

EXPLANATORY MEMORANDUM TO
THE TUBERCULOSIS (DEER AND CAMELID) (ENGLAND) ORDER 2014
2014 No. 2337

AND
THE TUBERCULOSIS (DEER AND CAMELID) SLAUGHTER AND COMPENSATION
(ENGLAND) ORDER 2014
2014 No. 2338

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.

This memorandum does not contain information for the Joint Committee on Statutory Instruments.

2. **Purpose of these instruments**

2.1 The Tuberculosis (Deer and Camelid) (England) Order 2014 (“the Principal Order”) and the related Tuberculosis (Deer and Camelid) Slaughter and Compensation (England) Order 2014 (“the Compensation Order”) replace the existing Tuberculosis (Deer) Order 1989 as amended by SI 1993/2010 and the Tuberculosis (Deer) Notice of Intended Slaughter and Compensation Order 1989 in England. The replacement of the deer controls has resulted from the government’s Better Regulation ‘Red Tape Challenge’ initiative. This, together with the need to introduce a statutory compensation scheme for South American camelids (alpacas, llamas vicuna and guanaco), provided the opportunity to combine the tuberculosis (‘TB’) controls for both types of animal in the same instruments. However, because the enabling powers within the parent Act - the Animal Health Act 1981 - are subject to different parliamentary procedures, it remains necessary to do this in two separate instruments.

2.2 The Principal Order brings the disease controls for dealing with deer in line with other tuberculosis disease control legislation. It introduces more limited tuberculosis disease controls for South American camelids for the first time.

2.3 The Compensation Order introduces a statutory payment to camelid keepers for the slaughter of their TB-affected animals. The compensation arrangements for deer remain unchanged.

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

3.1 None.

4. Legislative Context

4.1 The Compensation Order is subject to negative resolution procedure, whereas the Principal Order is not subject to any parliamentary procedure.

4.2 Article 3 of the Compensation Order provides that the slaughter powers contained in the parent Act apply in the case of animals affected or suspected of being affected with tuberculosis.

5. Territorial Extent and Application

5.1 Both instruments apply to England only.

6. European Convention on Human Rights

6.1 As the Principal Order is subject to no Parliamentary procedure and the Compensation Order is subject to negative resolution procedure, and primary legislation is not being amended, no statement is required.

7. Policy background

7.1 Both instruments are made under the Animal Health Act 1981 whose purpose includes the control of animal diseases such as bovine TB in farmed animals. TB can affect all farmed mammals including deer and camelids. It is normally controlled by testing and slaughtering those animals affected.

7.2 In relation to TB controls in deer the Principal Order provides for the notification of suspected TB in deer and deer carcasses; veterinary inquiry into TB; testing and slaughter; the prohibition of vaccination and therapeutic treatment and precautions against the spread of TB and measures for the identification and marking of these animals. For camelids the instrument provides for the notification of suspected TB in carcasses; testing of camelids; the prohibition of vaccination and therapeutic treatment and precautions against the spread of TB including slaughter of infected animals. While other non-legislative options were considered, on balance it is felt that where a substantial risk of TB currently exists, dealing with animals under a statutory framework ensures that disease control decisions can in the last analysis be enforced.

7.3 There are an estimated 20,000 captive (farmed and park) deer and 30,000 camelids in England. Although these species are susceptible to TB, the risk of them transmitting the infection to cattle, local wildlife or humans is generally low. Nevertheless, if outbreaks of TB in camelids or deer are not effectively controlled, the possibility remains of infection spreading to other camelids, deer and other species.

7.4 Keeping camelids as pets or ornamental animals or for commercial breeding or fibre production is growing in popularity. There is no routine (statutory) TB surveillance

for either deer or camelids and major TB outbreaks have attracted concerns from livestock keepers, especially cattle farmers.

7.5 While other non-legislative options were considered, where a TB-affected animal is required by the Minister to be removed for slaughter the Animal Health Act requires that a statutory compensation scheme be made.

8. Consultation outcome

8.1 A public consultation took place from 9 April to 6 May 2014. All the main deer and camelid breed societies and their specialist veterinary organisations were invited to comment, along with organisations such as the NFU and the Country Land and Business Association (CLA) who represent the wider farming and landowning communities. Defra worked closely with camelid and deer organisations before the consultation so that they could prepare their memberships in advance of the consultation exercise. For those reasons, a short consultation period was considered appropriate.

8.2 The consultation covered:

- Proposals to introduce TB regulations for camelids that mirrored those already in place for deer
- Administrative proposals for enhanced TB testing of camelids infected with or at risk of TB.
- The statutory compensation levels for deer and camelids and administrative changes to TB testing of deer which were explicitly excluded from the consultation; and why that was the case.

8.3 Nearly 300 people and organisations responded to the consultation. The majority of individual responses included comments on three issues raised also by the British Alpaca Society. The first of these was prohibition of vaccination, on which Ministers agreed that the proposed ban should be reviewed when there is a TB vaccine for camelids and a test to differentiate vaccinated from infected animals. Secondly, on compensation for camelids, where Defra had already indicated that action would be deferred until the Animal Health and Welfare Board for England (AHWBE) concluded its review of compensation and proposals can be developed for TB compensation covering all non-bovine species. And thirdly, regarding administrative changes to TB testing of camelids, where further consideration will be given by the Department following the introduction of these two instruments on whether to come forward with proposals for a camelid testing regime.

9. Guidance

9.1 Insofar as these two instruments reproduce disease control provisions for deer that have been in existence since 1989 and the Department has no plan to issue new detailed guidance since deer keepers are already familiar with these control measures.

9.2 With regard to camelid guidance, a draft leaflet has been produced to raise awareness of new keepers in particular to the risks of TB in camelids. This has been circulated to the camelid breed societies.

10. Impact

10.1 The impact on business, charities or voluntary bodies is assessed as £0.01m and so zero net cost in terms of overall impact.

10.2 The impact on the public sector is nil.

10.3 A partial Impact Assessment has been prepared for the camelid aspects of these instruments.

11. Regulating small business

11.1 The legislation applies to small businesses since the financial consequences of retaining disease undetected in a small herd are proportionately greater.

12. Monitoring & review

12.1 These instruments provide measures to ensure the smooth administration of TB testing and payment of compensation for the removal of TB affected camelids and deer. Such control measures are currently the subject of EU negotiations for a new wide-ranging EU Animal Health Regulation that is very likely to simplify the animal disease landscape to ensure consistency of control measures across all diseases of farmed animals. When such EU legislation applies then there will need to be a substantive review of all domestic animal health legislation made under the Animal health Act 1981.

12.2 The level of statutory compensation paid to camelid and deer keepers will be reviewed when the outcome of the Animal Health and Welfare Board for England's (AHWBE) review of compensation reports. Defra will then put forward proposals for TB compensation covering all farmed non-bovine species.

12.3 The instruments will be reviewed by the Department in five years' time.

13. Contact

Paul Davenport at the Department for Environment, Food and Rural Affairs (Tel: 020 7238 6735 or email: paul.davenport@defra.gsi.gov.uk) can answer any queries regarding the instrument.