POLICY NOTE

THE BOVINE VIRAL DIARRHOEA (SCOTLAND) AMENDMENT ORDER 2025

SSI 2025/176

The above instrument was made in exercise of the powers conferred by sections 1 and 8(1) of the Animal Health Act 1981. The instrument is subject to no procedure.

Summary Box

To introduce Phase 6 of Scotland's bovine viral diarrhoea (BVD) eradication scheme, an industry-led programme to remove this destructive cattle disease from the Scottish herd. To protect the majority of herds, which have removed BVD, Phase 6 will impose further obligations on herds that fail to complete mandatory testing and will require high-risk calves to be tested soon after birth. [It will also provide for some greater flexibility around movement restrictions to promote good practice when a BVD positive result is reported, and on tissue sampling from young calves.

Policy Objectives

This Order amends the Bovine Viral Diarrhoea (Scotland) Order 2019 ("the 2019 Order") to achieve the following:

Ear tag sampling from young calves

Requirements and restrictions on whether samples are to be taken from an official ear tag or a management tag of calves under 20 days of age will be removed, allowing samples to be taken using either an official ear tag or management tag. Cattle of all ages can now be sampled using a management tag.

Promoting good practice when a BVD positive result is reported

National programmes to eradicate BVD are always based on the identification and removal of Persistently Infected (PI) cattle. A single positive BVD virus result can be due to transient infection. In order to be certain that the animal is a true PI, the keeper can choose to arrange a confirmatory sample by a vet, at least 21 days after the initial sample was taken. Under Phase 5, immediate restrictions were imposed on herds where a BVD positive animal was disclosed, preventing movements in to the herd. Phase 6 will allow a grace period of 40 days to allow confirmatory testing to be carried out if the keeper wishes to do so. If the BVD positive animal is still in the herd after 40 days, movements in to the herd will be stopped to reduce exposure of new cattle to BVD infection on the farm.

Extending PI obligations to non-breeding herds

Scotland's BVD eradication scheme is focused on breeding herds to prevent the birth of PI animals. Phase 5 required breeding herds to house BVD positive animals (PIs and suspect PIs) indoors separately from other cattle. Phase 6 will extend this "separate housing" requirement to non-breeding herds, which will protect other animals in the herd and neighbouring herds from infection through direct contact with known PIs and suspect PIs.

Requirement to test the calves of "Trojan cows"

"Trojan cows" are those that are brought in to the herd or onto a holding whilst pregnant. The pregnant female herself is BVD negative at the time of purchase but if she had been transiently infected early in pregnancy, her unborn calf would be a PI. Phase 6 makes it mandatory to promptly BVD test calves of females that were already pregnant when they joined the herd or moved onto the holding. This measure will identify PI calves early, allowing the keeper to take action to protect his own herd and other cattle.

Non-compliant herds will be restricted from bringing cattle in

Breeding herds that remain BVD not negative for more than 15 months enter a Compulsory BVD Investigation, which gives them a further 13 months to do sufficient testing to establish a BVD negative status. For those that fail to comply, Phase 6 will prevent cattle from being brought onto the holding where the herd is kept. This measure aims to reduce the number of animals being potentially exposed to BVD infection.

Replacement of article 31 to clarify requirements for a single breeding animal that does not form part of a herd

The Order will also substitute article 31 of the 2019 Order which restricts the movements of animals off a holding where sampling obligations are missed, so the 2019 Order is clear about the circumstances in which that article applies, rather than other articles of the 2019 Order. Article 31 will be substituted so that it only applies where sampling obligations are missed in relation to breeding bovine animals not forming part of a herd, and with no individual BVD status. Article 27 of the 2019 Order already provides for breeding herds to have a BVD status of not negative where sampling obligations are missed, and, in article 33, for movements off the holding to be restricted in those circumstances. Breeding bovine animals with an individual BVD status of negative do not require to be sampled, and where a breeding bovine animal has an individual BVD status of positive, movements off the holding are restricted under articles 32 and 33 of the 2019 Order.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Bovine Viral Diarrhoea (Scotland) Amendment Order 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU. Under Commission Implementing Regulation (EU) 2018/1882, BVD is a 'category C disease' under Regulation (EU) 2016/429 (the Animal Health Law) for optional control and eradication within the member States.

Consultation

A public consultation took place from 15 November 2023 to 7 February 2024 and 53 responses were received from organisations, businesses and individuals. The responses were analysed and further discussed with Scotland's BVD Advisory Group, a steering group of industry representatives that monitors progress towards eradication and determines the content of legislation.

As a result of consultation and subsequent discussion, four of the nine proposals were taken forward (partially or fully) as Phase 6. Of the remaining five proposals, one referred to reduction of farm payments in the event of BVD non-compliance, which received strong support from respondents and the BVD Advisory Group. This measure is not within the scope of this Order. However, in order to enable farm payments to be recovered or withheld, non-compliant herds must be publicly listed. Public listing will go ahead as part of Phase 6. The remaining four proposals were deemed better dealt-with by improved communications and guidance rather than legislation.

There was mixed support for the proposal to increase the obligations of non-breeding herds. After discussion with the BVD Advisory Group and other experts on requiring non-breeding herds to test cattle, it became clear that annual BVD herd status is meaningless for a continually changing herd made up of non-breeding animals. Also that requiring individual BVD status for non-breeding animals represents a cost without direct benefit for those keepers who specialise in finishing cattle. Also that the sanctions for non-compliance have little significance for non-breeding herds, since animals can be sent to slaughter regardless of BVD status. The proposal regarding non-breeding herds was therefore taken forward in part.

Impact Assessments
A Children's Rights and Wellbeing Impact Assessment is provided with this instrument.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been completed and is provided with this instrument. The impact of this policy on business is beneficial to Scotland's cattle industry as a whole, because the Phase 6 measures will further reduce BVD outbreaks and their associated costs. The BRIA identified the additional costs to industry associated with the mandatory testing of calves of "Trojan cows" will be in the range £35-55,000 per year for the whole of Scotland. This is considered a proportionate burden on industry because keeping BVD out of the average herd is worth £20-70 per animal per year (range reflects different herd types), equating to a value of at least £27m per year.

Scottish Government
Agriculture and Rural Economy Directorate
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