

EXPLANATORY MEMORANDUM TO
THE AFRICAN HORSE SICKNESS (ENGLAND) REGULATIONS 2012

2012 No. 2629

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 The purpose of this instrument is to implement Council Directive 92/35/EEC laying down control rules and measures to combat African horse sickness. It sets out procedures to be followed and restrictions that apply in the event of an actual or suspected outbreak of African horse sickness.

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

3.1 None

4. Legislative Context

4.1 These Regulations provide for the implementation of Council Directive 92/35/EEC, and are contingent measures that will apply only in the event of disease. A Transposition Note is attached at the Annex.

5. Territorial Extent and Application

5.1 This instrument applies to England.

5.2 Devolved Administrations are bringing forward similar legislation on African horse sickness in their respective territories.

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 The likelihood of the introduction of African horse sickness (AHS) virus to the UK via legal trade in horses and other equidae is considered very low - the last outbreaks of AHS in Europe were in Spain between 1987 and 1990, and were most likely associated with the import of infected zebras from Africa. However, the outbreak of midge-borne bluetongue disease in farm animals in recent years has demonstrated the potential for

insect vector-borne diseases to have unexpected and significant detrimental consequences for the equine sector and the rural economy.

7.2 This instrument provides the necessary powers to minimise the impact of any incursion of African horse sickness. The policy is to produce legislation to meet EU objectives relevant to the control of this disease. This legislation will protect the horse industry and limit any adverse affect on trade or movement of horses in the event of an outbreak.

7.3 Council Directive 92/35/EEC has previously been transposed through a combination of two other Orders made under the Animal Health Act 1981. These Regulations therefore amend the Specified Diseases (Notification and Slaughter) Order 1992 (SI 1992/3159) and the Specified Diseases (Notification) Order 1996 (SI 1996/2628) by removing references to African horse sickness.

7.4 Regulation 38 of this instrument provides for enforcement of the Regulations by the Local Authority or, if the Secretary of State directs, by the Secretary of State instead. Where the Secretary of State has so directed, in order to facilitate the conduct of prosecutions by the Crown Prosecution Service (to whom conduct of the Department's prosecutions has been administratively transferred generally), regulation 38(3) allows the Secretary of State to delegate functions in relation to the prosecution of an offence under the Regulations to the Director of Public Prosecutions.

8. Consultation outcome

8.1 A formal 12 week public consultation was carried out on these Regulations from 17 December 2009. The relevant consultation documents were published on Defra's website and formal invitations to reply were sent to all major industry stakeholder organisations. There were 22 responses in total - 18 from representative bodies, and 4 from private individuals. The responses and actions in respect of these responses are also published on the Defra website.

8.2 The main objections were on proposals for the non-payment of compensation for diseased horses killed for disease control purposes. Compensation up to a maximum of £2,500 will only be paid where suspect horses are killed but subsequently are found not to have the disease. Of the nine respondents who specifically mentioned compensation, eight were opposed to the proposal. Defra has held several discussions since the consultation with representatives of the industry and maintains the view that a policy which caps the maximum payment is a proportionate and fair balance between the interests of the horse owner and the interests of the taxpayer in protecting them from large compensation liabilities. A full explanation of the compensation arrangement is detailed in the accompanying Impact Assessment.

8.3 Six respondents were opposed to the potential implications of any policy approach involving the compulsory killing of horses for disease control purposes. Defra's Control Strategy for this disease makes clear that compulsory slaughter is a vital tool needed to

control this disease, but that it would no longer be viable once it was evident it was no longer effective.

9. Guidance

9.1 Guidance on African horse sickness is available on the Defra website www.defra.gov.uk/animal-diseases/a-z/african-horse-sickness/. This gives details of how to spot the disease, preventative measures, and the latest worldwide situation report.

9.2 Defra also has regular meetings with industry representatives, known as the Equine Core Group, and would be in contact immediately with this Group with situation updates if the incursion risk level of this disease increased, or if there was a confirmed outbreak of this disease within any EU member state.

9.3 In the event of a confirmed outbreak in England, the Chief Veterinary Officer (CVO) would confirm disease, and Defra would immediately make information about the outbreak available on its website, through press notices, and through the helpline. This will be updated regularly until the disease has been eradicated. On confirmation, the CVO would also immediately inform the EU Commission.

10. Impact

10.1 This instrument will have no adverse impact on business, charities or voluntary bodies.

10.2 This instrument will have no adverse impact on the public sector.

10.3 The Impact Assessment for the Regulations is available at www.ialibrary.bis.gov.uk/uploaded/DEFRA0113%20AHS%20Final%20IA.pdf

11. Regulating small business

11.1 This instrument applies to all sizes of business, including small businesses, but its requirements only take effect when African horse sickness is suspected or confirmed.

11.2 As with the control and eradication of any notifiable exotic animal disease, there will be an impact on individual premises restricted by the measures in the Regulations, but the rural economy as a whole will benefit from the effective and rapid control of a disease outbreak.

11.3 The number of businesses affected by the legislation depends on the nature and extent of the outbreak and the animals involved. At one end of the scale an outbreak may be only on a single premises and one infected area declared, with its associated movement restrictions. However, an outbreak of a disease transmitted by biting insects could affect large areas of the country.

11.4 The types of business affected or potentially affected by the Regulations include the full susceptible animal sector (meat, leisure, sport), the export industry, zoos containing susceptible animals, laboratories, border inspection posts, quarantine stations and the (agricultural) supply industry (e.g. feed manufacturers and merchants) or other type of business that regularly visits premises where susceptible animals are kept.

11.5 The horse industry would have costs arising from the consequences of movement restrictions. Occupiers of infected premises will suffer significant disruption as horses may be slaughtered to prevent disease spreading, although natural death usually follows infection very quickly with this disease. There would be no additional administrative burden to animal owners as there is no additional form filling or record keeping compared to what we would require at present. Requirements in controlled zones will be more proportionate as animal owners would have to apply for fewer licences for certain movements.

11.6 Horse race meetings and other horse show organisers may lose revenue if the events can no longer take place, as well as zoo owners if they can no longer exhibit susceptible animals at shows, zoos and gatherings in zones declared under the Regulations.

11.7 Tourism may be adversely affected due to a perceived health risk, a cost which is caused by the outbreak of disease itself and not the measures in the Regulations.

11.8 No direct compliance costs are anticipated for charities or voluntary organisations.

12. Monitoring & review

12.1 The Regulations will be reviewed within 5 years of the date they came into force.

13. Contact

Richard Hopley at the Department for Environment, Food and Rural Affairs; Tel: 020 7238 6361 or email: Richard.Hopley@defra.gsi.gov.uk can answer any queries regarding the instrument.

Transposition Note

COUNCIL DIRECTIVE 92/35/EEC

Transposition Note laying down control rules and measures to combat African horse sickness

The Directive

This Directive sets out the general arrangements for the rules and measures to combat African horse sickness and provides a legal base for the new African Horse Sickness (England) Regulations 2012.

Introduction

Provisions implementing this Directive were previously deemed sufficient under the Animal Health Act 1981 and Orders made under that Act. However Defra now places considerable importance on having dedicated legislation which is fully fit for purpose to control exotic disease outbreaks. The present domestic controls require supplementing in case of a future outbreak.

The African Horse Sickness (England) Regulations 2012 are being made under section 2(2) of the European Communities Act 1972.

Article of Directive 92/35/EEC	Objective	Implementation (references are to the African Horse Sickness (England) Regulations 2012, unless otherwise stated)
1 -3	Notification of suspicion of disease	regulation 5
4	Investigation, confirmation and introduction of movement restrictions	regulations 7-11
5, 6.1(d), 9.2, 10.2	Vaccination policy	Part 7 (Vaccination)
6.1(a)&(b) & 10.1	Slaughter of animals	regulation 12
6.1(c), 6.2, 6.3, 8, 9.1	establishment of protection zone and surveillance zones	Part 6 (Area controls)
6.1(e) & 7	Epizootiological inquiry	regulation 8(5)(b)
11	Movement restrictions on vaccinated horses	regulation 26(2)
12	Exceptionally serious	regulations 17(5), 18(9) or 19(3)

	outbreaks	
13	Notification and awareness	regulation 23
14, 15	National laboratory status	No transposition required – the UK national laboratory is listed as part of the Directive
16	Inspection by experts from the Commission	regulation 29(8)(b)(ii)
17	Contingency plan for African horse sickness	No transposition required – the contingency plan for all notifiable diseases is on the Defra website @ www.defra.gov.uk/publications/2011/07/04/pb13581-animal-disease-plan/
18-22	Relating to the Council and Commission’s powers to amend the Directive	No transposition required.