

## **EXECUTIVE NOTE**

### **The Bovine Products (Restriction on Placing on the Market) (Scotland) (No.2) Regulations 2005 SSI/2005/586**

The above instrument is made under powers conferred by section 2(2) of the European Communities Act 1972(a) and of all other powers enabling them in that behalf. The instrument is subject to negative resolution procedure.

#### **Policy Objectives**

1. With limited exceptions, the over thirty months (OTM) rule prohibits the sale for human consumption of meat from cattle aged over thirty months at slaughter. The Bovine Products (Restriction on Placing on the Market) (Scotland) Regulations 2005 replace the OTM rule by a prohibition on the placing on the market of products derived from bovine animals born or reared within the UK before 1<sup>st</sup> August 1996. That instrument thereby allows UK OTM cattle born on or after 1<sup>st</sup> August 1996 into the human food supply, provided they have received a negative test result for BSE. This instrument revokes and re-enacts with certain changes the Bovine Products (Restriction on Placing on the Market) (Scotland) Regulations 2005 with effect from 1<sup>st</sup> January 2006. This instrument will have exactly the same effect as the Bovine Products (Restriction on Placing on the Market) (Scotland) Regulations 2005.

#### **Legislative Background**

2. The OTM rule legislation (the Fresh Meat (Beef Controls) (No. 2) Regulations 1996) was national legislation made under the Food Safety Act 1990. Subsequent Community legislation - Regulation 999/2001 - provides for EU-wide rules for controlling BSE. Because of its comprehensive nature, Regulation 999/2001 constitutes fully harmonised rules in the field of control and eradication of BSE, including consumer protection.
3. There is no provision in Regulation 999/2001 for the UK to operate an OTM rule in the form of a ban on the sale for human consumption of meat from OTM cattle. Under the EU rules, such meat may legally be sold provided it is from an animal that had tested negative for BSE (and the specified risk material had been removed). The OTM rule is therefore inconsistent with the applicable EU law.
4. The new policy of prohibiting UK cattle born before August 1996 from the food supply was subject to the same difficulty. The UK therefore requested action at EU level to legitimise a continued ban on such cattle.
5. In response, within the powers delegated to it under Regulation 999/2001, the Commission adopted Decision 2005/598/EC of 2 August 2005. The instrument gives effect to Article 1.1 of that Decision, which prohibits the placing on the market of products derived from bovine animals born or reared within the UK before 1<sup>st</sup> August 1996.

## **Consultation**

6. In accordance with article 9 of Regulation (EC) 178/2002 Member States must undertake public consultation, directly or through representative bodies, during the preparation, evaluation and revision of food law. The FSA issued a 12-week consultation package to interested parties on 7 March 2005 on a draft Statutory Instrument and partial Regulatory Impact Assessment. This consultation represents only one part of a series of stakeholder engagement initiatives that the Agency has undertaken relating to changing the OTM Rule since July 2002, when the review of the rule was launched.

## **Manpower and Financial Implications for Central and Local Government**

7. Significant savings in Exchequer costs from reductions in OTMS expenditure net of additional costs, which are estimated to increase from some £15m in 2005/06 to £250m after all cattle born before August 1996 have been disposed of.
8. Official supervision of new arrangements related to testing and the removal of vertebral column from OTM cattle would give rise to additional costs to Government incurred by the Meat Hygiene Service (MHS) in Great Britain and the Department of Agriculture and Rural Development (DARD) in Northern Ireland. In addition, the extent of routine monitoring of current SRM controls would increase simply because a larger number of cattle would be slaughtered in fresh meat slaughterhouses. Also, it is impractical to require all abattoirs to retain hides on site until test results are received which means that a system of official control must be extended to hide markets and tanneries. Rural Affairs Departments will use Meat and Livestock Commission (MLC) staff for this purpose. Additional enforcement costs to Government are difficult to quantify at this stage because the total number and location of abattoirs who may wish to process OTM cattle for human consumption is not yet known, and the costs of MHS supervision, particularly of vertebral column removal, remain unconfirmed. However, enforcement costs could be in the region of £25 million in 2005/06.

## **Effect on the Regulations and Impact on Business and Trade**

9. Replacing the OTM rule with a BSE Testing system affects cattle farmers, the meat industry, animal by-product renderers and incinerators, retailers, beef importers and those involved with BSE testing and the transport of brain samples.
10. Costs for a typical abattoir or cutting plant depend on the facilities already available at individual premises and OTM cattle throughput. However, abattoirs and cutting plants can choose not to handle OTM cattle. Major accommodation works would not typically be required for a plant to engage in the OTM trade, the main requirements being to provide a space

for sampling and suitable facilities for holding carcasses awaiting test results. As noted above, for all plants taking on OTM work, handling OTM carcasses would involve higher costs in relation to testing and additional processing and SRM removal. Slaughterhouses would be expected to pass on all or part of these additional costs to producers. Additional industry costs for testing and removal of vertebral column may be about £12 per animal but depends on capital outlay at abattoirs and OTM cattle throughput. Producers would benefit to the extent that the market provides a better return than the OTMS, less the additional costs to abattoirs of processing OTM cattle.

11. As these Regulations only differ from The Bovine Products (Restriction on Placing on the Market) (Scotland) Regulations 2005 in so much as they take into account necessary changes as a result of new food hygiene legislation, there will be no additional impact on Government or business and trade. Accordingly a Regulatory Impact Assessment has not been produced for these Regulations. More details of the affect of this measure can be found in the Regulatory Impact Assessment that accompanies The Bovine Products (Restriction on Placing on the Market) (Scotland) Regulations 2005.

Food Standards Agency Scotland  
November 2005

## **List of Consultees**

Scottish Animal Health Offices

BAS Members

British Association of Animal Science

British Veterinary Association (Scottish Branch)

CJD Surveillance Unit

Confederation of Scottish Local Authorities (COSLA)

Crofters Commission

Devro (Scotland) Limited

Operators of all licensed red meat premises

Health Protection Scotland

Local Authorities in Scotland

Meat Hygiene Service (Scottish Office)

National Farmers Union Scotland

Quality Meat Scotland

Royal (Dick) Veterinary College

Royal Environmental Health Institute for Scotland

Scottish Agricultural Council

Veterinary Science Division

Scottish Association of Meat Wholesalers

Scottish Consumer Council

Scottish Crofting Foundation

Scottish Executive Environment and Rural Affairs Department

Scottish Executive Health Department

Scottish Food Enforcement Liaison Committee

Scottish Federation of Meat Traders Association

Scottish Food Advisory Committee

Scottish Food and Drink Federation

Scrapie and Related Diseases Advisory Service