

REGULATORY APPRAISAL

ANIMAL HEALTH, WALES

THE BOVINE SPONGIFORM ENCEPHALOPATHY (BSE) COMPENSATION (WALES) REGULATIONS 2006

Background

1. The Cattle Compensation (Wales) Order 2006 will implement the new Table Valuation system of compensation for cattle suspected of having Bovine Tuberculosis (TB), Brucellosis and Enzootic Bovine Leukosis (EBL). The legislative provisions relating to Bovine Spongiform Encephalopathy (BSE) (the fourth major disease in cattle that is covered by the new Table Valuation system), were to be included within the Transmissible Spongiform Encephalopathies (Wales) Regulations 2006 (the TSE Regulations 2006), which were due to go to Plenary on 7 March 2006 and come into force on 10 March 2006.
2. On 6 March, it was decided that, rather than take the TSE Regulations 2006 to Plenary on 7 March, it would be prudent to wait until the Environment, Planning and Countryside Committee had scrutinised the Cattle Compensation (Wales) Order 2006 on 8 March. Following this, it was agreed that the BSE compensation provisions would be removed from the TSE Regulations 2006 and proceed under separate legislation.

Purpose and Intended Effect of the Measure

3. The intended effect of these Regulations is to introduce a rationalised compensation system for cattle slaughtered for BSE.
4. Under this system compensation will be determined using fixed table valuations, based on average market price for pre-determined cattle categories. There is also provision for individual valuations to be used, at the discretion of the Assembly, should there be inadequate supporting sales data for a particular category in any particular month or months.
5. Introduction of the rationalised compensation system for cattle slaughtered for BSE is proposed to take place shortly after the projected date for introduction of the similar cattle compensation arrangements for Bovine TB, Brucellosis and EBL.

Risk Assessment

6. BSE compensation is currently paid under the TSE (Wales) Regulations 2002. It is primarily based on the market value determined by agreement between the Assembly and the owner of the animal, or by a valuer appointed by the Assembly. This procedure has resulted in some farmers being under-compensated for cattle slaughtered for BSE. The new arrangements will ensure that farmers will receive compensation, which is based on the same category of animal as that which has been slaughtered. This should address the problems that have occurred with under-compensation of good quality beef cattle.

7. The Department for Environment, Food and Rural Affairs (Defra) introduced the new cattle compensation system using table valuations in England in respect of Bovine TB, Brucellosis and EBL on 1 February 2006 and for BSE on 1 March 2006. In Wales, the new system has been proposed to be introduced, in respect of Bovine TB, Brucellosis and EBL, by means of the Cattle Compensation (Wales) Order 2006, which is due to come into force on 1 June 2006. The implications of the coming into force date not being met for The Bovine Spongiform Encephalopathy (BSE) Compensation (Wales) Regulations 2006 are that the inequity of having different rates of compensation for different diseases, within Wales and across GB, would be further prolonged and lead to confusion and practical difficulties in respect of carrying out valuations in the field.

Options

Option 1: Do Nothing

8. In respect of this legislation, the “Do nothing option” would lead, ultimately, to a different compensation system in Wales to that in other parts of the UK, placing the industry at a disadvantage. It would also perpetuate, in Wales, a system that is currently resulting in under-compensation of good quality beef cattle.

Option 2: Make the Legislation

9. BSE compensation is currently paid under the TSE (Wales) Regulations 2002. It is primarily based on the market value determined by agreement between the Assembly and the owner of the animal, or by a valuer appointed by the Assembly. These Regulations will ensure that farmers receive compensation that is based on the same category of animal as that which has been slaughtered. This should address the problems that have occurred with under-compensation of good quality beef cattle.

Benefits

10. Rationalising the compensation system for cattle slaughtered for BSE will provide a consistent approach to compensation (for certain specified cattle diseases including BSE), iron-out anomalies in BSE compensation and better protect the taxpayer and farmers’ interests.

Business sectors affected

11. **Cattle industry** – In Wales, in 2003, there were 3,512 dairy holdings, 8,684 beef holdings and 600 mixed holdings, all of which could be affected by these proposals in the unlikely event of their cattle contracting BSE.
12. **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.

Costs

13. 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.
14. Evidence suggests that cattle owners who have had cattle slaughtered under the offspring cull (i.e. are the offspring of a cow confirmed with BSE, which are required by law to be slaughtered) tend to be under compensated. The introduction of a system of table valuations is likely to result in an increase in compensation for some owners of BSE infected cattle and a decrease for others.
15. All BSE compensation is paid by Defra. The costs of procuring the sales data will fall to Defra and the State Veterinary Service (SVS). The only financial implications for the Assembly as a result of making these Regulations will be publicity/communication costs, in terms of Gwlad articles, press releases, website announcements etc, which will be met within existing budgets.

Consultation

With Stakeholders

16. During November and December 2004, an eight-week consultation was undertaken with stakeholders on stage one of the proposals to rationalise compensation for notifiable disease control. The stage one proposals covered four diseases, including BSE, and provided for table valuations based on extensive market information. After the consultation, further work was undertaken on the proposals to meet respondents’ concerns. For example, the number of categories in the tables was increased from twenty nine to forty seven. All respondents were sent a copy of the summary of the responses. The summary was also published on the Assembly’s Internet site:
(www.countryside.wals.gsi.gov.uk/se/master.asp?n1=1&n2=15).
A list of consultees is attached at Annex A to the Regulatory Appraisal and a summary of consultation responses is attached at Annex B to the Regulatory Appraisal.

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

With Subject Committee

18. I wrote to the Chair of the Environment, Planning and Countryside Committee on 29 March 2006, notifying him of the Bovine Spongiform Encephalopathy (BSE) Compensation (Wales) Regulations 2006 and inviting the Committee to scrutinise them. The Regulations were identified for detailed scrutiny.

19. 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.7)).

Monitoring and review

20. Defra is proposing to set up an advisory group on cattle compensation. 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

21. Rationalising the compensation system for cattle slaughtered for BSE will provide a consistent approach to compensation (for certain specified cattle diseases, including BSE), iron-out anomalies in BSE compensation and better protect taxpayer and farmer interests. For this reason, it is recommended that these Regulations 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.