

Regulatory Appraisal

The Welfare of Farmed Animals (Wales) (Amendment) Regulations 2003.

The Protection of Animals (Anaesthetics) Amendment (Wales) Order 2003

1. **Purpose and Intended effect of the measure:** The above regulations together implement Commission Directives 2001/88/EC and 2001/93/EC, which were due to be implemented on 1 January 2003.

2. **Risk assessment:** The “risk” in this context relates primarily to the welfare of pigs:
 - (i) The ban on close-confinement sow stalls has been in place in Wales since 1 January 1999. The Government is committed to advancing animal welfare standards at the EU level. During the negotiations on the Directives UK pressed for and secured a phasing out of close-confinement stalls across the EU. What has been achieved will advance animal welfare standards and level the playing field in Europe that is currently tilted against British producers.
 - (ii) Approximately 75% of pigs are kept indoors. Minimum space requirements for weaners and rearing pigs have been fully in force since 1 January 1998, but up until now, no such requirements have been set for sows and gilts at an EU level. The setting of these requirements will minimise the development of behavioural and physiological problems.
 - (iii) The requirement for some form of environmental enrichment using manipulable materials is also essential for pig welfare, as it reduces stress and minimises aggressive behaviour and thus will reduce the incidence of, for example, tail biting.
 - (iv) The intended effect of Commission Directive 2001/93/EC. is to reduce the age beyond which castration of pigs may not be performed without anaesthetic – from 4 weeks to 7 days. Farmers will need to ensure that castration takes place within the new age requirements or face costs for anaesthetics.

- A second area of “risk” would arise if Directives 2001/88/EC or 2001/93/EC were not implemented. Under Article 226 of the Treaty of Rome Member States are obliged to implement EU law; failure to do so may result in infraction proceedings and ultimately ECJ action.

- Failure to implement the directives might have a negative effect on the market. Public perception that pigs were not being kept at the highest standards might threaten the market.

3. Options:

Option 1: to do nothing is not relevant. Member States are compelled by EU law to implement the Directives. Failure to implement would be contrary to the Government’s specific commitment in the Action Plan for Farming and

the Government's more general wish to see welfare standards for pigs improved across the EU.

Option 2: taking unilateral action is legally possible providing the minimum standards laid down in EU law are respected. However, stricter statutory requirements could not be applied to imported products and would, therefore, place an unfair burden on the UK industry without achieving any net welfare benefits.

Option 3: full implementation of the Directives is the recommended option, as this will improve pig welfare. The approach taken in preparing the draft legislation was to implement the directives without adding to them in any way.

4. Benefits: These Regulations further improve and support the welfare of pigs kept on farm and cover such matters as accommodation including space allowances for weaners, rearing pigs and boars; inspection; feed; water; etc.

They also, in concert with the welfare codes, support the development of a culture of good stockmanship. The welfare benefits of these Regulations are in line with the "Five Freedoms" developed and promoted by the Farm Animal Welfare Council.

5. Costs: It is estimated that there are approximately 724 (8,070 in England) pig holdings in Wales and a total population of 44,344 (England = 5 Million) pigs. The June 2001 Census shows a UK breeding herd of 489,000, in Wales this is approximately 8,000, sows. The vast majority of Welsh Pigs are housed indoors in a wide range of indoor housing systems.

The use of close-confinement stall systems for housing dry sows has been banned in the UK from 1 January 1999. Around 60% of indoor sows had been housed in this accommodation prior to the ban and this sector of the industry has already had to invest heavily to comply with the ban.

There will, therefore, be no extra compliance costs for the industry from the first key provision (A) described in Section 2.2. It is also worth stressing again that existing pig units will only have to comply with provisions (i) and (ii), outlined in section 2.2 from 1 January 2003. Provisions (iii) and (iv) only apply from 1 January 2013 for existing buildings.

The Commission Directive 2001/93/EC will allow pig livestock keepers to castrate their animals within 7 days. Therefore there is no additional cost to the farmer provided they comply with these rules. If they decide not to castrate during the first 7 days, farmers will have to consider their position and would be obliged to pay for the use of anaesthetics. Full implementation of the Directive through the proposed Regulation will, however, further improve and support the welfare of pigs kept on farm.

The Total Annual Compliance Costs to Industry of the Legislation:

On a UK basis :

- (i) Using material such as straw = £11, 444,000
- (ii) Using specialised manipulable materials = £6, 018, 900

Welsh herd is approx. 0.9% of UK herd:

- (i) Using material such as straw = approx. £103,000
- (ii) Using specialised manipulable materials = approx. £54,170
- (iii) Reducing the age at which pigs can be castrated without anaesthetic =
No costs

6. Competition Assessment: The competition filter was carried out on the market for pig meat and on the pig-breeding herd in Wales. The results suggest that the proposed legislation is unlikely to have a negative impact on competition in either sector. The cost of the legislation could affect some pig units substantially more than others, but only a small proportion would be affected by all four of the provisions outlined in section 2.2. Although there might be some changes to the number and size of holdings, the legislation would not lead to significant changes in the structure of competition within the market.

7. Consultation: Industry, welfare and other organisations had the opportunity to comment on the proposed Directives when they were being negotiated in Brussels. The domestic implementing legislation has been subjected to a public consultation process.

8. Review: Member States are responsible for taking the necessary measures to ensure that the competent authority carries out inspections to monitor compliance with the provisions of the Directives. Enforcement in Wales will be by the State Veterinary Service at no additional cost. Inspections will be carried out (as they are now) to check for compliance with the welfare legislation and accompanying welfare code. In addition to carrying out ad hoc inspections to meet EU requirements, all complaints or allegations of poor welfare will be followed up, as they are now.

In most circumstances, advice and warnings with a timescale for compliance (followed up as necessary) will be given before a decision is taken to initiate prosecution action. The maximum penalty on conviction for an offence is £2,500 or three months in prison.

The EU Commission has responsibility for monitoring enforcement by member states in order to ensure uniform application of EU legislation. The effectiveness of UK enforcement procedures is kept under review. Any evidence of failure to enforce in other Member States will be drawn to the attention of the Commission.

9. Summary: The Welsh Assembly Government is committed to high standards of farm animal welfare. The two Directives that were adopted in Autumn 2001, banning the use of close-confinement sow stalls across the EU from 1 January 2013, together with the other welfare improvements, represent

a major advance in pig welfare and will help achieve a level playing field for our producers with others in the EU.