**EXPLANATORY MEMORANDUM TO**

**THE VETERINARY SURGERY (ARTIFICIAL INSEMINATION) ORDER 2010**

**2010 No. 2059**

**THE VETERINARY SURGERY (RECTAL ULTRASOUND SCANNING OF BOVINES) ORDER 2010**

**2010 No. 2056**

**THE VETERINARY SURGERY (EPIDURAL ANAESTHESIA OF BOVINES) ORDER 2010**

**2010 No. 2058**

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

**2. Purpose of the instruments**

2.1 **The Veterinary Surgery (Artificial Insemination) Order:** This Order authorises trained non-veterinarians to carry out artificial insemination of cows or mares. The Order states that a person carrying out artificial insemination of cows must be at least 16, must never have been convicted of an animal welfare offence and must either have successfully completed an approved course or carry out the artificial insemination as part of an approved course. In relation to artificial insemination of mares the person must be at least 18 and must either carry out at least five artificial inseminations of a mare in each two-year period after successful completion of the approved course or have a written declaration from a veterinary surgeon declaring that they are competent to carry out artificial insemination of mares.

2.2 **The Veterinary Surgery (Rectal Ultrasound Scanning of Bovines) Order:** This Order authorises trained non-veterinarians to carry out rectal ultrasound scanning of bovines. It states that a person carrying out the procedure using any scanner other than a doppler rectal transponder must be at least 18, must not have been convicted of an animal welfare offence connected with the use of a rectal ultrasound scanner and must either have successfully completed an approved course or must carry out the scan under the direct and continuous supervision of a veterinary surgeon as part of an approved course. They must carry out a rectal ultrasound scan of a bovine in every two-year period after successful completion of a course, or have a signed letter from a veterinary surgeon confirming their competence to carry out this procedure. A person using a doppler rectal transponder must be at least 18 and be in possession of a letter signed by a veterinary surgeon

attesting their competence to use a doppler rectal transponder without injury to bovines.

2.3 On completion of a scan a person must record the location, date, identification number of the bovine and the name and address of any supervising veterinary surgeon. A copy of this information must be supplied to the owner of the bovine and must be kept for three years and made available for inspection by Defra.

2.4 **The Veterinary Surgery (Epidural Anaesthesia of Bovines) Order**: This Order authorises trained non-veterinarians to carry out epidural anaesthesia of bovines. The Order states that a person carrying out that procedure must be at least 18 and must either have successfully completed an approved course or must carry out the procedure as part of an approved course. Epidural anaesthesia must be administered under the authority of a team veterinarian and the person administering the anaesthesia must be a member of an embryo collection or embryo transfer team. If a person has not carried out epidural anaesthesia for two years or more they must successfully complete a course approved for refreshing skills in the administration of epidural anaesthesia.

## 3. Matters of special interest to the Joint Committee on Statutory Instruments / the Select Committee on Statutory Instruments

3.1 None

## 4. Legislative context

4.1 The Veterinary Surgeons Act 1966 provides that veterinary surgery may only be performed by registered veterinary surgeons. However, minor treatments, tests or operations may be exempted from this rule by an Order made jointly by the Secretary of State for Environment, Food and Rural Affairs, the Secretary of State for Scotland, the Secretary of State for Wales and the Department of Agriculture and Rural Development NI under section 19(4)(e) of that Act.

4.2. These Orders allow suitably trained people who are not veterinary surgeons to carry out the named procedures, as long as they comply with the conditions set out in the Orders. The Orders revoke and remake with amendments respectively, the Veterinary Surgery (Artificial Insemination) Order 2007 (S.I. 2007/1315), the Veterinary Surgery (Rectal Ultrasound Scanning of Bovines) Order 2002 (S.I. 2002/2584), and the Veterinary Surgery (Epidural Anaesthesia) Order 1992 (S.I. 1992/696) to comply with the Provision of Services Regulations 2009 (S.I. 2009/2999) by which the United Kingdom transposed Directive 2006/123/EC on services in the internal market.

## 5. Territorial extent and application

5.1 These instruments apply in the whole of the United Kingdom except for the provisions on artificial insemination of cows which apply in England, Scotland and Wales only.

## 6. European Convention on Human Rights

6.1 As the instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

## 7. Policy background

7.1 The procedures named in these Orders are already carried out by trained non-veterinarians. These Orders set out conditions to ensure that non-veterinarians are sufficiently trained and experienced to carry out the procedures safely, minimising the risk of damage or distress to the animal.

7.2 The Provision of Services Regulations 2009 provide that access to a service activity in the United Kingdom must not be made subject to conditions that discriminate against the service provider. They also require the removal of unnecessary legislative and administrative restrictions on the provision of services in the United Kingdom.

7.3 The definition of an 'approved course' in these Orders now includes a course of training in an EEA State, the successful completion of which entitles a person to perform the relevant procedure in that EEA State.

7.4 The need to issue exemption certificates for artificial insemination of mares and rectal ultrasound of bovines has been removed (they were not previously required for the artificial insemination of cattle or epidural anaesthesia). The conditions that were previously set out in exemption certificates are now set out in the Orders themselves.

7.5 The Veterinary Surgery (Artificial Insemination) Order 2007 provided that people who had, before that order came into force, carried out the artificial insemination of a cow in accordance with the Regulations mentioned at article 3(2)(c)(iii) of that Order could continue to do so, subject to the other conditions set out in the 2007 Order, notwithstanding that they had not completed an approved course. The right of that limited category of people to perform the procedure has been retained in the new order.

7.6. In remaking these Orders, Defra has tried to ensure that the level of regulation is proportionate. There is no standardised approach for deciding the level of competence for veterinary technicians across the EU. Given the negligible level of activity of EEA-trained technicians in the UK and the size of the task, it would be disproportionate for Defra to try to compare standards. The Orders have been simplified and unnecessarily prescriptive parts of the previous Orders have been removed. The removal of exemption certificates reflects the need to reduce the level of regulation. If technicians fail to

comply with the conditions set out in the Orders, then they are no longer eligible to carry out the procedure legally.

7.7 A Veterinary Risk Assessment produced by Defra to support the consultation concluded that the proposed changes are reasonable and proportionate, and that authorising EEA-trained non-veterinarians to perform these procedures in the UK did not represent a risk to animal welfare.

## 8. Consultation outcome

8.1 A three-week, informal consultation was conducted on broadly common changes to all three Orders. A consultation document was distributed to a hundred targeted organisations and individuals. Due to the minimal impact on business, a formal, twelve-week consultation was not required.

8.2 Stakeholders were informed that changes would be limited to those needed to comply with the Services Directive. A commitment was made to look at broader policy changes in the way that non-veterinarians are regulated in a subsequent phase of review.

8.3 In general, respondents acknowledged that amendments were necessary to comply with European law. However, just over a third of the seventeen respondents disagreed with the proposals. There were calls for a greater level of regulation and control of all veterinary technicians by Defra. There was concern that automatic recognition of EEA-based training courses will lead to a lowering of standards. Some respondents felt very strongly that we should not discontinue issuing exemption certificates for AI of mares and rectal ultrasound scanning.

8.4 Suggestions for greater control include the establishment of a register of all authorised non-veterinarians, a minimum standard for all European training courses, the inspection of European training courses and a requirement that European technicians notify Defra when they intend to provide services in the UK. The Royal College of Veterinary Surgeons acknowledged that their requests for greater control would place a greater burden on Defra, but felt this was justified.

8.5 Other respondents, including those involved in the artificial breeding industry, supported the proposals. The National Farmers Union said it could accept the concept of automatic recognition of training courses but felt more information was urgently needed on the standards applied elsewhere in Europe. They agreed with the removal of exemption certificates provided this has no detrimental effect on the availability of competent technicians. They were generally concerned that the proposals should not create barriers to trade, increase cost or restrict access to veterinary technicians.

8.6 There was widespread agreement to the proposal to produce guidance on all three Orders covered by the consultation and offers were received to help to produce this.

## 9. Guidance

9.1 Defra has offered to develop guidance for each of the procedures covered by the Orders. These notes will be publicised with the support of interested organisations. The guidance will clarify the responsibilities of non-veterinarians carrying out these procedures and the animal owners who use their services. It will set out the circumstances in which a non-veterinarian may lose his or her exemption. It includes advice on mitigating against biosecurity risks.

## 10. Impact

10.1 The impact on business, charities, or voluntary bodies is of no significance, as this instrument will not impose or reduce costs on any businesses or the third sector.

10.2 The impact on the public sector is that Defra will no longer issue exemption certificates for artificial insemination of mares and rectal ultrasound scanning of bovines.

10.3 No impact assessment has been prepared for this instrument.

## 11. Regulating small business

11.1 These Orders place no new burdens on small business. They simplify some administrative processes for small businesses of non-veterinarians and small businesses that employ non-veterinarians. Guidance notes will be made available to small business.

## 12. Monitoring and review

12.1 The intended outcome of these Orders is to enable non-veterinarians trained in the EEA to carry out the named procedures, while ensuring they are sufficiently qualified and experienced to do so safely.

12.2 The number of EU technicians providing these services in the United Kingdom is very low. Numbers are not expected to increase as a result of these Orders.

12.3 The success of these Orders will be subject to internal review. Defra will also work closely with the Royal College of Veterinary Surgeons and other interested parties on the issues raised during the informal consultation.

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