

**EXPLANATORY MEMORANDUM TO**  
**THE CATTLE COMPENSATION (ENGLAND) ORDER 2012**

**2012 No. 1379**

**AND**

**THE INDIVIDUAL ASCERTAINMENT OF VALUE (ENGLAND) ORDER 2012**

**2012 No. 1380**

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. Purpose of the instrument**

2.1 These related Orders revoke and replace (a) The Cattle Compensation (England) Order 2006 (S.I. 2006/168) and (b) The Individual Ascertainment of Value (England) Order 2005, (S.I. 2005/3434).

2.2 The Orders will introduce changes to the current cattle compensation system for bovine tuberculosis (TB), Brucellosis, and Enzootic Bovine Leukosis (EBL) in England, under which compensation is determined primarily using table valuations, based on average sales prices for pre-determined cattle categories. The primary change to the Cattle Compensation (England) Order is to reduce compensation payments for owners of TB affected cattle herds with significantly overdue diagnostic TB tests, and to add new table valuation cattle categories in the table at Part 2 of the Schedule.

2.3 The compensation system allows for individual market valuations to be used for the assessment of compensation for slaughtered buffalo and bison, and should there be inadequate supporting sales data for a particular category in any particular month or months then the Secretary of State may allow individual market value of cattle to be assessed by an appointed livestock valuer. The Individual Ascertainment of Value (England) Order is being replaced to enable the same reductions in compensation payments from the assessed individual valuations for owners with significantly overdue diagnostic TB tests as will apply to table valuations under the principal Cattle Compensation (England) Order.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**  
None.

**4. Legislative Context**

4.1 The two instruments are being made to enhance disease controls (by paying reduced compensation for owners of TB affected herds with significantly overdue

diagnostic TB tests), reduce over-compensation risks, and address anomalies and ambiguities that have come to light since the current cattle compensation system came into force in February 2006.

4.2 The Cattle Compensation (England) Order is made under Section 32(3) of the Animal Health Act 1981, which sets out the obligation to pay compensation of such amount as may be determined in accordance with scales prescribed by order. That principal Order is made under the negative resolution procedure. The Individual Ascertainment of Value (England) Order is made under Section 34(7) of the Animal Health Act 1981, which gives the Secretary of State the power to make orders for prescribing the mode of ascertainment of value of an animal slaughtered.

## **5. Territorial Extent and Application**

5.1 The instruments apply to England only.

## **6. European Convention on Human Rights**

6.1 As the instruments are not subject to the affirmative resolution procedure and do not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 Bovine Tuberculosis (TB) is one of the most difficult animal health problems facing England's cattle farmers resulting in a significant cost burden for industry and government. TB related controls in England in 2010/11 cost government £108M. In that period over 25,000 cattle were compulsorily slaughtered for bovine TB control purposes with compensation for the animals totalling £28M. Defra need to tackle TB in order to support high standards of animal health and welfare, to promote sustainable beef and dairy sectors, to meet EU legal and trade requirements, and to reduce the cost and burden on farmers and taxpayers.

7.2 Cattle measures remain central to the Government's comprehensive, risk-based approach to tackling TB and support the wider objective of TB eradication. The payment of fair compensation is intended to help support farmer compliance with TB controls, thereby reducing the risk of disease spread from cattle herds untested for TB to neighbouring cattle herds.

7.3 Though the current compensation system, which was introduced in February 2006, is generally accepted by industry, it does not maximise opportunities to encourage farmers to test their herds on time, which Defra believe is critical in the fight to stop the spread of this disease. It also includes some table value categories that can result in compensation payments that are not always fair to farmers (and the general taxpayer).

7.4 One of the key changes will ensure businesses that increase disease risks for other cattle farmers by significantly delaying the routine diagnostic TB testing of cattle will

have their compensation reduced if any of their cattle test positive for bovine TB. The changes to the table value categories in Part 2 of the Schedule to the Cattle Compensation (England) Order should help reduce the risk of over-compensation by ensuring that owners of older, unproductive calved dairy cattle are not compensated at the same level as owners of younger productive animals.

7.5 A key TB policy objective is to identify and remove TB infected animals as quickly as possible. The concept of linking compensation to farmer behaviour is part of the wider package of TB measures aimed at eradicating bovine TB and is consistent with a move towards farmers taking more responsibility for the containment of this disease.

7.6 The main changes to the existing Orders are:

- Reduced compensation payments where TB tests are significantly overdue (by more than 60 days) – reductions are applied on a sliding scale;
- There has been a split in the “dairy, calved” categories into two age bands: up to 7 years old, and over 7 years old.
- Introduced new categories for young pedigree beef animals (0-6 months);
- Tightened the wording to make it clear that pedigree valuation rates apply only to entire breeding animals with full pedigree certificates;
- Provided more detail to explain how average market values are assessed from sale price data;
- Limited compensation payments to owners of cattle that can be identified by eartags and where cattle passports are presented at the time of removal of the cattle to slaughter.

## **8. Consultation outcome**

8.1 In December 2011 the Department consulted key stakeholder groups on proposals for revising the cattle compensation system. An outline of stakeholder responses is included in the Impact Assessment (IA). The majority of stakeholders accepted the need for the proposed changes, with only minor variations suggested within the overall framework of the proposals.

8.2 More specifically, a number of stakeholders emphasised the need to ensure that only those animal keepers whose tests were overdue within the date bands proposed would have compensation payments reduced. Defra took those comments on board.

## **9. Guidance**

9.1 Details of compensation changes will be communicated through Defra’s webpages, a Customer Information Note to be e-mailed to interested stakeholders, the department’s monthly table valuation Information Bulletins, and via the farming press. Defra’s delivery agent, Animal Health and Veterinary Laboratories Agency (AHVLA), will provide advance notification letters to all cattle keepers about the risk of receiving reduced compensation if they delay in testing their herds.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is reduced compensation for owners of breakdown herds with significantly overdue tests – Defra’s objective in making this revision is to reduce disease spread risks by better encouraging timely testing of cattle herds. But, on the assumption that some tests will continue to be late, Defra also expect to reduce its TB compensation spend.

10.2 Splitting the current category for calved dairy animals into two age bands – up to aged 7 years, and over 7 years old – this change was suggested by industry representatives who felt it was unfair that owners of older unproductive cattle are compensated at the same level as owners of younger productive stock. Owners of younger stock will be compensated at a slightly higher level than before.

10.3 The impact on the public sector is negligible.

10.4 The Impact Assessment is attached to this memorandum.

## **11. Regulating small business**

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is that Defra will take steps to ensure that all affected businesses can plan and adjust for the changes. All businesses will be able to avoid the reductions in compensation for TB reactor cattle – which has by far the biggest impact on business costs - by ensuring they are not late by over 60 days in arranging for their TB tests to be done. The measures are designed to reduce disease risks as well as the associated cost burden.

## **12. Monitoring & review**

12.1 The changes are intended to reduce the number of herds with overdue TB tests. The operation and effect of these two related Orders will be reviewed within five years of them coming into force, and a report published. Following the review the Secretary of State will consider whether the Orders should continue to expiry in 2019 or be revoked early.

## **13. Contact**

13.1 Geoff Jasinski in Defra’s TB Programme Tel: 0207 238 6382 or email: [geoffrey.jasinski@defra.gsi.gov.uk](mailto:geoffrey.jasinski@defra.gsi.gov.uk) can answer any queries regarding the instrument.