

**EXPLANATORY MEMORANDUM TO
THE PRODUCTS OF ANIMAL ORIGIN (DISEASE CONTROL) (ENGLAND)
(AMENDMENT) REGULATIONS 2009**

2009 No. 1297

1. This explanatory memorandum has been prepared by Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 This instrument amends The Product of Animal Origin (Disease Control) (England) Regulations 2008 (“the principal Regulations”) to provide for meat from pigs that have tested positive for anti-bodies to swine vesicular disease, but negative to live virus, to be sold for consumption on the national market subject to certain controls. The instrument also deregulates and clarifies some aspects of the principal Regulations.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

4. **Legislative Context**

4.1 This instrument is related to The Swine Vesicular Disease Regulations which is being made in 2009 (as a re-enactment of the Swine Vesicular Disease Order 1972) to implement the Council Directive 92/119/EEC (as amended by Commission Directive 2007/10/EC) which introduces general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease.

4.2 The principal Regulations are intended to reduce the risk of spread of certain exotic disease transmissible to animals via products of animal origin intended for human consumption by setting out general animal health requirements and optional derogations from those requirements.

4.3 Amendments are being made to the principal Regulations in respect of meat produced from pigs that have tested positive for anti-bodies to swine vesicular disease so as to implement section 4(d) of Annex II of Council Directive 92/119/EEC. This will have the effect that meat from pigs with anti-bodies against swine vesicular disease in which disease has not been confirmed, but which the Secretary of State has required to be slaughtered, will be allowed to be used exclusively on the national market subject to being slaughtered at designated slaughterhouses and the meat identified by a special mark.

4.4 This instrument additionally amends the principal Regulations where they provide for the sale on the national market of poultry meat from poultry originating in disease control zones during an outbreak of Newcastle Disease. An unintended consequence of the principal regulations is that anyone handling such meat would commit an offence unless the premises or vehicle had been designated for that purpose. This instrument clarifies that no offence is committed where the vehicle or premises has not been designated. It also clarifies the intended control of meat produced before the date when disease controls were applied at premises or in zones.

5. Territorial Extent and Application

5.1 This instrument applies to England.

5.2 Scotland has laid a similar instrument, and Wales, and Northern Ireland intend to lay similar instruments.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1 Swine vesicular disease has serious animal health implications for pigs, but does not affect humans. The Council Directive 92/119/EEC provides for meat from pigs that have tested positive for anti-bodies to swine vesicular disease, but negative to live virus, to be sold for consumption on the national market subject to certain controls. It is not possible to estimate with any certainty how many animals would fall into this category during an outbreak but it is expected to be small, however, this instrument provides an opportunity for pig producers with such pigs to find a market for the product that would otherwise not be available.

7.2 Amendments introduced at regulations 6(b), 8(b), 10 and 11(f) remove some obligations in respect of handling and selling meat and meat products intended for the national market derived from poultry originating from protection and surveillance zones during an outbreak of Newcastle Disease in England. The intention is to simplify compliance and enforcement in respect of this trade.

7.3 Amendments at regulation 4 and 5 clarify the intended control of meat produced before the date controls were applied at premises or in zones.

- *Consolidation*

7.4 This is the first amendment to the original instrument so we do not intend consolidating text so soon after the principal Regulations have come into force. A consolidation at this time might also be confusing to the slaughter, meat processing and retail sectors. An unofficial consolidated text will be made available to the general public via the Defra website.

8. Consultation outcome

8.1 Consultation was undertaken as part of a wider consultation on the implementation of the EC Directive on Swine Vesicular Disease on 4th November 2008. Only one response was received relevant to this instrument and that has been taken into account. A more detailed analysis of the full consultation responses is available on the Defra website.

9. Guidance

9.1 Existing guidance will be updated and published on the Defra website.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 The impact on the public sector is negligible.

10.3 An Impact Assessment has not been prepared for this instrument because no impact on industry or Government beyond that in the impact assessment for the principle regulations is foreseen.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 There are no exemptions for small business as these measures are equally applicable to all business. These measures are deregulatory and provide for additional trade that would otherwise not be available.

11.3 The basis for the final decision on what action to take to assist small business was taken following the November 2008 consultation including various organisation representing small firms. None of the respondents to the Consultation made comments on the specific changes in relation to this category of pig meat.

12. Monitoring & review

12.1 The principal Regulations are only applicable as a result of an outbreak of certain exotic diseases in England. It is normal practice to conduct a lessons learnt exercise after any such outbreak and this would identify any concerns with the effectiveness of those Regulations as amended by this instrument.

13. Contact

Andy C Smith at the Department for Environment, Food and Rural Affairs Tel: 0207 238 6132 or email: andy.c.smith@defra.gsi.gov.uk can answer any queries regarding the instrument.

ANNEX I: Transposition Note

Council Directive 92/119/EC introducing general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease

TABLE SHOWING TRANSPOSITION OF THE DIRECTIVE BY THE PRODUCTS OF ANIMAL ORIGIN (DISEASE CONTROL) (ENGLAND) (AMENDMENT) REGULATIONS 2009

These Regulations implement, in England, section 4(d) of Annex II of Council Directive 92/119/EEC in respect of any meat from pigs with antibodies against swine vesicular disease (referred to as “seropositive pigs” and defined in regulation 3(c)) in which disease has not been confirmed but which the Secretary of State has required to be slaughtered.

| Article | Objective | Regulation |
|--------------------------|--|---|
| Section 4(d) of Annex II | For pigs which after investigation show no evidence of the swine vesicular disease virus, although the results of tests of samples are still serologically positive, the competent authority has the option to allow the slaughter of such pigs under its supervision in a slaughterhouse it has designated in its national territory. If such an option is elected then the competent authority shall ensure that on arrival at the slaughterhouse the pigs are kept and slaughtered separately from other pigs and that their meat is exclusively used on the national market. | Regulation 6 prohibits the export of meat from seropositive pigs. Regulation 7 ensures slaughter only takes place at slaughterhouses designated for that purpose and that such pigs and resultant meat are kept separate from other pigs and meat. By requiring the application of a mark to the meat (regulation 9 & 12) and the keeping of records (regulation 11) these regulations ensure the requirements for use exclusively on the domestic market is enforceable. |