

**EXPLANATORY MEMORANDUM TO
THE VETERINARY SURGERY (ARTIFICIAL INSEMINATION) ORDER 2007**

2007 No. 1315

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This instrument lifts the restriction on the practice of veterinary surgery found in section 19(1) of the Veterinary Surgeons Act 1966 in relation to the artificial insemination of cattle and mares. It revokes and replaces, in Part 3, the provisions of SI 2004/1504, the *Veterinary Surgery (Artificial Insemination of Mares) Order 2004* and introduces new provisions for the artificial insemination of cattle. It specifies that the artificial insemination of horses (mares) and cattle (cows) is a minor treatment, test or operation. It also sets out the conditions that non-veterinarians must comply with in order to lawfully carry out this procedure.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 The Artificial Insemination of Cattle (Animal Health) (England and Wales) Regulations 1985 which included provisions as to the carrying out of the artificial insemination of cattle are being revoked as they apply in England by the *Bovine Semen (England) Regulations 2007/1319*.

5. Territorial Extent and Application

5.1 The *Veterinary Surgeons Act 1966* extends to the whole of the UK. However, this instrument applies to England only in relation to the artificial insemination of cows but the whole of the UK in relation to the artificial insemination of mares.

5.2 The Order will be amended to widen the territorial extent as to the carrying out of the artificial insemination of cows when Wales, Scotland and Northern Ireland have replaced regulations relating the collection and processing of bovine semen in line with those being made for England and which as currently set out would otherwise conflict with the provisions of this instrument. See also the Explanatory Memorandum to the *Bovine Semen (England) Regulations 2007/1319* (Annex 1).

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Provisions as to who may carry out the artificial insemination of cows were included in the *Artificial Insemination of Cattle (Animal Health) (England and Wales) Regulations 1985* and similar instruments in Scotland and Northern Ireland. Following a review of those regulations and after consultation with the Royal College of Veterinary Surgeons (RCVS), it was concluded that the artificial insemination of cattle due to its invasive nature, constitutes an ‘act of veterinary surgery’ and that provisions relating to the carrying out of that procedure would be more appropriately placed under the legal framework of the *Veterinary Surgeons Act 1966*. Consequently provisions relating to the carrying out of the artificial insemination of cattle are not reproduced in the *Bovine Semen (England) Regulations 2007/1319*.

A public consultation was carried out between 27th January and 21st April 2005. From the responses received, the industry broadly welcomed the proposal to introduce an Order under the *Veterinary Surgeons Act*.

A copy of the response to the public consultation and analysis is available from Defra Information Resource Centre, Lower Ground Floor, Ergon House, c/o 17 Smith Square, London SW1P 3JR.

Since the public consultation some of the proposals for change have been re-considered, in particular that:

- all competent technicians register with Defra; and
- all currently approved course providers re-apply for approval

We notified industry stakeholders in September 2006 that the Order would not include these requirements because we now consider that in the interests of better regulation the industry should be largely self-regulating and improvements in training industry led.

7.2 The introduction of provisions covering the artificial insemination of cows also provided an opportunity to consolidate under one instrument, provisions covering the artificial insemination of mares. Since the provisions merely replicate the *Veterinary Surgery (Artificial Insemination of Mares) Order 2004* there has been no need to carry out a public consultation in relation to this matter.

7.3 We will be informing the cattle industry of the coming into force of the new Order in the Customer Information Note (CIN) being issued in relation to the *Bovine Semen (England) Regulations 2007/1319*. The guidance sets out the effect of the Order and the conditions that will apply to those wishing to continue to carry out artificial insemination.

- 7.4 Similarly we will notify interested parties in the horse industry of the revocation of the *Veterinary Surgery (Artificial Insemination of Mares) Order 2004* and the transfer of those provisions to this Order.
- 7.4 The new Order does not in itself create new offences, although non-compliance will be an offence under section 19(1) of the *Veterinary Surgeons Act 1966*.

8. Impact

It has not been necessary to produce a Regulatory Impact Assessment as this Order does not introduce any new burdens for the industries concerned.

9. Contact

Clare Williams at the Department of Environment, Food and Rural Affairs Tel: 020 7904 6005 or e-mail: clare.wiliams@defra.gsi.gov.uk can answer any queries regarding the instrument.

ANNEX 1

EXPLANATORY MEMORANDUM TO THE BOVINE SEMEN (ENGLAND) REGULATIONS 2007

2007 No. 1319

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 This instrument provides for the collection, processing and distribution of bovine semen within England and for intra-Community trade. In particular, it:

- replaces the Artificial Insemination of Cattle (Animal Health) (England and Wales) Regulations 1985, as amended;
- implements Council Directive 88/407/EEC laying down the animal health requirements applicable to intra-Community trade in and imports of semen of domestic animals of the bovine species;
- simplifies the licensing regime for centres where bovine animals may be quarantined and semen may be collected for intra-Community trade, and use within England;
- simplifies the licensing regime whereby only approved bovine animals may enter collection centres;
- regulates how semen may be processed, stored and transported; and
- Incorporates new fees and charges for services to industry.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

- 4.1 The Artificial Insemination of Cattle (Animal Health) (England and Wales) Regulations 1985 had been amended several times as a result of changes to EC Directives.
- 4.2 They governed the collection, storage, and supply of bovine semen for the domestic market, as well as the training of laypersons in Artificial Insemination

(AI) and the carrying out of AI by such persons. The artificial insemination industry and market has changed significantly since the making of those Regulations, which are now out of step with modern industry practices.

- 4.3 The last time fees payable under the revoked Regulations were reviewed was in 1992. Further, those fees were not calculated to cover full cost for services rendered to the industry. New fees associated with the new Regulations replace the old Fees regulations
- 4.4 Annex 1 contains a transposition note for Council Directive 88/407/EEC laying down the animal health requirements applicable to intra-Community trade in and imports of semen of domestic animals of the bovine species, which the 2007 Regulations implement.

5. Territorial Extent and Application

- 5.1 This instrument applies to England.
- 5.2 Wales, Scotland and Northern Ireland have agreed to issue similar instruments.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 These Regulations control the collection, processing and storage of semen eligible for trade in England and with other member States of the European Union. It also ensures the health status of donor animals. The revoked Regulations were no longer in line with modern industry procedures and practices. Further, the fees charged have not been reviewed since 1992.
- 7.2 A working group which consisted of Defra officials, SVS, Devolved Administrations and industry representatives was set up to carry out this review and prepare the Bovine Semen (England) Regulations 2007 and its associated new Fees and charges.

As well as having industry representatives on the working group, once a draft of the new Regulations was available it was discussed with a wider, but selected, industry group as a “litmus test” at a meeting on 7 April 2004. The proposals were welcomed although there was mixed views about the two additional regulatory measures due to the increased costs they would impose. It was decided that the whole industry should be given the opportunity to air their views on issues raised by the select group.

A public consultation was then carried out between 16 July and 8 October 2004. From the responses received, the industry generally supported the proposals

although issues were raised with regard to the increased costs which would be involved, due to the introduction of 2nd series tests for diseases and the level of record keeping. Further meetings were held with industry to discuss these issues and revised sets of proposals were constructed following decisions made in light of the consultation responses, meeting with industry and meetings held with both senior veterinary and policy officials. We have continued to keep the industry informed of progress and decisions by issuing several Customer Information Notes.

A copy of the response to the public consultation and analysis is available Defra Information Resource Centre, Lower Ground Floor, Ergon House, c/o 17 Smith Square, London SW1P 3JR.

- 7.3 We will be informing the industry of the coming into force of the new regulations by issuing a Customer Information Note (CIN) six (6) weeks before the regulations are due to come into force. The guidance sets out all the changes involved in the process of gaining approval both for bovine animals and centres.
- 7.4 The new Regulations do not themselves create new offences, although non-compliance will be an offence under section 10(6) of the Animal Health and Welfare Act 1984.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum which contains the new requirements for which bovine semen trade within England were negotiated.

9. Contact

Simon Qasim at the Department of Environment, Food and Rural Affairs Tel: 020 7904 6941 or e-mail: simon.qasim@defra.gsi.gov.uk can answer any queries regarding the instrument.

