

Final Business and Regulatory Impact Assessment

Title of Proposal

Change of policy for the disposal of animal by-products in parts of Scotland currently designated as remote areas as defined under the Animal By-Products (Enforcement) (Scotland) Regulations 2013

Purpose and intended effect

- **Background**

The European Commission received a complaint against the UK alleging breaches of Union legislation regarding the collection and disposal of animal by-products (ABP) origination from aquaculture establishments in Scotland. Following discussions with the European Commission, they have confirmed that the Scottish Government is not implementing the derogation for remote areas¹ correctly.

- **Objective**

To change the current policy so that the new policy will limit what species of livestock can make use of the derogation. ABPs from species of animals that are not allowed to take advantage of the remote areas derogation will have to use an approved ABP disposal route e.g. disposal via an incineration or processing (rendering) plant or by sending it to a compost or anaerobic digestion (biogas) plant, working towards a zero-waste society.

- **Rationale for Government intervention**

To comply with European legislation, the Scottish Government needs to change the policy that allows ABPs to be disposed of under the current derogation i.e. “by burning or burial on site or by other means under official supervision which prevent the transmission of risks to public and animal health in the designated ABP remote areas”. The current designated ABP remote area covers a large part of the Highlands and most of the Islands in Scotland.

This proposal contributes to the [National Performance Framework](#) by reducing our local and global environmental impact and enhancing it for future generations.

Consultation

- **Within Government**

A Fish Waste Working Group was established at the start of 2015 to look at contingency planning for large scale mortality disposal. We have used this working group to consult this change in policy with colleagues in Marine Scotland, the Fish Health Inspectorate, Cefas, Scottish Environment Protection Agency (SEPA), Zero Waste Scotland, Defra, Department of Agriculture and Rural Development (DARD), the Welsh Government and the Animal and Plant Health Agency (APHA).

¹ Article 19(1)(b) of Regulation (EC) No 1096/2009

- **Public Consultation**

A formal public consultation ran from 17 August to 18 September and we received 23 responses

- **Business**

We contacted stakeholders in May to notify them about the change in policy and inform them that a formal consultation would follow in the summer.

This proposal has also been conveyed to industry representatives through the Fish Waste Working Group. The Scottish Salmon Producers Organisation and the British Trout Association are members of the working group.

We have funded a project via Zero Waste Scotland (Scottish Fish Farm Waste Reprocessing Options – Scoping Study) to look at Scottish fish farm waste and identify current waste disposal routes, suitable alternative ABP-compliant disposal routes and the existing waste capacity in Scotland.

Options

- Option 1 - Status quo
- Option 2 – Amend the Animal By-Products (Enforcement) (Scotland) Regulations 2013 (ABPR) so remote areas derogation applies to terrestrial livestock animals only
- Option 3 - Amend ABPR so remote areas derogation applies to terrestrial and aquatic animals

Outline of available options

Option 1 - Status quo

This is not a viable option; the status quo means that Scotland is in breach of the EU ABP legislation. As drafted, regulation 8 of the ABPR defines the areas of Scotland that are categorised as remote areas. The areas are defined by either the local council area or the parish name and number.

Option 2 - Amend ABPR so remote areas derogation applies to terrestrial livestock animals only

This option would see an amendment to regulation 8 of the ABPR so that terrestrial livestock animals would be the only species of animals that are able to take advantage of the ABP remote areas derogation.

Option 3 - Amend ABPR so remote areas derogation applies to terrestrial and aquatic animals

This option would take Option 2 and expand it to include aquatic livestock animals. We would need to amend regulation 8 of the ABPR to specify what species of terrestrial livestock and aquatic animals would be able to take advantage of the ABP remote areas derogation.

Sectors and groups affected

The following sectors are likely to be affected by the proposals:

- Fish farms located within the ABP remote area
- Shellfish farm located within the ABP remote area
- Landfill sites
- Fish waste hauliers/transporters

Benefits

Options 1 and 3 would see no significant change to current disposal practices.

Under Option 2:

- Fish and shellfish farms located within the ABP remote area will need to use an approved ABP disposal route e.g. disposal via an incineration or processing (rendering) plant or by sending it to a compost or anaerobic digestion (biogas) plant. They can no longer send their waste to a landfill site for disposal.
- Landfill sites that currently accept fish waste from fish or shellfish farms will lose any potential revenue from no longer accepting this type of waste.
- Local transporters delivering fish waste to landfill sites will no longer take place but the fish waste will still need to be transported to an approved ABP disposal site.

There would be no infraction risk for Options 2 and 3 as they would fully implement the EU ABP legislation

Costs

The total cost to the industry of mortality disposal is not known. However, if average current costs of disposal are conservatively estimated at greater than £200/tonne then, with an average of around 10,000 tonnes of mortalities, the industry cost is at least £2 million per year.

For option 1, we are failing to correctly apply EU legislation into domestic legislation which puts the UK at risk of the European Commission starting formal infringement against us if we do not amend the ABPR. The minimum cost of infraction to the Scottish Government could be a €9,666,000 lump sum and possible daily substantial fines of thousands of pounds for continued non-compliance.

Through the Scottish Fish Farm Waste Reprocessing options - Scoping Study, we engaged with stakeholders to obtain a representative sample of the aquaculture industry. The industry had been targeted based on the following groupings:

- Group 1: Trout
- Group 2: Freshwater Salmon (Smolts)
- Group 3: Seawater Salmon (broken down by region):
 - Group 3.1 Western Isles
 - Group 3.2 Northwest
 - Group 3.3 Shetland
 - Group 3.4 Orkney
 - Group 3.5 Southwest

Fish farmers presently use a limited range of routine fish mortality disposal options. The following provides a summary of the associated costs for these options:

- Landfill costs range from £130-300/tonne on island sites and £50-550/tonne in Argyll.
- Incineration off-site range from £150/tonne for mainland fish farm sites to £300/tonne for island sites.
- Disposal by anaerobic digestion ranged from £50-60/tonne.

From our stakeholder engagement we were unable to provide specific costs for on-site incineration. However, there would be an initial set up cost plus fuel and maintenance.

The consequences of the removal of the derogation allowing fish waste to be disposed of via landfill will only fall on those companies that operate in areas where landfill is presently a major disposal option. This applies especially to the Western Isles, Shetland and parts of Argyll.

- **Overview of current disposal routes/options for routine ensiled mortalities unless otherwise stated**

Group	Example location	Current disposal option	Distance to disposal site (Miles)	Current average cost
Trout farms	Loch Awe	Anaerobic Digestion	200	£66/tonne
Freshwater Smolts	Kishorn	Off-site incineration	450	£475/tonne
Western Isles	Lewis	Landfill	40	£327/tonne
North West	Ullapool	Off-site incineration	435	£139/tonne
Shetland Isles	Shetland	Landfill	40	£174/tonne
Orkney	Orkney	Anaerobic Digestions	230	£154/tonne
Southwest Mainland	Oban	Landfill	40	£110/tonne
Southwest Mainland (whole fish)	Oban	Landfill	40	£357/tonne

• **Overview of future disposal routes/options for routine ensiled mortalities unless otherwise stated**

Group	Example location	Future disposal option	Distance to disposal site (Miles)	Future disposal cost	Impact
Trout farms	Loch Awe	Anaerobic Digestion	200	£106/tonne	No change
Freshwater Smolts	Kishorn	Anaerobic Digestion	190	£470/tonne	No change
Western Isles	Lewis	Anaerobic Digestion	200	£174/tonne	Change required – reduced costs
North West	Ullapool	Off-site incineration	435	£139/tonne	No change – potential for lower mileage and cost
		Anaerobic Digestion	130	£124/tonne	
Shetland Isles	Shetland	Anaerobic Digestion	290	£174/tonne	Change required – cost neutral
Orkney	Orkney	Anaerobic Digestion	230	£154/tonne	No change
Southwest Mainland	Oban	Anaerobic Digestion	100	£106/tonne	Change required – lower cost
Southwest Mainland (whole fish)	Oban	Anaerobic Digestion	100	£106/tonne	Change required – lower cost

The information in the two tables indicates that where companies are landfilling fish farm waste at licensed landfill sites, they will be able to secure low cost contracts with more sustainable processes once the landfill prohibition is in place.

Option 3 would see no change to current disposal practices or costs.

Scottish Firms Impact Test

The consultation period ran from 17 August to 18 September and as sent to individual fish farm producers and organisations in the ABP sector. As part of the consultation process we met with the Scottish Salmon Producers Organisation and the British Trout Association through the Fish Waste Working Group.

The Scottish Fish Farm Waste Reprocessing Options – Scoping Study consulted with key contacts in the aquaculture sector in Scotland to discuss the detailed make-up and component parts of the ABP waste stream and any technical challenges that may arise from its transportation, collection and disposal.

Competition Assessment

Using the Competition and Markets Authority Competition Filter questions we have concluded that the proposals will neither directly or indirectly limit the number or

range of suppliers, limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously.

Test run of business forms

There will be no specific business forms involved with the implementation of the proposed legislation.

Legal Aid Impact Test

The proposal is unlikely to have an impact on the legal aid fund.

Enforcement, sanctions and monitoring

Responsibility for compliance, monitoring and enforcement of the provisions are:

- APHA only inspect fish farms that have ABP approved incinerators on site.
- Enforcement of the ABPR is carried out by the local authorities.
- Environmental controls are enforced by SEPA.
- The Fish Health Inspectorate carries out inspection and testing of fish and shellfish farms to prevent the introduction and spread of serious fish and shellfish diseases in Scotland.
- Marine Scotland carries out annual surveys of fish farming industries, provide statistics and evaluate the production of aquaculture species in Scotland.

Implementation and delivery plan

The proposal will be implemented in legislation via an amendment to the Animal By-Products (Enforcement) (Scotland) Regulations 2013. This amendment will come into force on 1 January 2016.

- **Post-implementation review**

The Scottish Government are required to monitor regularly the areas categorised as ABP remote areas to ensure that those areas and the disposal operations are properly controlled.

Summary and recommendation

Option 2 is the recommended option. This option fully implements the EU ABP legislation. The bovine, ovine and caprine animal populations in the derogated remote areas falls well below the maximum percentages set in the EU ABP legislation. The animal populations for other terrestrial livestock are also extremely low in comparison to those populations in the rest of the UK.

For option 3 to be successful, an assessment would need to be submitted to the European Commission that specifically looks at aquaculture activities in the

derogated ABP remote areas. Apart from freshwater production of rainbow and brown trout, almost all of aquaculture industry in Scotland takes place within the currently derogated remote area. It seems very unlikely that we would be able to successfully argue with the European Commission that these species of aquatic animals can take advantage of the ABP remote areas derogation.

Declaration and publication

I have read the Business and Regulatory 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:

Richard Lochhead
Cabinet Secretary for Rural Affairs, Food and the Environment

Scottish Government Contact point:

Ian Murdoch
Animal Health and Welfare Division
Directorate for Agriculture, Food and Rural Communities
The Scottish Government
P Spur, Saughton House
Broomhouse Drive
Edinburgh, EH11 3XD

Tel: 0300 244 9833
Fax: 0300 244 9797
Email: ian.murdoch@scotland.gsi.gov.uk