

# Business and Regulatory Impact Assessment

## Title of Proposal

The Bovine Viral Diarrhoea (Scotland) Order 2012

## Purpose and intended effect

- **Objectives**

The purpose of this proposed legislation is to require farmers with breeding herds to discover if bovine viral diarrhoea (BVD) may be present in their herd through mandatory annual screening, as part of a wider plan to eradicate the disease from Scotland. Cattle keepers would be required to have carried out their first screening test by 1 February 2012. Where a calf is born in a non-breeding herd, these would be required to be tested for BVD virus within 40 days of birth.

- **Background**

BVD is one of the most important diseases in cattle in terms of economic cost and welfare, causing abortion, infertility, failure to thrive and often death. It is present in around 40% of herds in Scotland. The eradication of BVD has been calculated by Scottish Government economists to be worth £50 – 80 million over the next ten years. It would also enhance Scotland's reputation for producing high quality products.

BVD is mainly spread by persistently infected (PI) cattle which are born with the disease due to exposure in the womb. These animals will have the disease all their lives and shed the virus extensively, infecting animals they come into contact with. It is estimated that there are between 2,000 and 4,000 PI animals in Scotland. The Scottish BVD eradication scheme is designed to reduce the chances of PI calves being born, and PI animals being traded.

The Scottish Government is only legislating on BVD eradication in response to direct and clear requests from the industry, as supported by two consultations.

The scheme is in four stages, of which this Order constitutes Stage 2. Further BRIAs will be produced for later stages.

### *Stage One: Subsidised screening (September 2010 to April 2011)*

The Scottish Government provided £36 towards testing for BVD for each herd, and a further £72 towards further testing or veterinary advice if the result was positive. Around 4,000 herds took advantage, at a cost of £180,000.

### *Stage Two: Mandatory Annual Screening*

All keepers of breeding cattle herds will be required to screen their herds for BVD by 1 February 2013, and annually thereafter. A range of testing methods is available. Also, where there are calves born in non-breeding herds, they must be

tested within 40 days.

#### *Stage Three: Reducing the spread of infection*

In spring 2012 the Scottish Government will consult on requirements to be placed on breeding cattle herds from winter 2012-13. We will propose:

- A ban on knowingly selling Persistently Infected cattle;
- Requiring the herd's BVD status to be declared before sale; and,
- Movement restrictions on herds that are not free of BVD. This may be deferred, and introduced in stages across the country depending on BVD prevalence.

#### *Stage Four: Biosecurity controls*

From a date not earlier than 1 December 2013, herds that have a persistent BVD problem that goes unchecked may be required to protect their cattle neighbours through double-fencing or housing.

- **Rationale for Government intervention**

The Scottish Government is responding to direct calls from across the livestock industry for an eradication scheme with compulsory elements such as mandatory annual screening. There is no human health or food safety impact from BVD, and it is not regulated in European Law. However, the benefits of BVD eradication are very clear, it is achievable at a cost that is significantly outweighed by the benefits, and it is something the industry manifestly desires.

Attempts to eliminate BVD in parts of the UK, for example Orkney, have shown that a minority of farmers who do not co-operate can provide a reservoir for the disease and re-infect herds that have previously eradicated it. BVD eradication schemes in Scandinavia that were successful required voluntary stages to be backed up by legislation to prevent small numbers of farmers allowing the disease to persist.

The aim of eradicating BVD within Scotland fits in with the wealthier & fairer and greener strategic objectives of the National Performance Framework. The eradication of BVD should increase the productivity and profitability of Scottish cattle by reducing costs associated with the disease, such as increased mortality and reduced fertility. This would have positive environmental benefits for Scotland due to reducing the intensity of greenhouse gas emissions from cattle, and improvements in animal welfare.

#### **Consultation**

- **Within Government**

Discussions have taken place within the division and with solicitors regarding the course of action to take. Economists provided a full analysis on the eradication plan and this was published with a previous consultation in summer 2010. The

Agriculture and Climate Change Branch in the Rural and Environment Directorate has been kept updated with current plans and the impact on agricultural greenhouse gas emissions.

- **Public Consultation**

There have been two consultations on the Scottish BVD eradication scheme.

The first of these ran from June to September 2010. The consultation was on the general principles of a staged national eradication scheme. It consisted of a questionnaire seeking views on whether the disease needed to be tackled and what form a national scheme should take and how it should be funded. Questions were also asked regarding the different methods that could be used for dealing with infected animals and preventing the spread of the disease between farms. The consultation paper was emailed to a list of just under 300, comprising of stakeholders as well as individuals and organisations who had expressed an interest in the Scottish Governments commitment to BVD eradication. There were 40 responses, mostly from industry groups, but including universities, councils, vets, auctioneers, individuals and laboratories. The scheme was given the full support of all the main farming industry bodies, notably the National Farmer's Union Scotland, the National Beef Association, the Scottish Beef Cattle Association, the Scottish Dairy Cattle Association and Quality Meat Scotland. Also in favour were the Scottish Society for the Prevention of Cruelty to Animals, the British Veterinary Association, the British Cattle Veterinary Association, the Scottish Agricultural College, the Moredun Research Institute and the Institute of Auctioneers and Appraisers in Scotland. No industry, veterinary, scientific or welfare bodies voiced opposition to the scheme.

During the consultation period the National Farmers Union Scotland organised several meetings which Simon Hall (Chief Veterinary Officer Scotland) attended and spoke at Stirling, Inverurie and Lauder as well as having in-depth discussions with several key stakeholders. Feedback received at these meetings was considered in the consultation.

The second consultation ran from January to April 2011, and sought views on introducing mandatory annual screening for BVD. A consultation paper was published and widely distributed to stakeholders as with the earlier consultation, a press release raised awareness and an online questionnaire was made available. A total of 38 responses were received; 35 were in favour of the proposals, and three were opposed. Again, all of the main industry, veterinary and scientific bodies in Scotland responded in favour of the proposals for mandatory annual testing, and provided advice that allowed the details of the scheme to be refined and improved.

In addition, we routinely and regularly consult a BVD Advisory Group for advice, membership of which includes farmers, vets, scientists and auctioneers.

- **Business**

We have undertaken interviews with five farm business to gauge their opinion of the proposals in the Order, and to assess how it will impact on their businesses.

All five were in favour of mandatory annual screening.

*Main benefits identified*

- All identified the goal of the scheme as being hugely worthwhile, with direct financial benefits for the whole industry.
- Much greater availability of known BVD-free cattle, making it much easier to avoid buying in BVD and damaging herd's own freedom.
- As everyone has to do it, benefits from reducing risks of infection from neighbours.
- In longer term, will remove the need to vaccinate against BVD, currently costing around £3 per animal.

*Likely Level of Costs*

All but one interviewee put the likely level of costs at less than 1%, with the other only slightly higher.

*Competitiveness*

Although the BVD eradication scheme means greater regulation on cattle businesses in comparison with the rest of the UK and most of Europe, this was seen as being outweighed by the benefits of the increased value of our cattle having a BVD-free status.

*Effectiveness*

All interviewees regarded the plan as effective, in that it would persuade many to test who would not otherwise have done so, and will persuade many to eliminate BVD from their own herds.

*Other points raised*

- It was suggested that SG needs to provide written guidance to and hold meetings on BVD for farmers.
- It is preferable to have laboratories reporting the herd status to the Scottish Government, as this minimises the burden on farmers.

Meaningful testing for BVD is more expensive in a herd with BVD than without, as virus tests are more expensive than antibody tests, and because more animals need to be tested. However, it would be possible to comply with the legislation at the same cost as a BVD-free of similar size and structure, as there are no requirements in the Order to conduct further testing where a positive result is obtained. This may however lead to greater costs in the next stage of the eradication scheme, where herds with a not-negative status could experience

lower prices when selling animals.

Overall it was believed that those who had BVD in their herd would benefit greatly from eradicating BVD, as the economic benefits significantly outweigh the costs, and that mandatory annual screening as part of a national eradication scheme would help them to achieve this. In particular, having more re-assurance about the status of bought-in cattle, and reducing the likelihood of contracting BVD from neighbouring herds, make a national scheme more attractive.

For those without BVD, the costs would be lower and the benefits more intangible, but nonetheless significant.

## **Options**

Two options were identified

### Option 1 – No change

The first option is not to legislate and to rely on education and farmers desire to eradicate the disease.

### Option 2 – Introduce compulsory reporting and restrictions on probably infected animals

The second option involves all farmers with breeding herds carrying out a herd screening test for BVD at least once a year. This will establish whether a herd is negative or not-negative for the presence of BVD. Once herds are identified as not-negative it is intended that they will through future legislation face restrictions on animal movements and will be required to protect their neighbours from infection.

- **Sectors and groups affected**

This will almost exclusively affect cattle businesses as it will require those with breeding herds to test and declare the disease status of their herd.

The effect of the future legislation will be greater, as it will mean those who do not control the disease within their herds are likely to see more difficult trading conditions, diminishing demands and increasing compliance costs.

There will also be impacts on vets and laboratories due to an expected increase in animal testing. There could also be an increase in vaccination usage, leading to benefits for the manufacturers and vets, though if Scotland achieves BVD freedom this is likely to very significantly reduce. Auctioneers may be affected if the legislation changes buying and selling behaviour, but the Institute of Auctioneers and Appraisers Scotland, the representative body for markets, is firmly in favour of both the scheme and the specific proposal.

- **Benefits**

Option 1

Option 1 would not require any legislation and farmers would not be forced to incur any additional work or cost. The Scottish Government would encourage farmers to follow best practice guidelines and eradicate the disease in their herd for the economic benefits it would bring.

Option 2

Option 2 encompass all cattle farmers, preventing individuals undermining the efforts of surrounding farmers to eradicate the disease. It would provide information on the disease status of all herds within Scotland, something not currently known. Future legislation would put in place restrictions on animals that could spread disease and requires those labelled as infected to take action on their land to prevent disease spreading from their animals to a neighbouring farm. This allows farmers wanting to eradicate BVD from their herd to do so without worrying about re-infection from a neighbouring farm or from purchased stock.

Eradicating BVD should increase efficiency and profitability of cattle farming, as it would decrease mortality and increase fertility. It is calculated that on average BVD infection costs farmers £33/cow/year. An average dairy herd could benefit by £15,800 per year, while a specialist beef farm could benefit by £2,400 per year.

The eradication of BVD supports the image of Scottish produce being projected of high quality and standards and improved animal welfare. Business output would be increased by between 4-7 %, providing more Scottish produce that can be sold. Scottish cattle are also likely to be more desirable within the UK and abroad due to their known disease status as has been seen with TB.

This option also has environmental benefits as the increased efficiency of the herd would reduce the greenhouse gas emissions per animal.

- **Costs**

Option 1

There are no implementation costs, but without legislation BVD will almost certainly persist within Scotland. The result is the cattle industry will fail to meet its potential profitability. The Nordic countries and Austria have almost entirely eradicated BVD, Switzerland is in year 3 and Germany in year 2 of national eradication schemes, while Ireland is in the voluntary phase of a national scheme which will become compulsory from 1 January 2013. This all may make Scottish produce relatively less attractive if it does not have the same disease free status.

Option 2

Farmers testing their herd for BVD only need to test a small number of cattle or

milk output within the herd, which can cost as little as £30 for blood tests, or £3 for a bulk milk test. Herds with a negative result only have to test again annually and have to take no further action.

Farmers with a herd testing positive will have to choose, when future legislation is passed, between locating the source of the disease within their herd and dealing with it, or testing individual animals for virus before selling them.

Blood testing individual animals can cost as little as £6 per animal if an ear tissue tag is used.

- **Scottish Firms Impact Test**

*Industry level*

All major industry representative bodies support the mandatory annual screening and have been involved in the development of the scheme since the outset. No industry, market, welfare, veterinary or scientific bodies have expressed opposition to the plans.

The cattle sector is strongly in favour of the proposals due to the financial, welfare and reputational benefits it is expected to deliver.

*Small and micro business*

We have gauged the opinions of individual farmers through:

- The five in-depth interviews as detailed above;
- Delivering presentations to 20 BVD meetings around Scotland over the past 18 months, total attendance of which is in excess of 1,000;
- Carrying out two consultations, the second of which, specifically on mandatory annual screening, utilised an online questionnaire to make individual responses as simple as possible; and
- Assessing the results of the two past and one current NFUS consultation on the subject, which show an enormous majority of those responding to be in favour; in the current consultation, only two oppose the plans out of more than one hundred responses.

The scheme places a requirement on farmers to test at their own cost. As a range of testing methods are available, the vast majority of farmers should find a cost-effective option, and none should be unduly hindered. Though this is a requirement that will not be placed on other cattle keepers in the UK, the additional benefits of BVD freedom fully justify the added regulation.

Within Scotland, the scheme should lead to an increased competitive advantage for herds that are free of BVD over those that are not; this differential is entirely desirable as it will drive farmers to act in their own financial interests, while delivering national benefits.

- **Competition Assessment**

The legislation places different requirements on all farmers with breeding and non-breeding herds. In the dairy sector all are breeders so all are included, but it will lead to a difference in the beef sector. This is justified as the disease is overwhelmingly spread by animals infected in the womb, who become Persistently Infected and shed virus all their lives, so cutting off the production of these animals is critical to controlling the disease.

It is likely that those who initially test positive would face higher costs to eradicate the disease from their herd, but they are the herds which will benefit the most productively from it. Dairy farms may be impacted disproportionately due to their high birth rates and movement of animals; this is offset to some extent by the very low cost and great convenience of milk testing.

It will lead to an initial higher cost of production for Scottish cattle farmers which may place them at a disadvantage to farmers not covered by the legislation. Eradicating BVD should in the long term cut costs and reduce mortality and abortions, making the industry more efficient and competitive. There is likely to be a competitive advantage from a BVD free status, such as increased market prices as seen with TB free cattle.

The competition filter was applied to the proposed legislation and it was found that a competition assessment was not needed, as the response to all four questions was negative.

- **Test run of business forms**

There are no new forms for farmer businesses associated with this regulation.

### **Legal Aid Impact Test**

It is not anticipated that there will be more than a handful of prosecutions, if any at all. Importantly, we do not intend to enforce the legislation through criminal prosecutions; instead, we will seek to use livestock movement restrictions. See Enforcement, sanctions and monitoring section below.

### **Enforcement, sanctions and monitoring**

At present, as the Bovine Viral Diarrhoea Order will be made under the Animal Health Act 1981, failure to comply with the legislation will constitute an offence with a sentence of up to six months in prison and a fine up to £5000.

However, as it will not be possible for the keeper of a breeding herd to commit any offence until after the first compliance deadline on 1 February 2013, it has always been our intention to consult on enforcement in the consultation paper for Stage 3 of the eradication scheme. This will be published in the spring of 2012.

There are a number of options available, most notably placing movement

restrictions on herds that have failed to comply. This would prevent animals from moving from the holding until a BVD herd status had been obtained. It would then be an offence to move an animal from a herd under restrictions, in the same way that it is at present for a herd under restrictions for diseases such as bovine tuberculosis. It may be more proportionate, and more practicable, to prosecute for an illegal movement than a failure to comply with mandatory annual screening.

There is a choice to be made on who would enforce the legislation, between local authorities and the Animal Health Veterinary Laboratories Agency. This will also be subject of further consultation with industry.

### **Implementation and delivery plan**

The scheme is in four stages. The theory behind the stages is;

- The first stage was designed to get farmers thinking about BVD and talking to their vets;
- Stage two is designed to make everyone who produces calves know the BVD status of their herd;
- Stage three is designed to allow farmers to easily source BVD-free cattle and progressively reduce the likelihood of an infected animal passing through a market; and,
- Stage four deals with those who refuse to tackle the BVD infection on their farm, to deal with the final few percent.

This BRIA specifically concerns the second stage. So, while the Scottish Government is responsible for the management of the scheme, it is incumbent on the industry to participate. If a sufficient number do not eradicate BVD from their own herds and choose to live with the consequences, we will not force them to cull or vaccinate animals. Instead, we will make it increasingly uncomfortable for them to have BVD by making it easier for those who wish to participate to avoid contracting BVD from their neighbours or vendors.

Therefore, ownership is shared between industry, vets, laboratories and government.

#### *Timeline*

2009-10	Industry-led group developed proposals on national BVD eradication scheme
April – July 2010	Consultation on general principles
22 September 2010	Launch of BVD eradication scheme
Sept 2010 – April 2011	Subsidised screening available
January – April 2011	Consultation on mandatory annual screening
May 2011	Announcement that mandatory annual screening to go ahead
September 2011	Consultation on permitting ear tissue tagging

1 December 2011	Tests permitted from this date for mandatory annual screening
January 2012	Ear tissue tag legislation passed by affirm. res.
February 2012	Guidance on mandatory annual screening sent to all cattle keepers and vets
March 2012	BVD Order signed; expect in force 1 April 2012
May – July 2012	Consultation on Control Measures (banning sale of PIs; herd declarations; movement controls)
1 December 2012	Control Measures to begin

- **Post-implementation review**

During the implementation of the legislation a database containing the disease status of all the herds will be constructed. This will be updated continually from the information provided in the annual declarations. This will provide monitoring information on whether the prevalence of the disease is decreasing and areas where it is being resilient. This will provide a good indication of whether the policy is having the desired effect.

The progress of the eradication programme and stakeholders feedback will be reviewed in the future and any modifications felt necessary made. The timing for this will depend on progress – if BVD prevalence does not very significantly reduce in the next three years, discussions will be required with stakeholders as to whether they wish to move to more stringent measures, or remove the testing requirements.

### Summary and recommendation

- **Summary costs and benefits table**

	Benefits	Costs
Option 1	There would be no need for any legislation.	No direct costs involved. As shown in Orkney it is unlikely to be possible to eradicate the disease without legislation. This will also mean higher costs for those currently tackling the disease.
Option 2	Eradication of BVD is calculated to benefit farms by around £33/cow/year. Average dairy and beef herds could benefit by £15,800 and £2,400 per year respectively. Eradication of BVD would enhance Scotland's image of high animal welfare and high quality products. Increased efficiency of disease	Farmers face an annual testing cost, which could be as low as £30 per herd. Farmers with herds deemed to have the disease will have the cost of eradicating the disease from their herd or spending money on quarantining their herd from surrounding properties. In future, all cattle being sold (except to slaughter) will have to be from a disease free herd, or individually tested.

	free herds should reduce the intensity of greenhouse gas emissions of production.	
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Option 2 is recommended as experience within the UK and in other European countries has shown that without legislation the disease will continue to persist. The costs of implementing the eradication programme are expected to be outweighed by the increased profitability of cattle herds.

**Declaration and publication**

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact will be assessed with the support of businesses in Scotland.

Signed ..... Date 6 March 2012

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