

Final Business and Regulatory Impact Assessment

Title of Proposal

African Horse Sickness (Scotland) Order 2012 - Implementation of Council Directive 92/35/EEC

Purpose and intended effect

- **Background**

African Horse Sickness (AHS) is a disease that affects horse, zebras, mules and donkeys, and is caused by a virus transmitted by midges. The 1992 Directive is currently implemented through different pieces of legislation (i.e. Specified Diseases (Notification and Slaughter) Order 1992, and the Movement of Animals (Restrictions) (Scotland) Order 2003). The African Horse Sickness (Scotland) Order will contain all relevant provisions in one Scottish Statutory Instrument. It is important to note that Scottish Government's policy for controlling the disease is not changing, by having a single domestic statutory instrument we aim to provide greater transparency and clarity.

- **Objective**

To ensure that Scottish Government (SG) has effective measures to control an outbreak of AHS underpinned by legislation that closely follows the requirements of Directive 92/35/EEC.

- **Rationale for Government intervention**

The AHS legislation meets the SG commitment for Principles of Better Regulation. It provides for clearer more effective disease control that should lead to the potential number and size of disease outbreaks being reduced. This will minimise disruption to the equine sector and related industries, therefore benefiting those industries, Government, delivery partners and the wider economy in the event of a disease outbreak.

Consultation

- **Within Government**

SG Legal Department – drafting of SSI

Rural and Environment Science and Analytical Services – economic impacts and information

Animal Health & Welfare Division – Veterinary advisors – veterinary information

- **Public Consultation**

The formal public consultation took place 26 September – 16 December 2011.

An Animal Health and Veterinary Laboratories Agency AHS exercise in Inverness on 8 February 2012 tested the draft legislation. Equine Stakeholders, local authorities, veterinarians and operational partners took part in the exercise.

During this exercise three scenarios were worked through to test the legislation and develop the policies and procedures which would be applied for the control of AHS. Comments from the exercise and the formal public consultation have been taken into consideration and amendments have been made to the legislation.

- **Business**

A Scottish Government policy representative spoke at the Scottish Equine Breeders Association committee meeting on 3 November 2011. The membership of this Association includes the six equine passport issuing organisations, breed societies and the British Horse Society Scotland.

Overall a positive response was received from this meeting, and an interesting discussion from the questions which were asked regarding the legislation, control strategy and wider equine disease issues. All members were encouraged to respond to the consultation.

Options

Two options have been considered:

Option 1 – do nothing, i.e. continue to rely on existing legislation to control any future outbreak of AHS.

Option 2 – comprehensive transposition of the Directive.

Option 1 – While doing nothing would save on the cost of producing a new SSI and familiarisation costs for businesses and enforcement authorities, continued reliance on the existing legislation is neither a transparent nor effective way of implementing disease control policy. SG needs to have appropriate controls in place to deal with any future outbreak swiftly and appropriately.

Option 2 - By comprehensively transposing Directive 92/35/EEC SG will be fulfilling its European Community obligations. The new legislation will meet the EU obligations, and provide clarity as to the action which will be taken in the event of a disease outbreak.

Clear definition will be provided to the basic principles of disease control:

- notification of suspect disease,
- veterinary investigation,
- controlling disease on infected premises, and
- imposition of wider movement controls to reduce the risk of disease spread.

In addition, we want to achieve consistency across the exotic notifiable animal diseases by ensuring standard procedures are in place wherever possible.

- **Sectors and groups affected**

The legislation requirements only take effect when disease is suspected or confirmed.

Business will not be additionally affected by the transposition of the Directive with the exception of any costs incurred in the use of the new powers to limit the movement of horses into infected premises or through control zones. It is anticipated any costs incurred by this would be outweighed by the benefits from reduced disease spread.

As with any outbreak of exotic notifiable animal disease the number of businesses affected by the legislation depends on the nature of the outbreak and the animals involved. The types of businesses affected or potentially affected include the full equine sector (leisure, sport, racing, and breeding), the export industry, zoos containing other equidae such as zebras, laboratories, border inspection posts, quarantine stations and the agricultural supply industry (e.g. feed manufacturers and merchants) or other types of business that regularly visit premises where equidae are kept.

The equine sector would have costs arising from movement restrictions, but the scale of

these costs would depend on specific factors such as the length and size of the restrictions, the location of the outbreak and the sector of the industry affected.

The countryside will remain open, but tourism may be adversely affected due to a perceived health risk, a cost which is caused by the outbreak of disease itself and not the measures in the legislation. There are no provisions for the Scottish Ministers to close land.

Animal show organisers and zoo owners may lose revenue if they can no longer exhibit horses and other equidae at shows, zoos and gatherings in the zones. There may also be a loss of revenue for the horse racing industry, and the related betting industry if race meetings are restricted as a result of the control zones and movement restrictions.

As the *Culicoides* midges which spread AHS are mainly active between April to October, events like the Blair Castle International Horse Trials which attracted over 1200 horses and 40,000 visitors, and the Royal Highland Show which attracted over 2200 horses in 2011 would be affected. The cancellation of events like Blair Castle Horse Trials would be at a substantial cost to the area as it would also affect hotels, restaurants, shops etc.

- **Benefits**

Option 1 (do nothing)

There would be no costs i.e. not producing the new SSI, no familiarisation costs for businesses and enforcement authorities.

Option 2 (Transpose)

There is no economic impact unless disease is present. The new legislation will make the control strategy clearer, and ensure that the measures are fit for purpose, addressing the lessons identified from recent outbreaks of disease and uses the latest scientific knowledge.

The ability to impose movement controls on suspicion or confirmation of disease allows the extent of potential disease spread to be assessed whilst preventing it spreading any further. The cost of not moving anything for a short time pending official investigation would in most cases be insignificant. The measures provide the potential for easier containment of the disease, so fewer animals would likely need to be slaughtered and fewer premises placed under restrictions. By applying appropriate restrictions this allows industry to continue operating, where possible, during an outbreak.

- **Costs**

Option 1 (do nothing)

No change to costs, but additional costs during an outbreak are possible e.g. limited controls on movement under current legislation resulting in inadvertent disease spread.

Option 2 (transpose)

When Scotland is disease free there is no impact on businesses and therefore no costs to industry. However, there may be costs to livestock keepers undertaking general preparedness measures e.g. purchasing extra fodder/bedding material.

We have no estimates for the anticipated costs for an AHS outbreak. The probability of an outbreak is currently very low (very rare, but cannot be excluded), AHS has never occurred in the UK, and the last outbreak in Europe was in Spain in 1990. As a result of climate change there is potential for the risk of an outbreak to increase, but it is not possible to estimate this increase.

Costs are difficult to quantify and will depend on the nature of any disease outbreak as well as the size and value of the industry in Scotland. The impact is likely to be felt most by horse racing and horse sports sectors.

Horse racing in Scotland¹

The five Scottish racecourses staged 99 fixtures in 2008 (amounting to around 7% of the 1,504 fixtures scheduled in Britain).

A report produced by independent analysts, Stevens & Associates, 2006, estimated that the horseracing and horserace betting industries (excluding non-horseracing betting) generate £213 million for the Scottish economy and are responsible for the employment of 3,835 people.

Scottish Racing estimate that visitors to Scottish race meetings generate approximately £60 million worth of tourism activity each year within the local economy. The racecourses generate a further £17 million through a combination of racing and non-racing activities.

Horse sports in Scotland²

The Scottish Equestrian Association, now known as HorseScotland, estimate that approximately 200,000 people ride, drive or vault on horses in Scotland every week. There are over 500 Scottish riding clubs and schools and more than 100,000 horses. Some 27,500 Scots are members of equestrian organisations and 3,500 participate in competitions each week. For example, specific horse events, such as the Blair Castle International Horse Trials attract over 1,200 horses and 40,000 people visit the event.

In total it is estimated that equestrian sports contribute £300 million per year to the Scottish economy (Source BETA, 2006).

Horses and agriculture

Within the farming sector in Scotland, there were just over 36,000 horses in 2011 according to the June Agricultural Census.

Impact

Evidence suggests that in the event of isolated cases where spread is successfully restricted by control measures it is feasible that the economic and social effect on the horse industry will be minimal.³

In the event of widespread disease, however, the introduction of movement restrictions within protection zones around disease outbreaks could have a devastating effect. Allison et al (2009) suggest that for the UK industry in the worst case scenario half of the economic impact of the industry could be wiped out in one to two years. On this basis, if the total contribution to the Scottish economy of the horse racing (£213m) and horse sports (£300m) is £513m per year (in 2006 prices), then if half of this was wiped out it would amount to £257m. Clearly, there is a great deal of uncertainty around this figure and the ultimate effect of movements restrictions would depend on how, where and when they are imposed.

Scottish Firms Impact Test

We have engaged with 6-12 appropriate businesses.

¹ Figures from 'Briefing Notes Regarding the Scottish Racing Industry, 12/9/07' by Scottish Racing

² Figures from Scottish Equestrian Association. <http://www.s-e-a.org.uk/what-is-horsescotland.aspx>

³ Allison K et al. (2009). African Horse Sickness Impact on the UK Horse Industry: The potential effects on businesses, horses and horse owners. Reading University.

Nine organisations were present at the Scottish Equine Breeders Association (SEBA) meeting on 3 November. The organisations are based throughout Scotland and have memberships varying in size from 50 to over 5000. These organisations are comprised of breed societies, registered charities, companies and horse passport issuing organisations.

At the AHS exercise in Inverness, welfare groups (SSPCA, World Horse Welfare), private veterinarians, Highland Council, Police and members of SEBA were in attendance.

These events were used to gather feedback regarding the proposed legislation. Questions were asked regarding the direct impact on the legislation on their day to day operations, if the legislation requirements were proportional and if anything had been omitted.

As the legislation only takes effect when AHS is suspected/confirmed, the organisations said it possibly would have an impact but understood the reasoning behind the measures and how they can result in a greater level of protection for the Scottish equine industry.

Several queries were received regarding compensation, but as this is subject to a current review the ability to answer this question was limited.

Competition Assessment

The proposal is unlikely to have a negative impact on competition unless disease is confirmed (and even then it will have minimal impact on consumers). The legislation applies equally to all new and existing businesses and is similar to existing requirements for other serious disease of livestock.

The legislation would be likely to have only a minor impact on competition in the markets directly affected by it. Other sectors within the rural economy, such as the tourism industry, may be indirectly affected.

Of the markets directly affected by the legislation, all are characterised by low levels of concentration; no firm has 20% market share and no three have 50%. In the event of an outbreak, the legislation would affect some firms substantially more than other, but not beyond what is required for the control of serious livestock disease.

The Directive applies to all EU Member States, and therefore all UK administrations, so no country will have any competitive advantage.

- **Test run of business forms**

The consolidated legislation does not introduce any new business forms

Legal Aid Impact Test

Existing disease control legislation already contains criminal sanctions and penalties, the new legislation will maintain these. In view of this and with confirmation from SG Access to Justice Team there are no implications for legal aid.

Enforcement, sanctions and monitoring

In the event of a disease outbreak, Animal Health and Veterinary Laboratories Agency (AHVLA), and Local Authorities would enforce the legislation as they do at present; there are no new burdens on these enforcement agencies.

The legislation does not introduce any new sanctions.

Given that there will be a greater consistency across the UK, this should reduce the administrative burden on AHVLA.

The legislation will be monitored by Scottish Government.

Implementation and delivery plan

Following the consultation, AHVLA organised an AHS exercise in February 2012 where the draft legislation was tested. Comments from the exercise and the formal public consultation have been taken into consideration and amendments have been made to the legislation. It is anticipated that the Order will be laid in Parliament in May 2012 and come into force in June 2012.

Post-implementation review

Monitoring of the effectiveness of the legislation will arise from regular National Contingency Plan reviews and lessons identified following an outbreak of disease, the Order will also be reviewed if any further EU legislation is made.

Summary and recommendation

We recommend Option 2, the comprehensive transposition of Directive 92/35/EEC. This includes all the essential measures for the control of AHS, which for relatively low cost provides net benefits to industry in term of controlling the spread of disease. This approach is in line with our disease control strategies for other exotic notifiable diseases.

Declaration and publication

I have read the impact assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

Date:

Minister's name, title etc*

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