

REGULATORY IMPACT ASSESSMENT

The Animal By-Products (Scotland) Regulations 2003 (which enforce Regulation (EC) No 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption)

PURPOSE AND INTENDED EFFECT

Objective

1. A new EU Regulation concerning animal by-products has applied in member States from 1 May 2003. The aim is to protect public and animal health and maintain consumer confidence in the livestock industry. Enforcing Regulations are being introduced to give effect to the Regulation in the UK. This regulatory impact assessment describes the impact of both the EU Regulation and its enforcing Regulations in the UK, other than the import provisions (which will be enforced under the Products of Animal Origin (Third Country Import) Regulations).

Devolution

2. Our enforcing legislation will apply in Scotland only. Separate legislation will apply in England, Wales and Northern Ireland.

Background

3. The EU Animal By-Products Regulation results from a wide-ranging review by the European Commission of the Animal Waste Directive (90/667/EEC), which lays down the health rules governing the disposal and processing of animal by-products not intended for human consumption, and the Balai Directive. These Directives govern imports into the Community and trade within the Community of animal by-products. The new Regulation will replace the Animal Waste Directive and most of the Balai Directive and introduce a number of changes.

4. The purpose of the Regulation is to protect animal and public health and maintain consumer confidence in the livestock industry. It is based on a number of opinions of the EU Scientific Steering Committee which addressed the risk to animal and public health from certain uses or disposal methods for animal by-products. The Regulation also aims to clarify the relationship between veterinary legislation on animal by-products and processed products and the environmental controls deriving from the Waste Framework Directive.

5. The Regulation will separate animal by-products into three categories of material;

- category 1 (eg carcasses of BSE suspects, Specified Risk Material (SRM), ruminant carcasses from which SRM has not been removed);
- category 2 (eg carcasses of animals with diseases other than BSE, carcasses of animals which were not slaughtered for human consumption (including

such ruminant carcasses if the SRM has been removed), manure and gut contents); and

- category 3 (material fit for human consumption).

6. Material from categories 1 and 2 cannot be used in livestock feedingstuffs and would, in most cases, have to be destroyed. Category 3 material can be used in feedingstuffs and fertilisers (subject to the provisions of the TSE Regulation) and Category 2 material can, after rendering, be used for a limited number of uses, such as the production of tallow derivatives or use as fertiliser. These categories would apply to all types of animal by-products; mammalian, poultry and fish. The definition of animal by-product includes catering waste (waste food containing meat or products of animal origin from households and restaurants). The Regulation bans the use of catering waste in animal feed and introduces controls when it is treated in a composting or biogas plant. Waste food containing meat and other animal products from other premises, such as retail outlets, is considered to be an animal by-product and must be treated accordingly.

7. The Regulation sets out the permitted routes for such material and requires premises that use or treat animal by-products to be approved by the competent authority and to comply with the construction and operational standards specified by the Regulation. Thus rendering plants, incinerators, composting, biogas, petfood and technical plants, knackery yards, hunt kennels and similar premises must all be approved under the Regulation if they are to handle animal by-products. Many of these premises are already controlled under the current legislation, the Animal By-Products Order 1999, and already comply with most of the Regulation's provisions. However, those controls will be tightened and some additional provisions applied. New premises will also be brought within the scope of the controls; these include composting and biogas plants (which are not currently permitted to handle such material), incinerators, intermediate plants and certain types of technical plant. The Regulation also brings within its scope some animal by-products such as blood and feathers which are not currently generally controlled under existing legislation and tightens the restrictions on the burial and open-burning of animal by-products, preventing these practices in most circumstances.

8. Approvals in Scotland will be issued by the State Veterinary Service on behalf of Scottish Ministers and enforcement will be carried out by the Meat Hygiene Service in slaughterhouses and by local authorities elsewhere.

Transitional and implementing measures

9. In some areas a transition period has been secured to allow time for industry to adapt. Other member States have secured similar arrangements. In other areas, the Commission has undertaken to come forward with implementing measures to clarify a provision of the Regulation or to propose suitable rules following an opinion of the EU Scientific Steering Committee. Transitional and implementing measures to deal with the most pressing issues were agreed in mid-April this year and are described in more detail below. Proposals to deal with unresolved issues, such as suitable markers for animal by-products, have been tabled for discussion.

Risk Assessment

10. The Regulation implements a number of opinions of the EU Scientific Steering Committee issued between 1998 and 2000 on –

- the safety of meat and bone meal from mammalian animals;
- the safety of tallow derived from ruminant tissues;
- the safety of gelatin;
- the safety of dicalcium phosphate from ruminant bones and used as a feed additive;
- cross-contamination of animal feedingstuffs by mammalian meat and bone meal;
- the disposal of fallen stock;
- the risk of intra-species recycling;
- the safety of ruminant blood.
- The Committee assessed the risks to human and animal health from the use of animal by-products in certain ways, or from certain disposal routes. Although the Committee was primarily concerned with the risks from BSE and other TSEs, its opinion on fallen stock also addressed the risks from other pathogens. The conclusion of its opinions was that only products sourced from animal material which is fit for human consumption should be used in feedingstuffs. It also advised on which disposal routes are suitable for which types of material and advised against the use of burial or open burning to dispose of fallen stock, except in exceptional, under controlled circumstances. In the light of the Committee's opinions, the European Commission proposed measures to tighten the previous rules on animal by-products. The Regulation adopts a precautionary approach. It therefore requires the treatment or disposal of animal by-products in a way that ensures that, if pathogens are present, they cannot be spread to humans or animals.

11. It was the European Commission's original view that, for instance, the exclusion of high risk (Category 1 and 2) material from the feed chain would further reduce the risk of transmission of disease, maintain consumer confidence and prevent a total collapse of the market in meat and bone meal. However, since the Regulation was first proposed, the EU has introduced feed restrictions which prevent the feeding of processed animal protein to livestock, other than fish meal to non-ruminants. A review of the ban on the feeding of poultry meal is expected shortly but this is likely to be dependent on the proper application of the controls in this Regulation. The Regulation also bans the swill-feeding of catering waste to livestock in line with our national ban that has been in place since May 2001 and which was introduced in the light of the outbreak of Foot and Mouth Disease.

Business sectors affected

12. Directly affected by the Regulation are 7 Scottish rendering plants (38 in GB), 4 knackers' yards (73 in GB), 13 petfood plants (109 in GB), 8 hunt kennels (293 in GB), 4 zoos/parks (93 in GB), a maggot farm (35 in GB), 2 pharmaceutical plants, 2 technical plants (9 in GB). Other premises are also affected; 45 slaughterhouses (662 in GB), a large proportion of the 30,000 livestock and fish producers (200,000 in GB) plus other producers of animal by-products such as the waste disposal industry, the animal feed industry, collectors, processors and blenders of used cooking oils, food manufacturing premises, catering outlets and retail outlets. The operators of biogas and composting plants may also be directly affected if they choose to process catering waste or other animal by-products. Laboratories which carry out microbiological testing under this Regulation may also be affected if they choose to test additional material.

Issues of Equity and Fairness

13. The legislation is directly applicable to Scotland and Scottish Ministers must introduce legislation enabling it to be enforced. Although the Regulation will impose costs on livestock keepers and producers of animal by-products such as abattoirs and producers of products derived from by-products, it should also benefit the livestock industry and associated industries by reducing the risk of the transmission of animal and human diseases; providing a framework for a potential relaxation of the restrictions on the use of animal protein in feedingstuffs; and increasing consumer confidence, both at home and abroad. It will also allow the development of new operations such as composting and biogas plants.

Options

14. The EU Regulation has been adopted and will be directly applicable in member States. There are three main options with respect to the enforcing Regulations -

a) Do nothing i.e. do not enforce the EU legislation

This would leave Scottish Ministers in breach of their obligation to implement EU legislation and would lead to legal challenge in European Court of Justice. It would also increase the risk of unsafe material being distributed and pose a risk to animal and public health.

b) Enforce the EU legislation without any national requirements

The EU legislation could be enforced by simply providing for powers of entry, offences etc. This option would enable us to comply with our obligation to implement EU legislation but would not allow us to exercise any flexibility such as the introduction of national standards.

c) Enforce the Regulation with some national requirements

This option seems to be the most appropriate and would enable us to include those national requirements (eg record keeping) necessary to ensure that the Regulation is complied with and allow us to provide some flexibility of approach for those industries most directly affected.

Benefits

15. The Regulation will help to safeguard public and animal health and the environment and reduce the risk of transmission of a wide range of diseases. The original aim of the Regulation included addressing ethical objections such as the feeding of animal material to animals of the same species; boosting the image of the industry; and helping to restore confidence among consumers. By restoring a level playing field in the disposal chain across the Community, it is hoped that the controls will provide clarity for the industry, allowing it to plan for the future. Since the Regulation was proposed, the feeding of processed animal protein to most livestock has been banned throughout Europe. The Regulation will now provide a framework of controls within which a relaxation of that ban can be considered. The Regulation also sets out detailed controls with a view to preventing the transmission of other

diseases. By maintaining the ban on the swill-feeding to livestock of catering waste, it should also reduce the possibility of livestock having access to meat which might contain a serious animal disease such as Foot and Mouth Disease and Classical Swine Fever.

16. The Regulation will also provide environmental benefits and contribute to the achievement of Executive and local authority targets for the recycling of waste and reduction in the quantity of biodegradable material being disposed of to landfill. It will provide a framework within which alternative and more sustainable methods of disposing of animal by-products can be developed. In particular, it will permit the treatment of catering waste (including household waste) and certain other types of animal by-products in approved composting or biogas plants, a practice which is not currently permitted, thus allowing the development of a new industry. This industry will increase the amount of material that is recycled to land and thus reduce the quantities of material being disposed of to landfill.

Compliance Costs for Business, charities and voluntary organisations

17. Option (a) would not impose direct costs for business; lack of controls over animal by-products could hinder the ability of business to trade with other Member States in such products, or in products derived from them, or to export to third countries. Option (b) would impose the full costs of the EU Regulation on business, but would not impose any additional costs. Option (c) would impose the full costs of the EU Regulation and some additional costs resulting from the enforcing legislation. It would also provide some flexibility of approach for those businesses most affected.

18. For both options (b) and (c), there will be some additional management costs as business familiarises itself with the Regulation and takes the necessary measures to comply with it. The costs will vary between the different types of operation and it is not possible to quantify the training and management cost. Other compliance costs are explained below. It is not proposed to charge businesses for the issuing of approvals required by the Regulation.

Compliance costs for a typical business

19. The majority of the businesses affected are small businesses. The compliance costs for a typical business therefore apply equally to a small business.

20. Non-recurring costs for both options (b) and (c) are unlikely to be significant for most premises as they already have the basic infrastructure in place. However, there will be non-recurring compliance costs for renderers who install pressure cooking systems, and for hunt kennels/maggot farms, etc. who need to upgrade their standards. The cost of installing a medium sized pressure cooker in a rendering plant is estimated at £0.75 million, while it could cost a hunt kennel or a maggot farmer up to £5000 to upgrade their premises. There may also be non-recurring costs for the operators of composting plants, intermediate plants and small incinerators who may need to upgrade their premises or equipment to comply with the Regulation. A separate consultation exercise has recently been completed on the national standards proposed for the treatment of catering waste in composting and biogas plants. The RIA for that proposal will inform this RIA.

21. There would be recurring costs from the pressure cooking of category 1 and 2

material and from the disposal of products which are not currently controlled (eg blood from slaughterhouses).

Total compliance costs

22. To pressure cook category 1 and 2 animal by-products, renderers may need to invest around £0.75 million per cooker for up to 75 cookers, or up to £50-60 million in total. An alternative to installing pressure cookers would be to send the meat and bone meal to off-site incinerators (with consequent recurring costs) or to install on-site incinerators (with non-recurring costs).

23. If most of the hunt kennels and other premises handling animal by-products for feeding to hounds, maggots, fur animals, etc. had to upgrade their premises, the cost could be as much as £1.5 million. However, not all hunt kennels will need to upgrade as some only receive treated material from knackers' yards and do not themselves collect and treat fallen stock. The costs are not yet clear.

24. It is not known how many animal carcasses are buried on farm and thus how much the ban on burial and burning outside the remote area will cost. The costs to individual farmers of disposing of sheep and cows via existing disposal routes are in the region of around £15 per sheep and £90 per cow. The additional disposal costs for cattle should be small as the collection of all fallen stock over 24 months is currently met by central funds for TSE surveillance purposes. However, there will be additional disposal costs for sheep producers, many of whom currently bury fallen stock on-farm, and there may also be costs for the small number of pig and poultry producers who do not already use a legitimate outlet. The continued burial of fallen stock will however be permitted in remote areas, and a significant number of crofters and farmers in Scotland are likely to benefit from this derogation.

25. There is already an EU-wide ban on the feeding of mammalian and poultry meal to livestock, and fishmeal may only be fed to non-ruminants. The additional costs caused by preventing the use of category 1 and 2 material in feedingstuffs will therefore be small. In the UK it is thought that several thousand tonnes of category 2 fish waste may be used each year to feed livestock (other than fish). Disposal costs for this material could rise by around £80/tonne. If the EU Scientific Steering Committee recommends that fish meal derived from Category 3 wild fish should not be fed to farmed fish, there would be further costs for the fishmeal industry. However, these have not been quantified.

26. The Regulation will prevent the spreading to land of untreated blood from slaughterhouses. It is thought that an extra 150,000 tonnes of blood will need to be treated but that sufficient capacity will be available at rendering plants to treat the blood to atmospheric pressure standards. However, the Regulation requires the pressure treatment standard and the UK secured a transition period to allow time for the necessary equipment to be installed. This will result in additional costs for the rendering industry, although it is possible that the costs may encourage the development of alternative outlets such as biogas or composting plants. It has been estimated that the price that slaughterhouses pay for the disposal of blood could rise from the current £16/tonne to £60-80/tonne. In addition, some slaughterhouses currently dispose of their blood direct to sewer and do not have collection tanks. As many as one third of slaughterhouses may need to install suitable facilities. We do not have an indication of the likely cost of installing suitable facilities,

but have provided guidance to the trade on simple, cost-effective ways of making the change.

27. Animal carcase incinerators will be brought within the scope of the Regulation, in accordance with a commitment in the EU Waste Incineration Directive, 2000/76/EC. While large incinerators will have to operate to standards which are broadly in line with those established by the Waste Incineration Directive, new standards will apply to small incinerators (less than 50 kg/hour). It is not yet clear how many of these incinerators will be able to comply with the new standards, or how much it might cost should they need (and be able) to upgrade. The cost of an upgrade is likely to be a few hundred pounds but if an upgrade is not possible, a complete replacement may be necessary at a cost of several thousand pounds. However, any costs will be considerably less than the additional costs which would have been necessary to comply with the Waste Incineration Directive. To meet the requirements of the Waste Incineration Directive, the capital compliance cost for an individual incinerator was estimated at £230,000, with annual operating costs of approximately £12,000. A two year transition period has been obtained to enable the requirements of the Regulation to be phased in for those low capacity incinerators which do not burn SRM.

28. The Regulation does not permit small incinerators to be used for the incineration of category 1 material such as SRM or whole ruminant animals, although they could be used to incinerate pets. Around 12 small incinerators are currently approved in Scotland to incinerate SRM and these are primarily located at hunt kennels and knackers' yards. However, the Commission has undertaken to come forward with proposals to permit their use, providing a satisfactory legal view from the Commission and a satisfactory scientific opinion can be obtained.

29. With the exception of used cooking oils, the ban on intraspecies recycling and on the feeding of catering waste to livestock would have little practical effect. Swill-feeding has already been banned in the UK and the EU-wide ban on processed animal protein in feed effectively prevents most intraspecies recycling. However, there will be costs to the animal feed industry resulting from the ban on the use in animal feed of used cooking oils from restaurants. The UK has secured a two year transition period during which used cooking oils can continue to be used in animal feed if they are protected from contamination by the application of HACCP (Hazard Analysis of Critical Control Points) principles and appropriate quality control. We expect that during this period sustainable alternatives (eg biodiesel) will be put in place and provide alternative outlets with no additional cost to restaurants. Around 80,000 tonnes of used cooking oils are produced in the UK each year and the Feed Fat Association (representing the blenders) has estimated that additional feed costs of between £29 and 45 million p.a. will result from the need to use alternative sources (these costs will be passed on to the feed industry and farmers).

30. There are currently a small number of UK plants that are approved to use SRM to produce technical products. When the Regulation applies, they will no longer be able to use SRM and will need to source alternative material. We have no indication of the likely costs of this change, but it is thought that the quantities of SRM being used is small.

31. A large number of people use animal by-products in small scale and hobby activities. These include the blowing of duck and other eggs for use for craft

purposes, the carving of horns to produce walking sticks and similar activities. A large number of taxidermists also use animal by-products, mostly for hobby purposes. We consider that the risk from these practices is very small and we therefore intend to issue a general approval to allow them to continue without controls. The operations would be approved as technical plants. The exception will be taxidermists who use SRM or whole ruminant carcasses, or who import whole animal carcasses. These operators will need to obtain approval, as will tanneries. Our aim is to keep the approval process for such premises as simple as possible.

32. The Regulation requires records to be kept, so that an audit trail can be maintained. The enforcing Regulations will require some additional documentation to enable operators to demonstrate compliance with the Regulation. However, as the records may be those that are kept for other purposes, the additional burden should be limited.

33. The change in the definition of catering waste will mean that some waste that is currently considered to be catering waste will now need to be disposed of in the same way as other animal by-products once the transitional period has expired. Landfill will not be a permitted outlet. Thus meat and most other products of animal origin that arise in supermarkets, food factories and retail outlets will need to be disposed of to a legitimate outlet (currently rendering, incineration, composting or biogas) instead of landfill.

34. Currently SRM may only be mixed with other animal by-products at rendering plants. This is to maintain the audit trail but can increase the cost of transporting the material. These controls will now allow mixing of SRM and other by-products at other premises providing the audit trail can be maintained. We will also allow different categories of material to be transported in compartmentalised vehicles and this should also result in some benefits to industry.

Consultation with small business: the small firms impact test

35. The majority of the businesses described in this RIA are small businesses. Industry organisations and other interests have been consulted throughout negotiations on the EU Regulation. Although compliance costs for small businesses are similar to those for other businesses, in some cases the impact may be greater. For example, large slaughterhouses already have collection facilities for blood, but many small abattoirs do not and will need to install the necessary facilities to comply with the Regulation.

Competition assessment

36. The Regulation may result in some changes to the disposal routes used for catering waste and animal by-products but, on balance, should increase competition in this area. The Regulation will, for the first time, permit Category 3 material to be treated in an approved composting or biogas plant. These outlets will compete with rendering plants for Category 3 animal by-products, including material such as blood. Catering waste which is currently disposed of to landfill or incineration can be treated in an approved composting or biogas plant. In addition, there will be competition between the animal feed industry and the biodiesel and energy-generating industries for used cooking oils.

Enforcement and sanctions

37. There are likely to be some additional costs of enforcing the Regulation. These costs will largely be related to the inspection of premises such as hunt kennels/maggot farms which need to comply with new standards, and to the inspection and monitoring of premises which are not currently registered or approved (intermediate plants, biogas, composting and oleochemical plants, incinerators). The additional costs for inspecting these premises by the State Veterinary Service are estimated at around £1.5 million p.a. There may also be additional resources for local authorities as they are responsible for enforcing the legislation on animal by-products. Although they already have such responsibilities, extra resources may be needed if it is necessary to increase enforcement activity eg in policing the ban on the burial of fallen stock.

38. In the event of non-compliance, the Regulation requires the competent authority to suspend an operator's approval, thus preventing the premises from receiving animal by-products. Prosecutions on summary conviction may result in a fine of up to £5,000 and 6 months' imprisonment, or on conviction on indictment to an unlimited fine and up to 2 years imprisonment or both.

Monitoring and review

39. The Regulation requires Member States to inform the Commission within one year of its entry into force of the measures taken to ensure compliance with the Regulation. The Regulation also provides for the Commission to propose amendments to the Annexes, following consultation of the EU Scientific Steering Committee where appropriate, so that technical changes can be made if experience suggests it is necessary. The Commission has already begun a review of the Annexes.

Results of consultation

40. A wide variety of industry organisations and other interests have been consulted at regular intervals. Where difficulties have been identified, changes to the Regulation have been sought if appropriate, or steps taken to implement the requirements in a way that minimises the impact. For example, it was not possible to prevent the introduction of a ban on the use in animal feed of used cooking oil, but we agreed a two year delay to allow time for sustainable alternative outlets to be developed. This period reflects a balance between the wish of the restaurant and used cooking oil industries for the current situation to continue as long as possible, and the wish of those offering alternative outlets (eg biodiesel and burning as fuel) for a rapid change-over. It also reflects our concern to protect the environment by ensuring that sufficient alternative capacity is in place by the time the ban takes effect.

Summary and recommendation

<u>Option</u>	<u>Total cost per year</u>	<u>Total benefit per year</u>
(a)	Nil	Not quantifiable, but negative.
(b)	Possibly in excess of £100 million	Not quantifiable, but positive
(c)	Possibly in excess of £100 million	Not quantifiable, but positive

41. Option (c) is recommended, because it enables the Regulation to be properly enforced and the maximum benefit is derived from the Regulation. Option (c) would also provide some flexibility of approach for those businesses most affected.

Declaration

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.

Signed by the responsible Minister:

Date:

Scottish Executive