

POLICY NOTE

THE SPECIFIED DISEASES (NOTIFICATION) AMENDMENT (SCOTLAND) ORDER 2016

SSI 2016/41

The above instrument was made in exercise of the powers conferred by sections 1 and 88(2) of the Animal Health Act 1981 and all other powers enabling them to do so, and amends in relation to Scotland the Specified Diseases (Notification) Order 1996 (“the 1996 Order”).

Policy Objectives

The objective of the legislation is to support the Scottish pig industry’s Porcine Epidemic Diarrhoea (PED) contingency plan to make it mandatory for a suspected case of PED to be notified to the relevant authority. It is argued that making the disease notifiable will encourage early reporting of PED and so increase the likelihood of eliminating the disease before it spreads. If the disease were not made notifiable, laboratories and private veterinary surgeons may not be able to disclose disease from a particular farm due to client confidentiality.

In practice notification will be to Quality Meat Scotland (QMS)¹ through the new industry led Scottish Pig Disease Control Centre (SPDCC). The legislation will put in place a legal obligation on:

- a person who has in their possession or under their charge a pig or pig carcase
- a veterinary surgeon or other person who examines or inspects a pig or pig carcase
- a person who, following analysis of a sample taken from a pig or pig carcase

which they know or reasonably suspects or believes that a pig may be infected with PED to notify QMS (who will be authorised for that purpose by the Scottish Ministers). It will be mandatory in that report to provide information on the identity and contact details of the person who gave the notification, the date of the notice and the location of the premises where the suspect or infected pig/pig carcase is. QMS will then be under a duty to provide that information to SPDCC (which is responsible for coordinating on behalf of the pig industry in Scotland a response to a suspected or confirmed outbreak of PED).

Background

Scotland’s pig industry have been concerned about a new virulent strain of PED that has been seen in pig herds in China, North America and, more recently, in the Ukraine. Although there have been no reports of this strain in the EU, there are other strains circulating within the EU pig herd that could also have potentially

¹ Quality Meat Scotland was established under the Quality Meat (Scotland) Order 2008.

serious consequences. Scottish pig industry representative organisations² have been working, with Scottish Government support, to prevent an incursion of this disease, and to develop robust contingency plans for dealing with an outbreak should one occur. The industry contingency plan is dependent on early detection of disease so that support can be offered to pig producers, on a voluntary basis, to help eliminate the disease. To help support the Scottish pig Industry's PED contingency plan pig industry representative organisations have asked Scottish Government to make PED notifiable to an industry body responsible for co-ordinating the industry support on a voluntary basis.

DEFRA has introduced similar legislation in England in December 2015 at the request of English pig industry stakeholders. Introducing The Specified Diseases (Notification) Amendment (Scotland) Order 2016 in Scotland would also help ensure a similar approach in relation to PED on behalf of the pig industry in both Scotland and England.

Consultation

As this legislative proposal is being introduced at the request of many of the Scottish pig industry organisations and since there has already been a significant engagement between the Scottish Government and key Scottish pig industry representatives (including National Farmers Union Scotland (NFUS), QMS, Scotland's Rural College (SRUC) and the Pig Veterinary Society (PVS), the Scottish Ministers agreed to a shortened 6 week public consultation. Those consulted and by what method are outlined in detail in the attached Business and Regulatory Impact Assessment; these are summarised here, along with the outcome of that consultation.

The consultation "The Specified Diseases (Notification) Amendment (Scotland) Order 2016" ran from 13 November 2015 to 24 December 2015. It was publically available on the Scottish Government website and a weblink to the consultation was sent to a wide range of organisations with a potential interest. There were 11 responses: 4 individuals, 6 organisations and one local authority responded. All those who responded were fully supportive of the proposals.

The report of the analysis of the results will be made available online at <https://consult.scotland.gov.uk/animal-welfare/specified-diseases/>. All respondents agreed that reporting suspicion of PED to QMS would not delay investigations into other notifiable pig diseases that should be notifiable to the Animal and Plant Health Agency. The clinical signs for PED are sufficiently distinguishable from other notifiable pig diseases.

² Includes Quality Meat Scotland, Scottish Pig Producers, Wholesome Pigs Scotland, NFU Scotland, The Pig Veterinary Society and Scotland's Rural College.

Enforcement agencies

Scottish local authorities will be responsible for enforcing this instrument. Only one local authority responded to the consultation and that response supported the proposal to make PED notifiable.

Equality Impact Assessments

No equality impact assessment has been undertaken as this instrument does not affect the needs of people with 'protected characteristics' (race, sex, disability, age, sexual orientation, gender reassignment, religion or belief). The aim of the policy is to protect pig welfare.

Privacy Impact Assessment

A draft Privacy Impact Assessment (PIA) was issued as part of the consultation. All 11 responses to the consultation agreed that the benefits of informing keepers within the local area about a confirmed PED case outweigh any risks to privacy of the affected keeper being identified and that the PIA accurately assessed the risk of collecting, storing and sharing mandatory information required by the legislative proposal. Respondees were also content that data collected as part of the industry disease response may be used for additional research purposes, with one respondent providing a caveat that there would be no objections so long as the data was anonymised. Commercially sensitive data collected by the industry has been used by research organisations in Scotland for 12 years and the privacy of the businesses involved has been protected and the research has delivered more effective disease control measures that have significantly improved industry productivity. No amendments to the consultation draft were therefore required. The final PIA identifies four main risks.

The first was QMS sharing mandatory personal data with the SPDCC. New Article 3A of the 1996 Order requires that, on receipt of a report of suspicions of PED, QMS (as an "authorised person" authorised for that purpose by the Scottish Ministers), will then provide that information to SPDCC. That information will include some limited personal information including the name, address and location of where the pigs are kept. Information may be shared with other organisations/individuals as set out in Article 3A, which may lead to disclosure of limited personal information. A data sharing agreement is therefore being put in place between QMS and the SPDCC to make it clear the conditions in which data is being shared.

The second risk identified was the disclosure of names and contact details of persons with pigs suspected to be, or infected with PED. To mitigate that risk there is controlled access to data, data sharing and confidentiality agreements and controller-processor agreements put in place.

The third risk identified was where SPDCC staff, following confirmation, inform locally identified keepers that PED is present in the area. However, the location of

the infected premises will only be disclosed after consultation with pig keepers at those premises. It is believed – and consultation respondents agreed – that the benefits of informing keepers within the local area about PED outweigh any risks to privacy of the affected keeper, as this is essential in ensuring that the disease does not spread further.

The fourth risk identified was where there was an outbreak with a large number of affected premises requiring additional support staff at the SPDCC who may require training on the Data Protection Act (DPA). To mitigate that risk, there will be controlled access to computer systems and a requirement to understand and sign a confidentiality agreement before additional staff are allowed access.

Financial Effects

A draft Business and Regulatory Impact Assessment was issued with the consultation and a final copy has been completed and published. All consultation respondents agreed that the BRIA accurately reflected the costs and benefits the proposed legislation would bring.

Those most likely to be affected by this proposal are pig keepers (including hobby farmers and those with pet pigs), private veterinary surgeons, laboratory technicians carrying out diagnostic tests for pig diseases and abattoir workers handling pigs. The proposed legislation will only require reporting of the suspicion of PED, although there will be costs to industry associated with becoming familiar with the reporting requirement and then, in the event of a possible disease incursion, reporting the suspected or confirmed disease incursion, these will be minor. Any subsequent action by producers will be entirely voluntary.

Effect of the instrument

This instrument amends the 1996 Order:

- **To add PED to the list of notifiable diseases in Part I of Schedule 1 to that Order** (see Article 2(6) of the instrument).
- **Obligation to notify suspicion of PED** - Articles 2(3) and 2(5) respectively amend Articles 3 and 5 of the 1996 Order requiring the notification of suspicion of PED in a pig, carcass or following analysis of a sample to a person authorised by the Scottish Ministers (an “authorised person”) or an inspector or constable (who must in turn pass on the notification to an authorised person) .
- **Requirement to provide information** – Article 2(4) of this Order introduces a new article 3A to the 1996 Order. New article 3A(2) requires an authorised person who, has received a notification under Articles 3 and 5 of the principle 1996 Order, to provide information about the identity and contact details of the person who has given the notification, the date of the notification and the location of the premises where the pig or pig carcass known or suspected to be infected with PED is. New article 3A(5) requires an authorised person to provide

information about the results of analysis of samples of pigs/pig carcasses infected with PED. Such information must be supplied to the person who is responsible for coordinating on behalf of the pig industry in Scotland a response to a suspected or confirmed PED outbreak with whom an authorised person has entered into a data-sharing agreement (a person as mentioned in new article 3A(8)).

- **Provision of advice/dissemination of information** - New articles 3A(3) and (6) respectively enable a person mentioned in new article 3A(8) to provide appropriate advice to those who have given notice to an authorised person or to pig keepers whose pigs may have come into contact with pigs/carcasses infected with PED or to disseminate information about a PED case to representatives of the pig industry. This would be to ensure that appropriate steps could be taken to mitigate the risk of further PED cases arising.
- **Offences and penalties** – Failure to comply with the 1996 Order is an offence under Section 73 of the Animal Health Act 1981. Section 75 of the 1981 Act provides a penalty, on summary conviction, of imprisonment not exceeding 6 months or a fine not exceeding level 5 on the standard scale. This is consistent with the penalties imposed by for other notifiable animal diseases legislation.

Exotic Diseases branch
AFRC: Animal Health and Welfare Division
Scottish Government