

EXECUTIVE NOTE

THE SWINE VESICULAR DISEASE (SCOTLAND) ORDER 2009 SSI/2009/173

Introduction

The above instrument is made by the Scottish Ministers under the European Communities Act 1972 and the Animal Health Act 1981. It is subject to negative Parliamentary procedure.

Policy Objective

In Scotland, there are approximately 450,000 pigs. It is therefore important that the Scottish Government has legislation in place that enables proportionate and targeted control measures to be applied during outbreaks of SVD.

This instrument revokes and re-makes, with amendments, the Swine Vesicular Disease Order 1972 (as amended). That Order linked SVD and foot-and-mouth controls, which is no longer appropriate.

In making this Order the Scottish Government is providing clarity on the policy objectives relating to control and eradication, of SVD, producing legislation that is fit for purpose in the event of an outbreak of disease, and meeting its obligation to fully implement Directive 92/119/EEC in relation to SVD and the amendment Directive 2007/10/EC.

Provisions of Directive 92/119/EEC in relation to SVD include:

- compulsory notification of suspect disease;
- investigation by the competent authority;
- stamping out of disease on infected premises and placing movement restrictions on that premises until the virus has been removed, and
- the imposition of wider movement controls to reduce the risk of the spread of disease.

The relevant article in Directive 2007/10/EC requires the Scottish Ministers to have discretion, in an outbreak of SVD, to allow pigs to be moved from a holding within the protection zone as a result of health or welfare problems, where restrictions last beyond 30 days because of further SVD outbreaks.

This revised legislation provides clearer, and more appropriate, disease control measures that could lead to reduction in the spread and size of potential SVD outbreaks, whilst minimising disruption to the livestock and related industries. This would benefit industry and the wider economy in the event of a disease outbreak.

Importantly, Scottish Government will no longer need to rely on the Foot-and-Mouth Disease (Scotland) Order 2006 when responding to the threat or incursion of SVD. In doing so Scottish Government are placing animals which are not susceptible to SVD, such as sheep and cattle, broadly outside the scope of the legislation. This will have the effect of limiting the impact that SVD related controls can have on the livestock not susceptible to SVD and associated industries in the event of a SVD outbreak.

Background

SVD is a disease of pigs. It is an exotic animal disease which is internationally recognised as potentially causing severe damage to the pig industry through direct losses of susceptible animals, and impact on related industries and trade. Outbreaks have to be notified to the Office International des Epizooties (OIE), and other countries refuse to accept any exports that might pose a risk of disease spreading. International standards require the elimination of the disease and country freedom for trade purposes is not recognised until this has been achieved.

The incubation period of the SVD virus is around 2 to 7 days and clinical signs are easily confused with foot-and-mouth disease.

Transmission occurs via lesions in skin and mucosa, direct contact or indirect contact with excretions from infected pigs. A major source of virus spread is faecal contamination, often within contaminated vehicles.

SVD is not a zoonotic disease, however there are rare reports of laboratory workers seroconverting but with no illness.

This Order's primary purpose is to control and eradicate an outbreak Swine Vesicular Disease, regaining Scotland's disease freedom status as quickly as possible. Control and eradicate would be achieved through strict quarantine, elimination of infected and contact pigs, prohibition of feeding with catering waste, control of movements of pigs and transport vehicles, and thorough cleansing and disinfection of premises, transport vehicles, and equipment.

Statutory provisions

Statutory provision of measures on premises where SVD is suspected include:

- Movement restrictions on pigs, vehicles and any thing liable to transmit SVD on the suspect premises;
- Investigation as to likely source and spread of disease, with testing of animals.

Statutory provision of measures on premises where SVD is confirmed include:

- Killing of all pigs on infected premises, with removal of carcase and tissue and blood;
- Premises sprayed with disinfectant, with disinfectant remaining for 24 hours.

Wider movement controls to stop spread of disease include:

Temporary control zone

- FMD legislation may still be used to apply controls at the suspicion stage as clinical signs of SVD indistinguishable from FMD at that stage;
- SVD specific TCZ (if needed).

Protection zone (PZ)

- centred on infected premises;
- minimum size 3 KM;
- No movement of pigs on to any premises unless licensed;
- No movement of pigs off any premises unless licensed;
- Licence for movement off possible;

- Compulsory requirement to cleanse vehicles/equipment in the PZ used to transport pigs.

Surveillance zone

- centred on infected premises;
- Minimum size 10 KM;
- No movement of pigs on to any premises unless licensed;
- No movement of pigs off any premises unless licensed;
- Licence for movement off possible.

Vaccination

- Powers for compulsory vaccination requiring keepers to compulsorily vaccinate their pigs.

Exit strategy - Restocking

- Previously infected premises can begin restocking 28 days after completion of cleansing and disinfection.

Consultation

There has been a formal period of public consultation on this instrument and amendments have been made as a result of some of these comments.

Impact

A Full Regulatory Impact Assessment has been prepared for this instrument. It was issued for public consultation in December 2008. There are no costs associated with this instrument unless there is an outbreak of SVD, as set out in the full Regulatory Impact Assessment

**Scottish Government Rural Directorate
April 2009**

FULL REGULATORY IMPACT ASSESSMENT

1. Title of proposal

1.1 Full Transposition of Council Directive 92/119/EEC in relation to Swine Vesicular Disease (SVD) and transposition of 2007/10/EC which amends annex 2 of Directive 92/119/EEC.

1.2 The full transposition will be carried out by the following statutory instrument:

1.3 The Swine Vesicular Disease (Scotland) Order 2009 is made under both the European Communities Act and the Animal Health Act 1981. Section 32 of the 1981 Act does not provide us with power to slaughter wild animals, which we will need in order to respond appropriately during an outbreak, and therefore powers in that respect must be authorised through Section 2:2 of the EC Act 1972.

2. Purpose and intended effect

2.1 Objectives

2.1.1 The objective is to ensure that we have in place the most streamlined legislative measures that enable proportionate and targeted control measures to be applied during outbreaks of SVD.

2.1.2 Through the revised legislation we will be providing clarity as to our policy and producing fit for purpose legislation to be used in the event of an outbreak of disease, as well as meeting our obligation to fully implement Directive 92/119/EEC in relation to SVD and the amendment Directive 2007/10/EC.

2.1.3 The revised legislation provides clearer, and more appropriate disease control measures that could lead to reduction in the spread and size of potential SVD outbreaks, whilst minimising disruption to the livestock and related industries. This would benefit industry and the wider economy in the event of a disease outbreak.

2.1.4 The introduction of the revised legislation will meet our commitment to better regulation, as all the powers to control and eradicate SVD will be in one place. The following Orders will be revoked:

- the Swine Vesicular Disease Order 1972 ;
- the Swine Vesicular Disease (Amendment) Order 1973; and the
- the Swine Vesicular Disease (Compensation) Order 1972.

2.1.5 Importantly, we will no longer need to rely on the Foot-and-Mouth Disease (Scotland) Order 2006 when responding to the threat or incursion of SVD. In doing so we are placing animals which are not susceptible to SVD, such as sheep and cattle, outside the scope of the legislation. This will have the effect of limiting the impact that SVD related controls can have on the livestock not susceptible to SVD and associated industries in the event of a SVD outbreak.

3 Background

3.1 SVD is a disease of pigs. It is an exotic animal disease which is internationally recognised as potentially causing severe damage to the pig industry through direct losses of susceptible animals and impact on related industries and trade. Outbreaks have to be notified to the Office International des Epizooties (OIE) and other countries refuse to accept any exports that might pose a risk of disease spreading. International standards require the elimination of the disease and country freedom is not recognised until this has been achieved.

3.2 In Scotland, there are approximately 450,000 pigs in Scotland, it is important that appropriate legislation is in place to control spread of SVD if an outbreak was to take place. The number of holdings and total pigs in Scotland is highest in the North East of the country as shown in Table 1.

Table 1.

Region	Holdings	Total Pigs
North West	244	27,018
North East	284	307,041
South East	197	96,967
South West	220	25,643
Scotland (Total)	945	456,669

Source: Scottish Agricultural Census 2007

3.3 The first outbreak of SVD in Great Britain (GB) was in 1972. Over the following ten years 532 cases involving a total of 322,081 pigs were confirmed before the disease was eradicated from GB in 1982.

3.4 SVD has persisted in Italy, where in 2002 there were 171 outbreaks of this disease, with a further 31 cases in 2003, and further outbreaks through 2004, with the last reported cases in 2005. There were two cases in Portugal in 2004 and there has been a further case in June 2007. The rest of Europe is free of SVD.

3.5 Directive 92/119/EEC also covers African Swine Fever and Bluetongue, but these diseases have since had their own Directives, which have been transposed into domestic legislation (African Swine Fever (Scotland) Order 2003 and Bluetongue (Scotland) Order 2008). The Directive also covers other specified diseases such as Lumpy Skin Disease and Pest des Petits Ruminants. Further legislation is currently being considered to consolidate and revise our legislation for these diseases.

4 Rationale for government intervention

4.1 As already highlighted, we are presently reliant on applying Foot-and-Mouth Disease legislation when responding to SVD threat or incursion. This does not provide the best range of options possible for the control of SVD and unnecessarily imposes restrictions on animals that are not susceptible to SVD.

5. Consultation

5.1 This Regulatory Impact Assessment formed part of the public consultation package that took place in December 2008. No comments were received on this impact assessment.

6. Options

There are two options which have been identified:

6.1 Option 1: Continue to rely on present controls (do nothing)

6.1.1 This option is not feasible because it does not fully implement the provisions of Directive 92/119/EEC and would leave us in breach of our legal duties and open to challenge.

6.1.2 The Swine Vesicular Disease Order 1972, states that Foot-and-Mouth Disease legislation would be used to control SVD, however, the Foot-and-Mouth Disease (Scotland) Order 2006 introduces new tougher controls for Foot-and-Mouth Disease which would not be appropriate for SVD. Using this legislation would have the effect of imposing unnecessary measures on livestock and related industries operating out with the pig sector.

6.1.3 For these reasons maintaining the current status quo is not an appropriate option and is not considered further.

6.2 Option 2: Transpose the Directive to introduce disease control legislation specific to SVD

6.2.1 By transposing Directive 92/119/EEC in relation to SVD we will be fulfilling our Community obligations. The revised legislation allows us to meet these and produce clarity as to the action which will be taken in the event of SVD threat or incursion. The basic principles of SVD control - notification of suspect case, veterinary investigation, stamping out of disease on infected premises and the imposition of movement controls to reduce the risk of the spread of disease, will be much clearer than in the existing legislation which is more relevant to FMD. The revised legislation will therefore help us move toward better regulation by achieving consistency across all the exotic notifiable diseases by reducing and consolidating legislation and ensuring standard procedures are in place wherever possible.

6.3 Additional requirements

6.3.1 The revised legislation does not introduce any additional requirements above the minimum requirements outlined in Directive 92/119/EEC, so Scottish livestock and related industries would not be put at a competitive disadvantage compared to their European counterparts.

6.3.2 In the consultation exercise we asked whether the revised legislation should include the provision for temporary control zones. As a result of comments received this provision has been included as an effective tool to help control the spread of disease. It should be noted that if we were to have a suspected vesicular disease case, we would likely in the first instance suspect Foot-and-Mouth Disease, due to the similarity of the diseases and a

temporary control zone would be implemented under the Foot-and-Mouth Disease (Scotland) Order 2006. Once disease is confirmed, whether it be Foot-and-Mouth Disease or Swine Vesicular Disease, appropriate Protection and Surveillance Zones would be put in place, or if results were negative the temporary control zone would be lifted.

7. Costs and benefits

7.1 Sectors and groups affected

7.1.1 The legislation has requirements that only take effect when disease is suspected or confirmed.

7.1.2 Disease control principles remain broadly the same as those found in existing legislation; the controls are ones which have been used when responding to recent Foot-and-Mouth Disease and Avian Influenza outbreaks in GB. They represent proportionate and fit for purpose controls building on existing successful best practice. In addition, most livestock farmers will now be familiar with them so there is nothing new or additional in the burdens they would place on the industry in the event of an outbreak.

7.1.3 As disease controls are already applicable for SVD outbreaks under existing FMD legislation; businesses will not face additional costs from the full transposition of the Directive. Under the revised legislation the burden on business will actually be reduced if we have an outbreak in comparison to using the existing legislation, as the application of unnecessary restrictions on certain businesses and associated industries operating outwith the pig sector will be removed.

7.1.4 As in the FMD legislation applicable to SVD outbreaks, a Protection Zone will be imposed with a minimum radius of 3km around the Infected Premises and a Surveillance Zone with a minimum radius of 10km. In the Protection Zone no animal movements will be allowed except under licence, e.g. movement to emergency slaughter. In both the Protection and Surveillance Zones, there will be requirements for increased levels of biosecurity on farms, cleansing and disinfection of vehicles, people and machinery moving on/off farms. Movement of animals and animal products will be prohibited, except under licence. Products from animals in these zones will be subject to treatment to ensure destruction of virus.

7.1.5 The controls for SVD under the draft revised legislation are more proportionate than using the existing Foot-and-Mouth Disease legislation. For example, at present there are controls over milk and sheep shearing which are unnecessary in a SVD outbreak as it is a disease of pigs. It is not proportionate to restrict the day to day work of other, unrelated, farming sectors when responding to SVD threat or incursion. The revised legislation is specific to pigs and SVD and thereby removes the potential for unnecessary controls being placed on other sectors. This streamlines existing legislation and gives us the control to only take action when it is necessary.

7.1.6 The types of businesses covered by the revised legislation focus on the commercial pig sector and related industries (meat and meat products etc), the export industry and the agricultural supply industry (eg. feed manufactures and merchants) or other type of business that regularly visit premises where pigs are kept. These are the same businesses as would be

affected under existing legislation, however those operating out with the pig sector are no longer captured by disease control measures.

7.2 Benefits under Option 2 (transpose the Directive)

7.2.1 Unless disease is present there is no economic impact.

The revised legislation will make the SVD control strategy clearer, ensuring that it is fit for purpose by targeting pigs only, addressing the lessons learned from recent outbreaks of disease and using the latest scientific knowledge.

7.2.2 The ability to impose movement controls on suspicion or confirmation of disease allows the extent of potential disease spread to be assessed whilst preventing it spreading any further. Current legislation already allows for these movement controls and the revised legislation would not change this. The measures in the revised legislation continue to provide benefits in terms of providing the disease control powers for easier containment of the disease, fewer animals to be slaughtered and fewer premises to be placed under restriction. By applying appropriate, more targeted restrictions this allows industry to continue operating where possible during an outbreak.

7.2.3 Movement controls have the potential to impact on producer profits because of increased costs associated with keeping or losing excess stock and lower market prices. Under the revised legislation cattle and sheep would no longer be subject to movement controls as a result of SVD related restricted zones being imposed so a benefit would arise in terms of costs avoided for the cattle and sheep sectors.

7.2.4 Social benefits can also be gained as a controlled disease outbreak with a proportionate targeted response limits the stress and psychological trauma on farmers and others in related industries. This includes those whose farms are infected and those who are worried that infection may reach their farm or that controls imposed will adversely affect their business.

7.3 Costs under Option 2 (transpose the Directive)

7.3.1 Unless disease is present there is no economic impact and thus no costs to industry.

7.3.2 Current legislation already imposes costs on businesses in the event of a suspected or confirmed case of SVD and these would continue the same under the revised legislation. Costs are difficult to quantify and depend very much on the nature of the outbreak. As well as the cost of the loss of pigs if disease is confirmed and the restriction on movements, there may be costs in housing and isolating pigs, cleansing and disinfecting holdings and additional requirements for biosecurity of vehicles. Controls over a suspect case would be of limited duration, but may nevertheless have some cost impact.

7.3.3 Potential costs for the livestock sector and associated industries incurred due to disease control restrictions being imposed can be demonstrated by referring to costs incurred when implementing current Foot-and-Mouth Disease legislation.¹ The revised legislation

¹ <http://www.scotland.gov.uk/Publications/2005/08/0192025/20295>

does not add to these and is a significant improvement over the existing controls in terms that it can be seen as providing control measures which are a proportionate response to SVD. The revised legislation reduces the costs to businesses operating out with the pig sector, by removing unnecessary controls on them that would otherwise have to be observed under present legislation. Annex 1 provides an overview of the costs of disease control measures during an SVD outbreak. It also estimates the withholding costs that the cattle, sheep and pig sectors faced due to movement controls being imposed during 2007 in response to Foot-and-Mouth Disease in GB. When responding to SVD using the revised legislation, withholding costs would only be experienced by the pig sector, with the cattle and sheep sector able to continue with business as usual.

7.3.4 The revised legislation maintains the current compensation arrangements as detailed in the Swine Vesicular Disease (Compensation) Order 1972, with compensation payable for healthy animals that are compulsorily slaughtered for disease control purposes. It is not payable for consequential losses or indirect losses to businesses during an outbreak.

7.3.5 As with the existing legislation there are unlikely to be significant costs to consumers. The costs to businesses are not great, and therefore prices are unlikely to rise. Product choice would also remain largely unaffected because supermarkets are likely to counteract any supply shortages by increasing imports.

7.3.6 There will be no costs to the public sector when there are no outbreaks of disease.

7.3.7 The legislation incurs costs for the public sector in a suspected or confirmed case of disease. The legislation can be enforced using existing systems to minimise the administrative burden imposed and annual costs for the different organisations will remain the same. The amount would depend on the nature of the outbreak and the extent that it has spread. The draft revised legislation, fully transposing the Directive, will be easier for public sector staff such as Scottish Government officials, Animal Health and Local Authorities to enforce as it is more streamlined and targeted than the present position of relying on Foot-and-Mouth Disease legislation. There is no significant increase in administrative burdens to the regulators as the legislation will be in one place, easily implemented and easily enforced. In fact this should reduce the administrative burdens, for example, the time spent on serving notices on infected premises will remain the same, but the time spent explaining the policy should reduce.

7.3.8 The government is already committed to expenditure in an outbreak of disease including:

- Payment of compensation for healthy animals that are slaughtered for disease control purposes under the Animal Health Act 1981;
- Slaughtering of animals for disease control purposes and disposal costs for these animals;
- Surveillance and monitoring by Animal Health in the infected area and undertaking epidemiological tracings;
- Administrative costs such as implementing Declarations, running disease control centres and setting up a communications programme;
- Official supervision and monitoring of cleansing and disinfection of premises and vehicles.

8. Small/micro firms impact test

8.1 In the event of a suspected or confirmed outbreak of disease, the proposal will affect small businesses, but to no greater degree than at present. The degree of consultation with representative groups that was undertaken when the Directive was negotiated is unknown, but a full consultation exercise has now been undertaken for this revised legislation. Small firms and businesses will be targeted through the organisations consulted as part of this written consultation exercise.

9. Legal aid impact test

9.1 The proposal does not create new criminal sanctions or civil penalties.

10. Test run of business forms

10.1 Existing forms will remain in use. These have already been tested on businesses.

11. Competition assessment

11.1 The proposals are unlikely to have negative impacts on competition unless disease is confirmed (and even then it will have minimal impact on consumers). The revised legislation applies equally to all new and existing businesses and is similar to existing requirements for other serious diseases of livestock.

11.2 The revised legislation would be likely to have only a minor impact on competition in the markets directly affected by it, depending on size of outbreak. The major markets affected include the European markets for pig meat as well as markets for the trade in live pigs. Other farm types, such as poultry or sheep holdings, may incur indirect impacts from the draft revised legislation but crucially this will be significantly less than under existing arrangements.

12. Enforcement, sanctions and monitoring

12.1 In the event of a disease outbreak, Animal Health and Local Authorities would enforce the legislation as they do at present; there are no significant new burdens on these enforcement agencies.

12.2 During an outbreak, any additional burdens on the farming industry would, generally, be no greater than under existing legislation.

12.3 The EU Commission has responsibility for monitoring enforcement by Member States in order to ensure uniform application of EU legislation.

12.4 The effectiveness of UK enforcement procedures is kept under ongoing review. Any evidence of failure to enforce by other Member States is drawn to the attention of the Commission.

12.5 The penalties for non-compliance are fines of up to £5,000 or 6 months imprisonment.

13. Declaration and publication

13.1 I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed by the Responsible Minister

Date

Contact

Any queries about this RIA should be addressed to:

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Annex 1: Overview of costs of disease control measures during a SVD outbreak.

A1 Disease control measures in the event of an outbreak, bring benefits from reducing the risk of spread of disease. Disease control measures however, also result in costs to industry as a result of movement restrictions and biosecurity measures. The cost of control measures during a hypothetical SVD outbreak would depend on the scale and length of the outbreak.

A2 Withholding cost are one of the costs incurred due to movement restrictions, representing feeding costs and productivity losses from keeping larger than expected numbers of animals on farm. For reference, Table 1 provides an estimate of withholding costs associated with movement restrictions in Scotland during the FMD outbreak in 2007. The 2007 FMD outbreak involved a Restricted zone covering the whole of Scotland; a small SVD outbreak would likely involve a much smaller controlled area consisting of a protection and surveillance zone.

A3 Costs of biosecurity measures would also be incurred during a SVD outbreak. Production and market losses may be incurred due to the imposition of movement restrictions. In the event of a SVD outbreak the associated production losses may be limited.

A4 Given a hypothetical SVD outbreak, a comparison of the differences in cost between options considered in this RIA are discussed below:

Option 1: Continue to rely on present controls (Do nothing)

- Cost of movement restrictions and biosecurity measures would be incurred as per use of control measures applicable under existing FMD control legislation.
 - Infraction proceedings and costs could be incurred if the obligation to implement EU legislation is not fulfilled.

Option 2: Transpose EU Directive to introduce disease control legislation specific to SVD

- A reduction in cost to some livestock sectors and related industries as control measures on non-susceptible species that are unnecessary for SVD control are removed. Assuming an SVD outbreak would require movement restriction at the same scale as during the autumn 2007 FMD outbreak outlined in Table 1, this streamlined legislation would help avoid costs to the cattle and sheep sectors. Only costs to the pig sector would be incurred under an SVD outbreak.
- Higher costs may be incurred for cleansing and disinfection in infected pig premises due to stricter cleansing and disinfection requirements.

Table 1: Estimated withholding costs due to Scotland wide movement restrictions, FMD outbreak 3 August to 17 October 2007

	Cattle	Pigs	Sheep	Total
Against 2006 baseline prices and volumes	£2.1m	£1.1m	£6.3m	£9.5m
Against adjusted 2006 baseline prices and volumes	£1.7m	£1.4m	£5.9m	£9.0m

Source: Foot and Mouth disease review 2007: Economic impact in Scotland.

Notes

1. This table provides an example of the withholding costs of movement restrictions experienced during the 2007 FMD outbreak, with movement restrictions across all Scotland.
2. Withholding costs associated with an SVD outbreak will likely be smaller and will depend on the size and location of any protection and surveillance zone.