

REGULATORY APPRAISAL

ANIMAL HEALTH, WALES

THE SHEEP AND GOATS TRANSMISSIBLE SPONGIFORM ENCEPHALOPATHIES (TSE) COMPENSATION (WALES) REGULATIONS 2006

Background

1. Since the introduction of the Transmissible Spongiform Encephalopathies (Wales) Regulations 2002 (the TSE Regulations 2002), which apply and enforce Regulation (EC) No 999/20041, there have been a large number of changes to the EU Regulation. Amendments have been made to our national enforcing Regulations as necessary but there has been no consolidation of the text. Therefore, a consolidation exercise began in 2004 to ensure that the Transmissible Spongiform Encephalopathies (Wales) Regulations 2006 (the TSE Regulations 2006) properly applied all the EU measures.
2. Also included in the Transmissible Spongiform Encephalopathies (Wales) Regulations 2006 (the TSE Regulations 2006) was the legislative provision to implement the new Table Valuation system of compensation for cattle suspected of having Bovine Spongiform Encephalopathy (BSE).
3. On 29 March 2006 the Minister for Environment, Planning and Countryside agreed that the Compulsory Scrapie Flocks Scheme compensation provisions previously contained within the draft TSE Regulations 2006 be removed and placed into a separate Statutory Instrument.

Purpose and intended effect of the measure

4. The intended effect of these Regulations is to allow for compensation rates for ewes/female goats and lambs/kids killed and destroyed under the Compulsory Scrapie Flocks Scheme to be adjusted. A table showing the revised compensation rates is attached at Annex A. The proposed adjustment in compensation rates will bring them in line with market values thus reducing the risk of over-valuation that is incumbent under the current scheme.
5. The Regulations will also allow for new provisions to allow the Assembly to arrange valuation of a flock in exceptional circumstances, to enable clear cases of overpayment to particular flocks to be addressed.

Risk Assessment

6. The changes in compensation rates were designed to tackle complaints from the industry that some farmers were “buying in” scrapie to benefit from the compensation rates.
7. Failure to make these Regulations in Wales will result in :

- inequitable rates across GB for the same disease i.e. farmers in Wales will receive a higher rate of compensation than farmers in the rest of GB;
- there will be a continuation of paying compensation rates for ewes and lambs in Wales, which are over the market rate. This will mean unnecessarily high UK Government expenditure and difficulties for the National Scrapie Plan (NSP) budget.
- confusion in the industry over differing rates across the UK;
- a possible mis-use of public money if there is no power to enforce a Government valuation; and
- continued incentive for abuse of the system in Wales and this may look like we have not taken any notice of industry feedback.

Options

Option 1: Do Nothing

8. In respect of this legislation, the “Do nothing option” is not an option as it would lead ultimately to infraction proceedings against the National Assembly for Wales by the European Commission. Therefore, the “Make the legislation” option, to implement the changes required to comply with the European legislation, is being recommended.

Option 2: Make the Legislation

9. Adjusting some of the compensation rates for animals killed and destroyed under the Compulsory Scrapie Flocks Scheme should reduce the risk of possible abuse under the scheme. It should lead to reduced expenditure on compensation, which will benefit the taxpayer. It will provide access to an independent valuation for both farmer and the Assembly in cases where either party believes the compensation rate is too high or too low.

Benefits

10. Adjusting some of the compensation rates and the provision of powers for the National Assembly to seek an independent valuation will remove the incentive for abuse. It will lead to reduced expenditure on compensation by reflecting more closely the market value of the animals killed and destroyed, which will benefit the taxpayer. Farmers who believe their animals are of higher value than the compensation rate will retain access to an independent valuation under these Regulations.

11. The new provision for the Assembly to arrange a valuation where it believes the compensation rate to be too high in relation to the animal's commercial value will enable clear cases of overpayment to particular flocks to be addressed, thus benefiting the taxpayer and discouraging farmers from using the scheme for fraudulent purposes or financial gain.

Costs

12. There are no financial implications for the Assembly as a result of making these Regulations. All costs associated with TSEs are met by The Department for Environment, Food and Rural Affairs (Defra).
13. Adjusting some of the compensation rates for animals killed and destroyed under the Compulsory Scrapie Flock Scheme will mean that new farmers in the scheme will receive reduced payments. For example, in 2005 in Wales, the 63,640 lambs and 16,846 ewes culled at the current compensation (£90 per ewe and £50 per lamb) rates would have realised £4,698,140 compared to £3,640,590 at the new rates (£65 per ewe and £40 per lamb). The latter cost could, possibly, be reduced further should the Assembly invoke its powers for independent valuation. These costs were met by Defra which holds the budget of this UK scheme. Therefore, there will be financial savings for Defra as a result of implementing these Regulations.
14. Flocks vary in size considerably, and farmers with larger flocks would be subject to greater reduction in payments than those with smaller flocks. Based on a flock of 500 with 5 rams, 200 ewes and 295 lambs, the loss from the reduction in standard rates if all the ewes and lambs were culled would be £7,950. However, farmers who think their animals are worth more than the value provided by the compensation rates can arrange a valuation at their own expense, which may lead to a higher payment. The nomination of a RICS valuer will cost the farmer £115 and valuation fees will vary depending on the number of animals to be valued.

Consultation with small businesses: the Small Firms' Impact Test

15. The majority of sheep and goat farmers could be classified as small businesses. Lead representatives of the National Sheep Association, the Farmers' Union of Wales, National Farmers Union Cymru and the Goat Society have seen the draft Regulatory Appraisal when it was circulated on 22 June 2005 as part of the wider draft regulatory appraisal on the TSE (Wales) Regulations 2006. No comments were received.

Consultation

With Stakeholders

16. A consultation exercise was undertaken between 5 September and 24 October 2005 to seek the views of consultees on proposals to change some of the compensation rates paid under the Compulsory Scrapie Flock Scheme (CSFS). The consultation was sent to 43 organisations in Wales and 10 responses were received. A list of consultees is attached at Annex B.
17. There was opposition amongst consultees' responses to the lowering of some of the compensation rates paid under CSFS, specifically the rate for ewes that were culled and for the 50% reduction in rates where the whole flock was culled. As a result the proposals for the 50% reduction were dropped but the rate for a female

sheep or goat was reduced, as was the rate for lambs. A summary of the consultation responses is attached at Annex C to the Regulatory Appraisal.

18. The Environment, Planning and Countryside (EPC) Committee was informed of the consultation exercise and provided with copies of the associated documents.

With Subject Committee

19. The Minister for Environment, Planning and Countryside wrote to the Chair of the Environment, Planning and Countryside Committee on 29 March 2006, notifying him of these Regulations and inviting the Committee to scrutinise them. The Regulations were identified for detailed scrutiny.

20. The Regulations were scrutinised on 11 May 2006 by the Environment, Planning and Countryside Committee. No amendments were proposed, but several points of clarification were raised. The Regulations were agreed as clarified (EPC(2)-07-06 (p.8)).

Monitoring and review

21. The Sheep and Goats Transmissible Spongiform Encephalopathies (TSE) Compensation (Wales) Regulations 2006 will be reviewed on an ongoing basis and amended as required to reflect changes in European legislation and changes in industry practices. Monitoring and reviewing of the Regulations will be carried out as part of the Business Plan of the Office of the Chief Veterinary Officer (Welsh Assembly Government).

Summary

22. It is recommended that these Regulations be implemented in order to allow for the adjustment of some of the compensation rates for animals killed and destroyed under the Compulsory Scrapie Flocks Scheme. This should reduce the possible abuse under the scheme. It should lead to reduced expenditure on compensation, which will benefit the taxpayer. However, farmers would still be provided with reasonable compensation rates and access to an independent valuation if required. It will also provide access to an independent valuation for both farmer and the Assembly in cases where either party believes the compensation rate is too high or too low.

Annex A

Compensation

<i>Animal or product</i>	<i>Compensation (£)</i>	
	<i>A</i>	<i>B</i>
Male sheep or goat	90	90
Female sheep ^(a) or goat	90	65
Lamb (under 12 months old) ^(b) or kid (under 12 months old)	50	40
Embryos	150	150
Ova	5	5

(a) Where the National Assembly has granted a derogation under point 9 of Annex VII to the Community TSE Regulation the compensation for a female sheep is £30 if it is killed after the first year of the derogation period.

(b) Where the National Assembly has granted a derogation in accordance with that point in respect of any ram in a flock, the compensation for any lamb in that flock killed after the first year of the period of derogation is £25.

Note on the rates

The rate in Column A is payable in all cases until 14 June 2006.

On or after 14 June 2006

(a) the rate in Column A is payable if-

- (i) the owner notifies an animal under paragraph 1 of Schedule 4 of the TSE Regulations 2006
- (ii) the animal for which compensation is being paid was in the flock or herd before 14 June 2006;

and

(b) the rate in Column B is payable in all other cases.

Annex B

Compulsory Scrapie Flocks Scheme (Compensation Rates) Consultation List

Business Eye (Previously Business Connect)
Badger Face Welsh Mountain Sheep Society
Balwen Welsh Mountain Sheep Society
Black Welsh Mountain Sheep Breeders Association
Brecknock Hill Cheviot Sheep Society
British Charollais Sheep Society Ltd

Campaign for the Protection of Rural Wales
Country Land and Business Association
Countryside Council for Wales
Cymdeithas Defaid Mynydd Cymraeg Tregaron a'r Cylch Society

Eppynt Hill & Beulah Speckled Face Soc
Eppynt Hill & Beulah Speckled Face Soc

Farmers Union of Wales
Food Standards Agency

Hill Radnor Flock Book Society
Hybu Cig Cymru

Jacob Sheep Society

Kerry Hill Flock Book Society

LACORS (Wales)
Llandovery Whiteface Hill Sheep Society
Llanwenog Sheep Society
Lleyn Sheep Society

National Farmers Union
North Country Cheviot Sheep Society
North Wales Goat & Smallholders Society

Rare Breed Survival Trust in Wales
Royal Welsh Agricultural Society

South Wales Milk Recording Group
South Wales Mountain Sheep Society
South West Wales Goat Club
Suffolk Sheep Society

Talybont on Usk Welsh Sheep Society
Talybont Welsh Sheep Society

Wales Young Farmers Club
Welsh & Marches Goat Society
Welsh Consumer Council
Welsh Half-Bred Society
Welsh Hill Speckled Face Sheep Society
Welsh Institute for Rural Studies
Welsh Local Government Association
Welsh Mountain Sheep Society - Hill Sec
Welsh Mountain Sheep Society - Pedigree
Womens Food and Farming Union

Annex C

CONSULTATION ON PROPOSALS TO AMEND THE CURRENT COMPENSATION RATES FOR THE COMPULSORY SCRAPIE FLOCKS SCHEME

Copies of the consultation were sent out to 43 organisations in Wales. Responses were received from the Brecknock Hill Cheviot Sheep Society, University of Wales Aberystwyth, Animal Health Officers, NFU Cymru, Hybu Cig Cymru, North Wales Goat and Smallholders Society, W M Jones, South West Wales Goat club and a British Goat Society Member.

Proposal	Comments
<p>Reduce the rates for female sheep and goats either to £65 or to £70 for animals with normal permanent incisor teeth and £30 for “broken mouthed” animals i.e. where some or more of the permanent incisors have been lost.</p>	<p>Brecknock Hill Cheviot Sheep Society These compensation rates may favour those farmers with a poor quality flock e.g. some farmer’s flocks may not be worth the proposed rates and so by having their flocks culled they would earn a profit. The proposals are a step in the right direction but can still under value good quality stock and over value the poor quality flocks. An alternative way of calculating compensation rates would be to use the receipts for the animals held on the farm and working out an average. This would give a more realistic valuation of flocks from which the compensation could be paid.</p>
	<p>University of Wales Aberystwyth Agree to reduce the rates for female sheep. Actively encourages a move to a tiered system that more accurately reflects the market value of animals in different sectors of the industry. A flat rate of £65 is favoured for ease of application and there would be little difference in total payment using either method.</p>
	<p>Senior Animal Health Officer, Cardiff Should go with the £65 flat rate. This can be justified based on a 600 ewe flock and farmer would be better off. Time and therefore money would be saved by not having to check entire flocks for broken mouthed ewes.</p>
	<p>Animal Health Officer - Cardiff The reduction in compensation rates is reasonable as £90 was a generous figure. It would be impractical to apply a different rate to ‘brokers’. It would lead to a considerable delay at loading, and difference of opinion with owners.</p>

	<p>British Goat Society Member No subsidy has ever been paid on goats and costs are higher to keep a goat. This means that the loss of a goat is of greater significance to a goat keeper than to a sheep keeper.</p>
	<p>NFU Cymru Do not agree that 'recent evidence suggests that the current rate of £90 for any ewe is disproportionately high for the scheme'. Many breeding ewes sold in sales in recent weeks have realised in excess of this compensation rate. Does not accept that the rate should be downwardly revised. If a differentiated payment system is chosen then £90 should be paid for full mouth ewes and the payment rate for broken mouth ewes differentiated.</p>
	<p>Hybu Cig Cymru Existing rates should be maintained for female sheep and goats with permanent incisor teeth at £90 per head and introduce £30 for broken mouthed animals. This is based on current sales of breeding sheep.</p>
	<p>North Wales Goat and Smallholders Society Dairy goats should not be considered as sheep for the purposes of determining compensation for animals slaughtered under the proposed regulations. Dairy goats are pedigree animals which have been carefully bred to give good milk yields and are shown and milk recorded by their owners. Dairy goats are relatively expensive to raise as they are not grazed extensively as sheep and lambs. Vary rarely, the odd dairy goat has been sent for auction but these have been non-pedigree or cull animals and the prices achieved for such animals give no indication of the value of pedigree animals. Typical sale prices for pedigree dairy goats realised in the last twelve months are: Female kids under 12 months of age - £75 to £125 Goatlings (females 12 to 24 months of age) - £150 to £250 Milking female - £250 - £400 Males - £150 to £500 The value of a milking female depends both on her quality and whether she is in-kid and also on the quality of the kid's size. The value of a pedigree male depends on its age, pedigree and history of its progeny. A male kid under 12 months would be at the lower end of the range, a buckling of 12 to 24 months towards the middle and a top quality, adult male would be at the top of the range and sometime more.</p>

	<p>W M Jones The percentage of Type 4 ewes sold into the food chain in relation to Type 3 and 5 which are compensated need to be addressed. I had 80 Type 4 which went for slaughter at £10 each, many others in the same group, which I kept, would normally be sold at annual breed sales for £70-£80 each. £90 for older ewes may seem excessive but how does this total number of ewes that need to be disposed of average out in value? Assumes that the percentage in various groups would vary between flocks and breeds. In closed flocks the ewe numbers will not return to pre-scrapie level for at least two years and as a consequence the number of lambs sold next year will be greatly reduced. A fair value may be ascertained by a valuer who can take into consideration the breed of sheep and percentage of varying age groups that make up the flock.</p> <p>South West Wales Goat club The process proposed for calculating compensation for goats i.e. via livestock market values, is deeply flawed. Sales through markets are not representative of what is normally considered a fair price for a goat of reasonable quality. Equating goats and sheep at the same value does not represent the fair value of a goat. We would suggest the payment of £70 for goats with normal permanent incisors, otherwise £30. Adopt a higher figure of £180 for any goat that is registered with the British Goat Society, or which is sired by any goat so registered, and £80 if they are broken-mouthed.</p>
<p>Retain the rate for lambs at £50</p>	<p>University of Wales Aberystwyth Agree</p> <p>Senior Animal Health Officer - Cardiff Agree. A reduction in this rate could only be justified based on lamb weight. This can cause problems, as it is difficult to judge what are bad or good quality lambs.</p> <p>Animal Health Officer - Cardiff Lamb value can vary considerably depending on breed, age etc. Some young hill lambs would be worth much less than £50, while fat lowland lambs can be worth more.</p>

	<p>NFU Cymru Agree</p>
	<p>Hybu Cig Cymru We agree that the current rate of £50 per lamb (under 12 months old) should be retained.</p>

<p>Reduce the rates for adult sheep and lambs subject to a whole flock cull by 50% (including possibly reducing the amount paid on valuation by 50% or removing the option of valuation in such cases)</p>	<p>University of Wales Aberystwyth Support a 50% reduction in compensation if farmers insist on a whole flock cull rather than the more cost effective genotyping and selective cull.</p>
	<p>Senior Animal Health Officer - Cardiff Test the whole flock to begin with so that compensation could not be gained for animals that did not have scrapie.</p>
	<p>Animal Health Officer - Cardiff Full agreement with 50% compensation rates if owners opt for whole flock cull.</p>
	<p>NFU Cymru Does not accept a lower compensation rate should be applied where there is a whole flock cull. Sheep producers can face very real financial difficulties in these circumstances and no account is taken of the income foregone and the additional costs of shepherding for example when restoring hefted sheep to hill and upland areas.</p>
	<p>Hybu Cig Cymru We recommend that where a whole flock cull is to be undertaken the rate should not be reduced by 50% and the option of obtaining a valuation should also be maintained.</p>
	<p>South West Wales Goat club We suggest that the exclusion of goats from the ‘whole-flock’ cull rate-reduction is made clear by adding a note stating that “NB. Any goat herds subject to whole herd cull will NOT have rates of compensation reduced”</p>
<p>Compulsory Scrapie Flocks Scheme</p>	<p>NFU Cymru Paragraph 4 refers to difficulties in funding the Ram Genotyping Compulsory Schemes and other schemes such as the compulsory Ran Genotyping Scheme due to start next year. Concerned that the Welsh Assembly in an attempt to balance its ‘financial books’ is now contemplating eroding one scheme – the compulsory Scrapie</p>

	<p>Flocks Scheme – in order to create funds for another element of TSE control in sheep. ‘Robbing Peter to pay Paul is not in our view a sensible way forward and will undermine producers’ confidence in the strategy.</p>
<p>Introduce the option of valuation by RICS nominated valuer for the Welsh Assembly Government for use in exceptional circumstances</p>	<p>Senior Animal Health Officer - Cardiff This is a bad idea as the valuations would be grossly inflated. In his experience he has seen valuations above that of the £65 suggested flat rate.</p>
	<p>Animal Health Officer - Cardiff Imposition of a RICS valuer to effectively reduce compensation payable to below the standard rates could generate considerable resistance from owners. This should only be used with caution.</p>
	<p>British Goat Society Member It would be difficult to seek a valuation in a manner comparable with the sheep sector as very few auctioneers/valuers would have the experience. It is suggested that valuations should be discussed with the British Goat Society. Scrapie incidence is low in goats. It would be totally unjust to deny appropriate and reasonable recompense for a compulsory culling order simply due to lack of figures available regarding their true value. As goats have never been included as British farmed stock or received any subsidy it is questionable what level of compliance with Community Regulations British goats could be deemed to be required of their owners.</p>
	<p>NFU Cymru Producers should have continued recourse to independent valuation by a RICS nominated valuer. We accept that the Welsh Assembly Government should also have this facility.</p>
	<p>Hybu Cig Cymru Agree</p>
	<p>North Wales Goat and Smallholders Society The average agricultural valuer has no experience of dairy goats and of their values. We are not aware of any valuers in the North Wales area who are keepers of pedigree goats and who would be acquainted with their values. We request that pedigree dairy goats be valued by a valuer nominated by the British Goat Society who would be able to provide a realistic valuation of such animals.</p>

	<p>South West Wales Goat club</p> <p>Goats are often kept in small numbers. The option of valuation by RICS valuer – at farmers expense – is likely to be prohibitive for most small keepers. This would perpetuate an unfair treatment of smaller herds of good or pedigree stock. These are also an important source of well-bred stock for commercial herds. Goats may be broadly considered as falling into one of three categories: Pedigree show goats; Commercial herd goats; and other ‘house’ goats. The value proposed may be of the correct order of magnitude for some ‘other’ goats but would be wholly inadequate to reflect the fair value of commercial or pedigree goats. We would suggest the introduction of an option of valuation by British Goat Society nominated valuer for the Welsh Assembly Government in respect of goats should the valuation seem unreasonable in any particular circumstances. We would also suggest the option of valuation by British Goat Society nominated valuer for the farmer in respect of goats.</p>
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<p>General comments</p>	<p>Animal Health Officer - Cardiff</p> <p>Most sectors of the industry would accept that the compensation rates are generally too high, but owners facing reduced compensation in future will understandably disagree that they should receive less than owners compensated in 2005. The assumption in the sheep farming industry is that the proposal will inevitably drive the incidence of reported disease higher into the hills where stocks are less valuable.</p>
	<p>NFU Cymru</p> <p>Concerned that the whole ethos of this consultation seems set to undermine the principle of confidence and partnership, which the AHWS is intended to foster.</p>
	<p>W M Jones</p> <p>No mention has been made of the cost of the work involved in administering the endless demands of the scheme, including additional labour. The decisions that you make as a result of the review will convey to me your true agenda regarding scrapie. Will it be a token and a cosmetic attempt to placate the whims of Brussels bureaucrats or a serious and genuine attempt to eradicate this age long problem?</p>

South West Wales Goat club

The health advantages of goat milk are being re-discovered, leading to increasing demand. It is no longer just available through health food shops, but in most major supermarkets too. It is not therefore in the public interest that the positive contribution made by goats and their products are wrongly valued.

The suggestions made seem to provide both a simple, and transparent approach to valuation of goats that should meet the joint criteria of reasonable compensation and good value.

Conversely to adopt the amounts proposed would NOT reflect fair compensation for farmers, and by not distinguishing in any way between poor and good goats would NOT provide good value to the taxpayer.