

Constitutional and Legislative Affairs Committee

CLA(4)-20-12

CLA178

Constitutional and Legislative Affairs Committee Report

Title: The Bluetongue (Wales) (Amendment) Regulations 2012

Procedure: Negative

These regulations amend the Bluetongue (Wales) Regulations 2008 by transposing Directive 2012/5/EU (the Directive) as regards vaccination against bluetongue and will allow animal keepers to vaccinate their animals against bluetongue using inactivated vaccines.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument at the present time.

Article 1 of the Directive amends Directive 2000/75/EC (the 2000 Directive). Article 1(2) of the Directive, which amends Article 5 of the 2000 Directive, includes the following –

“2. Whenever live attenuated vaccines are used, Member States shall ensure that the competent authority demarcates:

- (a) a protection zone, consisting of at least the vaccination area;
- (b) a surveillance zone, consisting of a part of the Union territory with a depth of at least 50 kilometres extending beyond the limits of the protection zone.”

Article 1(4) of the Directive replaces Article 8(2)(b) of the 2000 Directive with the following –

"(b) The surveillance zone shall consist of a part of the Union territory with a depth of at least 50 kilometres extending beyond the limits of the protection zone and in which no vaccination against bluetongue with live attenuated vaccines has been carried out during the previous 12 months.";

The Regulations do amend the Bluetongue (Wales) Regulations 2008 in relation to surveillance zones, but no reference is made to the required depth of at least 50 kilometres.

The National Assembly is therefore invited to pay special attention to these Regulations because they inappropriately implement European Union legislation. [Standing Order 21.3(iv)]

**Legal Advisers
Constitutional and Legislative Affairs committee**

1 October 2012

The Government has responded as follows:

The Bluetongue (Wales) (Amendment) Regulations 2012

Response to Merits Scrutiny Reporting Point

The minimum distances specified in Article 1(4) of Directive 2012/5/EU (“the Directive”) can, and would, be imposed by the Welsh Ministers as the “competent authority” within the meaning of Article 1 of the Directive in the event of an outbreak and it is not necessary make reference to those minimum distances in the Bluetongue (Wales) (Amendment) Regulations 2012 (“the Regulations”).

The Bluetongue (Wales) Regulations 2008, as amended by the Regulations, confer executive powers on the Welsh Ministers to declare the necessary zones, while the Directive is clear and unambiguous on what the requisite distances are. The Welsh Ministers are, of course, subject to those demarcation requirements. Therefore, the ability of the Welsh Ministers to deal with any outbreak, lawfully and in accordance with the requirements of the Directive, is not in question. The Regulations give proper effect to the Directive and it is not necessary for the Regulations to make reference to the minimum distances specified in the Directive.