

**EXPLANATORY MEMORANDUM TO**  
**THE EQUINE INFECTIOUS ANAEMIA (COMPENSATION) (ENGLAND) ORDER**  
**2006**

**2006 No. 2740**

1. This explanatory memorandum has been prepared by Defra and is laid before Parliament by Command of Her Majesty.
  - 1.1 This memorandum contains information for the Joint Committee on Statutory Instruments.
2. **Description**
  - 2.1 This Order sets the level of compensation for equines slaughtered under the powers conferred by section 32 of the Animal Health Act 1981 in its application to Equine Infectious Anaemia (EIA).
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 Compensation provisions will be made in the other parts of the UK through separate Orders.
4. **Legislative Background**
  - 4.1 The legal basis for this Order are the powers conferred on the Secretary of State by section 32(3) of the Animal Health Act 1981 and now vested in him.
  - 4.2 If adopted, the Order would set the level of compensation payable for equines slaughtered on confirmation of their being diseased with EIA.
5. **Extent**
  - 5.1 This instrument applies in England.
6. **European Convention on Human Rights**
  - 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.
7. **Policy background**
  - 7.1 The Specified Diseases (Notification and Slaughter) Order 1992 sets out the diseases for which an animal may be slaughtered under section 32 of the Animal Health Act 1981, and the Specified Diseases (Notification) Order 1996 sets out which diseases must be notified to the Minister. These Orders have been amended by the Specified Diseases (Notification and Slaughter) Order 2006 to include EIA.

- 7.2 EIA is an exotic disease that does not occur in England (and the wider UK), and equines are most likely to become infected with it when travelling abroad to countries or areas of countries where the disease is endemic. It is not a zoonosis (i.e. it is not transmissible to humans) but is usually fatal to equines. If the affected animal recovers, it remains a lifelong carrier of the disease and would need to be kept in restricted accommodation for the rest of its life.
- 7.3 Defra's policy, agreed with equine industry representatives, is that where an equine is shown to be diseased through an appropriate test, it should be slaughtered and its carcase disposed of safely. Thus, Defra requires the powers to slaughter. Generally, owners are aware of the seriousness of this disease to horses and its consequences. Defra will only need these powers where an owner was not prepared to conduct voluntary euthanasia of the animal. Defra will not slaughter equines that may have had close contact with diseased equines. These animals will be held in restricted accommodation for 90 days and tested on a monthly basis with regular veterinary assessments. If after an appropriate period of testing and no evidence of disease is found, a veterinary assessment will decide whether restrictions can be lifted. Only if those animals test positive for the disease will they need to be slaughtered.
- 7.4 Legal advice is that once an Order has been made to take the power to slaughter animals under section 32 the Minister should make a compensation order to officially set a level of compensation for equines slaughtered on confirmation of being diseased with EIA. The wording of the legislation means that some compensation must be paid, even if this is for a nominal sum. The Parliamentary Under Secretary of State (Commons) has agreed that Defra's policy on compensation for losses incurred due to the slaughter of an equine on confirmation of being diseased with EIA is to set a compensation figure of £1.00 (one pound). The reason for this approach is that an equine that has been tested with an appropriate test and shown to be diseased with equine infectious anaemia is of negligible value. Therefore it is only appropriate to pay a nominal sum by way of compensation.
- 7.5 Defra also considers it unreasonable that the taxpayer should bear the burden of compensation for owners who take the risk of moving their horses to countries or areas of countries where there is a heightened risk of the horses contracting EIA. Since the protection of equines from becoming diseased is the responsibility of the owner, movement of equines (in particular horses) to other countries for various reasons such as racing, eventing, showing etc is done so at the owner's risk. The equine industry has a responsibility to manage and control this risk. This is in line with the principles of joint responsibility for disease prevention and control and cost-sharing set out in the Animal Health and Welfare Strategy. Paying compensation of more than £1.00 for the slaughter of horses that have EIA is unlikely to encourage owners to take responsibility for the health and welfare of their horses.

## **8. Impact**

- 8.1 A Regulatory Impact Assessment is attached to this memorandum.

## **9. Contact**

Dr Bill Parish at the Department for Environment, Food and Rural Affairs Tel: 020 7904 6220 or e-mail: [bill.parish@defra.gsi.gov.uk](mailto:bill.parish@defra.gsi.gov.uk) can answer any queries regarding the instrument.

## REGULATORY IMPACT ASSESSMENT

### The Equine Infectious Anaemia (Compensation) (England) Order 2006

#### 1. Introduction and summary

1.1 This assessment estimates the benefits of an Order setting the level of compensation payable to owners of horses slaughtered under the requirements of section 32 of the Animal Health Act 1981 (as read with the Specified Diseases (Notification and Slaughter) Order 1992, as amended by the Specified Diseases (Notification and Slaughter) Order 2006).

1.2 The level for compensation is to be set at £1.00 (one pound).

1.3 It has not been possible to conduct a full public consultation on this issue. Since July 2006 we have been at immediate risk of importing infected horses returning from the Republic of Ireland. Having agreed with the equine industry that the only option for dealing with an animal that tested positive was humane slaughter, we could not wait for a three month period of full consultation on the package of legislation in order to secure the required powers to deal with the disease if we identified it and that this package needed to be accompanied by corresponding compensation orders.

1.4 However two stakeholder groups have been informed of the EIA policy:

(i) Equine Disease Contact Group CVO teleconference (28 July 2006)

(ii) Equine Health and Welfare Strategy focus group (during a formal strategy meeting on 24 October 2006 and subsequent minutes)

1.5 The sector (the equine industry) is extremely diverse and it is not possible to accurately estimate the costs to the industry.

#### 2. Purpose and intended effect

2.1 The Specified Diseases (Notification and Slaughter) Order 1992 sets out the diseases for which an animal may be slaughtered under section 32 of the Animal Health Act 1981, and the Specified Diseases (Notification) Order 1996 sets out those diseases which must be notified to the Minister. These Orders are amended by the Specified Diseases (Notification and Slaughter) Order 2006 to include Equine Infectious Anaemia (EIA).

2.2 Legal advice is that once an Order has been made to take the power to slaughter animals under section 32 of the Animal Health Act 1981 the Minister should make a compensation order to officially set a level of compensation for equines slaughtered on confirmation of being diseased with EIA. The wording of the legislation means that some compensation must be paid, even if this is for a nominal sum. In the case of EIA this will be (£1.00). The Equine Infectious Anaemia (Compensation) Order 2006 is intended to set the level of compensation for equines slaughtered on confirmation of EIA.

2.3 The Order would apply to England only. The Devolved Administrations will be making their own compensation provisions through separate Orders.

### 3. Risk

3.1 EIA is classed as an exotic disease that does not occur in England and the wider UK. Equines are most likely to become infected with it when travelling abroad to countries or areas of countries where the disease is endemic. Movement of equines (in particular horses) to other countries for various reasons such as racing, eventing, showing etc is done at the owner's risk. The equine industry has a responsibility to manage and control this risk. EIA is not a zoonosis (i.e. it is not transmissible to humans) but is usually fatal to equines. If the affected animal recovers, it remains a lifelong carrier of the disease and would need to be kept in restricted accommodation for the rest of its life. It would therefore be of negligible value.

### 4. Course of action

4.1 Equines that are confirmed to be diseased with EIA by an appropriate

laboratory test will be slaughtered. As the equine industry is aware of the consequences of EIA, in reality Defra would only need to invoke the powers of compulsory slaughter when the owner was not prepared to conduct voluntary euthanasia of the diseased animal. This would limit any possibility of the spread of the disease within the country and consequent damage to the equine industry. The Order will set the level of compensation for any horses slaughtered on confirmation of the disease at £1.00 for the reasons set out above.

## 5. Benefits

5.1 Defra needs to destroy horses on confirmation of EIA in order to limit any possibility of the spread of the disease and consequent damage to our equine industry. It is not possible to accurately calculate the cost of an outbreak of EIA but it has the potential to be very high indeed, posing a very real threat to the continued existence of our equine industry in its current form and by extension to the wider rural economy.

5.2 Taking into account the risks inherent in taking their horses to countries where EIA is endemic, a '*de minimis*' approach to compensation for horses slaughtered on confirmation of the disease will encourage the equine industry to take its share of responsibility for control of EIA.

## 6. Compliance costs for Business – Available Evidence

6.1 The horse industry covers a wide spectrum, from riding school horses to valuable thoroughbred bloodstock, and costs would vary depending upon the individual circumstances of the business premises affected. Given that EIA is most likely to be contracted by horses that travel to other countries for various reasons such as racing, eventing, showing etc, the horses themselves are likely to be valuable. Therefore the total value of such animals is likely to be high. In addition, there is the probability that the lower end of the equine industry may, in the future, unwittingly import diseased horses from Accession States should this work out cheaper than sourcing animals from the UK.

6.2 The costs need to be balanced against the cost to the equine industry and the

wider rural economy should EIA become endemic in England. It should also be borne in mind that if a diseased animal does not die of it, it remains a lifelong carrier of the disease and would need to be kept in restricted accommodation for the rest of its life. It would therefore be of negligible value.

## 7. Consultation

7.1 Recent teleconferences involving key players from the equine veterinary industry and equine industry confirmed there was strong support for the need to slaughter horses with this disease to protect the equine industry. The Chief Veterinary Officer made it clear at the time that there would be no compensation payable for any such horses slaughtered.

7.2 The two stakeholder groups (with attached memberships) were informed of the policy for compensation for slaughter of horses affected by EIA. It has been acknowledged that it is unreasonable to expect the taxpayer to fund compensation for animals that effectively worthless as a result of EIA, particularly if they were taken abroad at the owners risk, infected overseas and brought back to UK where they then posed a risk to GB animals.

7.3 In terms of "representitiveness", the two stakeholder groups cover the interests of the thoroughbred and racehorse sectors very well - this is the sector most likely to be affected by EIA since they are the animals shipped to studs and horse hospitals abroad.

### (i) Equine Disease Contact Group CVO teleconference (28 July 2006)

British Equine Veterinary Association (several vet representatives)

British Veterinary Association

Horse Racing Authority

Doncaster Sales

Rossdales

Newmarket Stud Farmers

Thoroughbred Breeders Association

Animal Health Trust

(ii) Equine Health and Welfare Strategy focus group (during a formal strategy meeting on 24 October 2006 and subsequent minutes)

British Equine Veterinary Association (BEVA); British Horse Industry Confederation (BHIC); British Horse Society (BHS); British Horse Racing Board (BHRB); South Essex Insurance Brokers (SEIB); RSPCA; Horserace Betting Levy Board (HBLB); British Equine Trade Association (BETA); British Equestrian Federation (BEF); The Jockey Club; The Home of Rest for Horses National Equine Welfare Council (NEWC); The Donkey Sanctuary and The International League for the Protection of Horses (ILPH).

8. Declaration

8.1 I have read the Regulatory Impact Assessment and I am satisfied that these measures are necessary.

***Signed...Ben Bradshaw***

***Date.....7<sup>th</sup> November 2006***

**BEN BRADSHAW  
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