

REGULATORY APPRAISAL

ANIMALS, WALES

ANIMAL HEALTH

THE CATTLE COMPENSATION (WALES) ORDER 2006

Background

1. At present, the level of compensation for notifiable animal diseases is, to some extent, dependent on the nature of the disease and the disease status of the animal. It does not in all cases reflect full market value. This has resulted in fragmented and inequitable compensation payments. This Order is being made to address the irregularities in the current cattle compensation systems, and, in particular to: reduce the level of overcompensation (for bovine TB); provide a more consistent approach for determining compensation and enhance disease controls. The new valuation system will be introduced, initially, for the diseases covered. Revising the valuation system for other notifiable diseases would require revisions to primary legislation and inevitable delays in implementation.
2. Section 32 of The Animal Health Act 1981 sets out the obligation to pay “compensation of such amounts as may be determined in accordance with scales prescribed by order” where the National Assembly for Wales requires an animal to be slaughtered (Section 32(3)) under the statutory cattle surveillance and control arrangements. The current methods of compensation are payable in accordance with The Brucellosis and Tuberculosis (England and Wales) Compensation Order 1978 (as amended) and the Enzootic Bovine Leukosis (Compensation) Order 1980.

Purpose and intended effect of the measure

3. This Order revokes and replaces the Brucellosis and Tuberculosis (England and Wales) Compensation Order 1978 and the Enzootic Bovine Leukosis (Compensation) Order 1980 in so far as they apply to Wales only. This Order introduces a rationalised compensation system for cattle slaughtered for the following diseases: Bovine TB, Brucellosis and Enzootic Bovine Leukosis (EBL). (Separate legislation has been proposed to introduce the new system in respect of BSE in Wales, which is due to come into force on 14 June 2006). Under this system, compensation will be determined using table valuations, based on average market price for pre-determined cattle categories. There is also a provision for individual valuations to be used, at the discretion of the National Assembly for Wales, should there be inadequate or unavailable supporting sales data for a particular category in any particular month or months.
4. This Order provides for rates of compensation where the National Assembly requires a bovine animal to be slaughtered under section 32 of the Animal Health Act 1981 in its application to brucellosis, tuberculosis or EBL. Compensation is currently required to be determined either by agreement or by a valuer conducting an individual valuation of the

particular animal which has been slaughtered. This Order will enable the National Assembly for Wales to apply compensation rates, which are far more in line with real “market value” as originally intended, by employing a system of fixed table values covering 47 non-pedigree and pedigree bovine categories based on sales prices achieved from a wide range of sources (e.g. markets, dispersal sales and breed sales).

5. The Order will revoke and replace the Brucellosis and Tuberculosis (England and Wales) Compensation Order 1978 and the Enzootic Bovine Leukosis (Compensation) Order 1980.
6. There are four main reasons why the National Assembly for Wales is changing compensation policy:
 - there is significant evidence of overcompensation, particularly for bovine TB, which places an unfair burden on taxpayers and may provide a disincentive for some cattle owners to implement robust bio-security controls. Based on 2005 data, we expect that compensation based on table values for all cattle culled to control bovine TB will be in the region of 65% of that paid under the previous system;
 - to ensure owners of all animals affected by BSE and Brucellosis are not undercompensated;
 - simplification of the compensation regime through a table valuation system will reduce bureaucracy and increase transparency; and
 - to facilitate the speedier removal of diseased animals.

Risk Assessment

7. Failure to implement this legislation would result in differing compensation systems in Wales compared to that in England. It will also result in continued overcompensation, particularly for bovine TB, which may be placing an unfair burden on taxpayers and providing a disincentive for livestock owners to invest in bio-security. There is also the possibility of continued undercompensation for certain BSE affected animals, and for animals affected by Brucellosis. Simplification of the compensation regime through a table valuation system will reduce bureaucracy and increase transparency.

Options

Option 1 - Do Nothing

8. Continue with the existing valuation systems.

Option 2 – Make the Legislation

9. Table values for all cattle categories (including pedigrees) with compensation rates for commercial and pedigree cattle to be published monthly.

Option 3

10. Compensation payments based on market values taking into account the diseased state of the animal or the fact that they have been exposed to disease. Secondary legislation would be required to implement this option.

Benefits

11. The new system will:

- provide compensation for individual animals that is comparable to sales prices achieved for similar, but healthy, animals;
- provide greater transparency and ensure that compensation is determined by objective criteria;
- allow farmers to know at the beginning of each month what compensation they will receive in the event of a disease incident;
- help to speed up the removal of diseased animals from farms and thus enhance disease control efforts; and
- provide incentives for better bio-security measures by providing incentives for farmers to take action to minimise the risk of cattle becoming infected with TB.

12. There are also unquantifiable benefits associated with adopting this system in Wales. The Department for Environment, Food and Rural Affairs (Defra) has already introduced the table valuation system in England and there would be clear benefits from having the same system operating in Wales.

Costs

13. There are no financial implications for the Assembly, which are not already covered by existing budgets, as a result of the making of the proposed Order. Defra has assumed savings to the taxpayer as result of introducing the new system of between 35% and 50%. On this basis, the savings to the Welsh Assembly Government (and therefore, the total cost to cattle owners as a whole) is estimated to be between £3.3m and £4.7m per annum based on 2004 data.

14. The costs of procuring the sales data and those associated with informing the industry of the change in the compensation system will mainly fall to Defra and the State Veterinary Service. One off adjustment and information costs associated with the transition to the new system are estimated to be £100,000.

15. The Meat and Livestock Commission (MLC) has been commissioned by Defra to collect and provide livestock sales data from a range of sources including markets, dispersal sales and breed sales. The data will need to

include values for pedigree animals and for classes of cattle that are not regularly traded.

16. Evidence suggests that the compensation currently paid to cattle owners experiencing an outbreak of bovine TB, exceeds the market value of the cattle. In contrast, owners of cattle with either BSE or Brucellosis tend to be undercompensated. The introduction of a system of table valuations is likely to result in a reduction in compensation to owners of bovine TB infected cattle but an increase in compensation for some owners of BSE or Brucellosis infected cattle. Given that the number of bovine TB cases is currently far greater than that of BSE or Brucellosis, the overall result is expected to be a reduction in compensation payments.

Business sectors affected

17. **Cattle Industry** - In Wales in 2003 there were 3,100 dairy holdings, 16,400 other cattle and sheep holdings and 600 mixed holdings, all of which could be affected by these proposals. Bovine TB usually affects cattle owners in certain 'hotspot' areas. In Wales, these 'hotspot' areas include Powys, Monmouthshire and South West Wales. On 31 July 2005 there were 1,372 herds in Wales under movement restrictions due to a bovine TB incident or an overdue bovine TB test.
18. **Valuation services** – Any introduction of a table valuation system is expected to reduce the Assembly's demand for valuers. However, they will continue to be required in the interim period where there is insufficient market data to provide a corresponding and reflective price against a category of animal. Consultation with valuers' organisations has suggested that carrying out individual valuations is a non-profitable part of their work. Given the time needed for on-farm visits and travelling costs, such work was seen by many as a "loss-leader", with little or no financial benefit to the valuer, whose core work was taken up with auctioneering and other aspects of livestock management.
19. **Livestock Insurance** – It is anticipated that there will be an increase in the number of farmers taking out livestock insurance in a bid to guarantee a level of return in the event of an outbreak. Owners of pedigree cattle in particular are expected to increase their level of insurance cover.

Issues of equality and fairness

20. There is no unequal impact by gender, age, disability, or by race. It is not expected that any impact on particular income groups will be significant.

Consultation

With Stakeholders

21. In October 2003, the Welsh Assembly Government consulted on proposals to rationalise compensation for notifiable disease control. As an interim measure, and following concerns that the present bovine TB compensation system was leading to over-compensation of farmers, the Welsh Assembly Government undertook a further consultation between 5 November 2004 and 31 December 2004, outlining proposals for a new

cattle compensation system using table valuations. A list of consultees is attached at Annex A. The Scottish Executive and Defra consulted separately on similar lines.

22. In light of the responses received to the consultation, (summary of which can be found at Annex B) it was decided that the introduction of a new cattle compensation system based on table valuations be deferred until more robust market price information was available and to address industry concerns about the proposed cattle categories.
23. Following this further work, including increasing the number of categories from 29 to 47, the Welsh Assembly Government announced, in a Press Notice, on 15 December 2005 that it had decided to introduce a new cattle compensation system in Wales using table valuations.

With Subject Committee

24. This Order was notified to the Environment, Planning and Countryside Committee on 16 July 2003 under the title of Cattle Disease Compensation Order 2003 (EPC(2)-03-03 (p.3) item No. 47) and has remained on the list ever since. The Order was scrutinised on 8 March 2006. The focus of discussion at the meeting of EPC Committee was a motion received from members proposing that the Committee recommends to the Minister that he revises the valuation table in the draft Order to adequately reflect the variation and condition and, therefore, the value of bovine animals and to introduce an appeals mechanism that will resolve disputed valuations. The Motion was carried by the Committee. However, The Minister was concerned that such a system was essentially a return to individual valuations and therefore risked a continuation of overcompensation. He was also of the view that there would be practical difficulties in implementing such an appeals mechanism. Therefore, the Order has not been amended. A copy of the Committee transcript is attached at Annex C.

Monitoring and review

25. Defra is proposing to set up an advisory group on cattle compensation with representation from key Welsh stakeholders. It is envisaged that such a group would assist the UK and Welsh Assembly Governments in reviewing existing compensation systems and also, in the longer term, consider how full rationalisation of compensation systems, for notifiable diseases, could be achieved.

Summary

26. There is evidence of overcompensation of cattle owners whose animals are infected with a notifiable disease. This is particularly true for bovine TB infected animals. The intention is that the new cattle compensation system will reduce the overcompensation, increase the incentives for cattle owners to invest in bio-security and reduce the length of time taken for a diseased animal to be disposed of. For these reasons it is recommended that this Order be implemented.

Annex A – List of Consultees

British Charolais Cattle Society Ltd
Central Association of Agricultural Valuers
Country Land & Business Association
Farmers Union of Wales
Holstein UK
Hybu Cig Cymru – Meat Promotion Wales
Jersey Cattle Society
Kite consulting
National Beef Association
NFU - Cymru
Norman Lloyd & Co
Royal Institution of Chartered Surveyors Wales
Royal Society for the Prevention of Cruelty to Animals
Wales Council for Voluntary Action
Welsh Association of Livestock Auctioneers
Welsh Consumer Council
Williams Parry Richards Chartered Surveyors

Annex B – Summary of Consultation Responses

CATTLE COMPENSATION: BOVINE TB, BRUCELLOSIS, BSE AND ENZOOTIC BOVINE LEUKOSIS

SUMMARY OF RESPONSES TO CONSULTATION HELD BY THE WELSH ASSEMBLY GOVERNMENT BETWEEN 5 NOVEMBER AND 31 DECEMBER 2004

1. INTRODUCTION

- 1.1 This document is a summary of the responses received to the public consultation (*‘Cattle compensation: Bovine TB, Brucellosis, BSE and Enzootic Bovine Leukosis’*) held by the Welsh Assembly Government between 5 November and 31 December 2004. The consultation followed one in Autumn 2003 on proposals to rationalise compensation for notifiable animal disease control.
- 1.2 The proposals in the consultation document issued by the Welsh Assembly Government on 5 November 2004 would, in effect, implement stage 1 of the longer-term objective to rationalise compensation for all notifiable animal diseases. The proposals cover 4 cattle diseases: Bovine Tuberculosis, Brucellosis, Bovine Spongiform Encephalopathy and Enzootic Bovine Leukosis and provide for table only valuations based on extensive up-to-date market information.
- 1.3 The views of stakeholders were sought on:
- the way it is proposed to introduce a table valuation system, and
 - whether an advisory group on livestock valuations could play a useful role in helping the Assembly Government to maintain and develop practical, robust and fair valuation systems and what such a group might consider.
- 1.4 Responses were received from 17 organisations; a list of these is included at Annex A.
- 1.5 Some respondents to the consultation submitted a ‘free standing’ response and did not answer the questions set out in the consultation document. In these circumstances every effort was made to link responses to specific questions, where appropriate. Where this was not possible the essence of such responses was fully considered.

2. OVERVIEW

- 2.1 Most respondents opposed the introduction of a table-based valuation system and some argued for the retention of the existing compensation arrangements. A recurrent theme, and main concern, was that there are too few categories in the proposed system. Whilst valuations

should be fair to both farmer and taxpayer, it was also suggested by a number of respondents that a system based on averages would be unfair, as this would mean individuals would either gain or lose under it because very few animals would be worth the average value. Several respondents pointed to the fact that animals that are placed on the market do not necessarily reflect the standards of those that remain on farm and thus the average market value will not reflect the true value of animals. A number also refuted the suggestion of a link between disease control and the compensation system, arguing that delays in livestock removal were often the result of slaughtering capacity not being available. There was strong support for the introduction of an advisory group on livestock valuations regardless of whether the table based valuation system was introduced.

3. SUMMARY OF RESPONSES

Question 1: Do you have any comments on the way it is proposed to introduce a table valuation system?

Three respondents did not comment on this question and one respondent suggested that the consultation was a good starting point but would need to include more categories. Thirteen respondents were specifically opposed to the introduction of a table based valuation system primarily because the categories are too broad to cover all the circumstances and that issues such as breed, quality and type of cattle, including organic stock, need to be addressed. There was very strong opposition to table valuations for pedigree animals with respondents concerned, in particular, that the true value of the most elite animals could not be reflected in the proposed system. It was pointed out that the value difference between pedigree bulls of different breeds is just as apparent at pedigree level as it is at commercial level. Two respondents suggested that the Southern Ireland model for table valuation should be considered as it uses 100 categories, although it was noted that, if this model were adopted, there would be difficulty in populating the table with enough data to obtain a true average. Other comments included employing two valuers with one acting on behalf of the farmer and the other on behalf of the Assembly Government and that the farmer should have the right to appeal against a valuation made and the option to pre-value elite animals. Several respondents also raised the issue of consequential losses for farmers and that the compensation system should take account of such losses.

Question 2: Do you think that an advisory group on livestock valuations could play a useful role in helping the Assembly Government to maintain and develop practical, robust and fair valuation systems? If so do you have any views on what it might consider?

Eleven respondents agreed that the proposed advisory group on livestock valuations could play a useful role in helping the Assembly Government to maintain and develop a practical, robust and fair valuation system. The other six respondents offered no comments on the proposal. Those who commented suggested that membership of the advisory group could include

representatives from the CAAV, RICS, LAA and CLA. As well as providing advice to the Government on a fair valuation system, it was suggested that the group might also monitor valuations and question any high valuations with the power to exercise sanctions against any valuer who could not justify the level of value attributed. The group could also consider and advise on applications to become a registered valuer for the purposes of compensation for notifiable animal disease control.

Annex C – Extract from the Committee Transcript

Is-ddeddfwriaeth: Gorchymyn Iawndal Gwartheg (Cymru) 2006 **Secondary Legislation: The Cattle Compensation (Wales) Order 2006**

[242] **Glyn Davies:** We will move on to the Cattle Compensation (Wales) Order 2006. A motion has been put before the committee in the names of Mick, Elin and Brynle. The clerk has suggested, as this is a fairly new situation for us, that it is necessary first for Members to propose the motion. There will then be a discussion on the motion, the Minister will respond, and we will then need to take a vote.

[243] **Elin Jones:** I propose that *the Environment, Planning and Countryside Committee recommends to the Minister for Environment, Planning and Countryside that he revises the valuation table in Part 2 of Schedule 1 to the Order used for compensation to adequately reflect the variation and condition and therefore the value of bovine animals of the genus Bos, and to introduce an appeals mechanism that will resolve disputed valuations.*

[244] Yr ydym wedi cyflwyno cynnig i'w drafod yn hytrach na gwelliannau penodol i'r Gorchymyn oherwydd nad yw'r gwelliannau yr ydym am eu gweld i'r Gorchymyn, o ran y tabl gwerthuso, yn gallu cael eu gwneud fel gwelliannau penodol i'r tabl. Felly, yr ydym wedi cyflwyno'r cynnig hwn i egwyddor y Gorchymyn, i'w drafod o dan yr eitem hon. We have tabled a motion for discussion rather than specific amendments to the Order, because the amendments that we want to see to the Order, as regards the evaluation table, cannot be made as specific amendments to the table. Therefore, we have proposed this motion to the principle of the Order, to be discussed under this item.

[245] Cafwyd trafodaeth eisoes yn y pwyllgor am y profion cyn symud. Credaf fod y rhan fwyaf ohonom yn derbyn bod rhaid i'r cynllun hwnnw fod yn weddol debyg yng Nghymru ac yn Lloegr, oherwydd y symud gwartheg sydd rhwng Cymru a Lloegr a'r angen i brofi gwartheg a sicrhau nad yw'r clefyd yn lledu. Mae'r Gorchymynion hyn, lle yr ydym yn sôn am y gwerth a osodir ar anifeiliaid, yn gallu bod yn ddaeryddol benodol heb orfod bod yn rhy gymhleth. Felly, mae ein cynnig ar ddwy sail: yn gyntaf, bod y tabl gwerthuso yn annigonol i gyflwyno gwerth yr anifeiliaid, ac yn ail, ar yr hawl i apelio unrhyw werthusiad.

There has already been a discussion in

committee on pre-movement testing. I think that the majority of us accept that that scheme has to be fairly similar in Wales and in England, because of the movement of cattle between England and Wales, and the need to test cattle and ensure that the disease does not spread. These Orders, in which we talk about the value that is attached to the animals, can be geographically specific without being too complicated. Therefore, our motion is on two grounds: first, that the evaluation table is insufficient to present the value of the animals, and secondly, on the right to appeal against any evaluation.

[246] Yr hyn yr hoffwn i ei weld—a bydd pobl eraill hefyd yn siarad am hyn—yw modd o raddio'r anifeiliaid yn y tabl hwnnw. Dyna'r math o gynllun sydd wedi ei gyflwyno yn Iwerddon. Wrth edrych ar y tabl, un peth a'm tarodd yn syth oedd bod un oedran penodol sy'n cyfeirio at 'Calved'. Gall hynny fod yn fuwch sydd wedi dod â llo unwaith neu bump neu chwech o weithiau. Mae gwerth yr anifail yn gallu bod yn wahanol iawn am y rhesymau hynny. Felly, mae'r tablau hyn ar sail oedran yn unig, ac nid ar sail ansawdd yr anifail. Gan eu bod ar bris cyfartaledd, bydd perchnogion anifeiliaid nad ydynt o'r ansawdd gorau yn cael eu gorddigolledu a pherchnogion anifeiliaid o'r ansawdd gorau yn cael eu tanddigolledu. Mae honno'n system sy'n annheg i ffermwyr ac nid yw'n gwneud synnwyr i'r pwrs cyhoeddus. Felly, ein dymuniad ni wrth gyflwyno'r cynnig hwn oedd gweld y Gweinidog yn adolygu'r tabl hwn. Gwn fod y tabl eisoes yn weithredol yn Lloegr, ond hoffwn weld adolygiad a gweld graddfeydd penodol yn cael eu rhoi yn y categorïau oedran sydd yma. Yn gysylltiedig â hynny, byddai angen rhyw fath o broses apelio, fel What I would like to see—and other people will also wish to speak on this—is a means of grading the animals in that table. That is the type of scheme that has been introduced in Ireland. When I looked at the table, one thing that struck me instantly was that there is one specific age that refers to 'Calved'. That can mean a cow that has had one calf or five or six calves. The value of the animal can be very different for those reasons. Therefore, these tables work on the basis of age only, and not on the basis of the condition of the animal. As they are given an average price,

owners of animals that are not of the best quality will be over-compensated, and owners of animals that are of the best quality will be undercompensated. That system is unfair to farmers and it does not make any sense for the public purse. Therefore, our wish in proposing this motion was for the Minister to revise the table. I know that the table is already being used in England, but I would like to see a revision and see specific grading being placed in the age categories that are here. Connected with that, there would need to be some kind of appeals process, so that an individual whose animal bod gan unigolyn sy'n cael ei anifail wedi ei gymryd oddi wrtho yn orfodol yr hawl i apelio am werthusiad yr anifail hwnnw. is compulsorily taken away from him or her has the right to appeal against the evaluation of that animal.

11.00 a.m.

[247] **Glyn Davies:** A hoffech chi ddweud rhywbeth, Mick?

Glyn Davies: Do you want to say something, Mick?

[248] **Mick Bates:** I would just like to add that the basic principle of the motion is to address some of the unfairness that exists within the current legislation, and the grading within the categories will address the issues that Elin has just outlined. However, I would like to move on to the specific issue of pedigree stock, which, again, will be subject to an average in one of the categories. If we look at the average run, and perhaps it would be £3,000 for a bull, we see that there are many instances in which far more than that is paid for a particular animal. As things stand, a breeder would have evidence of the value of a particular animal, perhaps through purchase, and the loss could be absolutely incredible, because the prices are sometimes very high for pedigree animals. Unless there is a mechanism to appeal against that particular valuation, it could mean a tremendous loss to an individual.

[249] One may argue that insurance should be in place, but no-one would be able to gain insurance for a particular animal against tuberculosis if they are already in a hotspot. The likelihood is that TB, at the current rate of expansion, will be with us for a long time and will spread to other areas. So, I believe that in order to address the specific issue of the value of individual pedigree animals there has to be an appeals mechanism as well, which allows individuals to present evidence of the value of that animal.

[250] **Brynle Williams:** The three of us have discussed this at great length, as has the farming industry. It is grossly unfair to have this tabular formation without these various categories in it. There is such a difference in the quality of stock. As Elin pointed out, if we go down the dairy route or the suckler cow route, a first-calved heifer is worth so much today, but if something goes wrong, such as mastitis or whatever, she is worth absolutely nothing tomorrow. In the age category also, in terms of aged cows, that speaks for itself. I hope that you will take on board, Minister, that it is essential to put in the individual categorisation or 'condition scoring', for want of a better term.

[251] We also need the appeals mechanism, as Mick has pointed out, on TB in particular, the uninitiated would throw at you straight away, 'Get insurance', but you cannot get insurance. It is an option that we do not have. If one goes to Perth and buys a good stock bull,

one could end up with scrap value at the end of the day. My argument is that we must have condition scoring within the various categories.

[252] **Lorraine Barrett:** I have a question as to how the appeals mechanism might work. I can just picture absolute chaos in dealing with this. I do not know how many appeals there could be—hundreds or thousands? I do not know. Who would conduct the appeals and how long would they take? If they took a long time and became very bureaucratic, what would happen to the animals or to the compensation in the meantime? I cannot quite picture how it would work. Is there any way to measure it?

[253] **Glyn Davies:** In truth, the only person who can answer that question is the Minister. In a sense, because of the debate, the question is reasonably to be directed at the people who propose the motion, but, at the end of the day, the only person who is in a position to answer the question with the right degree of authority is the Minister. I cannot see much point in having a discussion about that with other Members, as it would not have the sort of authority that you need to answer the question, though it is a perfectly reasonable question.

[254] **Lorraine Barrett:** I just wondered whether any thought had been given to it, or whether there is something to compare it with that operates currently.

[255] **Glyn Davies:** Mick, you are going to try to answer the question now, are you?

[256] **Mick Bates:** There are well established principles on appeal here.

[257] **Glyn Davies:** The truth is that, with most of these, there is usually an appeals mechanism. There would be fairly standard legal ways of dealing with that, but it is dangerous for anyone except the Minister, with ministerial back-up, to answer a question like that. You can if you like, Minister, but I would have thought that you had other points that you would want to address, and I invite you do so now.

[258] **Carwyn Jones:** First, it is the responsibility of those suggesting an appeals system to give us some idea of what they want, rather than just throw the suggestion in, but I will deal with that at the end. Let us take this logically. We begin with knowing full well that farmers are being compensated twice as much as they are entitled to—between 50 and 100 per cent. Those are not my words, but those of the Wales Audit Office. Taxpayers cannot be expected to continue financing a system that clearly gives such bad value for money. The WAO says that, and there are two university studies that reach the same conclusion. I think that the evidence is pretty overwhelming that there is substantial over-compensation of farmers, and particularly some farmers. On that basis, we have to find a system that deals with that. We know that we are in this situation because valuers are valuing animals too highly, which means that valuers, in my view, have to be taken out of the loop.

[259] First, on the question of undercompensation and over-compensation, you are right. If you introduce a table compensation system, it is inevitable that some people will be undercompensated and some over-compensated. However, we have massive overcompensation

that is impossible to justify to the public at large. It is worth making the point that compensation is paid as if the animal were healthy. If it were paid in terms of a sick animal, compensation would be much lower than it is now, so, in that respect, I suppose that all farmers are over-compensated. However, that is not the approach that we have taken in the past, and it is not the approach that we propose to take in the future.

[260] The difficulty that I have with the recommendation is that it, effectively, sticks with the valuation system. There is absolutely no guarantee here to the taxpayer that valuers will not simply come along and value every animal in the top categories, unless the categories are so low in terms of their bands and top payment, with a very low ceiling on it, that I can then say to the taxpayer that we have got to grips with this. In effect, what is being suggested here

is that the valuers come in and follow a particular table. However, there is nothing to prevent them from making high valuations again. That means that we are left with the problem that the WAO identified of valuers valuing too highly. There is nothing to stop them doing that in the proposal that has been put forward.

[261] So that is the difficulty that I have with the recommendation. I do not believe that it delivers what the WAO has asked us to deliver. It might be possible, although I do not advocate this, to have some kind of system where valuers who had left private practice—I certainly would not be prepared to have valuers in private practice doing this, because that does not take us away from the problem—were valuing areas outside of their own home areas. However, that would be an immensely complicated system, and probably also immensely expensive. So, all things being equal, a table compensation system, adjusted as we have done, in moving from the 29 to 47 categories, is the best way forward. It is not ideal—I am not going to pretend that it is ideal or perfect—but it is the best way forward in terms of addressing substantial over-compensation, in many millions of pounds, being paid to people. They are not entitled to that money, and it might be used elsewhere in my budget, frankly, for other things. I cannot present anything different to the taxpayer, because this is what the WAO is saying. We are not talking about studies made by one or two universities; that is what the WAO has said. I do not believe that the proposal takes us away from the difficulty of overvaluation because there is nothing to stop valuers from valuing in the highest category. Let us say that there are five categories, what is there to prevent valuers from placing too many animals in the top categories? We are still left with the problem of overvaluation, and, potentially, of over-compensation.

[262] On the appeals mechanism, in sitting down and thinking about this, I cannot, for the life of me, see how it would work. If we have an appeals mechanism along the lines of the integrated administration and control system tribunals, you are talking about an appeal that would take place some weeks afterwards in front of a tribunal that has not seen the animal, because it would have been slaughtered by then, trying to second-guess a valuer on the word of a farmer.

[263] I do not think that any reasonable tribunal could do anything other than follow what the valuer has said. There are great legal difficulties in having a system in place where a tribunal has been asked to make a value judgment about the value of an animal without ever having seen it. That is just shot full of holes. If I were a farmer and I went to a tribunal that said: 'I am sorry, we agree with the valuer', I would be tempted to take that to court and say, 'Hang on a second; this tribunal has taken a decision when it has never seen the animal'. A farmer would have grounds to do that, I think.

[264] We could not possibly keep the animals alive for weeks on end in order for a tribunal to assess the animal. That is not practical from a disease control point of view. The situation with regard to the integrated administration and control system, of course, is different. There is no problem in assessing someone's IACS situation or someone's single farm payment situation, because we are not talking about controlling a disease. The tribunal can look at all the facts, and it does not have an actual animal that it has to look at. We could not possibly have a tribunal trying to second-guess the decision of a valuer without itself having the expertise to do that, and without having seen the animal in the first place.

[265] There is also the point that if you have an appeals mechanism, it will have to allow valuations to go down as well as up. Therefore, farmers would face the risk of going through an appeals procedure and seeing the amount of money that they are to receive go down. It is a double-edged sword; you cannot have it both ways. I recognise the view of the committee, but that is why I have difficulty with the recommendation, which is why I cannot see, at present, how we could support such an amendment going through in Plenary.

[266] There are immense practical difficulties, and, at the end of the day, I have a responsibility to the Wales Audit Office to ensure that I have in place a system that satisfies the problem of over-compensation. I do not believe that having what, in effect, is again a valuation system, albeit modified, would deliver what the Wales Audit Office is asking me to do.

[267] **Glyn Davies:** To make a general comment, I do not think that anyone is in favour of overpayment. To the extent that that has happened in the past—and I think that it has happened to a greater level in Wales than in England, as I recall from my reading of the previous reports. I do not think that anyone would support that; it is worth making that point. All the comments that I have heard want to introduce an element of condition scoring in the system. That is what I understand that people are looking for.

[268] I see the point that you are making, Minister, but I would have thought, in terms of your budget, that if experience showed that there were too many animals in the first condition score, that the levels in the table would reflect that. If everything goes into condition score 1, that would, in effect, be the average price. I just want to make certain that what the Members are proposing is the same as what you are responding to.

[269] **Carwyn Jones:** I am not suggesting that Members want to entrench overcompensation. I am saying that the proposal, as put forward, does not address the substantive problem of over-compensation, although it may do so a little, I suppose. You still have valuers involved valuing animals. Where is the means of ensuring that valuers do not value animals as highly as they did before? I am not suggesting that they do this deliberately, but we know that it is happening, because the Wales Audit Office has said so. However, what is there to stop valuers from valuing as highly as they did before? All they have to do is to just value animals higher up in terms of the categories.

[270] **Elin Jones:** I understand the Minister's concern and, just to reiterate what you said, Chair, I am not here to advocate the system as it existed previously. Perhaps our motion should have been clearer on how we might want to address the particular issue of everyone valuing at condition score 1, because that might be an in-built weakness of this system. There are ways that that could be alleviated. There could be a recommended list of valuers, and spot checks of valuations. There are means of ensuring that the public purse keeps a view on how the valuation is working. You are building into this regulation a means of automatically overcompensating for animals of a poorer condition and undercompensating for animals of an above-average condition. I think that that is a spectacular weakness of the system. I do not think that it is any improvement on the original system that was failing us. To build that into the regulation is not a good way forward. I can see that we are probably not going to agree on this and that we will have to go to a vote at some point in this committee, and later in Plenary, but, as it stands, I cannot believe that the table valuations can adequately reflect the real value of animals that have to be compulsorily purchased from farms by the state.

[271] **Mick Bates:** Briefly, I will add to Elin's remarks that documentary evidence often exists on pedigree animals and their value, so, whatever the mechanism, there would be evidence that would be acceptable.

[272] Chair, I will take your advice on this, but it seems to me that the arguments are clear. Should we now move to a vote?

[273] **Glyn Davies:** This is an important issue—the principle is important. Members have raised it and the Minister has responded, but I want to give the main speakers a chance to comment again, and for the Minister to do so again, if he wants to. It looks to me as if we are going to have to vote on it, and the matter may go to Plenary, where there will be a bigger debate, but I just want to handle what is an important principle for the committee in a proper way. If you have a point that you want to make, Mick, carry on, and then Brynle may comment.

[274] **Mick Bates:** I have made the point about documentary evidence for pedigree animals, and that that is not accounted for in the current system.

[275] **Brynle Williams:** I was rather disappointed, Minister, by your reply. I, too, realise

that a lot of stock has been grossly overvalued in the past—there is no argument about that. However, since the horrific incidence of foot and mouth disease, we have seen the quality of the stock increase. Let us consider beef. We have a lot of beef suckler herds, especially in Brecon in mid Wales, that are virtually of pedigree status, but which do not have the papers for that. The further we go into the Tywi valley, and up north, a large proportion of beef there comes from the dairy industry, and you are proposing to classify beef animals of a certain age

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together. I am sorry if I am crossing over into another issue, Chair, but this regulation has been brought about primarily by the issue of TB compensation. We are not being particularly helped at the moment in trying to address TB. We are not grasping it quickly enough, and additional costs will be put on agriculture or you will devalue our stock. We are asking only for a fair way of having condition scoring included in those categories. I do not doubt your intelligence, Minister, for one moment, but understanding categories of stock is very important. We have people here from the farming unions who do understand those categories, and it could be the difference between a lot of farmers staying in business, if we, unfortunately, have to take their herds, or getting out of the business.

[276] **Carwyn Jones:** With respect, what Brynle is arguing for, effectively, is to keep the same system. First, he has accepted that there was over-compensation—fine, we know that—but then he is arguing to keep exactly the same system as we have now, in effect, by saying that we need valuers to go in and individually assess animals and so on. In fact, the value of an animal with TB is low. Farmers are over-compensated in that regard, because they are compensated as if the animals were healthy. The system that we have at the moment is not fair on the taxpayer—end of story. I am pushing at an open door on that, as I know that people accept that. However, the fact is that the problem that we face here is overvaluation. We have recommended valuers now, and there are spot checks, but that does not work. We know that, because that is the system that we have now. Even with a recommended list of valuers and spot checks, there is up to 100 per cent over-compensation.

[277] If we have a valuation element in the system, there will always be overcompensation. If we have a table of condition scoring and we have valuers coming in, nothing has been put forward to me which enables me to move forward with confidence, on behalf of the taxpayer, that that overvaluation will not continue, because we already have what Elin suggested. That is why, on behalf of the taxpayer, I could not accept it because there is nothing in what is being proposed that allows me to say, ‘Yes, we can deal with the problem of over-compensation’.

[278] On Mick’s point, producing documents will not help in terms of assessing the condition of an animal. When you buy an animal, there is no indication as to the animal’s condition in three years’ time. No tribunal is going to go against what the valuer says in that regard, and any system that tries to assess the value of an animal without looking at it, if valuers are involved in the system and a tribunal comes in, is bound to fail. So, you either end up with a system where you continue with valuers and the over-compensation in the absence of any way of controlling the over-compensation, or you move to a system where farmers will know month by month how much money their animals are worth. In a table compensation system, there will be some people who are undercompensated and some who are overcompensated, but the current system, and the system which is being proposed, will just leave that massive over-compensation untouched. I do not believe that the National Audit Office will buy it.

[279] **Glyn Davies:** I would like to end the discussion, if I can.

[280] **Mick Bates:** Sorry, Chair, but I just want to clarify the Minister's response to me. I was referring particularly to pedigree stocks whose values are very often far above the average.

[281] **Elin Jones:** I accept your response to me on the spot checks and the recommended list of valuers, but just for me to understand, how many valuers have been taken off the recommended list of valuers on spot checks that have 100 per cent over-compensated?

[282] **Mr S. Jones:** As a Welsh Assembly Government, we have a monitoring and justification system in place, and a liaison valuer who communicates with valuers and the industry. In effect, what happens is that the state veterinary service invites valuers to value on what is termed a taxi-rank basis, so that one valuer is not used more often than any other valuer. We seek justification from valuers on a monthly basis, where the liaison valuer interrogates the state veterinary service ledger, and looks at the evidence for any indications of high valuations across the whole board—from pedigree animals to commercial animals. The liaison valuer then writes to the valuers who have undertaken the valuation. If the liaison valuer is not happy with the response, or if no response is provided, that valuer is effectively frozen and is not used by the state veterinary service until he or she provides a satisfactory comparable justification. Several valuers have been frozen and not used along the way, although recent evidence shows that compliance is very good, and that the comparable information is provided by valuers.

[283] **Glyn Davies:** We are starting to run very late.

[284] **Brynle Williams:** Is the tabular formulation based on dead weight and market prices combined, or is it just based on market prices? In the beef industry, that will have a bearing.

[285] **Mr S. Jones:** The information is provided from all available sources and is collected by the Meat and Livestock Commission on a GB basis.

[286] **Jocelyn Davies:** I do not have the knowledge of others around the table, but why does it have to be a valuer that grades the condition of an animal? Valuations are worked out on the record of sales, but would you necessarily need a valuer to say that that animal is, or is not, in tip-top condition?

[287] **Glyn Davies:** That is a point that I would make if I were speaking on this issue, in the sense that you need to have someone who has the skill to assess the condition of the animal, as opposed to a valuer.

[288] **Jocelyn Davies:** Would it necessarily need to be a valuer?

[289] **Glyn Davies:** That is a perfectly fair question.

[290] **Carwyn Jones:** I do not think that anyone else could do it. If you introduce a system where animals are being looked at and assessed, the only people who are qualified to do it, in that regard, in terms of what you are proposing, are valuers. I do not see who else could do it.

[291] **Glyn Davies:** Who does it in Ireland?

[292] **Carwyn Jones:** Valuers.

[293] **Dr Glossop:** The principle of condition scoring is not rocket science: there is a system in which you have a diagram of four or five different categories of weight of animal, from very skinny through to overweight. Somebody can stand there and guesstimate where the animal fits, but it is not an exact science. Farmers will do it regularly, working out what ration to feed certain groups of animals, but if everybody in this room had the card and tried

to condition score an animal, there is a strong chance that we would come out with different answers. That is one of the issues, in that it is a subjective thing. So, it would not have to be a qualified valuer that would do that, but the chances are that we will get back into the arguments where a farmer would regard an animal as having one particular condition score and somebody else would have a different view.

[294] There is also the matter of the physical condition. This scoring system looks only at 08/03/2006

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the fatness or thinness of the animal; it does not take account of whether it is lame, lactating, in calf, or whether it has a calf at foot. It does not look at any of those quite serious economic questions as it is literally a matter of whether the animal is fat or thin. My view is that it should be in the middle, so a condition score of 1 or 5 is bad, but a score of 3 is good. That may be a vet's view; someone else might take another view. So, I think that we would follow a dangerous path in measuring something that is not a true reflection or evaluation of an animal's value. It is only a small piece of the jigsaw as far as I am concerned.

[295] **Brynle Williams:** I think that I would agree with you on that. The Livestock Auctioneers Association would probably disagree with you.

[296] **Glyn Davies:** We have to move on or we will not finish our business for this meeting. This Order will now go to Plenary, with or without a recommendation from the committee to amend it. A motion has been put before us, and so we will proceed to a vote. No messing at all.

Cynnig: O blaid 4, Ymatal 0, Yn erbyn 3.

Motion: For 4, Abstain 0, Against 3.

Pleidleisiodd yr Aelodau canlynol o blaid:

The following Members voted for:

Pleidleisiodd yr Aelodau canlynol yn erbyn:

The following Members voted against:

Bates, Mick

Davies, Jocelyn

Jones, Elin

Williams, Brynle

Barrett, Lorraine

Dunwoody, Tamsin

Jones, Carwyn

Derbyniwyd y cynnig.

Motion carried.