

**EXPLANATORY MEMORANDUM TO
THE TUBERCULOSIS (ENGLAND) ORDER 2014**

2014 No. 2383

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs.

2. Purpose of the instrument

This replacement instrument consolidates the amendments to the Tuberculosis (England) Order 2007 (“the 2007 Order”) which applies tuberculosis disease controls mainly to owners of bovine cattle herds. The instrument additionally removes the current pre-movement testing exemption for cattle movements within sole occupancy groups, that are otherwise known to the cattle industry as sole occupancy authorities (SOAs); and includes a new provision which enables the Secretary of State to publish location details of tuberculosis (‘TB’) breakdowns.

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

None.

4. Legislative Context

The 2007 Order was made under the Animal Health Act 1981 and now requires slight amendment. The Department is taking this opportunity to consolidate the Order with earlier amendments that have been made to the 2007 Order. This replacement instrument will assist the bovine cattle industry to eradicate this cattle disease that has become endemic in certain parts of the country.

5. Territorial Extent and Application

This instrument applies in England only.

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 TB is the most pressing and costly endemic animal health problem facing cattle farmers in England. TB-related controls in England in 2013/14 cost government almost £100M, and in that period over 26,000 cattle have been compulsorily slaughtered for TB control purposes.

7.2 Cattle control measures remain central to the Department’s comprehensive, risk-based approach to tackling TB, and the measures support the wider objective of TB eradication from all cattle herds. In partnership with industry the Department

continues to monitor the effectiveness of existing controls and identify ways to enhance them. By removing the SOA pre-movement testing exemption we will further reduce the risk of TB being spread through cattle movements around the country. This will help to: support high standards of animal health and welfare; promote sustainable beef and dairy sectors; meet EU legal and trade requirements; and reduce the cost and burden on farmers and taxpayers.

7.3 In line with the Department's publication on 4 March 2014 of its "Strategy for Achieving 'Officially Bovine Tuberculosis-Free' Status for England" at <https://www.gov.uk/government/publications/a-strategy-for-achieving-officially-bovine-tuberculosis-free-status-for-england>, it now seeks to develop new cattle controls that aim to strike an appropriate balance between robust disease control and maintaining a sustainable livestock industry. The changes made to TB cattle controls in recent years have been incremental, thereby giving livestock businesses time to adapt whilst the Department, in partnership with industry, strives to ultimately eradicate the disease.

7.4 This consolidated instrument strengthens existing controls by removing the pre-movement testing exemption for movements within SOAs. SOAs are a concept created in 2003, designed to permit livestock keepers to link different premises which fall under their sole management and control. Livestock standstill rules under the Disease Control (England) Order 2003 (S.I. 2003/1729) do not apply for movements within a sole occupancy group (generally referred to as SOA). Under the 2007 Order (as amended) TB pre-movement testing had not been required if all of the premises in a SOA were in areas where the default position is for cattle herds to be on annual surveillance testing. There was no distance limit set for holdings within the same SOA.

7.5 With the change made by this instrument all movements between holdings in SOAs in the annual TB testing area (referred to as High Risk Area and Edge Area in the March 2014 Strategy document) of England will be required to pre-movement test. However, the Secretary of State will still be able to licence certain movements without pre-movement tests.

7.6 The instrument provides a new power for the Secretary of State to publish location details of premises where a bovine herd has lost its officially TB-free status. This should assist cattle keepers by providing them with sufficient information on the TB risk to their herds, notably the number of TB breakdowns in the vicinity of their farm. With such information cattle keepers will be better able to protect their cattle from TB incursion into their herds.

8. Consultation outcome

8.1 There have been two separate consultations on the changes to TB cattle controls introduced in this consolidated instrument. That covering removing the pre-movement testing exemption for movements within SOAs ran from 11 June 2014 to 11 July 2014. Defra received 62 written or online responses to the consultation, of which 42 were from individuals, including farmers and vets, and 20 were from organisations.

8.2 The proposal was generally well supported, the main comments including: SOA linked premises are vital for cattle owners throughout England; those farmers that use them must be able to continue to keep and manage their livestock without having disproportionate costs transferred to them; and enabling government veterinarians to licence movements within ten miles to other SOA linked premises if satisfied there is low TB-risk in such movements was regarded as a pragmatic solution.

8.3 The Department's proposal to publish TB breakdown location details was included in a consultation which ran from 28 November 2013 to 10 January 2014. The Department received 107 responses including from the following key stakeholder groups: the National Farmers' Union, the National Beef Association, the British Veterinary Association, the British Cattle Veterinary Association Limited and The Tenant Farmers' Association.

8.4 This proposal was generally well supported; one respondent (the NFU) said that whilst the availability of TB breakdown information to allow farmers to take informed decisions on where to move livestock is welcomed, this must also be balanced to ensure that details are not used to victimise or harass farmers who are unfortunate to have had a breakdown. Others commented that farmers within a locality tend to know quickly if a neighbouring farmer has been closed down due to TB – however, overall transparency in sharing this information would be helpful. The Department is continuing to informally consult different farming representatives over the level of detail that will be published in order to take account of concerns raised whilst being mindful of its duties under the Data Protection Act 1998.

8.5 A more detailed summary of the consultation outcomes is available at <https://www.gov.uk/government/consultations/bovine-tb-new-control-measures-tackling-transmission-between-cattle-herds>.

9. Guidance

9.1 Details of the few changes being made in the consolidated instrument will be communicated through the Defra and its executive agency, the Animal Health and Veterinary Laboratories Agency (AHVLA) websites and via the farming press. TB Information Notes ('TBIN') will be sent electronically to interested stakeholders prior to the coming into force of the new Instrument.

10. Impact

10.1 The Impact Assessment relating to the pre-movement TB testing of cattle between SOA linked premises changes is attached to this memorandum.

11. Regulating small business

11.1 The legislation applies to farm businesses most of which are micro-businesses.

11.2 The proposed measures do not discriminate between large and small businesses but focuses on those whose businesses are most affected by this devastating animal disease that causes severe disruption to affected farmers. In 2012/13 the average number of employees across all sizes of lowland grazing livestock farms was just 2,

and only 5 employed on the largest farms. An exemption for small and micro-businesses would not be appropriate where the industry needs to all contribute to the prevention of the spread of this devastating disease.

12. Monitoring & review

12.1 The instrument will be reviewed within 5 years of its coming into force, with an assessment of the extent to which it has achieved its objectives, and whether the objectives remain appropriate.

13. Contact

13.1 Dan Hackett at the Department for Environment, Food and Rural Affairs Tel: 0207 238 6375 or email: dan.hackett@defra.gsi.gov.uk can answer any queries regarding the instrument.