EXPLANATORY MEMORANDUM TO

THE CATTLE COMPENSATION (ENGLAND) (AMENDMENT) ORDER 2018

2018 No. 754

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department of Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument amends the Cattle Compensation (England) Order 2012 (SI 2012/1379) ("the 2012 Order"). Where the Minister causes bovine tuberculosis ('TB') affected cattle to be slaughtered under the Animal Health Act 1981 the owner receives a compensatory payment. This amending instrument introduces enhanced compensation arrangements for TB-affected cattle where the killing is arranged by the owner at a slaughter house of their choice. Two other main amendments enable the Minister to reduce compensation payments to the cattle owner by 50% in two specific circumstances where the killing of TB-affected cattle is arranged by the Minister.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 This instrument is made under enabling powers contained in the Animal Health Act 1981 and amends the 2012 Order. The European Council Directive 1964/432/EEC requires member States to slaughter TB-affected cattle, and the Tuberculosis (England) Order S.I. 2014/2383 sets out the disease controls.

5. Extent and Territorial Application

5.1 The extent of this instrument is England and Wales.

5.2 This entire instrument applies only to England.

6. European Convention on Human Rights

6.1 As the instrument is not subject to the affirmative resolution procedure and does not amend primary legislation no statement is required.

7. Policy background

7.1 Bovine Tuberculosis (TB) is one of the most difficult animal health problems facing England's cattle farmers resulting in a significant financial burden for industry and

government. In 2015/16 over 29,000 cattle were compulsorily slaughtered for TB-control purposes in England, and compensation paid to cattle owners for these animals totalled £30m with a proportion of this offset by salvage receipts for the carcase meat and some recoverable through the EU.

7.2 The 2012 Order is being amended to provide an incentive for farmers to mitigate the risk of transmission of TB both to and from animals brought into a TB-affected herd. An amendment provides for a 50% reduction in compensation where an owner brings an animal in to a TB-affected herd and that animal then tests TB positive while the TB incident is still ongoing. Cattle keepers accredited under a scheme based on the standards laid down by the Cattle Health Certification Standards (CHeCS) will continue to receive 100% compensation for all compulsorily slaughtered cattle, provided the herd is accredited at the time of the breakdown

7.3 Another amendment provides an incentive for TB-affected cattle to be properly cleaned prior to being collected for slaughter. If the carcase has to be condemned due to being so unclean that there is a real risk of bacterial contamination then the owner will be subject to a 50% reduction in compensatory payment.

7.4 There is an amendment designed to incentivise greater take-up of private slaughter arrangements when the owners of TB-affected cattle choose a slaughter house to purchase and kill such cattle. Owners who choose this option will receive compensation at the same rate as other TB affected owners in respect of any compulsory slaughtered animal if the carcase of the animal is condemned by the slaughterhouse. Previously cattle keepers would receive zero compensation (and no payment from the slaughterhouse operator) in this scenario.

7.5 The changes introduced by this Order support the commitment, included in Defra's TB eradication strategy, to modify the TB compensation system so that it more effectively incentivises risk-reducing practices on cattle farms.

8. Consultation outcome

8.1 A public consultation on a range of proposed enhancements to TB cattle controls including changes to compensation, was conducted between 19 July 2017 and 29 September 2017. Defra received 300 responses from individuals and organisations.

8.2 Forty seven percent of respondents supported the proposal to pay reduced compensation for cattle that cannot be processed by a slaughterhouse because they are unclean. The majority of respondents who agreed with this proposal thought it would help incentivise keepers to meet their important animal welfare and husbandry responsibilities.

8.3 Seventy six percent of respondents disagreed with the proposal to pay reduced compensation for brought-in reactor animals, the main objection being that farmers need to re-stock to stay in business. The changes implemented through this amendment Order will not directly affect a cattle farmer's ability to re-stock – but some of the financial risk of bringing disease-free cattle into herds with a known TB problem will be transferred to the keeper. Some organisations who supported the proposal suggested that consideration should be given to incentivise cattle owners whose herds are accredited under the Cattle Health Certification Standards (CHeCS). Defra took those comments on board and decided to adapt the policy so that keepers of herds that have been CHeCS TB-accredited will not be impacted by the reduction in compensation for brought-in reactor animals.

9. Guidance

9.1 Details are available through Defra and its Executive Agency, the Animal and Plant Health Agency (APHA) websites and via the TBHub (http://www.tbhub.co.uk/), a national TB advice website available to all farmers.

10. Impact

10.1 The impact on business, charities or voluntary bodies will be minimal. Defra analysis indicates that the three amendments to the compensation order will likely impose costs on the cattle industry in the region of £0.76m. The largest impact on farm businesses will be the 50% reduction in compensation for brought in reactors which is estimated at £0.75m. This annual reduction in compensation payments is likely to overestimate the cost to farmers of this change. This figure represents the impact if farmers took no action as a result of this change. In reality this cut in compensation will incentivise farmers to not bring in replacement healthy cattle while in breakdown in certain situations. Additionally this policy is likely to incentivise investment in bio-security measures. Both of these behavioural changes will lead to less brought in reactors and so benefit farmers and the general taxpayer.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 All businesses will be able to take practical measures to help avoid a reduction in compensation.

12. Monitoring & review

12.1 A post implementation review of the 2012 Order was completed and published in 2017(https://www.gov.uk/government/publications/cattle-compensation-england-order-2012-and-individual-ascertainment-of-value-england-order-2012-post-implementation-review-2017)

13. Contact

13.1 Carol Hawke at the Department of the Environment, Fisheries and Rural Affairs. Email: carol.hawke@defra.gsi.gov.uk can answer any queries regarding the instrument.