

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

2014 No. 714

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

The Order amends the Tuberculosis (England) Order 2007 (“the 2007 Order”) to: remove the pre-movement tuberculosis testing exemption for cattle movements to and from common land; provide for the removal without testing of wild or untestable bovine animals; make changes to provide for the approval of private veterinary practitioners to carry out a number of tasks under the 2007 Order.

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

None.

4. Legislative Context

The EU Council Directive 432/1964/EEC requires member states to eradicate bovine tuberculosis (TB) from their national cattle herds. The 2007 Order implements the EU requirements and needs to be updated to take account of changes in approach to eradicating this cattle disease that has become endemic in many parts of the country.

5. Territorial Extent and Application

This instrument applies to 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 2012/13 cost government £100M, and in that period over 28,000 cattle were compulsorily slaughtered for TB control purposes.

7.2 Cattle control measures remain central to the Government’s comprehensive, risk-based approach to tackling TB and support the wider objective of TB eradication. In partnership with industry Government continues to monitor the effectiveness of existing controls and identify ways to enhance them. We need to continue to further reduce the risk of spread of TB by having more cattle tested before they move on and

off premises in order 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 These amendments to the 2007 Order include strengthening the existing controls by removing the pre-movement testing exemption for movement of cattle to and from common land. Currently, legislation enables owners of herds to move cattle without pre-movement testing: (i) to and from land to which they have rights of common; and (ii) to and from land owned by others with rights of common for the same land. Since those untested animals may then mix freely with cattle from other herds grazing on the same common, the risk of disease spread is one that must be addressed.

7.4 A further change to the Order mirrors the provision already in place for Wales - where it is impractical or unsafe to gather cattle for testing, such animals can be treated as if they were affected with TB and culled without testing. Untested cattle pose an unknown disease control risk to wildlife and other cattle.

7.5 As private veterinary practitioners (known as Official Veterinarians “OV”) are no longer appointed by the Secretary of State as a veterinary inspector under the Animal Health Act 1981 they need to still be approved by the Secretary of State to undertake TB testing and other tasks that Government employed veterinary inspectors carry out under the 2007 Order.

7.6 This is the third amendment to the 2007 Order, and the Department has decided not to re-make the Order until more substantive amendments may be required to implement changes resulting from the new TB Strategy for the planned eradication of this disease that has just been published in March.

8. Consultation outcome

8.1 The consultation on changes to TB cattle controls took place between November 2013 and January 2014 and included proposals for other proposed administrative changes to cattle controls that do not affect the 2007 Order. There have also been related consultations in 2013 relating to the development of the revised strategy for aiming to eradicate this disease and a consultation with the veterinary profession regarding changes to the training of OVets that assist Ministers in the routine testing for TB in cattle.

8.2 The Department received 107 responses to the consultation on changes to TB cattle controls 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, the Central Association of Agricultural Valuers, the Livestock Auctioneers’ Association, the RSPCA, the Royal Association of British Dairy Farmers, The Tenant Farmers’ Association. In addition to the written consultation the Department met with several organisations involved in Common Land – the National Common Land Stakeholder Group; the Dartmoor Commons Council; the New Forest Council; affected farmers and NFU officials.

8.3 In respect of the proposal to abolish pre-movement testing exemptions for movements of cattle to and from common land (originally intended by April 2014),

mostly negative comments were received from the commoners' organisations and members of the farming community who regularly use the commons. Most individual respondents, including veterinarians were supportive of the measures from a disease control perspective. However, following meetings with industry, the Department agreed to alter its approach to defer implementation of the new pre-movement testing requirement until 30 June 2014 in order to address concerns that there would be insufficient veterinary capacity to complete the required additional testing before cattle are turned out for grazing in the Spring.

8.4 The Department were informed at consultation that for herd owners in many parts of the country the grazing of common land is critical to both the sustainability of their business and the environmental quality of the land, which includes some of our major National Parks. Therefore following consultation, and to mitigate the impact on often small and economically vulnerable businesses, common land management groups will be invited to produce a TB control plan for their common. For common lands with approved TB control plans in place certain prescribed movements without a pre-movement test may be licensed.

8.5 In respect of the proposal to provide powers to treat bovine animals that cannot be safely tested as if they are affected with TB (enabling compulsory slaughter), most respondents to the consultation agreed that it would be useful to have the provision as a last resort for cattle that have not been tested.

8.6 There was a separate consultation with the veterinary profession from the end September to early November 2013 regarding changes to the training of OV's that assist Ministers in the routine testing for TB in cattle, and the removal of Veterinary Inspector powers under the Animal Health Act 1981 from OV's who carry out such tasks for Ministers. Of the 92 responses, 52 raised no issue. Of the 40 that made a comment, some respondents appeared to confuse the role of an appointed Veterinary Inspector with the role of an OV who is authorised to carry out TB testing under an arrangement that has been in place since 1994. There were some concerns that OV's would not have sufficient authority with farmers to ensure TB testing is undertaken. In recent correspondence with all private vets who carry out TB testing we have sought to reassure them that there are sufficient safeguards in place.

A more detailed analysis of the consultation outcomes is available at www.defra.gov.uk, and <https://consult.defra.gov.uk/animal-health-and-welfare/offical-veterinarian-training-appointment-and-assu>

9. Guidance

Details of the changes will be communicated through the Defra and its executive agency, the Animal Health and Veterinary Laboratories Agency (AHVLA) websites and via the farming press, and TB Information Notes ('TBIN') have been sent electronically to interested stakeholders.

10. Impact

10.1 The main impact of this amendment Order will be that some cattle farmers must test their animals when moving to common land and when returning to their home farm. However, Defra may license moves back to home farms without pre-movement testing following a veterinary risk assessment of the situation.

10.2 The Impact Assessment 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 2.1, and just 4.9 for 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 2012 amendment Order (S.I. 2012/1391) inserted a review provision into the 2007 Order, so there will be a formal review in 2017. Following the review the Secretary of State will consider whether the Order should continue to expiry in 2019 or be revoked early.

13. Contact

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