

Department of Environment, Food and Rural Affairs

Summary of responses to the supplementary consultation on the proposed Transmissible Spongiform Encephalopathies Regulations 2008 May to 26 June 2008

February 2009

1. Introduction

1. On 3 April 2008, Defra launched a joint consultation with the Food Standards Agency on proposals to revoke and replace the existing Transmissible Spongiform Encephalopathies (No. 2) Regulations 2006 with the Transmissible Spongiform Encephalopathies (England) Regulations 2008. The proposed new Regulations included amendments made in response to changes to EU legislation (Regulation (EC) No. 999/2001) and as a result of experience gained in administering the 2006 Regulations since they came into force.

2. The main consultation launched on 3 April did not cover those provisions of Regulation (EC) No. 727/2007 relating to classical scrapie, which were suspended by an interim judgement of the European Court of First Instance (ECFI) in September 2007. However, the European Commission subsequently secured Member States' agreement to a proposal that would reintroduce those provisions. A supplementary consultation covering the proposals was launched on 8 May 2008 because the Government wanted to make amendments to the Compulsory Scrapie Flocks Scheme (CSFS) to apply the more flexible provisions as soon as possible.

3. Both consultations closed on 26 June 2008. The consultation packages are available to view online at <http://www.defra.gov.uk/corporate/consult/tseregs-2008/index.htm>.

Analysis of responses

4. The summary of responses published in July 2008 did not cover comments received in respect of the supplementary consultation. This is because the relevant EU legislation had not at that time been published. The published summary gave an undertaking that a separate summary of responses on issues covered by the supplementary consultation would be published following the publication of the EU legislation.

5. Regulation (EC) No. 746/2008, including identical provisions to those suspended from Regulation (EC) No. 727/2007, was adopted in June 2008 and came into force in September 2008, replacing Regulation (EC) No. 727/2007. However these provisions were also suspended by the ECFI in October 2008, pending judgement in the main case over Regulation (EC) No. 727/2007.

6. The hearing for the main case is not expected until late 2009/early 2010, and it is not yet known what further legal procedures may follow. In the meantime, in accordance with the undertaking given in the earlier summary of responses, Defra is now publishing a summary of responses to the supplementary consultation.

7. Three responses to the supplementary consultation were received from the following bodies:

Country Land and Business Association (CLA)
National Farmers' Union (NFU)
National Sheep Association (NSA)

8. Their comments can be summarised as follows:

Country Land and Business Association

The CLA welcome the attempt to reintroduce 727/2007. The regulatory framework around Scrapie seems to have suffered from a lack of proportionality and sound science. Hopefully this is about to change. The CLA welcomes the monitoring option and trusts that it is a re-evaluation of the Scrapie situation generally. The CLA would draw especial attention to the issue of vertebral column in sheep and goats over a certain age, and would suggest that issues of proportionality indicate that this issue be re-examined as well.

Government response to the Country Land and Business Association

The regulatory framework around Scrapie is governed by EU legislation and its provisions apply equally to all Member States. The monitoring option with regard to Classical Scrapie has been suspended by the European Court of First Instance pending the outcome of the hearing for the main case in late 2009/early 2010. Any further re-evaluations of domestic Scrapie legislation will depend upon the introduction of relevant amendments to Regulation (EC) No. 999/2001.

The Food Standards Agency is aware of industry concerns on the proportionality of specified risk material (SRM) controls on spinal cord of sheep and goats aged over 12 months. The definition of SRM is governed by the Community TSE Regulation and applies to all Member States. However, conscious of industry concerns on the methods currently prescribed in domestic legislation for the removal of SRM spinal cord in sheep and goats, the Agency is evaluating alternative removal methods in use in other Member States. Fact finding visits have been made to France and the Netherlands. A further trip to France is planned to evaluate a new removal technique involving a milling process. After completion of this visit, a meeting with industry stakeholders will be convened to explain the Agency's findings and recommendations.

National Farmers' Union

The NFU believe that all TSE controls are a public health matter and that the Government should fund them. However Scrapie is no longer a public health issue and therefore the schemes should be discontinued, members of the current scheme should decide if they wish to continue with the scheme on the basis they fund it, or close it.

The NFU will always rely on a science based approach with regard to TSE controls and in the absence of confirmed information on the prevalence of Atypical Scrapie we must have a flexible approach to its control, whichever options are considered it is important that producers have the ability to appeal any decisions and this appeals process is simple and workable.

Government response to National Farmers' Union

The Government accepts that Scrapie is not a public health issue insofar as scrapie is not known to present a risk to human health. However the requirements of the Compulsory Scrapie Flocks Scheme derive from EU requirements which apply to all Member States and cannot be unilaterally discontinued by a single Member State.

The Government notes the NFU's comments on the proposals for a more flexible approach to the control of Atypical Scrapie.

National Sheep Association

NSA is supportive of the Defra proposal to amend Schedule 3 of the current regulations to enable the Secretary of State to choose from the full range of options now available where classical scrapie is confirmed. NSA also notes and supports the proposal that an appeals procedure is open to anyone affected by such a situation with classical scrapie.

NSA is also content for a new paragraph 9 in schedule 4 to be introduced which will widen the range of options available to the Secretary of State in situations where atypical scrapie is confirmed on a premise. NSA is also content for the powers of entry regulations to be clarified as indicated in the consultation.

Government's response to the National Sheep Association

The Government notes the NSA's support of the proposals to enable the Secretary of State to choose from the full range of options now available where classical scrapie or atypical scrapie is confirmed, and to clarify the regulations on powers of entry.

The way forward

7. The Government thanks all consultees who responded to the consultation and has taken careful consideration of their views. The Government's priority remains to protect public and animal health and for TSE-related controls to be proportionate to the risks. Schedule 4 of the Regulations has been amended as proposed in the initial

consultation, with regard to the range of options now available where atypical scrapie is confirmed.

8. The relevant EU legislation with regard to the proposals for classical scrapie has been suspended by the European Court of First Instance pending a full hearing expected in late 2009/early 2010.