

EXPLANATORY MEMORANDUM TO THE TRANSMISSIBLE SPONGIFORM ENCEPHALOPATHIES (AMENDMENT) (WALES) REGULATIONS 2008

This explanatory memorandum has been prepared by the Food Standards Agency and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

1. Description

This instrument allows the Food Standards Agency to implement changes to the rules on specified risk material (SRM) at approved meat establishments and authorised butchers premises in Wales.

2. Matters of special interest to the Subordinate Legislative Committee

The instrument breaches the 21 day rule. The Community Regulation (EC No 357/2008) comes into force on 26th April 2008, 3 days after its publication in the Official Journal. The domestic legislation must, therefore, be made and come into force on 26th April 2008 or as soon as possible afterwards.

3. Legislative Background

The powers enabling this Instrument to be made are contained in section 2(2) of the European Communities Act 1972. The Welsh Assembly Ministers are designated for the purposes of section 2(2) by virtue of the European Communities (Designation) (No. 2) Order 2005 (SI 2005/1971) (which function has been transferred to them by virtue of paragraphs 28 and 30 of Schedule 11 to the Government of Wales Act 2006, in respect of measures in veterinary fields for the protection of public health. There are no issues of regularity or propriety for Welsh Ministers arising from the making of these regulations.

4. Purpose and Intended Effect of the Legislation

The main purpose of the Regulations is to implement in Wales a change to the EU controls on specified risk material (SRM) to increase the age at which bovine vertebral column (VC) is classified as SRM from 24 months to 30 months. This amendment would return the bovine VC age limit in UK to its position before May 2006, when UK SRM controls were harmonised with those in all other Member States as part of the process for lifting the export ban on UK beef and beef products. There are therefore no public health concerns about this change.

The amendments to the domestic TSE Regulations will also revoke the Beef Bones Regulations 1997 (as amended). These regulations currently impose a ban on the use of UK sourced beef bones in food manufacturing. This ban was kept in place when the ban on the retail sale of bone-in beef was lifted in 1999 and is the last remaining piece of national legislation introduced to protect consumers from BSE risk before the EU-wide legislation was adopted in 2001. The ban goes beyond the measures required under EU law and, with

the other measures in place, makes little or no contribution to public health protection.

The SI will also introduce a provision implementing a current EU requirement that Member States wishing to export heads or un-split carcasses containing specified risk material must obtain the agreement of receiving Member States before dispatch and update some cross references to the Community TSE legislation.

They also introduce some transitional arrangements that would allow a short period during which currently authorised butchers and all cutting plants could remove VC from 24-30m bovines slaughtered before 26 April. The VC from these animals would still be required to be disposed of as SRM. These changes follow comments from industry about the potential impact on trade of 24-30m carcasses containing VC SRM which may already be in the distribution chain when the Regulations come into force.

5. Implementation

It is intended these Regulations come into force on 26th April 2008. The Statutory Instrument applies only to Wales. Separate but parallel legislation will be made for England, Scotland and Northern Ireland.

6. Consultation

Interested parties, including all approved meat establishments, industry representative bodies and farming unions were invited to comment on draft Regulations. Details are included in the Regulatory Impact Assessment below.

7. Regulatory Impact Assessment

7.1 Options

Option 1 - Maintain the current Regulations (Do nothing)

Option 2 - Adopt the proposed changes (amend the Regulations)

Analysis of options

Option 2 is preferred as it would ensure that SRM rules in Wales are in line with EU rules and would assist the UK industry as it will reinstate the UK position before May 2006; this will also increase consumer choice as consumers will have the option to buy bone in beef sourced from 24 – 30 months cattle again.

7.2 Costs and Benefits

Sectors and Groups Affected

Approved meat establishments, authorised butchers, local authorities and consumers. These proposals will have a positive impact on UK businesses.

Benefits

This amendment would allow cutting plants and butchers to be able to operate in the way they did before SRM controls were first harmonised in May 2006. Cutting plants and authorised butchers would make some savings on SRM disposal as they would no longer need to stain and dispose of up to 30 month VC as SRM. This is estimated by the Meat and Livestock Commission (MLC) to be around £3500 per butcher per year. There are 51 authorised butchers in Wales so the potential savings to butchers of approximately £178,500 could accrue.

Cutting plants should also benefit from reduced costs as a result of the change, but we are unable to estimate the value of this. During the consultation exercise the Agency invited stakeholders to provide evidence on the value of the benefits that would be created from this proposal. The responses received did not provide that information.

The industry have maintained that the rule change in May 2006 has caused a two tier market for animals less than 24 months of age and those between 24 -30 months of age with a decrease in price being paid for the latter. The Meat Trades Journal of 12 October 2007 estimated this at 25p/kg (dead weight), and that this could mean an additional cost of up to £100 per animal. The return to the 30 month age limit would remove this price differential.

In addition, local authorities will make some savings as they would no longer be required to authorise butchers for VC SRM removal. This is estimated at around £60 per inspection visit and it is assumed that 2 visits are made per annum; the total savings therefore is: $£60 \times 2 \times 51 = £6,120$ per annum.

An important unquantifiable benefit is the removal of the restrictions on movement of bone in beef carcasses from animals less than 30 months at slaughter. This will allow much more flexibility in the market and allow much greater movement between cutting plants, wholesalers and butchers thereby aiding businesses. In addition, butchers will once again be able to trade in beef on the bone (e.g. t-bone steaks) from traditional breeds of slower maturing cattle.

Further more, the proposal would allow (in addition to sale of bone in cuts from bovine up to 24 months) bone in cuts from 24 – 30 month to be sold to the public thereby increasing consumer choice, with negligible increase in BSE risk.

7.3 Competition Assessment

The proposals would not distort competition. The change in age limit and revocation of the Beef Bone Regulations are deregulatory measures that should increase competition in the relevant sectors while the rules on trade aim to create a level-playing field across the EU and will help foster EU-wide competition. The proposal on VC age change will eliminate the present price differential between under 24 month beef and over 24 month beef which the industry believes has existed since the harmonisation measures were introduced in May 2006

7.4 Consultation

The Agency carried out an 8 week consultation on the proposed amendments to the domestic legislation between 7 November 2007 and 2 January 2008. Thirty stakeholders and ALL operators of approved meat plants were consulted in Wales. Only 5 substantive responses were received. These were supportive of the proposed amendments and did not lead to any changes to the draft Regulations as a result.

7.5 Post Implementation Review

A review to establish actual costs and benefits and the achievement of the desired affects will be carried out in April 2010.

7.6 Summary

The proposals will maintain proportionate consumer protection from BSE related risk without adding to industry or enforcement costs. The proposal to change the age limit for the removal of VC will have a positive impact on industry, reduce administrative costs and increase consumer choice with negligible increase in BSE risk.