be retained on site pending the receipt of the results of microbiological testing. They also remove redundant provisions in the Slaughterhouses Act 1974 which require local authorities to license knackers' yards (for which Regulation (EC) No 1774/2002 now occupies the field) and simplify the procedure for appealing against refusal or suspension of an approval.
- 7.5 Although 445 bodies were consulted on the changes, only 21 responded. Most were broadly supportive of the deregulatory nature of the changes. Further details are in the Regulatory Impact Assessment and a more detailed letter is being sent to those who were consulted, explaining the changes made and providing an update on EU measures which are currently under discussion. Details of this and previous

consultations can be found on Defra's website via the following link (<http://www.defra.gov.uk/animalh/by-prods/default.htm>)

- 7.6 In response to comments resulting from the consultation, two further changes have been included in the Regulations. The Regulations will now repeal and replace the provision in the Dogs Act 1906 which makes it an offence to leave animal carcasses unburied where dogs could have access. As burial is now prohibited in virtually all circumstances, the new provision makes it an offence for animal carcasses to be held pending disposal in such a way that animals can have access to them. The Rendering (Fluid Treatment) Order 2001 is revoked and its provisions re-made, but with its scope limited to the disposal of condensate from rendering plants, in line with the original intention.
- 7.7 The Regulations now bring all the relevant provisions together in one instrument. In the interests of clarity and accessibility, we have consolidated the Regulations, rather than amending the 2003 Regulations.

## **8. Impact**

- 8.1 A Regulatory Impact Assessment is attached to this memorandum.
- 8.2 The impact on the public sector is likely to be small. The changes should not impact significantly on local authority or Meat Hygiene Service resources, as these bodies are already responsible for enforcement of the legislation on animal by-products. There may be some additional costs to the State Veterinary Service if operators decide to establish alternative methods, but these should be very low.

## **9. Contact**

Sue Bolton at the Department for Environment, Food and Rural Affairs  
Tel: 020 7904 6137 or e-mail: [sue.bolton@defra.gsi.gov.uk](mailto:sue.bolton@defra.gsi.gov.uk)  
can answer any queries regarding the instrument.

# **REGULATORY IMPACT ASSESSMENT: ANIMAL BY-PRODUCTS REGULATIONS 2005 AND ASSOCIATED EU PROPOSALS**

## **PURPOSE AND INTENDED EFFECT**

### **Objective**

1. Regulation (EC) No 1774/2002 concerning animal by-products has applied in member States since 1 May 2003. The aim is to protect public and animal health and maintain consumer confidence in the livestock industry, by ensuring that animal by-products are used, processed or disposed of safely. Enforcing Regulations (the Animal By-Products Regulations 2003) came into force on 1 July 2003 to give effect to the Regulation in England.

2. The Regulation provides for the European Commission to propose suitable transitional measures and amendments to the Annexes. Further EU measures have been agreed which need to be given effect in the UK, requiring changes to the enforcing Regulations. This provides the opportunity to make other changes and clarifications which experience has shown are necessary; to reduce the potential cost of an appeal against refusal or removal of an approval; and to remove some redundant provisions. This regulatory impact assessment describes the impact of the changes being made to the Animal By-Products Regulations 2003, as well as the associated costs and benefits of the EU measures. For the sake of clarity and accessibility, we have incorporated the changes in a consolidated set of Regulations (the Animal By-Products Regulations 2005).

### **Devolution**

3. Our enforcing legislation applies in England only. Separate legislation applies in Scotland, Wales and Northern Ireland.

### **Background**

4. Information on the EU measures was first circulated on 9 June 2003 and made available on the Defra website ([www.defra.gov.uk/animalh/by-prods/default.htm](http://www.defra.gov.uk/animalh/by-prods/default.htm)). A further consultation on the EU measures and associated changes to the enforcing legislation took place on 23 July 2004. Discussions with interests have also taken place throughout negotiations on the EU measures.

5. The purpose of the EU Regulation is to protect animal and public health. It is based on a number of opinions of the EU Scientific Steering Committee which addressed the risk to animal and public health from certain uses or disposal methods for animal by-products. These were primarily concerned with the risks from BSE, but also took account of the risks from other pathogens that may potentially be introduced or spread by animal by-products. These include exotic animal pathogens such as foot and mouth disease and classical swine fever (which are not present in the UK but may enter in illegally imported meat) and endemic animal and human pathogens (which are present in the UK) such as Salmonella, E. Coli and botulism.

6. The Regulation divides animal by-products into three risk categories and specifies the permitted treatment or disposal routes for each category of material and the standards of operation of the permitted outlets. It also provides for the European Commission to exercise its own competence to amend the Annexes to the Regulation, introduce transitional measures, or permit alternative methods of treatment or disposal. If the Commission wishes to do so, it

must first consult the relevant scientific body where necessary, and then secure the agreement of a qualified majority of member States to its proposal.

### **Novel methods**

7. Following satisfactory opinions from the EU Scientific Steering Committee, Commission Regulation (EC) No 92/2005 was agreed, which allows member States to authorise and approve five new methods of treatment or disposal. The changes to our national Regulations are necessary to allow us to authorise and approve the uses of such methods in England.

### **Import provisions**

8. The application of the import provisions of the Regulation was postponed until 1 May 2004, to allow time to review them. This has now been done and the provisions are enforced in England by the Products of Animal Origin (Third Country Imports) (England) Regulations 2003. But concerns were expressed about the impact on certain industry sectors of a ban on material from third countries that would be classed as category 1 or 2. The Commission therefore proposed two measures to allow imports of certain types of category 1 and 2 material, providing it is channelled to an approved technical plant and used only for technical purposes. One measure (Commission Decision 2004/407/EC) provides for the import of photographic gelatine, while the other (Commission Regulation (EC) No 878/2004) provides for the import of other, listed material. To ensure that imports were not treated more favourably than EU material, the latter measure allows Category 1 and 2 material produced in the EU to be treated in this way as well. These measures allow the continued operation in the UK of a small number of important businesses producing specialist products. The Regulations expressly provide for such uses to continue to be permitted in England.

### **Model commercial document and fish processing standards**

9. A further EU measure (Commission Regulation (EC) No 93/2005) introduces a model format for commercial documents and standards for processing category 3 fish by-products. A commercial document, including relevant information, must accompany movements of animal by-products. The UK was concerned that the model was unnecessarily prescriptive and required too much information to be appropriate for all movements. The Commission therefore agreed that the model should be followed for intra-Community trade in animal by-products, but that member States should be able to permit alternative formats within their own territory. A change to the Regulations is needed to expressly provide that operators will only need to follow the format for intra-Community trade. Movements within the UK can therefore be accompanied by a commercial document in any format providing it contains the necessary information. Otherwise the provisions of the proposal are directly applicable and no changes to the Regulations are required.

### **Milk for feeding to livestock**

10. Regulation (EC) No 1774/2002 requires that milk should be processed in an approved rendering plant if it is to be fed to livestock. The Commission acknowledged that this is impracticable, but originally proposed that milk that is fed to livestock should be subject to some form of heat treatment. They considered that pasteurisation to the standards appropriate for milk intended for human consumption was not sufficient for milk intended for animal consumption. All milk should therefore be subjected to a treatment higher than pasteurisation (eg UHT treatment) if it is to be fed to livestock. While recognising that some heat treatment

is needed in most cases, the UK and a number of other member States argued that such demanding parameters were not appropriate. As a result of much pressure from the UK, the final text (Commission Regulation (EC) No 79/2005) allows for member States to derogate from the treatment requirement to allow existing practices to continue, subject to certain conditions.

### **Removal of redundant provisions**

11. Making the above changes to the legislation provides an opportunity to clarify and amend some provisions which experience has shown need some improvement. It also provides an opportunity to remove redundant provisions in the Slaughterhouses Act 1974 and the Dogs Act 1906 and to make the appeals procedure in the Regulations less costly. Further details are at paragraphs 42, 43 and 33 respectively.

### **Risk Assessment**

12. The five alternative methods of treatment and disposal were subject to an assessment by the EU Scientific Steering Committee (SSC). The Committee's concern was to ensure that the animal by-products were treated or disposed of in a way that ensures that, if pathogens are present, they cannot be spread to humans or animals. Although the Committee was primarily concerned with the risks from BSE and other TSEs, it also considered the risks from other pathogens. For some of the methods, the Committee considered that further information is needed before they can deliver an opinion on whether the standards are sufficient to permit Category 1 material (material most likely to contain a TSE) to be treated or disposed of. It is for the person seeking approval of a particular method to provide that information.

13. The use of category 1 and 2 material for technical purposes has not yet been subject to assessment by the Scientific Steering Committee. Nor has the measure on the feeding of milk to livestock, which addresses the very small risk that Foot and Mouth Disease might be spread if milk from an infected herd is fed to pigs before clinical signs of the disease become apparent in the herd. However, both proposals were subject to scrutiny by member States' veterinary experts. In addition, the European Commission intends to seek an opinion on both these issues from the European Food Safety Authority (which has taken over the SSC's work) with a view to making the current transitional measures into permanent measures.

### **Business sectors affected**

14. The measure on the use of milk may apply to on some pig farmers, 200 medium or large processors of milk, many hundreds of small processors of their own milk, producers of dairy products and the animal feed industry. For the other measures, only a handful of operations (those which handle category 1 or 2 material) will be immediately affected by the changes to the Regulations, but the changes do have the potential to have an impact on many others who produce or handle animal by-products. These include around 40 rendering plants, 70 knackers' yards, 110 petfood plants, 280 hunt kennels, 1 circus, 90 zoos, 35 maggot farms, pharmaceutical and technical plants. Other premises could also be affected; over 600 slaughterhouses, a large proportion of the 200,000 livestock and fish producers, plus the waste disposal industry and the animal feed industry. Other producers of animal by-products such as 8,300 food manufacturing premises, 411,000 catering outlets and 35,000 retail outlets may be affected if they produce or sell foodstuffs which contain meat and most other products of animal origin. The operators of biogas and composting plants may be directly affected, as may laboratories which carry out microbiological testing under the Regulations.

## Issues of Equity and Fairness

15. The UK, like other Member States, must implement EU legislation. However, the changes to the Regulations will ensure that operators in England can benefit from the EU legislation, whether by having the option of alternative outlets or by being able to continue to use material that would otherwise have been prohibited. This should benefit producers of animal by-products, those who transport them and those who process or dispose of them.

### Options

16. Most of the EU measures are Regulations and will be directly applicable in member States, although one is a Decision. There are two options with respect to the enforcing Regulations -

#### a) Do nothing i.e. do not change the Regulations

A failure to change the Regulations to take account of the EU measures would be unlikely to lead to legal challenge in the European Court of Justice, because the measures either amend Regulation (EC) No 1774/2002 (which is already applied and enforced by the existing provisions) or they leave matters to the discretion of member States. However, there could be legal challenge from others, or failure to secure a conviction, resulting from a failure to make the necessary changes. Our operators could be denied the opportunity to use alternative methods or to continue feeding milk and washings containing milk to livestock, and we could prevent the continuation of businesses which use category 1 and 2 material for technical purposes and require. All transporters of animal by-products would need to follow the new EU format for the commercial document.

#### b) Change the Regulations

Changing the Regulations would make it clear how we intend to apply the discretionary provisions of the EU measures and ensure that operators in England are able to take advantage of the opportunities provided by the new EU measures.

## Benefits

### *Economic*

17. Changes to the Regulations will enable us to remove redundant provisions in the Slaughterhouses Act 1974 (thus avoiding theoretical costs on local authorities) and provide for a less costly and less onerous form of appeals system. They will also enable operators who transport animal by-products within the UK to avoid the costs associated with changing their commercial documents to the EC model, and provide business opportunities for the suppliers of the novel methods. They will also ensure that operators in England are able to take advantage of the ability to use alternative methods of treatment or disposal and permit the feeding of surplus milk and white water (washings from the milk processing plant) to continue to be fed to livestock.

18. The current situation of feeding surplus milk and milk products to livestock (primarily to pigs) has an economic benefit for both the producer of the material (as his disposal costs are kept to a minimum) and to the farmer (who receives relatively cheap feed for his animals).

Although there may be costs for a small number of markets and other operations if they are required to ensure that raw milk is processed or disposed of, there should be wider health benefits for the pig industry if pathogens such as Salmonella are not transmitted via the milk from cattle to pigs. The pig population does not currently have E Coli but milk is a potential route of transmission from the cattle population. Preventing the introduction of that pathogen would be of great benefit to the pig industry.

### *Environmental*

19. The provision of alternative methods of treatment or disposal may serve to reduce the costs of disposing of animal by-products and reduce the incentives for illegal disposal such as dumping. In certain areas, there is currently no alternative to landfill for some products and it is hoped that the changes may permit the development of more sustainable alternatives.

20. Milk has a very high biological oxygen demand (BOD) and can be very polluting if it enters rivers, for example. Land application is therefore not a desirable disposal route for milk. The high BOD also means that disposal to sewer is unlikely to be a routine option in most cases. As white water has a negligible value a requirement for it all to be heat-treated is likely to encourage alternative disposal routes such as disposal to sewer or land application, neither of which are very environmentally friendly. And landfill is not a sustainable outlet for milk products such as cheese. Continuing to feed them to livestock is therefore the most environmentally sound outlet for milk and milk products.

### *Social*

21. The changes will allow the continuation of specialised businesses and the continued employment of those who work in them. It may also allow for the development of new businesses and operations in some areas, for example in manufacturing and servicing facilities. The measure on milk should provide certainty and a level playing field in respect of treatment standards for milk and milk products. The change to permit hides and skins to be salted on the farm of origin will benefit 750-1000 farmers and smallholders by enabling them to continue to gain income from selling the tanned hides or skins of their animals. Most of those who do this salting are smallholders or small scale farmers, many of whom keep rare breeds. Their continued operation (which helps to maintain the gene pool and diversity of the rural economy) may not be economically viable without the income from the skins. Most businesses that could potentially be affected by the proposals are in rural areas and our aim during negotiations was to ensure that the proposals will not affect the balance of their operations adversely.

### **Compliance Costs for Business, charities and voluntary organisations**

22. The environmental and social costs that could arise from these proposals are set out in paragraphs 19-21 above. The following paragraphs therefore focus on the potential economic costs.

23. Option (a) would impose additional costs on everyone who transports animal by-products within the UK, by requiring them to change their commercial documents into the prescribed EU format. It would also require those who feed milk to livestock to ensure that it had first been processed in accordance with Regulation (EC) No 1774/2002 with a potential cost of many millions of pounds (see paragraph 31 below). Otherwise, there should not be any direct costs for business. But businesses would probably face indirect costs by not being



able to benefit from the introduction and use of the alternative methods of treatment or disposal.

24. Option (b) would avoid imposing additional costs on transporters, those who produce and feed milk and milk products, and would allow businesses to benefit from the alternative methods.

### **Compliance costs for a typical business**

25. The compliance costs for typical businesses are described below. Only the economic costs are covered; the environmental and social impacts are dealt with in paragraphs 19-21 above.

#### *Use of alternative methods*

26. It is difficult to quantify the impact of permitting the use of the five alternative methods as it will be a commercial decision by individuals as to whether the methods are more suitable for their needs than the existing methods. However, the increased choice should increase competition and perhaps encourage a reduction in the cost of treatment or disposal. It may also enable certain sectors or areas to develop treatment or disposal outlets where this would previously not have been an option. On-site treatment and energy generation will also be possible in some circumstances, with animal health and environmental benefits. The alkaline hydrolysis system is supplied by a company which is based in the UK. As around 17 million tonnes of animal by-products are generated in the EU each year, there are therefore considerable manufacturing and export opportunities, as well as the potential for job creation.

#### *Use of Category 1 material in technical plants*

27. Permitting the use of category 1 and 2 material in technical plants will allow businesses which use this material to continue to operate as at present. Although there will not therefore be any cost savings, these measures allow a small number of specialised businesses to continue to operate, protecting jobs and avoiding increased costs. Because this measure is relevant to a very small number of highly specialised businesses, each of which produces different types of material, it is not appropriate to give individual details of the costs that have been avoided by each.

#### *Fish processing standards and commercial document*

28. The establishment of parameters for the processing of category 3 fish by-products by method 6 of the Regulation does not affect any existing processors as they are using method 7 (which permits any parameters providing the processed material complies with specified microbiological standards). Method 7 will continue to be a permitted option.

29. There may be some additional costs faced by those who wish to trade in animal by-products or processed material within the Community. The costs will result from the need to adopt a uniform format for commercial documents, and should therefore be a one-off cost. But there also will be benefits from trade being easier if there is a common presentation of the required information. For this reason, sectors such as the petfood industry have already harmonised their commercial documents across the EU. The enforcing Regulations will

allow operators who move animal by-products and processed animal protein only within the UK to use their own formats, so these operators will not face any additional costs.

### *Milk and milk products*

30. The dairy processing and retail industry produces about 8 billion litres of liquid milk and milk products each year and about 6 billion litres of solid products. Around 1% of this material is waste, resulting in at least 140 million litres of pure milk and 500-600 million litres of white water (very dilute milk created by washing the tanks in which the milk was held or treated). The white water contains only a very small proportion of unpasteurised milk.

31. The most common outlet for this milk is feeding it to livestock, although some of it (primarily the most dilute white water) is disposed of to an on-site effluent treatment system or to the sewerage system. A small amount is applied to land, but this is not an environmentally desirable outlet. The costs of making the changes necessary to heat treat all of this milk would have run into thousands of pounds for each plant, or to millions of pounds for the industry as a whole. One estimate, for an average sized plant, was for capital investment of around £150,000. There would also have been on-going running costs.

32. However, exercising the derogation in Regulation (EC) No 79/2005 will enable us to largely avert these costs. There may be a small cost for the disposal of raw milk from markets (which we do not consider should be fed to livestock), and a small cost for the registration of those who supply or feed pasteurised milk or white water to their livestock. We do not propose to charge for registration and intend that registration should be carried out in the simplest possible way, such that it should only take each plant a few minutes to register. Farmers who feed white water to their livestock will also need to ensure that they comply with the specified movement restrictions, but we understand that those restrictions are in line with current practice and should not introduce any additional burden.

### *Appeals procedure*

33. The Regulations permit appeals to be made against the refusal or suspension of an approval to operate an animal by-products premises (rendering, petfood, composting plants, etc.). We have proposed to simplify the appeals procedure to allow the Secretary of State to appoint a senior official who was not involved in the original decision to hear an appeal. This would be an alternative to the existing option of an independent person hearing the appeal, although it would still be open to the Secretary of State to appoint an independent person if she thought the issues involved warranted this approach. By engaging an official rather than an independent person (usually a barrister), the Government could expect to avoid costs of around £10,000 for each appeal. Although not a legal requirement, it is thought that appellants might have chosen to engage legal representation if their appeal was to be heard by a barrister. The cost of such representation could be around £700/day. As no appeals have yet been made, these costs are theoretical but we would nevertheless hope to avoid them.

### *Composting and biogas plants*

34. The current Regulations require composting and biogas plants to keep treated material on site until the results of microbiological testing have been received. Experience suggests that this is not appropriate and that more flexibility is needed, for example to allow compost to be stored on a separate site. We have therefore removed this requirement in favour of a power for the Secretary of State to specify how the material must be stored or disposed of during the initial validation of a plant. Although it is not possible to quantify the savings that

this may create for the composting and biogas industries, it will provide those sectors with more flexibility of operation.

#### *Approval of zoos and circuses as collection centres*

35. Although it is not a requirement in the current legislation, the 2005 Regulations require operators and premises to operate to the same standards as collection centres supplying packs of hounds or maggot farms if they treat and supply animal by-products to other premises for feeding to zoo or circus animals. We do not believe that any zoos, circuses or other premises currently operate in this way but one or two may do so in the future. If upgrading of the premises is needed, costs of up to £5000 per premises might be involved.

#### *Rendering (Fluid Treatment) Order 2001*

36. This Order was introduced to ensure that condensate from rendering plants which processed ruminant material was suitably treated before it was applied to land. However, it inadvertently prevented processed blood being applied to land if it was in a liquid form. One response to consultation requested that this be rectified (as have others in the past). We have therefore revoked the Order and included the provisions in this text, but exempted processed blood from their scope. This should permit the development of new outlets for the processing of ruminant blood, and introduce more competition into this sector of the industry, with consequent benefits for slaughterhouse operators who need to find outlets for the blood. The rendering industry have indicated that they are content with this change.

#### **Consultation with small business: the small firms impact test**

37. Some of those affected by these measures are small businesses, particularly many of those farmers who feed their livestock on this material. The relevant industry organisations and the businesses producing technical products from category 1 material have been consulted throughout negotiations on the EU measures.

#### **Competition assessment**

38. The Regulations will permit the use of five alternative treatment and disposal routes for animal by-products, and should serve to actively increase competition in this area. The measure on milk avoids the imposition of a significant impact on competition, particularly in the milk sector, as the dairy processing sector could have faced large costs which could have reduced its competitiveness, as well as that of the animal feed and livestock industries.

#### **Enforcement and sanctions**

39. Approvals under the Regulation are issued by the State Veterinary Service and enforcement is carried out by the Meat Hygiene Service in slaughterhouses and by local authorities elsewhere. These bodies already undertake this role.

40. There are likely to be some additional costs to the Government of applying the changes to the Regulations, for example if operators decide to establish alternative methods. However, these should be very low. We do not anticipate that the changes should impact significantly on local authority or Meat Hygiene Service resources, as these bodies are already responsible for enforcement of the legislation on animal by-products.

41. Although the UK tried to avoid the need for operators who process or feed milk to be subject to approval or registration, Commission Regulation (EC) No 79/2005 requires such operations to be registered. We are looking to apply this requirement in such a way that the resource implications for both Government and operators are kept to a minimum.

#### *Slaughterhouses Act 1974*

42. We do not believe that local authorities have exercised their powers under the Slaughterhouses Act since the Animal By-Products Order 1999 came into force. However, the Act still places them under an obligation to license knackers' yards and gives them the power to make bye-laws in respect of knackers' yards. The removal of the relevant provisions is unlikely to have any savings in practice, but it will remove redundant provisions from the statute book.

#### *Dogs Act 1906*

43. Local authorities have long relied on the Dogs Act 1906 to ensure that farmers do not leave fallen stock unburied or disposed of in an alternative manner. However, because Regulation (EC) No 1774/2002 prohibits burial in virtually all circumstances, there is now a conflict between the Dogs Act (which makes it an offence to leave carcasses unburied where dogs can gain access to them) and the Regulation. Local authorities are therefore reluctant to rely on the Dogs Act as an enforcement tool. Revoking the provision in the Dogs Act and replacing it with a similar provision in the Animal By-Products Regulations should resolve this conflict and enable local authorities to take enforcement action when necessary.

#### *Sanctions under Animal By-Products Regulations*

44. Operators who do not comply may face prosecution. Prosecutions may result in a fine of up to £5000 and three months' imprisonment for cases heard in a magistrate's court or an unlimited fine and up to two years imprisonment for cases heard in the Crown Court. In addition, in the event of non-compliance, the Regulations provide for the suspension of an operator's approval, thus preventing the premises from receiving animal by-products.

### **Monitoring and review**

45. Discussions continue at EU and national level on the controls on animal by-products. Regulation (EC) No 1774/2002 requires member States to inform the Commission within one year of its entry into force of the measures taken to ensure compliance with the Regulation. The UK has submitted its report, and the Commission will shortly report to the Council of Ministers and the European Parliament. A proposal to amend the Regulation where necessary will follow in 2006, following a consultation exercise. The Regulation also provides for the Commission to propose amendments to the Annexes, following consultation of the EU Scientific Steering Committee where appropriate, so that technical changes can be made if experience suggests it is necessary.

### **Results of consultation**

46. Other Government Departments, industry organisations and other interests have been consulted as necessary during negotiations on the EU measures and on the changes to the national Regulations. Only 21 responses were received to the consultation exercise, although comments were invited from 445 consultees. There was support for the introduction of the novel methods and revocation of the provisions in the Slaughterhouses Act. Local authorities

requested the removal of the Dogs Act provision and another respondent asked for blood to be removed from the scope of the Rendering (Fluid Treatment) Order. There were two responses about the appeals procedure, suggesting that there should remain a choice between an independent civil servant and a barrister (this choice remains). There were comments about the need to allow smallholders to salt sheepskins on their own premises and general support for allowing catering waste to be treated to method 1 prior to land application (both of which the changes will do) but also requests for some more flexibility in these areas.

### **Summary and recommendation**

47. Option (b) is recommended, because it enables operators in England to derive full benefit from the changes to the Regulations. Although it is not possible to quantify the benefits, the overall effect will be to benefit UK industry or to avoid the imposition of costs, rather than to impose costs on them.

### **Declaration**

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.

Signed

Ben Bradshaw  
Parliamentary Under Secretary (Commons)  
**Department for Environment, Food and Rural Affairs**  
**19th August 2005**