

EXPLANATORY MEMORANDUM TO
THE ANIMAL BY-PRODUCTS (AMENDMENT) REGULATIONS 2009

2009 No. 1119

1. This explanatory memorandum has been prepared by Defra and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments

2. **Purpose of the instrument**

- 2.1 To amend the Animal By-Products Regulations 2005 (S.I. 2005/2347) (the 2005 Regulations) in order to designate the Isle of Wight a remote area under Article 24(1)(b) of the EC Animal By-Products Regulation (Regulation (EC) No 1774/2002) (the EC Regulation).

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

- 3.1 The instrument breaks the 21 day rule on grounds of urgency. It is needed following the outcome of a Court case : Isle Of Wight Council v Brownrigg and Brownrigg on 22 April 2009 which found that no provision was in place on the Isle of Wight to facilitate the lawful disposal of animal by-products arising on the Island, and that it was therefore unreasonable to expect farmers to dispose of their fallen stock by rendering or incineration in accordance with the 2005 Regulations.

- 3.2 However, Article 24(1)(b) of the EC Regulation enables Member States to designate parts of their territory as remote areas “where the animal population is so small and where facilities are so far away that the arrangements necessary for collection and transport would be unacceptably onerous compared to local disposal”.

- 3.3 As there are no rendering or incineration facilities on the Isle of Wight and the cost of transporting fallen stock to the mainland for such disposal is unacceptably onerous, the Government considers the Isle of Wight falls within the EC Regulation definition of a “remote area” and wishes to provide a legal means of disposal by burial, which designation of the island as a remote area would permit.

4. **Legislative Context**

- 4.1 See 3 above

5. **Territorial Extent and Application**

- 5.1 This instrument applies to England

6. **European Convention on Human Rights**

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

7. Policy background

- *What is being done and why*

7.1 See 3 above

- *Consolidation*

7.2 The Department does not intend to consolidate the legislation

8. Consultation outcome

8.1 No consultation was undertaken in view of the need for urgency

9. Guidance

9.1 The Government will be liaising with the local authority, environment agency and farming unions to ensure guidance is available to farmers on how to dispose of their fallen stock safely and in accordance with Part C of Annex II to Commission Regulation (EC) No 811/2003 which implements the EC regulation with regard to disposal of animal by-products in remote areas.

10. Impact

10.1 The impact on business (farmers) is beneficial as it provides a legal means for local disposal of fallen stock without the need to meet the potentially onerous requirement to send it to the mainland for disposal

10.2 The impact on the public sector is minimal

10.3 An Impact Assessment has not been prepared for this instrument due to the requirement for urgent action and the minimal change to recent practice.

11. Regulating small business

11.1 The legislation applies to small business which will benefit as described in 10.1 above.

12. Monitoring & review

12.1 The amendment to the legislation will remain under review. It is the intention of Defra to work with the local authority, farming unions and fallen stock collection and disposal industry to put in place satisfactory arrangements for farmers to dispose of fallen stock in accordance with the regulation so that the derogation can be removed in future.

13. Contact

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