

# **Explanatory Memorandum to the Tuberculosis (Wales) Order 2010**

This Explanatory Memorandum has been prepared by the Rural Affairs Department and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 24.1.

## **Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Tuberculosis (Wales) Order 2010. I am satisfied that the benefits outweigh the costs.

**ELIN JONES, Minister for Rural Affairs**

**Date: 28 April 2010**

## **1.1 Description**

1.1 The Tuberculosis (Wales) Order 2010 is intended to bring into affect a number of changes to the rules governing bovine TB in Wales. The two main areas affected by the Order are Pre-Movement Testing exemptions, and changes to the compensation regime in Wales. It also addresses changes to terminology within the existing legislation and rules governing the handling of cattle being tested for bovine TB.

## **2. Matters of special interest to the Constitutional Affairs Committee**

2.1 None

## **3. Legislative background**

3.1 This Order is made under the Animal Health Act 1981, which confers powers on the Welsh Ministers in Wales. The Order revokes one Order and remakes it with modifications.

3.2 The Order is to be made subject to annulment (the negative procedure).

## **4. Purpose & intended effect of the legislation**

4.1 As part of the 'One Wales' Programme for Government, the Welsh Assembly Government has committed to 'vigorously pursue a programme of bovine TB eradication'. In April 2008, an additional £27.7m of funding was allocated to support this commitment over three years. Bovine TB in Wales is costly and unsustainable. It has a significant impact on farms, which in turn can have an effect on our food supplies and rural communities.

4.2 The Welsh Assembly Government is legally obliged to pay compensation for cattle removed because of bovine TB. The cost to the taxpayer in compensation to farmers has increased from £1.3m in 1999-2000, to just below £25m in 2008-2009.

4.3 The Welsh Assembly Government's comprehensive programme to eradicate bovine TB is based on available evidence of disease in cattle domesticated livestock and wildlife. The programme includes measures to address the disease in cattle including greater control and surveillance. We are testing more cattle, more often, changing policies to match our goal of eradication, and strictly enforcing policies to get ahead of this disease.

4.4 The TB eradication programme is being developed through a progressive revision of policy to reflect changing disease incidence and priorities. The current legislation is prescriptive and as such restricts the ability to amend policy without investing significant time on legislative procedures. It is proposed that legislation is amended, so that the policy of Pre-Movement Testing exemptions is not fully prescribed in the legislation but via an administrative process. This would enable the Welsh Ministers, following consultation, to react swiftly to changing circumstances.

4.5 **Compensation** – the powers and duties for animals slaughtered due to bovine TB is currently provided for under Section 32 of the Animal Health Act 1981 and the Brucellosis and Tuberculosis (England and Wales) Compensation Order 1978, as amended. This stipulates that the level of compensation payable when an animal is slaughtered for bovine TB is its *market* value.

4.6 The new Order links the responsibilities of herd keepers and compensation and in particular this link should encourage positive action by herd keepers to protect their herds from bovine TB.

4.7 The consultation identified that the focus for associating behaviour and compensation would be for:

- Overdue Testing
- Illegal Activities
- Risk Management (Veterinary Improvement Notices)

## **5. Consultation**

The details of consultation undertaken are included in the RIA at part 2 below.

## **6. Regulatory Impact Assessment (RIA)**

Please see part 2 of this document

## Summary: Intervention & Options

<b>Department /Agency:</b> <b>Welsh Assembly Government</b>	<b>Title:</b> <b>Impact Assessment of the Tuberculosis (Wales) Order 2010</b>	
<b>Stage:</b>	<b>Version: 1.0</b>	<b>Date: 1 March 2010</b>
<b>Related Publications:</b>		

Available to view or download at:

<http://www>.

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**What is the problem under consideration? Why is government intervention necessary?**

There has been a significant increase in the prevalence of bovine Tuberculosis in Wales in recent years, with compensation payments increasing from just over £1 million in 2000 to approximately £24 million in 2008.

The primary reason for Government intervention is concern about the spread of bovine TB and the need to reduce the economic cost to both the taxpayer and the industry.

Bovine TB is a zoonoses and although the risks to the public are low continued control is necessary

**What are the policy objectives and the intended effects?**

The policy options considered in this IA are intended to reduce the risk of spreading bovine TB by tightening up the rules surrounding Pre-Movement Testing requirements and also to encourage cattle keepers to comply with herd testing and veterinary requirements.

**What policy options have been considered? Please justify any preferred option.**

The introduction of a new compensation system which reduces the level of cattle compensation received in cases where a keeper is found to have committed an offence or to have failed to comply with a Veterinary Improvement Notice or the cattle testing requirements, and;

The removal of a number of exemptions relating to Pre-Movement Testing.

**When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? As these are exemptions to policy we do not intend to review.**

**Ministerial Sign-off** For final proposal/implementation stage Impact Assessments:

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options***

Signed by the responsible Minister:

..... Date:

## Summary: Analysis & Evidence

<b>Policy Option:</b>	<b>Description:</b>
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<b>COSTS</b>	<b>ANNUAL COSTS</b>	Description and scale of <b>key monetised costs</b> by 'main affected groups' The removal of PrMT exemptions is expected to impose costs on keepers whose cattle will, under the new policy, require a PrMT. The average cost to the keeper per PrMT is assumed to be £11. There is also a cost to the taxpayer of approximately £0.7 per test.		
	<b>One-off</b> (Transition) <span style="float: right;">Yrs</span>			
	£			
	<b>Average Annual Cost</b> (excluding one-off)			
	£ 55,000	<b>Total Cost (PV)</b>	<b>£250,000</b>	
Other <b>key non-monetised costs</b> by 'main affected groups' Any keeper found not to have complied with a Veterinary Improvement Notice (VIN) or testing requirements will face a reduction in their compensation payment in the event of a bovine TB breakdown. There will also be a cost to the keeper and taxpayer associated with the 'Penalties' appeals process.				

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>	Description and scale of <b>key monetised benefits</b> by 'main affected groups' Uncertainty about the impact that these policies will have on the number of bovine TB breakdowns means that it has not been possible to monetise the benefits.		
	<b>One-off</b> <span style="float: right;">Yrs</span>			
	£ N/A			
	<b>Average Annual Benefit</b> (excluding one-off)			
	£ 0	<b>Total Benefit (PV)</b>	<b>£ 0</b>	
Other <b>key non-monetised benefits</b> by 'main affected groups' Encouraging cattle keepers to comply with VINs and testing requirements and tightening up the PrMT regulations are expected to reduce the prevalence of bovine TB in Wales, thus delivering economic benefits in the form of reduced movement restrictions and testing, higher confidence and a lower compensation bill.				

**Key Assumptions/Sensitivities/Risks** The key assumption used in the calculations is that the removal of Pre-Movement Testing exemptions will have no effect on farmer behaviour. In reality, we expect that the removal of these exemptions will result in some cattle movements being abandoned and some being brought-forward to coincide with routine testing.

Price Base Year 2010	Time Period Years 5	<b>Net Benefit Range (NPV)</b> £ N/A	<b>NET BENEFIT (NPV Best estimate)</b> £ N/A
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What is the geographic coverage of the policy/option?	Wales			
On what date will the policy be implemented?	25 May 2010			
Which organisation(s) will enforce the policy?	WAG, Animal Health,			
What is the total annual cost of enforcement for these organisations?	£			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	Yes			
What is the value of the proposed offsetting measure per year?	£			
What is the value of changes in greenhouse gas emissions?	£			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)			(Increase - Decrease)
Increase of £	Decrease of £	<b>Net Impact</b>	£

Key: Annual costs and benefits: Constant Prices (Net) Present Value

## Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

## **Background to proposals**

1. There has been a significant increase in the prevalence of bovine Tuberculosis in Wales in recent years. In 1997, 700 cattle in Wales were slaughtered because of the disease; by 2008 this figure had increased to over 12,000. There has been a similar increase in the amount of compensation that the Welsh Assembly Government has paid to cattle keepers whose animals are slaughtered for bovine TB, from just over £1 million in 2000 to almost £24 million in 2008.
2. In response to the rising incidence of bovine TB and the increasing compensation bill, the Welsh Assembly Government has introduced a bovine TB Eradication Programme. This programme includes the following policies:
  - Increased surveillance - testing all cattle herds in Wales to find and deal with the disease quicker;
  - Speeding up the testing regime – moving infected cattle off farms more quickly;
  - Change the compensation regime - reforming the compensation regime to encourage herd owners to follow best practice;
  - Tackling sources of infection in wildlife - Establishment of an Intensive Action Pilot Area (IAPA) where a limited cull of badgers will be undertaken alongside stringent cattle control measures in one area of high bovine TB incidence in cattle.
  - Biosecurity – develop and promote improved husbandry and biosecurity practices to reduce the risk and manage bovine TB;
  - Vaccine - actively support the GB vaccination programme to develop and trial vaccines for cattle and badgers;

## **Rationale for Government intervention & the policy options being considered**

3. The primary reason for Government intervention is concern about the spread of bovine TB and the need to reduce the economic cost to both the taxpayer and industry. There would be an economic benefit to the farming industry from fewer herd breakdowns through avoiding the short term costs of movement restrictions, testing and lost output. There is also the reduction in the loss of productivity, the risk of loss of consumer confidence in the Welsh farming products and the potential closure to some international markets. However, the cost of surveillance, control and compensation, as well as research, associated with bovine TB currently falls largely to the taxpayer.
4. This RIA considers those policy amendments being made in 'The draft Tuberculosis (Wales) Order 2010'. There are two main policy changes in the Order which are considered here, these are:

- The introduction of a new method of calculating the value of an animal which reduces the value of cattle in cases where a keeper is found to have failed to comply with a Veterinary Improvement Notice, the cattle testing requirements or has breached an obligation imposed by the Order, and;
  - The removal of a number of exemptions relating to Pre-Movement Testing (PrMT).
5. The policy options considered in this RIA are intended to tighten up the rules surrounding PrMT requirements and to encourage cattle keepers to comply with herd testing and veterinary requirements for disease prevention.

### Costs & Benefits

6. The following sections consider the approximate **annual** cost of the new measures to the farming industry and Government. In each case, the cost of the new measure is compared to a 'Do Nothing' scenario. Due to the level of uncertainty surrounding some of the assumptions used, all costs have been rounded to the nearest £5,000.
7. It is not clear at this stage what impact the removal of the PrMT exemptions or the introduction of the valuation system will have on the number of herd breakdowns. It has not therefore been possible to estimate what benefit these measures will have.
8. For information, the current estimate of the cost per bovine TB breakdown is £24,500, this includes the compensation payments from the Government to the keeper, the cost of further herd testing and also movement restrictions etc. In other words, for every bovine TB herd breakdown avoided/prevented, the economic benefit is assumed to be approximately £24,500.
9. The Tuberculosis (Wales) Order 2010 will, in certain circumstances, enable Welsh Ministers to calculate the value of a slaughtered animal to reflect any bad practice or a breach of obligations that may have taken place, in the event of a TB breakdown.
10. The circumstances where such a calculation such as this might take place are summarised below:
- where the cattle holder has failed to comply with a veterinary improvement notice (VIN);
  - where the cattle holder has breached legal obligations.
  - where the cattle holder has failed to comply with the cattle testing requirements (i.e. the herd test is overdue).
11. The amount of the payment that a keeper would receive in each case will depend upon factors such as a) how many VINs have been ignored, b) the number of breaches of obligations have occurred and c) by how long

the test is overdue. Precise details about the measure are included in the Order, however, the reduction in the compensation received would be calculated using a factor of 0.75, 0.5 or 0.05 depending on the circumstances of the case.

12. It is not clear at this stage exactly how many cases will require a recalculation of the value of the payment made. It is therefore not possible to calculate the impact of this power.
13. By way of an illustrative example, the average compensation payment for cattle slaughtered for bovine TB is approximately £1,800 per animal and on average a bovine TB breakdown (CNI) results in the slaughter of 6.5 animals. On this basis, the average level of compensation received by the keeper in the event of a bovine TB breakdown is £11,700.
14. Table 1 demonstrates what impact each of the proposed calculations of value would have on the average bovine TB compensation payment.

Table 1: Impact of these calculations on average compensation payment

Factor by which compensation payment to be calculated (percentage of total)	Reduction in compensation payment
0 (100%)	£0
0.75 (75%)	£2,925
0.5 (50%)	£5,850
0.05 (5%)	£11,115

15. It should be noted however that whilst any recalculation of value of the animal represents a 'cost' to that cattle keeper, it also represents a cost saving (benefit) for the UK taxpayer. The overall impact (on UK society) of the withholding of compensation would therefore be £0.
16. Under the terms of the Order, any keeper will have the right to appeal against a decision to use one of the factors described above in the calculation of the value of the animal, Regulation 3 of the Agricultural Subsidies and Grant Schemes (Appeals) (Wales) Regulations 2006 forms the basis of the appeals process.
17. The appeals process takes a two-stage approach with appeals first considered by the relevant Head of TB policy; there is no cost to the keeper for this stage. Where a keeper remains dissatisfied with the outcome of the first stage, they may request that an independent panel considers the case and make a recommendation to the Minister for Rural Affairs. The Minister makes the final decision. The applicant can request an oral hearing with the independent panel (at a cost to the

keeper of £100) or for the case to be considered in writing (at a cost of £50). If the appeal is successful then the above fees will be repaid in full. Advice from the Assembly's Rural Payments Division suggests that it is difficult to give a 'per appeal' cost estimate because cases vary considerably in complexity. However, it has been indicated that the cost of convening the appeals panel is approximately £1,500 per day and typically between 1 and 3 cases would be heard by the panel each day.

18. In addition to the cost to the keeper, the appeals process also imposes costs on Welsh Assembly Government in the form of administrative costs and the costs associated with forming an independent panel to consider the cases.

### **Removal of PrMT Exemptions**

19. When the Tuberculosis (Wales) Order 2006 was introduced it contained a number of exemptions which meant cattle keepers were able to move cattle without the need for a Pre-Movement Test. The new Order allows for a change in policy relating to:

- Cattle moving off premises within 30 days of arrival;
- the movement of cattle to agricultural shows;

20. The cost of removing each of these exemptions is considered in turn below:

#### Cattle moving off premises within 30 days of arrival

21. Cattle moving off premises within 30 days of arrival are currently exempt from PrMT, furthermore, there is no limit to the number of times that this exemption can be used. Cattle can therefore move between numerous holdings and provided that the animal doesn't spend more than 30 days on any one of the holdings then it will not require PrMT.
22. There is a perceived risk that, if the 30 day exemption remained, diseased cattle could potentially move from farm to farm spreading bovine TB without detection until a routine test was due. The removal of the 30 days PrMT exemption is intended to reduce this risk.
23. The cost per Pre-Movement Test is estimated to be £11.70, with the farmer assumed to pay £11 per test (for veterinary time and their own handling costs) and the Government/taxpayer paying the remaining £0.70 (for tuberculin and administration costs).
24. Data provided by RADAR<sup>1</sup> for 2008-09 estimates that approximately 3,000 animals in Wales were moved between premises when their time of residency on the premises was recorded as less than or equal to 30 days. If the 30 day exemption was removed, the annual cost incurred for

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<sup>1</sup> Rapid Analysis and Detection of Animal-related Risks

additional pre-movement tests would be approximately £35,000. This cost is assumed to fall almost entirely upon the farming industry.

Table 2: Indicative annual cost of removing 30 day exemption

	Industry	Government	Total
<b>COST</b>	£35,000	-	£35,000

25. The cost to government of the additional PrMT (i.e. the supply of tuberculin for the tests) would be negligible (i.e. less than £5,000). The calculation above assumes that none of the 3,000 animals leaving premises within one month of arrival in 2008 are within 60-days of a clear TB test.
26. The removal of this exemption may also result in some cattle keepers either abandoning animal movements or altering the timing of the movement to coincide with a routine test. While such actions may reduce the cost of the additional PrMT, they may not be without their own costs.

#### Cattle moving directly to agricultural shows

27. Cattle moving directly to agricultural shows are currently exempt from PrMT provided that they either return to the holding of origin or are taken direct to slaughter after the show. There was a concern that diseased cattle are currently able to move to an agricultural show without the need for a PrMT and that consequently there was a risk of spreading bovine TB to other cattle at the show. Following the completion of Veterinary Risk Assessments it has been decided that animals moving to local, un-housed agricultural shows of less than 24 hours duration will continue to be exempt, while housed, multiday events will require their exhibitors to test their cattle. We encourage all exhibitors regardless of size of show to test on a voluntary basis.
28. Data has been provided by RADAR and the Veterinary Laboratories Agency (VLA) on moves from agricultural holdings to show grounds. Looking at both data sources, the average number of moves to show grounds recorded during 2008 was approximately 2,500. These moves are currently exempt from pre-movement testing. Under the new policy, these animals would now require a pre-movement test. The approximate cost of this additional testing is as follows:

Table 2: Indicative annual cost of removing showground visit exemption

	Industry	Government	Total
<b>COST</b>	£20,000	-	£20,000

29. Again, the majority of the cost falls on the farming industry; the cost to government for tuberculin for the extra testing would be less than £5,000. The figures presented above have been rounded to reflect the uncertainties involved.
30. Analysis of the VLA data on show moves (that covers the period of 2004 – 2008) shows that approximately 24% of cattle moves to show grounds occur within an animal’s 60-day clear TB test window. The figures presented above are based on this assumption. Given the magnitude of the figures involved, removing this assumption has little impact. For example, if it is assumed that all 2,500 annual show moves require a pre-movement test, the total cost to the farming industry rises by a little over £5,000.

Total annual cost of removing PrMT exemptions

31. Combining the above calculations, the estimated cost of removing the PrMT exemptions detailed above is approximately £60,000 per annum. Table 4 shows how this cost splits down between the farming industry and the Government:

Table 4: Indicative annual cost of removing the exemptions considered above

	<b>Industry</b>	<b>Government</b>	<b>Total</b>
<b>COST</b>	£50,000	£5,000	£55,000

32. Discounting these costs over a 5 year period (using HM Treasury’s central discount rate of 3.5%) suggests that the Net Present Value (NPV) of these costs is approximately £250,000.
33. As has been noted throughout this Impact Assessment, the estimated costs should only be considered as indicative and are based on the assumption that removing these PrMT exemptions has no impact on farmer behaviour. This is unlikely to be a realistic assumption. The changes in pre-movement testing policy are expected to cause farmers to change cattle movement behaviours to avoid the additional testing costs - some will abandon moves altogether, whilst others will postpone or bring forward planned movements to coincide with routine testing dates. Others may adopt a mixture of strategies. Unfortunately, it is difficult to estimate robustly how behaviour will change and what impact any changes to behaviour will have upon the costs of removing the PrMT exemptions discussed in this paper.

**Conclusion**

34. This IA considers those policy amendments being made in ‘The Tuberculosis (Wales) Order 2010’. There are two main policy changes in the Order which are considered here, these are:

- The introduction of a new system for valuing animals which takes account of a keeper's conduct. if he or she is found to have breached an obligation or to have failed to comply with a Veterinary Improvement Notice or the cattle testing requirements, and;
  - The removal of a number of exemptions relating to Pre-Movement Testing (PrMT).
35. Uncertainty about the number of cases in which some proportion of the compensation payment will be retained for failure to comply with a VIN etc. means that it has not been possible to estimate the impact of this policy change.
36. It is estimated that the annual cost of removing the identified PrMT exemptions will be approximately £55,000, with the majority of this cost borne by the farming industry.
37. As was noted in paragraph 8, the average cost of a bovine TB breakdown in Wales is estimated as £24,500. This suggests that the removal of the PrMT exemptions would need to prevent 3 herd breakdowns per annum if the policy is to generate a net benefit to UK society.