

EXECUTIVE NOTE

The TSE (Scotland) Amendment (No 2) Regulations 2006 (S.S.I. 2006/231)

The above instrument was made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972. The instrument is subject to negative resolution procedure.

Policy Objectives

The purpose of this instrument is to amend the existing TSE (Scotland) Regulations 2002 and revoke the Bovine and Bovine Products (Trade) Regulations 1999 to give legal effect to the amending EU Regulation [2005/XXX] which removes restrictions on the export of British beef and cattle within the EU. A ban on the export of British beef and cattle was imposed by the EU following the announcement in March 1996 of a possible link between BSE in cattle and new variant CJD. UK Agriculture Departments have enforced the export ban and worked with industry towards meeting the criteria required to have the ban lifted. On 8 March this year the Standing Committee on the Food Chain and Animal Health agreed a Commission proposal for the normalisation of export controls within the EU for cattle born after 1 August 1996. As a consequence of the realignment of UK and EU conditions for the marketing of the above products, it is also necessary to bring our rules for the management of bovine Specified Risk Material (SRM) into line with the EU norms. This involves requiring that vertebral column in cattle over 24 months is classed as SRM and declassifying bovine headmeat as SRM. Parallel regulations are being introduced in England, Wales and Northern Ireland.

The Executive has also taken the opportunity following the change of the Over Thirty last year to implement certain revisions in respect of the presentation of pre August 96 cattle at abattoirs for human consumption. Although it is an offence to present over age cattle for human consumption the Executive wished to ensure there were powers to order the destruction of such cattle without compensation, and also to make it an offence to actually slaughter such cattle for human consumption.

Finally, the Executive is taking the opportunity to amend provisions on compensation under the BSE Offspring Cull into line with the rest of the UK by adopting a table valuation system rather than individual valuation.

Consultation

Of about 180 stakeholders consulted in Scotland on lifting the beef export ban, 13 responses were received (7%). There was general support for the ending of restrictions from throughout the industry. However, some welfare groups [and individuals] expressed concern over the practice of live cattle exports which could resume. The Executive has no powers to vary the application of the EU regulation and this practice would be a legal one once again.

The regulatory changes in relation to the presentation of pre August 96 cattle arise out of the OTM rule change from 7 November last year. There was general support from industry and other stakeholders for rule change although regulators wished to see a robust food safety regime. These changes support that objective.

When UK Agriculture Departments originally consulted in October 2004 on proposals for the introduction of a table valuation for cattle compensation. There were 10 responses, mainly from livestock industry representatives, which generally agreed that the current approach to valuations required an overhaul, but the general tone was not supportive of the current proposals, with the most frequent complaint being about the number of categories (29) not representing the full range of the cattle sectors including recognising animals which were of farm assured status, high-value animals etc. Further to industry comments in Scotland and the rest of the UK this was increased to 49.

Financial Effects

The changes with regard to exports are largely deregulatory. The lifting of export restrictions within the EU for UK beef and cattle born after 1 August 1996 will be financially beneficial to both producers and the Scottish red meat industry. Processors and exporters may incur some additional overheads in order to comply with the export regime.

The amendments regarding the presentation of pre August 96 animals for slaughter are intended to strengthen the regulatory position. There are no financial effects and the Executive trusts that its efforts towards increasing awareness of the requirements will lead to an increase in compliance and a reduction in the associated loss to producers.

Although the changes to compensation arrangements are initially being applied only to the BSE Offspring Cull, they will in time be extended to compensation for BSE suspects and cohorts. However the Offspring Cull accounts for the majority of cases and compensation – for every BSE case there are usually a number of offspring. In 2004-05 approximately £6,000 was paid in compensation for BSE suspects compared to £29,000 under the Offspring Cull. The financial effect of the changes is difficult to judge, particularly against the background of declining BSE incidence. Under the previous system the Executive was criticised on several occasions for a system that did not appear to produce realistic valuations for non-pedigree Scottish beef cattle. It is expected that the new system will address this problem.

Scottish Executive Environment and Rural Affairs Department
May 2006

REGULATORY IMPACT ASSESSMENT

The TSE (Scotland) Amendment (No. 2) Regulations 2006 S.S.I. 2006/231

1. Title of proposal

BSE: lifting the ban on the export of bovines and bovine products and harmonising Specified Risk Material (SRM) controls applicable in the UK with those in other EU member states.

2. Purpose and intended effect

• Objective

Legislative action to:

to enable the resumption of exports from the UK of beef and live bovines born after July 1996 by repealing the Bovines and Bovine Products (Trade) Regulations 1999 (SI 1999/1103) and amending the TSE (Scotland) Regulations 2002;

to harmonise controls on bovine vertebral column, head meat and other SRM with the EU requirements that apply in other EU Member States by amending the TSE (Scotland) Regulations 2002; and

to change the compensation arrangements under the BSE Offspring Cull by amending the TSE (Scotland) Regulations 2002.

• Background

BSE was first identified in the UK in 1986. More than 183,000 cases have been confirmed in the UK to date, of which more than 95% were detected before 2000. In March 1996 the EU imposed a comprehensive, ban on the export of bovine and bovine products from the UK due to fears about the risks to human health posed by BSE. The GB legislation which currently implements the EU ban is the Bovines and Bovine Products (Trade) Regulations 1999 (S.I. No. 1103). This legislation applies to live cattle, beef, beef products, bovine by-products and mammalian meat and bone meal. Parallel legislation implements the ban in Northern Ireland. Under this legislation, beef from animals slaughtered in the UK can only be exported under the Date Based Export (DBES) Scheme, and products made from imported beef can only be exported under the XAP (export approved) Scheme. Both these schemes are cumbersome to implement and costly to maintain.

On 8 March 2006 the EU Standing Committee on the Food Chain and Animal Health (SCoFCAH) adopted unanimously a favourable opinion on a European Commission proposal to lift the embargo on UK exports of live cattle, beef and beef products. The proposal is now expected to be adopted by the Commission around on 29 April.

Under the Commission's legislation, the UK is required to ensure that the following conditions are adhered to:

- 1) Cattle born before 1 August 1996 may not be exported.
- 2) Products from any cattle slaughtered before 15 June 2005 may not be exported.
- 3) Beef containing vertebral column, or any product including vertebral column, from cattle slaughtered before the date of the Commission's Regulation coming into force may not be exported.
- 4) Compliance with the SRM controls already applicable in other Member States. These are as follows:

- (i) Vertebral column shall be classified as SRM in cattle aged over 24 months (at present the UK has a derogation to classify vertebral column as SRM only in cattle aged over 30 months at slaughter);
- (ii) The skull, excluding the mandible but including the brain and eyes shall be SRM from 12 months of age (at present the entire head is SRM from 6 months of age);
- (iii) Spinal cord shall be SRM in animals over 12 months of age (at present the spinal cord is SRM in animals over 6 months of age);
- (iv) Trigeminal ganglia, thymus and spleen shall no longer be classified as SRM.
- (v) With regard to 4(i), EU legislation requires Member States to remove vertebral column in licensed cutting plants but includes a derogation permitting them to allow removal of vertebral column at authorised, monitored and registered butchers' shops. Similarly, EU legislation requires removal of head meat at slaughterhouses but permits member states to allow removal at authorised licensed cutting plants. The Food Standards Agency (FSA) has opted to allow the removal of vertebral column at butchers' shops but to restrict the removal of head meat to slaughterhouses. The possibility of allowing the removal of head meat in cutting plants is to be reviewed in the summer.

The conditions under 2 and 3 above are contained in an Annex to the EU TSE Regulation which is due to expire in July 2007. The EU Food and Veterinary Office (FVO) are to visit the UK by December 2006 to inspect our controls and there is a risk that further controls will be imposed if the FVO find that we are not implementing the existing controls in a satisfactory manner.

The TSE (Scotland) Regulations 2002 provide for compensation for BSE suspects, cohorts and offspring. Under the current arrangements compensation is arranged through individual valuations, in the majority of cases. Only non-pedigree and non-productive animals taken under the BSE Offspring Cull are currently valued under a table system and the Executive intends to simplify procedures, reduce administrative costs and provide more reliable valuations by moving to a revised table system, initially for BSE Offspring Cull only.

• **Rationale for Executive intervention**

BSE was first identified in the UK in 1986. More than 183,000 cases have been confirmed in the UK to date (8,477 in Scotland), of which more than 95% were detected before 2000. The UK epidemic peaked at an annual total of more than 37,000 clinical cases in 1992 (a peak of 2208 cases in Scotland the following year) and the number of new clinical cases is currently at the lowest level since recording began. There were 40 clinical cases and 180 cases detected through testing in 2005 in the UK (1 and 21 respectively in Scotland), the vast majority in cattle born before August 1996. The UK's reinforced feed controls which banned mammalian meat and bone meal from feed for all farmed livestock, effective from 1 August 1996, have led to a particularly sharp fall in BSE cases in cattle born after July 1996.

In 1995, the last full year before exports were banned, UK exports of beef and bovine products were valued at almost £600 million and exports of live cattle were valued at almost £78 million. The Scottish beef export trade for the same year was worth £120m. The live export trade would give rise to additional costs to Government in checking on the welfare of cattle during transport and in additional policing costs. From the time that the export ban was

applied, it has been UK Government policy to seek the removal of the EU ban for products permitted for sale on our domestic market.

UK legislation must now be brought into line with EU legislation as soon as possible after the EU legislation comes into force. If this is not done, the Bovines and Bovine Products (Trade) Regulations 1999 will remain on the statute book but will be open to legal challenge and judicial review.

Unless the TSE (Scotland) Regulations 2002 are amended it will not be possible to enforce a 24 month age limit (as opposed to the current 30 months age limit) for the removal of vertebral column or to make use of the derogation allowing removal in specifically authorised butchers' shops.

At the same time, new restrictions will have to be applied to the vertebral column of cattle aged 24 – 30 months which will involve additional costs to industry and enforcement costs to Government outlined below.

Similarly, it will be necessary to amend the TSE (Scotland) Regulations 2002 to enable the UK to enforce the less restrictive list of SRM that will apply given the change in the UK's BSE risk status. Some 2m cattle are slaughtered for human consumption per year. This figure is set to increase now that cattle aged over 30 months can be sold for human consumption following the replacement of the OTM Rule by a BSE testing regime on 7 November 2005.

Amending compensation provisions under the BSE Offspring Cull provides a simpler and more streamlined process and reduces valuation costs. It amends the table valuation system and extends its application to all Offspring Cull animals rather than only non-pedigree and non-productive animals. The previous system had been criticized for producing inadequate valuations for quality non-pedigree Scottish beef cattle. It is anticipated that the revised system will produce more equitable valuations by providing a larger number of categories of bovine in the valuation table and linking values to average market prices for bovines in those categories.

3. Consultation

The consultation exercise in respect of the anticipated changes to UK legislation was initiated on 10 October 2005 with closing date for comments of 3 January 2006.

The EU Regulation will affect those who keep and sell cattle, hauliers, abattoirs, cutting plants, the meat processing industry, renderers, incinerators, independent butchers and other retailers, the catering industry, consumers, those who would wish to export or transport for export beef, bovine products and live cattle and port authorities. It will also be important to those concerned with the welfare of cattle and live exports. All these interest groups were consulted.

The consultation documents and the summary of responses have been placed in the Scottish Executive library. A total of 13 responses were received to the main consultation and 6 to the supplementary consultation.

Responses to the consultation are discussed under Section 4.

Stakeholders were consulted originally in October 2004 on proposals for the introduction of a table valuation for cattle compensation. There were 10 responses, 7 from livestock industry representatives, 2 from local authorities and one from an auctioneering firm. They which

generally agreed that the current approach to valuations required an overhaul, but the general tone was not supportive of the current proposals, with the most frequent complaint being about the number of categories (29) not representing the full range of the cattle sectors including recognising animals which were of farm assured status, high-value animals etc. Further to industry comments in Scotland and the rest of the UK this has been increased to 49.

4. Options for achieving the policy objective

1. Option 1 – Do Nothing

Now that the EU has agreed to allow the resumption of exports of UK cattle born after July 1996 and of beef and bovine products from bovines born or reared in the UK after this date, (other than the exceptions set out under “Background” above) then the UK must make the necessary implementing legislation. If this is not done, existing UK legislation in relation to both exports and SRM controls will be open to legal challenge and judicial review and there would be a period of legal uncertainty. Were the matter to come before a Court, the probable consequence of failure to reflect at national level the lifting at EU level of the export ban would be that inconsistent national legislation would be held unenforceable. The UK would be unable to enforce the removal of vertebral column from cattle aged over 24 months (instead of 30 months as now) and there would also be legal uncertainty about whether UK industry could sell head meat for human consumption. Furthermore, Scottish Ministers would be in breach of their obligations under the Scotland Act 1998.

Option 2 – Amend UK legislation to administer and enforce EU legislation without making use of EU derogations

This would involve repealing the Bovines and Bovine Products (Trade) Regulations 1999 and amending the TSE (Scotland) Regulations 2002 to reflect EU legislation. However, the UK would not allow either vertebral column from cattle aged 24 – 30 months to be removed in authorised butchers’ shops or head meat to be removed in authorised licensed cutting plants. Instead, vertebral column from all cattle aged over 24 months would need to be removed in cutting plants additionally licensed for this purpose and head meat could be removed only at abattoirs. Animals born before 1 August 1996 would remain permanently excluded from the food chain. No product from any animal slaughtered before 15 June 2005 would be exported, and no beef containing vertebral column, or any product including vertebral column, from any animal slaughtered before the date of the Commission’s Regulation coming into force, would be exported.

Option 3 – Amend UK legislation to administer and enforce EU legislation, making use of EU derogations

This would involve repealing the Bovines and Bovine Products (Trade) Regulations 1999 and amending the TSE (Scotland) Regulations 2002 to reflect EU legislation including the permitted derogations. These derogations are not interdependent and could be independently implemented or omitted from UK legislation. Responses to the consultation exercise were overwhelmingly in favour of allowing vertebral column from cattle aged 24 – 30 months to be removed in authorised butchers’ shops which are monitored and registered for that purpose. There is no intention to make use of the option provided in

the EU Regulation to allow vertebral column from cattle aged over 30 months to be removed in butcher's shops because the FSA's Independent Advisory Group on replacing the OTM rule by testing recommended that vertebral column from OTM cattle should be removed in licensed cutting plants only.

Opinion was divided on the derogation for head meat to be removed at specially authorised licensed cutting plants. The FSA has decided not to implement this derogation for the present: it will be reviewed in summer 2006.

Animals born before 1 August 1996 would remain permanently excluded from the food chain. No product from any animal slaughtered before 15 June 2005 would be exported, and no beef containing vertebral column, or any product including vertebral column, from any animal slaughtered before the date of the Commission's Regulation coming into force, would be exported.

5. Costs and benefits

• Sectors and groups affected

The EU Regulation will affect those who keep and sell cattle, hauliers, abattoirs, cutting plants, the meat processing industry, renderers, incinerators, independent butchers and other retailers, the catering industry, consumers, those who would wish to export or transport for export beef, bovine products and live cattle and port authorities. It will also be important to those concerned with the welfare of cattle and live exports. There will also be implications for enforcement agencies dealing with the meat industry and exports.

There are implications for small businesses particularly in rural areas because, if the derogation is not implemented, the EU Regulation would adversely affect farmers who keep slow maturing grass fed cattle and small abattoirs without cutting plants who currently supply craft butchers with half or quarter carcasses. Craft butchers who currently purchase half or quarter carcasses to mature and bone out in their shops would also be affected if they wished to continue to sell meat from cattle aged 24 – 30 months but it had to be de-boned in cutting plants. Consumers would also be unable to buy T-bone steaks derived from cattle aged over 24 months although T-bone steaks from cattle aged less than 24 months would continue to be available. Some 50% of cattle currently slaughtered for human consumption are aged over 24 months.

There are no significant human health implications either in increasing controls on vertebral column or in reducing controls on head meat.

The EU proposal will not have any race equality impact.

• Analysis of Cost and Benefits

2. Option 1 – Do Nothing

• Costs

Industry would be denied the opportunity to export beef, bovine products and live cattle without breaking UK law. Thereby, industry would potentially be denied access to improved returns either directly from overseas markets or as a function of strengthening of the whole UK market because surplus domestic supplies can be exported. This assumes particular importance following the replacement of the OTM rule from 7 November, which has released additional supplies of beef from older cattle onto the UK market.

Those who currently export UK beef from eligible cattle aged 6 – 30 months under the Date-Based Export Scheme (DBES) or beef of foreign origin under the export approved (XAP) Scheme would continue to face the significant additional costs of exporting under these schemes. For DBES, these costs include approval and inspection costs (currently £3,200 in first year and £2,160 thereafter); eligibility checks at about £1.75 per animal; and the costs of additional Meat Hygiene Service (MHS) inspection, currently about £1,000 per DBES period. For the XAP Scheme, there are parallel approval and inspection costs (currently £560 per year) and the costs of additional inspection by the Meat Hygiene Service (MHS) or Local Veterinary Inspectors (LVIs). In addition, plants operating DBES or XAP incur high overheads due to the onerous conditions for these schemes, including separate slaughter runs and clean-downs for DBES and segregated preparation areas for XAP. Both schemes require a high level of official supervision.

UK Agriculture Departments would continue to incur the costs of enforcing export controls including portal surveillance.

UK Agriculture Departments would face legal costs if it were to try to maintain a ban on the export of beef or live cattle or to refuse to allow industry to reclaim head meat contrary to EU law. The Government would also be vulnerable to challenge in the European Court if it failed to enforce an EU requirement to remove vertebral column as SRM from cattle aged 24 – 30 months. The industry would - as above - be denied the opportunity to sell head meat until the legal position had been clarified. We estimate that the value could be about 30p per carcasse or £0.6 million assuming head meat is reclaimed from all 2 million cattle currently sold for human consumption. This figure is likely to increase as more UK cattle are now entering the food chain now that the ban on cattle aged over 30 months has been replaced by a system of BSE testing. The costs of disposal as SRM would be saved but these costs are relatively small.

In addition, the industry would be required to remove and destroy a longer list of SRM than other EU Member States (except vertebral column from cattle aged 24 – 30 months – see below).

- **Benefits**

The Executive prefers a meat trade to a live trade but recognizes that the export of live cattle is a legal trade under EU rules. The Government would not incur the costs of checking the welfare of live cattle during transport or the costs of policing any demonstrations.

The UK would not apply new restrictions to vertebral column from cattle aged 24 –30 months. This would enable farmers and those in the meat trade to continue selling bone-in beef from animals aged 24-30 months.

Option 2 – Amend UK legislation to administer and enforce EU legislation

without making use of EU derogations

- **Costs**

UK Agriculture Departments would incur the costs of checking the welfare of live cattle during transport and the costs of policing any demonstrations.

The live export trade is unpopular with the general public and there would be a social cost in this, both in a negative image for UK Agriculture Departments because they authorise the recommencement of the trade and because protestors, local residents, officials and those involved in the trade would be affected by protests. Also those opposed to this trade claim that it causes stress and suffering to exported animals and takes no accounts of their feelings as sentient beings.

The current system of State Veterinary Service portal surveillance checks would continue until at least July 2007, probably in a modified form, to monitor exports of beef and bovine products for illegal items, e.g beef or products from animals slaughtered before 15 June 2005 and no beef containing vertebral column, or any product including vertebral column, from any animal slaughtered before the date of the Commission's Regulation coming into force.

A limit of 24 months for vertebral column would be most unwelcome to farmers, abattoirs and butchers, but the industry has agreed that securing exports is the priority. However, industry has also pressed hard for the UK to make use of the EU derogation to allow removal of vertebral column in butcher's shops. With some 50% UK cattle likely to be finished by 24 months, there should be enough cattle of sufficient (if not ideal) quality to allow trade to continue. The main difficulty with a 24 months limit is the impact it could have on:

- farmers producing slower maturing grass-fed cattle
- about 110 small slaughterhouses without linked cutting plants (2 in Scotland) or on
- about thirty further abattoirs with cutting plants that cannot accommodate all the cattle they slaughter
- traditional butchers

Although significant in presentational terms, sales of T-bone steaks account for only 0.2% retail sales or about £4m per year, and 0.5% catering sales or about £5m per year. Rib roasts could still contain the rib. If the UK requires vertebral column to be removed in licensed cutting plants, small abattoirs will be unable to provide sides, quarters or primary cuts containing vertebral column direct to butchers for boning out unless these are derived from cattle aged under 24 months. Carcasses from cattle aged 24 – 30 months would need to be routed via the nearest cutting plant, which might be some considerable distance away. This would not be a practical option for many abattoirs. The impact will be greatest in the north and west where more meat is sold through traditional butchers.

There are some 7,000 independent butchers in the UK. Not all trade in meat is in carcase form but it is estimated by the Meat and Livestock Commission that some 26% of all beef sold from abattoirs to trade customers is traded as bone-in hind or forequarters of beef. Butchers who currently buy beef in carcase form would be unable to buy such carcasses from cattle aged 24 – 30 months containing vertebral column, but meat from older grass fed cattle is often the most desirable. Whilst butchers in general are increasingly buying boneless meat, there are many well established small craft businesses that bring valuable custom to small towns. Without traditional butchers, such custom might go elsewhere.

Most vertebral column from cattle aged 24 – 30 months is already removed in cutting plants. The costs for cutting plants of staining and disposal of vertebral column as SRM rather than lower category waste are expected to be slightly higher. These costs will vary according to throughput. A provisional estimate is that costs to cutting plants of disposing of vertebral column as SRM would be about £2 million per year, representing an increase of perhaps £200,000 per year.

There will also be additional enforcement costs which would depend on the regime agreed. Costs for say a six monthly inspection by the Meat Hygiene Service could be about £0.5 million per year.

Consumers may find it difficult to understand why a ban on vertebral column from cattle aged 24 – 30 months is being reintroduced at a time when the BSE epidemic is in sharp decline and why consumer choice is being restricted. This could affect consumer confidence in beef if not carefully explained.

Industry would not be able to reclaim head meat in any cutting plants.

- **Benefits**

The export trade could resume.

The tables below show the tonnage and value of beef and live cattle exported during 1994 and 1995, the last two full years of trading before the export ban was imposed. Under the Date Based Export Scheme only small quantities of beef have been exported to several EU member states.

2.1 Beef and bovine products

1994		1995	
Tonnage	Value	Tonnage	Value
212,442	486,221,000	245,093	£583,560,000

2.2 Live cattle

1994		1995	
Numbers	Value	Numbers	Value
481,000	£89,716,000	450,000	£77,624,000

Trading conditions, particularly exchange rates, are very different today and it would take time to rebuild the export trade which may never reach pre-1996 levels. The MLC estimate that in 2006 UK exports could be about 40,000 tonnes divided equally between prime beef and cow beef. The value of this might be about £60m.

There is strong overseas interest in high quality breeding stock. There is also interest in calves, many of which are currently shot at birth. The UK would apply all the provisions of EU law relevant to normal trade between Member States, including rules to protect the welfare of cattle during transport.

Industry would benefit being able to reclaim head meat albeit only in slaughterhouses. This trade could be worth some £0.6m based on 30p per head X 2 million cattle slaughtered for human consumption.

On the basis of a scientific risk assessment by the Spongiform Encephalopathy Advisory Committee (SEAC) the public health benefits of applying a lower age limit to the removal of vertebral column are assessed to be negligible.

Option 3 – Amend UK legislation to administer and enforce EU legislation making use of EU derogations

- **Costs**

Additional enforcement costs associated with supervising exports of live cattle: as for Option 2 above.

Social costs associated with exports of live cattle: as for Option 2 above.

Portal surveillance costs to monitor for exports of illegal items: as for Option 2 above.

Butcher's shops would have to arrange and pay for disposal as SRM of vertebral column from cattle aged 24 – 30 months if they chose to apply for authorisation. Disposal costs would vary according to local circumstance from nothing where waste is already incinerated to about £100 per week.

Additional enforcement costs would depend on the regime agreed but there could be an additional cost of about £60 per inspection visit by a local authority inspector. The frequency of visits would need to be considered but for say 6 monthly inspections the additional cost of inspecting around 1,000 butchers could be about £120,000. There would be no increase in risk because current UK legislation allows butchers to handle and sell without restriction vertebral column from cattle aged under 30 months.

As most vertebral column will continue to be removed in licensed cutting plants, additional enforcement costs will be incurred in cutting plants too. It is expected that these will be similar to those in option 2 as the number of plants processing vertebral column from cattle aged 24 – 30 months is likely to be similar.

Consumer confidence: – as for Option 2 above

- **Benefits**

For exports: - as for Option 2 above.

For SRMs - butcher's shops could apply for authorisation to remove vertebral column and thus could continue to handle beef from cattle aged 24 – 30 months in carcasse form. Cutting plants could apply for authorization to remove head meat and would welcome the flexibility and potential cost efficiency of being able to do so, especially when a cutting plant is co-located with an abattoir.

UK would apply a shorter list of SRMs (except that vertebral column from cattle aged 24 – 30 months would become SRM).

- **Costs and benefits checklist**

2.3 Option 1 – Do Nothing

- **Economic impacts**

- ❖ The proposal will not result in receipts or savings to the Government.
- ❖ The proposal will affect the availability of goods or services in that it will not be possible to export beef, beef products or live bovines from the UK.
- ❖ The proposal will not result in new technologies
- ❖ The proposal will not result in a change in the investment behaviour both into the UK and UK firms overseas and into particular industries.
- ❖ The proposal will not impact on levels of competition within the affected sector.
- ❖ The proposal will impact on the public sector, including the resources of front-line delivery staff, in that the Government will have to continue enforcing the Regulations.
- ❖ The proposal will not impact on business, charities and voluntary organisations.
- ❖ The proposal will impact on foreign consumers because the export of beef, beef products and live bovines from the UK will *not* resume.

- **Social impacts**

No change from current situation and no impact.

- **Environmental impacts**

No change from current situation and no impact.

3. Options 2 and 3

- **Economic impacts**

- Government will incur savings in enforcing the current export ban with the abolition of the DBES and XAP Schemes but will incur additional costs in relation to the live export trade and in enforcing the removal of vertebral column in cattle aged 24 – 30 months.
- The proposal will affect the availability of goods or services in that it will enable the export of beef, beef products and live bovines from the UK. The extent of these benefits will depend on the nature and extent of the export trade.
- The proposal may result in new technologies related to the removal of vertebral column
- The proposal will not result in a change in the investment behaviour both into the UK and UK firms overseas and into particular industries.
- The proposal may impact on levels of competition within the affected sector in that some farmers, food companies and exporters may be able to take advantage of the lifting of the export bans before others are ready to do so.

- The proposal will impact on the public sector in relation to enforcement costs.
- The proposal will not impact on charities and voluntary organisations.
- The proposal will impact on foreign consumers because the export of beef, beef products and live bovines from the UK will resume.
- **Social impacts**

There are implications for small businesses particularly in rural areas because, if the derogation is not implemented, the EU Regulation will affect farmers who keep slow maturing grass fed cattle and small abattoirs without cutting plants who currently supply craft butchers with half or quarter carcasses. Craft butchers who currently purchase half or quarter carcasses to mature and bone out in their shops would also be affected if they wished to continue to sell meat from cattle aged 24 – 30 months but it had to be de-boned in cutting plants. Consumers will also be unable to buy T-bone steaks derived from cattle aged over 24 months although they can buy T-bone steaks from cattle aged under 24 months.

Some 50% of cattle currently slaughtered for human consumption are aged under 24 months.

There are no significant human health implications either in increasing controls on vertebral column or in reducing controls on head meat.

The EU proposal will also have a potentially significant social impact because it will allow the resumption of the export of live bovines. This is opposed by animal welfare groups and others who believe that this practice is immoral and denies the rights of animals to be treated as sentient beings. Respondents to the consultation exercise have expressed concern that the Partial Regulatory Impact Assessment did not take sufficient account of the welfare of animals undergoing export.

If live exports resume, they are likely to be met by large scale protests which could have a considerable impact on the lives of those committed to this movement. Before live exports were banned in 1996, a protestor was killed in an incident at Coventry airport. Such demonstrations, and their policing, would also have an impact on local residents and those travelling in the areas targeted for protest.

The EU proposal will not have any race equality impacts.

- **Environmental impacts**

The 24 month limit for vertebral column removal may encourage some farmers to slaughter more cattle before they reach the age of 24 months which may encourage more intensive rearing and make slower maturing traditional breeds less attractive. This could have an adverse impact upon the British countryside. Respondents to the consultation exercise have expressed their concern that many native Scottish breeds do not mature sufficiently quickly to be slaughtered at 24 months and that the proposed 24 month limit is likely to place additional restrictions on extensive cattle grazing systems at a time when they are already very vulnerable. Farmers may move away from slow-maturing grass fed cattle. Many Sites of Special Scientific Interest and Environmentally Sensitive Areas depend upon cattle grazing to ensure that they are maintained in a favourable environmental condition. Some cattle breeds could be lost to farming use, representing a loss to the UK's genetic resources.

However, the lifting of the Over Thirty Months (OTM) rule on 7 November 2005 may encourage other farmers to rear less intensively. The most likely outcome is that fewer cattle will be slaughtered in the 24 – 30 month age band.

6. Small Firms Impact

There would be implications for small businesses. We have participated in discussions with representatives of the National Federation of Meat and Food Traders, the Association of Independent Meat Suppliers, the National Beef Association, the Food and Drink Federation, the British Meat Processors Association, the International Meat Trade Association, the Pet Food Manufacturers' Association, the Scottish Association of Meat Wholesalers and the farming unions who all attend regular stakeholder meetings with UK Agriculture Departments and the FSA. Trade organisations believe that smaller scale farms in more remote areas, smaller scale abattoirs and independent butchers would all be disproportionately affected by a requirement to remove the vertebral column as SRM in cattle aged 24 – 30 months, especially if the UK were to require this to be done only at cutting plants. All the organisations above have pressed for the UK to make use of the EU derogation that allows vertebral column to be removed in authorized butcher's shops. They have underlined the importance to small abattoirs of being able to handle all the cattle a farmer wishes to slaughter and the importance to craft butchers of selling a high quality product, differentiated from the majority of beef sold in supermarkets. Respondents to the consultation exercise were overwhelmingly in favour of implementing this derogation (Option 3 above).

However, opinion was divided on the derogation for head meat to be removed at specially authorised licensed cutting plants. The FSA has decided not to implement this derogation for the present: it will be reviewed in summer 2006.

7. Competition Assessment

The proposals are essentially deregulatory. They would affect a large number of small and mid-sized firms and a number of large firms, none of which dominate the marketplace. None of the measures prevent entry into the market by new firms and none would lead to higher ongoing costs compared to existing firms for new or potential entrants to the market. Smaller abattoirs without co-located cutting plants or with small cutting plants will be affected more than large abattoirs with co-located cutting plants. Independent craft butchers who bone out carcasse beef will be affected but butchers who deal in or purchase only boneless beef will be unaffected. If technological change were to enable vertebral column to be removed from quarters of beef in abattoirs, the effects on small businesses would be reduced because butchers could continue to purchase quarters derived from cattle aged 24 – 30 months but without vertebral column.

8. Enforcement and sanctions

The proposals are deregulatory except in relation to new controls on vertebral column from cattle aged 24 - 30 months, and on exports of beef or products from animals slaughtered before 15 June 2005 and beef containing vertebral column, or any product including vertebral

column, from any animal slaughtered before the date of the Commission's Regulation coming into force. A new authorization and enforcement regime would need to be developed for the removal of vertebral column for cattle in the 24-30 month age group. This would be likely to use local authorities for enforcement in authorised butcher's shops if option 3 were to be agreed. Most vertebral column would continue as now to be removed in licensed cutting plants. This would require additional input from the MHS who enforce SRM controls in cutting plants.

Sanctions would be applied for non-compliance. It is proposed that a person guilty of an offence under these Regulations is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term of three months or both; or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or both.

9. Implementation and Delivery Plan

It is proposed that the requirements of the EU Regulation shall be implemented by means of amendment to the TSE (Scotland) Regulations 2002, as the TSE (Scotland) Amendment (No. 2) Regulations 2006.

UK Agriculture Departments, as responsible authority, will require producers and exporters to ensure that beef and bovine products exported comply with the exclusions laid down in the EU Regulation. Consignments will be monitored and selected for backtracing on a percentage basis by the State Veterinary Service (SVS). If any infringements are detected, the importing country and the Commission will be notified immediately so that the illegal goods can be detained and either returned or destroyed.

The SVS will be responsible for checking the welfare of live cattle destined for export, at loading and during transit, and for ensuring that the rules for the welfare of exported animals are complied with at all times.

UK Agriculture Departments and the SVS will maintain close contact with farmers, producers and exporters to ensure that the rules for the export of beef, bovine products and live bovines are adhered to at all times.

10. Post-Implementation Review

The continual need to monitor exports of beef, bovine products and live bovines, the visit of the EU Food and Veterinary Office in December 2006 and the anticipated lifting in July 2007 of the EU's conditions with regard to vertebral column and animals slaughtered before 15 June 2005, will all provide opportunity to keep the legislation under constant review during its first fourteen months of operation.

11. Summary and Recommendation

Option 1: Do Nothing This option should not be supported because it would fail to reflect the changes in EU legislation and would leave the UK legislation open to judicial challenge. The UK beef industry would be denied the opportunity to export until the legal situation was clarified. This would lead to a surplus of beef on the UK market and could cause the market to collapse. Losses to producers are estimated at £60.6 million in the first year. This would also be incompatible with the Scotland Act.

Option 2: Amend UK legislation to administer and enforce EU legislation

without making use of EU derogations This option would allow the resumption of exports of beef, bovine products and live bovines. However, failure to make use of the EU derogation to allow removal of vertebral column in butcher's shops would have an adverse impact upon farmers producing slower maturing grass-fed cattle, about 110 small slaughterhouses without linked cutting plants or on about thirty further abattoirs with cutting plants that cannot accommodate all the cattle they slaughter, and traditional butchers. There is a potential for adverse environmental impact due to loss of grazing sites as producers move away from slower maturing grass-fed breeds.

The live bovine export trade is unpopular with the general public and its resumption would occasion a negative social impact among animal rights groups and a negative impact in terms of animal welfare. Government Agencies would incur additional costs in policing demonstrations and carrying out welfare checks on exported animals.

Trade in beef, bovine product and live bovines estimated at £60.6m in the first year after the lifting of the ban and expected to rise thereafter.

Option 3 – Amend UK legislation to administer and enforce EU legislation,

making use of EU derogations: This option would allow the resumption of exports of beef, bovine products and live bovines. Use of the EU derogation to allow removal of vertebral column in butchers shops will enable establishments to continue to handle beef from cattle aged 24 – 30 months in carcasse form and will lessen the impact of the EU Regulation on upon farmers producing slower maturing grass-fed cattle, small slaughterhouses without linked cutting plants, abattoirs with cutting plants that cannot accommodate all the cattle they slaughter, and traditional butchers. The potential for adverse environmental impact will be reduced as slower maturing, grass fed breeds will not become unprofitable.

Live bovine export trade – as for Option 2 above.

Trade in beef, bovine product and live bovines estimated at £60.6m in the first year after the lifting of the ban and expected to rise thereafter.

Consultees were overwhelmingly in favour of this option.

Recommendation: It is **recommended** that the Scottish Ministers approve **Option 3**. This option will implement the changes in EU legislation in domestic law and enables the resumption of exports of beef, bovine products and live bovines with the minimum of inconvenience to the domestic beef industry.

12. Declaration and publication

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

Signed

Date 2 May 2006

Rhona Brankin, Deputy Minister for Environment and Rural Development

Scottish Executive Environment and Rural Affairs Department

Contact point for enquiries and comments: Martin Morgan, SEERAD, Pentland House,
Tel 0131 244 6412, e mail: Martin.Morgan@scotland.gsi.gov.uk