EXECUTIVE NOTE
The Bovine Products (Restriction on Placing on the Market) (Scotland) Regulations 2005 S.S.I. 2005/470

The above instrument is made under powers conferred by section 2(2) of the European Communities Act 1972(a) and of all other powers enabling them in that behalf. The instrument is subject to negative resolution procedure.

Policy Objectives

1. These Regulations, which apply to Scotland only, implement a move from the Over Thirty Months (OTM) rule to a prohibition on the placing on the market of products derived from bovine animals born or reared within the UK before August 1996.

2. The effect of these Regulations is to allow UK OTM cattle born on or after 1st August 1996 into the human food supply, provided they have received a negative test result for BSE.

Legislative Background

3. The OTM rule legislation (the Fresh Meat (Beef Controls) (No. 2) Regulations 1996) is national legislation made under the Food Safety Act 1990. Subsequent Community legislation - Regulation 999/2001 - provides for EU-wide rules for controlling BSE. Because of its comprehensive nature, Regulation 999/2001 constitutes fully harmonised rules in the field of control and eradication of BSE, including consumer protection.

4. There is no provision in Regulation 999/2001 for the UK to operate an OTM rule in the form of a ban on the sale for human consumption of meat from OTM cattle. Under the EU rules, such meat may legally be sold provided it is from an animal that had tested negative for BSE (and the specified risk material had been removed). The OTM rule is therefore inconsistent with the applicable EU law.

5. The new policy of prohibiting UK cattle born before August 1996 from the food supply was subject to the same difficulty. The UK therefore requested action at EU level to legitimise a continued ban on such cattle.

6. In response, within the powers delegated to it under Regulation 999/2001, the Commission adopted Decision 2005/598/EC of 2 August 2005. The instrument gives effect to Article 1.1 of that Decision, which prohibits the placing on the market of products derived from bovine animals born or reared within the UK before 1st August 1996.

Consultation

7. In accordance with article 9 of Regulation (EC) 178/2002 Member States must undertake public consultation, directly or through representative

bodies, during the preparation, evaluation and revision of food law. The FSA issued a 12-week consultation package to interested parties on 7 March 2005 on a draft Statutory Instrument and partial Regulatory Impact Assessment. This consultation represents only one part of a series of stakeholder engagement initiatives that the Agency has undertaken relating to changing the OTM Rule since July 2002, when the review of the rule was launched.

Manpower and Financial Implications for Central and Local Government

8. Significant savings in Exchequer costs from reductions in OTMS expenditure net of additional costs, which are estimated to increase from some £15m in 2005/06 to £250m after all cattle born before August 1996 have been disposed of.

9. Official supervision of new arrangements related to testing and the removal of vertebral column from OTM cattle would give rise to additional costs to Government incurred by the Meat Hygiene Service (MHS) in Great Britain and the Department of Agriculture and Rural Development (DARD) in Northern Ireland. In addition, the extent of routine monitoring of current SRM controls would increase simply because a larger number of cattle would be slaughtered in fresh meat slaughterhouses. Also, it is impractical to require all abattoirs to retain hides on site until test results are received which means that a system of official control must be extended to hide markets and tanneries. Rural Affairs Departments will use Meat and Livestock Commission (MLC) staff for this purpose. Additional enforcement costs to Government are difficult to quantify at this stage because the number and location of abattoirs who may wish to process OTM cattle for human consumption is not known, and the costs of MHS supervision, particularly of vertebral column removal, remain unconfirmed. However, enforcement costs could be in the region of £25 million in 2005/06.

Effect on the Regulations and Impact on Business and Trade

10. Replacing the OTM rule with a BSE Testing system would affect cattle farmers, the meat industry, animal by-product renderers and incinerators, retailers, beef importers and those involved with BSE testing and the transport of brain samples.

11. Costs for a typical abattoir or cutting plant would depend on the facilities already available at individual premises and OTM cattle throughput. However, abattoirs and cutting plants would be able to choose not to handle OTM cattle. Major accommodation works would not typically be required for a plant to engage in the OTM trade, the main requirements being to provide a space for sampling and suitable facilities for holding carcases awaiting test results. As noted above, for all plants taking on OTM work, handling OTM carcases would involve higher costs in relation to testing and additional processing and SRM removal. Slaughterhouses would be expected to pass on all or part of these additional costs to

producers. Additional industry costs for testing and removal of vertebral column may be about £12 per animal but would depend on capital outlay at abattoirs and OTM cattle throughput. Producers would benefit to the extent that the market provides a better return than the OTMS, less the additional costs to abattoirs of processing OTM cattle.

12. More details of the affect of this measure can be found in the Regulatory Impact Assessment that accompanies this Executive Note.

Food Standards Agency Scotland
September 2005

List of Consultees

Scottish Animal Health Offices

BAS Members

British Association of Animal Science

British Veterinary Association (Scottish Branch)

CJD Surveillance Unit

Confederation of Scottish Local Authorities (COSLA)

Crofters Commission

Devro (Scotland) Limited

Operators of all licensed red meat premises

Health Protection Scotland

Local Authorities in Scotland

Meat Hygiene Service (Scottish Office)

National Farmers Union Scotland

Quality Meat Scotland

Royal (Dick) Veterinary College

Royal Environmental Health Institute for Scotland

Scottish Agricultural Council

Veterinary Science Division

Scottish Association of Meat Wholesalers

Scottish Consumer Council

Scottish Crofting Foundation

Scottish Executive Environment and Rural Affairs Department

Scottish Executive Health Department

Scottish Food Enforcement Liaison Committee

Scottish Federation of Meat Traders Association

Scottish Food Advisory Committee

Scottish Food and Drink Federation

Scrapie and Related Diseases Advisory Service