

EXPLANATORY MEMORANDUM TO
THE DISEASES OF SWINE REGULATIONS 2014

2014 No. 1894

1. This explanatory memorandum has been prepared by the Department of 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 GB-wide instrument is to simplify the regulatory landscape over England, Scotland and Wales by setting out in a single instrument the legal powers required to respond to a suspect case, or an outbreak of the diseases of swine African swine fever (“ASF”), classical swine fever (“CSF”) or swine vesicular disease virus (“SVD”). The Regulations implement EU law (namely Council Directive 2001/89/EC for CSF; Council Directive 2002/60/EC for ASF and Council Directive 92/119/EC for SVD). Where any of these diseases are suspected in live or dead pigs, persons are required by this instrument to notify Defra or the Scottish or Welsh Governments, as appropriate, hence the term “notifiable” disease that is used in this document.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 These Regulations revoke the African swine fever (England) Order S.I. 2003/2913 which had been subject to an adverse JCSI report in the Fifth Report of the session 2003-4.
4. **Legislative Context**
 - 4.1 These Regulations are made under section 2(2) of the European Communities Act 1972 as they provide for the implementation of the CSF Directive 2001/89/EC, the ASF Directive 2002/60/EC, and the SVD Directive 92/119/EC. The Regulations only apply when ASF, CSF or SVD are suspected or confirmed to be present in the Great Britain. The instrument contains ambulatory references to these three Directives. However, they are now unlikely to be further amended because there is currently negotiation within the EU to replace disease specific legislation (including these three Directives) in or around 2018 with a new animal health framework Regulation. A Transposition Note is attached at the Annex.
 - 4.2 The Department takes the view that the Animal Health Act 1981 does not provide sufficient powers to deal with outbreaks of these diseases of swine. It has therefore been decided that it is preferable to follow the example of the Swine Vesicular Disease Regulations that were made separately in England, Scotland and Wales in 2009 utilising the powers contained in the European Communities Act. In particular the 1981 Act does not provide all the powers necessary to deal with the provisions for vaccination, as

required to effectively implement EU legislation. Those provisions are contained in Part 7 of the instrument.

- 4.3 These Diseases of Swine Regulations replace eleven statutory instruments that are hereby revoked.
- 4.4 This instrument includes a provision at regulation 12 for the Secretary of State, or Ministers of the Scottish Government or Welsh Government within their respective territories, to spare certain special categories of pigs at infected premises from being killed provided that doing so would not jeopardise disease control. These special categories of pigs include breeds at risk, research animals and zoo animals. This potential derogation was implemented in the SVD Regulations in 2009 but had not been implemented earlier in the CSF or ASF Orders.

5. Territorial Extent and Application

- 5.1 This instrument applies to Great Britain. Animal Health is a devolved matter.

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

- 7.1 Pig notifiable disease outbreaks can cause significant impacts and costs to both industry and the taxpayer. If an outbreak occurs, government intervention is important in order to eradicate disease and regain disease freedom. These three diseases are not harmful to humans.
- 7.2 These Regulations consolidate legislation for the control of disease during an outbreak of ASF, CSF or SVD in GB by replacing eleven statutory instruments. The Regulations implement EU Council Directives which require all Member States to take strict control measures to eradicate disease quickly and effectively if an outbreak occurs in their territory.
- 7.3 Having a single GB-wide instrument will be simpler for administering the disease controls and taking enforcement action where necessary.
- 7.4 The Regulations are clear and transparent about the measures to be taken during an outbreak of any of these diseases in GB, which in turn should reduce the impact of any outbreak by aiding compliance and enforcement of controls. The relevant government needs the appropriate legal powers to deliver a fast and effective response to any outbreak of CSF, ASF or SVD. The overall aim is to reduce the total costs and burdens of the disease outbreak to businesses and taxpayers.

7.5 The likelihood of a disease outbreak in GB is assessed as being very low for CSF and ASF and negligible for SVD. The last recorded outbreak of CSF occurred in the UK in 2000; the last known case of SVD occurred in the UK in 1982; ASF has never been reported in the UK.

8. Consultation outcome

- 8.1 A number of stakeholders were consulted during the drafting of the instrument. In addition, an advanced draft of the Regulations was employed in a UK-wide CSF emergency exercise, Exercise Walnut, during 2013 to assess readiness to respond to an outbreak of CSF. The exercise involved UK administrations, Animal Health and Veterinary Laboratories Agency, other regulatory and enforcement bodies, together with industry bodies representing the pig and pork sectors. Lessons identified (<http://www.defra.gov.uk/ahvla-en/files/exercise-walnut-lessons-ident-report.pdf>) were taken into account in the version of the Regulations that were subject to the formal consultation.
- 8.2 A four week formal public consultation was carried out on these Regulations from the 28 April. The relevant consultation documents were published on GOV.UK (https://www.gov.uk/government/publications?departments%5B%5D=department-for-environment-food-rural-affairs&publication_filter_option=consultations) and formal invitations to reply were sent to all major industry stakeholder organisations.
- 8.3 There were eight responses to the public consultation from organisations representing the pig industry, the meat industry, pig veterinarians, research academia and Local Authorities.
- 8.4 All agreed that the consolidation of the legislation for these three pig diseases is beneficial as it simplifies the existing complex legislative landscape. All respondents also supported including the potential derogation from culling for certain special categories of pigs for all three diseases within the new Regulations. Respondents recognised that such a decision would be taken on a case-by-case basis and be dependent on disease control not being jeopardised and consideration of wider issues and impacts, including trade.
- 8.5 The GB consultation asked for views on not including SVD in the new Regulations and continuing to rely on the existing domestic legislation. This question was asked because the World Organisation for Animal Health (the OIE) has been considering whether or not to remove the requirement to notify the OIE where a case of SVD occurs in an otherwise SVD free area. Respondents were split on the best approach: four of the respondents supporting the inclusion of SVD in the Disease of Swine Regulations; three favoured not including SVD; the other respondent was undecided. Taking account of the benefits of a single consolidated instrument, SVD has therefore been included within the Diseases of Swine Regulations.
- 8.6 Further information can be found on the GOV.UK website in the document “Consultation on exotic diseases of pigs – new regulations: Summary of responses to the public consultation”.

9. Guidance

9.1 GB policy on the control of swine fever is explained in the ASF and CSF control strategies, published in 2010. These documents are expected to be updated shortly. Guidance is available at:

- For England, on GOV.UK (<https://www.gov.uk/government/policies/protecting-animal-health-and-preventing-disease-including-in-trade/supporting-pages/controlling-animal-disease>)
- For Scotland, on the Scottish Government website (<http://www.scotland.gov.uk/Topics/farmingrural/Agriculture/animal-welfare/Diseases/disease>)
- For Wales, on the Welsh Government website <http://wales.gov.uk/topics/environmentcountryside/ahw/disease/?lang=en>

9.2 In the event of a confirmed outbreak in GB, Defra would immediately make information about the outbreak available on GOV.UK, through press releases and through the Defra helpline. Scottish Government and Welsh Government would take a similar course of action through their own websites. This information will be regularly updated throughout the course of the outbreak until the disease has been eradicated. In addition, the affected administration or administrations, as the case may be, will deliver information about the disease controls to the pig holdings directly affected by the outbreak (i.e. suspected or infected premises or premises within a control zone).

10. Impact

10.1 This instrument is out of scope of the Government's one-in-two-out rule and replaces existing legislation without a change to policy. It is not foreseen that this instrument will have a negative impact on business, charities or voluntary bodies compared to existing domestic legislation that is being revoked by this instrument. Therefore no impact assessment has been prepared.

10.2 The requirements of this legislation will only take effect when there are suspected or confirmed cases of the pig notifiable diseases ASF, CSF or SVD in Great Britain.

10.3 In the event of an outbreak, there are no new costs to businesses under this legislation as the Great Britain disease control policy remains unchanged.

10.4 This instrument will have no negative impact on the public sector compared to existing domestic legislation that is being revoked by this instrument.

11. Regulating small business

11.1 The legislation applies to all sizes of business including small businesses. However, only those businesses located within premises where disease is suspected or confirmed or

within zones subject to wider restrictions will be affected. The number and area of such restrictions is dependent on the extent of disease spread.

11.2 The size and types of businesses affected by an outbreak will be varied. An outbreak has the potential to affect pig producers, meat plants and processors, the export industry, zoos, laboratories, border inspection posts, quarantine stations, animal gatherings and shows, the agricultural supply industry (e.g. feed manufacturers and merchants) and any other business associated with pig keeping.

11.3 This legislation will not introduce new costs to small businesses compared to existing legislation.

12. Monitoring & review

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

13. Contact

13.1 The Animal Health Policy and Implementation, Exotics team at the Department for Environment, Food and Rural Affairs; Tel: 03459 33 55 77 or email: Exoticdisease.BriefingUnit@defra.gsi.gov.uk.

Annex

Transposition Note

Council Directives 2001/89/EC; 2002/60/EC and 92/119/EC

These Diseases of Swine Regulation 2014 transpose disease control rules and measures to combat African swine fever (ASF), classical swine fever (CSF) and swine vesicular disease (SVD) in Great Britain. These Regulations do what is necessary to implement these three Directives, including making consequential changes to domestic legislation to ensure coherence.

The Directives

Council Directive 2001/89/EC sets out the measures required to control CSF, Council Directive 2002/60/EC sets out the measures required to control ASF and Council Directive 92/119/EC sets out the measures required to control SVD. These three Directives provide the legal base for the new Regulations.

Introduction

The Diseases of Swine Regulations 2014 are made under section 2(2) of the European Communities Act 1972 (“ECA”) and re-transpose the three Directives.

Article of Directive 2001/89/EC (CSF)	Article of Directive 2002/60/EC (ASF)	Article of Directive 92/119/EC (SVD)	Objective	Implementation – all references are to the Diseases of Swine Regulations 2014
3	3	3	Notification of suspicion of disease	regulation 5
4	4	4	Investigation and measures applied when suspicion of disease	regulations 6 and 7
5	5	5	Confirmation of disease	regulation 10
4.3, 5.1(a), 5.2, 7.2	4.3, 5.1(a), 5.2, 7.2	5	Slaughter of animals and potential derogation from culling for special categories of pig	regulations 7(5), 8(2)(b), 11, 12
7	7	5, 9, Annex II (9.2)	Measures in contact premises	regulation 8
8	8	8	Epidemiological enquiry	regulation 7(3), 8(2)(a), 19(5)(c)
9 -11	9 -11	10, Annex II (7)	Establishment of protection zone	Part 6 (Area controls)

		Annex II (8)	and surveillance zones	
12, Annex II	12, Annex II	Article 16, Annex II (10)	Cleansing and Disinfectant	regulations 13 - 15
13	13	Annex II (11)	Repopulation of pig premises	regulation 18
14	14	Annex II, (9 (3))	Measures when suspicion or confirmation of disease in a slaughterhouse	regulation 19
15, 16	15, 16	6	Measures when suspicion and/or confirmation of disease in feral pigs	Part 5 (suspicion and confirmation of disease in feral pigs)
n/a	17	n/a	Measures to prevent spread of ASF by vectors	regulations 16 - 18
17	18	17, 18	Diagnostic procedures/ National laboratory requirements	No transposition required – the UK national laboratories are listed as part of the relevant Directive
18, 19, 20	19	19	Vaccination policy	regulation 22 and Part 7 (vaccination)
21	20	22	Inspection by experts from the Commission	regulation 34(9)(b)
22, 23	21, 22	20	Contingency plans	No transposition required – the contingency plan for all exotic notifiable disease is on the GOV.UK website https://www.gov.uk/government/publications/contingency-plan-for-exotic-notifiable-diseases-of-animals
-	-	21	Exemptions for Azores and Madeira not applicable to UK	No transposition required
24	-	-	Use of catering waste	Already transposed by in England 2013/ 2952, in Scotland SSI 2013/307 and in Wales 2014/517 (W. 60)
25 - 32	23 - 30	23 - 28	Relating to the Council and Commission's powers to amend the Directive	No transposition required