

## **Explanatory Memorandum to the Tuberculosis (Testing and Powers of Entry) (Wales) Order 2008**

This Explanatory Memorandum has been prepared by the Department for Rural Affairs and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

### **Description**

The instrument would specify tuberculosis for the purposes of Section 62(D)(1) of the Animal Health Act 1981. This would provide a veterinary inspector with powers of entry and testing of animals on any premises in relation to tuberculosis. Under section 87 of the Animal Health 1981 “animals” means cattle, sheep and goats, and all other ruminating animals (such as camelids) and swine.

### **Matters of special interest to the Subordinate Legislation Committee**

None.

### **Legislative Background**

Under Section 62D(1) of the Animal Health Act 1981 a veterinary inspector may at any time enter any premises for the purposes of ascertaining –

- (a) whether disease anti-bodies exist in animals on the premises;
- (b) whether any animal on the premises or which was kept there at any time is, or was at that time, infected with disease;
- (c) whether any causative agent or disease is present on the premises.

For the purposes of Section 62D(1), disease is foot-and-mouth disease and such other disease as the Welsh Ministers may by Order specify. The Welsh Ministers wish to specify tuberculosis as a disease for these purposes and this would be done by Order subject to the Affirmative Resolution procedure of the National Assembly for Wales.

### **Purpose and intended effect of the legislation**

Over recent years there has been a continuing rise in the incidence of bovine tuberculosis (bTB) in Wales and, as a result, a significant increase in costs to the public purse, mainly through statutory compensation paid to the owners of bTB affected cattle (bovines). There have also been several recent cases where bTB has been identified in llamas and alpacas (camelids) in Wales and in the longer term the Assembly Government wishes to bring camelids within an effective disease surveillance and control framework. In the meantime, in light of the Assembly Government’s commitment to vigorously pursue the eradication of the disease in Wales, and in order to protect public health and animal health, it is considered that there is a need to have a reserve power in place to enter any premises in order to allow for testing of non-bovine animals, such as camelids, for tuberculosis where the owner’s consent is

withheld. The intention remains that where bTB is suspected on any premises the Welsh Assembly Government would, as now, seek to reach agreement with the owners of the animals on mutually acceptable arrangements for entry to the premises, testing, and other arrangements including compensation, if appropriate, for any animals that react positively to the test and are subsequently removed.

### **Implementation**

If the instrument is not made the Assembly Government will continue to be unable to enter premises to test non-bovine animals for tuberculosis without the agreement of the herd owner. The current position has led to protracted negotiations with camelid herd owners on issues such as arrangements for testing and compensation for any animals that are subsequently found to be reactors (i.e. react positively to the TB test) and a consequent risk of disease spread and to public and animal health.

### **Consultation**

A consultation has been undertaken on the proposed instrument to specify tuberculosis as a disease for the purposes of Section 62D of the Animal Health Act 1981. The 6-week consultation period ended on 23 May 2008.

Almost all of the respondents expressed specific support for the proposed subordinate legislation as a contribution to a holistic approach to tackling bovine TB and as a means of helping to reduce and eventually eradicate bovine TB in non-bovine animals. Some issues and concerns were raised by several of the respondents including the possibility that the powers may be used in connection with bovine TB and wildlife controls and that, as now, the Welsh Assembly Government should continue to seek to reach agreement with the owners of non-bovine animals on mutually acceptable arrangements for entry to the premises, testing and other arrangements including compensation for animals that react positively to the TB test and have to be removed. One respondent was also concerned that a compensation system based on individual assessment of market value should be put in place similar to the current arrangements for TB affected bovines. Concern was also expressed by one respondent about the reliability of the TB skin test for camelids and urged the Assembly Government to consider further research into an accurate test for TB.

### **Regulatory Impact Assessment**

There are relatively few camelid herds in Wales and any costs associated with the instrument would be expected to be low. A formal Regulatory Impact Assessment has not, therefore, been conducted.