



Department
for Environment
Food & Rural Affairs

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Consultation

**Revised domestic legislation for the exotic
notifiable diseases of pigs: Classical Swine Fever,
African Swine Fever and Swine Vesicular Disease**

April 2014



Llywodraeth Cymru
Welsh Government



The Scottish
Government



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Part A - Background

1. Purpose of the consultation

1.1. Pig exotic notifiable disease outbreaks can cause significant impacts and costs to both taxpayers and industry. If an outbreak occurs, government intervention is important in order to eradicate disease and regain disease freedom as quickly as possible.

1.2. The proposed Diseases of Swine Regulations will consolidate legislation for the control of disease during an outbreak of African Swine Fever (ASF), Classical Swine Fever (CSF) or Swine Vesicular Disease (SVD) in GB and will replace 11 existing Statutory Instruments. The Regulations implement EU law (namely Directive 2001/89/EC for CSF; Directive 2002/60/EC for ASF and Directive 92/119/EC for SVD) by requiring EU Member States to take strict control measures to eradicate disease quickly and effectively if an outbreak occurs in its territory.

1.3. The proposed legislation is clear and transparent about the measures to be taken during an outbreak of one of these diseases in GB, which in turn should reduce the impact of any outbreak by aiding compliance and enforcement of controls. In addition, the proposed legislation improves the transposition of the EU law. Government needs the appropriate legal powers to deliver a fast and effective response to any outbreak of CSF, ASF or SVD. The overall aim is to reduce the total costs and burdens of the disease outbreak to businesses and taxpayers. Further information on the proposed legislation is given in Part B.

1.4. The proposed legislation does not change GB policy (see the [CSF disease control strategy](#), the [ASF disease control strategy](#) (both published in 2010) and [SVD web text](#)). As with the current legislation, this proposed legislation would only apply when ASF, CSF or SVD are suspected or confirmed in GB. The likelihood of a disease outbreak in GB is assessed as being very low for CSF and ASF and negligible for SVD¹. The last outbreak of CSF occurred in the UK in 2000; the last case of SVD occurred in the UK in 1982; ASF has never occurred in the UK.

1.5. Defra, Scottish Government and the Welsh Government are inviting views from stakeholders in GB on the proposed Diseases of Swine Regulations. Details on how to respond to this consultation are provided in Part C.

1.6. Further background information on the diseases ASF, CSF and SVD is given in the Annex.

2. Previous stakeholder engagement

2.1. A number of stakeholders have been informally consulted during the drafting process. Also during 2013, a Tier 2 UK-wide CSF emergency exercise, [Exercise Walnut](#), was undertaken to assess readiness to respond to an outbreak of CSF. The exercise

¹ by Defra's International Disease Monitoring <http://www.defra.gov.uk/animal-diseases/monitoring/>

employed an advanced draft of the Regulations and lessons have been included in the proposed Regulations on which we are consulting (see Section 7 for details).

Part B - The Proposed Changes

3. Overview of the Proposed “Diseases of Swine Regulations 2014”

3.1. The GB disease control policy remains the same as present as does the relevant EU legislation (namely Directive 2001/89/EC for the control of CSF; Directive 2002/60/EC for the control of ASF, and Directive 92/119/EC for the control of SVD). However, the proposed Regulations will:

- consolidate and simplify the legislation for the three diseases, making it clear what measures will be taken during an outbreak of one of these diseases, thereby aiding compliance and enforcement
- improve transposition of EU law as outlined in paragraph 5
- be clear and transparent about the measures to be taken during an outbreak as outlined in paragraph 6

3.2. The proposed Regulations will be made under section 2(2) of the European Communities Act 1972. It will repeal the following 11 existing statutory instruments (SIs) covering control of ASF, CSF and SVD and also revoke certain powers from the Animal Health Act that would otherwise be duplicated concerning slaughter of pigs, compensation provisions and enforcement of the controls:

- the African Swine Fever Compensation Order 1980
- the Classical Swine Fever (England) Order 2003
- the Classical Swine Fever (Wales) Order 2003
- the Classical Swine Fever (Scotland) Order 2003
- the African Swine Fever (England) Order 2003
- the African Swine Fever (Wales) Order 2003
- the African Swine Fever (Scotland) Order 2003
- the Swine Vesicular Disease Regulations 2009
- the Swine Vesicular Disease (Wales) Regulations 2009
- the Swine Vesicular Disease (Amendment)(Wales) Regulations 2009, and
- the Swine Vesicular Disease (Scotland) Order 2009

3.3. Since these Regulations implement EU law there is limited scope to amend, interpret, extend, or otherwise remove legal obligations. There are some areas where

there are optional derogations from controls and we have transposed these into the proposed Regulations.

3.4. The consolidation and improvement of the Orders referred to above, which are in force in England are included within the recently published Red Tape Challenge: Agriculture theme proposals (<https://www.gov.uk/government/publications/red-tape-challenge-agriculture-theme-proposals>).

4. Review of SVD

4.1. An European Food Safety Authority (EFSA) scientific opinion² published in 2012, concluded that the significance and impact of SVD was considered to be low, based on its negligible mortality, its contagiousness, low morbidity and negligible production losses. This has led to the World Organisation for Animal Health (the OIE) to consider removal of SVD from the list of diseases for which international trade controls and notification are necessary³. A final decision is expected in May 2014. If the OIE decide to remove the SVD requirements, we anticipate the European Commission will follow OIE's lead and remove legal requirements on Member States to control this disease. Whilst we are consulting on the inclusion of SVD controls, we do not wish to unnecessarily complicate these proposed regulations or have to amend them in the near future. Therefore if after consultation we consider there is a strong likelihood that the OIE and EU will remove SVD controls we propose removing references to SVD from the proposed Diseases of Swine Regulations ahead of laying them before Parliament. In such circumstances the existing domestic legislation for SVD will remain in force until the EU law removes the requirement to notify and control SVD outbreaks, at which point the existing SVD legislation will be revoked.

5. Improved transposition of EU law

5.1. The proposed Regulations improve transposition of EU law in several ways.

5.2. The proposed Regulations include the potential derogation from culling for certain special categories of pigs (Regulation 12 of the proposed Diseases of Swine Regulations) which is available under EU law, but not currently implemented in GB for ASF and CSF. These special categories of pigs include breeds at risk, research animals and zoo animals. This derogation will make it possible to spare those particular categories of pigs from culling under exceptional circumstances where disease control would not be jeopardised and wider issues and impacts have been considered.

5.3. The EU CSF Directive (2001/89/EC) requires control measures to be followed if vaccination against CSF is permitted by the competent authority. The existing domestic legislation for CSF specifies that vaccination against CSF is prohibited unless authorised by a minister but stops short of setting out the detailed control measures that would apply

² EFSA Panel on Animal Health and Welfare (AHAW); Scientific Opinion on Swine Vesicular Disease and Vesicular Stomatitis. EFSA Journal 2012;10(4):2631. [97 pp.] doi:10.2903/j.efsa.2012.2631. Available online: www.efsa.europa.eu/efsajournal

³ Chapter 1.2 of the OIE Terrestrial Animal Health Code

in such circumstances. The European Commission's Food and Veterinary Office (FVO) has been critical of this omission in their audits. Therefore, the proposed Diseases of Swine Regulations are more transparent in making reference to these requirements. There is no change to existing GB policy on vaccination against CSF, which remains that vaccination is not a routine control measure and is unlikely to be considered as an appropriate control measure in the initial stages, or during a controlled outbreak.

5.4. EU law requires Member States to put in place control zones (a protection and surveillance zone) around premises where disease has been confirmed. The process for declaring control zones for ASF and CSF has been simplified and improved within the proposed Regulations by removing the existing requirement to lay legislation in the form of declaratory orders and replacing it with the more modern, simpler approach of making declarations (which is consistent with the more modern existing legislation for SVD). This reduces the burdens on government when making declarations and speeds their publication, thereby improving disease control.

6. Improved Transparency of Control Measures

6.1. Whilst the disease control policy for these diseases is unchanged the proposed Regulations are intended to provide greater transparency about the control measures available during a disease outbreak. For example, the control measures required in protection and surveillance zones for all three diseases are more clearly set out. This will help businesses and enforcement bodies to be better prepared for the impacts of an outbreak and improve contingency planning. We anticipate that this will lead to better compliance and enforcement of controls during an outbreak.

7. Issues raised at Exercise Walnut

7.1. Exercise Walnut was a national exercise to test the UK readiness to deal with an outbreak of CSF. It involved Defra, Scottish Government, the Welsh Government, the Department for Agriculture and Rural Development, Northern Ireland, Animal Health and Veterinary Laboratories Agency (AHVLA), other regulation and enforcement bodies and pig industry representatives. An advanced draft of the "Diseases of Swine Regulations" was tested in the exercise and a number of useful lessons were identified (<http://www.defra.gov.uk/ahvla-en/files/exercise-walnut-lessons-ident-report.pdf>). The following changes have been made to the proposed Regulations following Exercise Walnut:

- **Transparency about police powers:** There was concern about whether police would retain powers to stop and search a vehicle believed to be carrying pigs under the Diseases of Swine Regulations, as these regulations are to be made under the European Communities Act 1972, not the Animal Health Act 1981. The powers to allow police to do this are currently given under Section 60 of the Animal Health Act 1981, as amended. Further legal advice has determined that these powers would still apply once the Diseases of Swine SI is introduced, but for transparency and ease of use for enforcement bodies, we have now included these within the proposed Regulations under Regulation 42(4) (Enforcement). Police officers may also accompany an inspector on to a pig premises if necessary under other

legislation (e.g. the Police and Criminal Evidence Act (PACE) 1984) and as now reflected in Regulation 34(8b) of the Diseases of Swine Regulations.

- **Powers for controls of the movement of live pigs over a wider area:** Movement controls over a wider area, including a temporary national movement ban, are not required under the relevant EU Directives. Such controls may be required, however, in circumstances where the Commission needs to impose an EC Decision to safeguard international trade for Members States and regions remaining free of disease. As the scenario in Exercise Walnut showed there may be certain circumstances (such as a very uncertain epidemiological picture and disease detected in dispersed locations) whereby controls on the movements of pigs over a wider area may be considered proportionate by government and industry representatives.

Such powers were included within the draft version of the SI employed in Exercise Walnut. However, on reflection it has been decided that the powers offered within other existing legislation are sufficient and so this provision has not been included within this consultation draft of the Diseases of Swine SI. The main powers we would intend to use to impose wider animal movement restrictions are provided within the Movement of Animals (Restrictions) (England) Order 2002, as amended by S.I. 2007/2809 (Article 5); the Movement of Animals (Restrictions) (Wales) Order 2003, as amended by SI 2009/2940 (Article 5) and Movement of Animal (Restrictions) (Scotland) Order 2003 (Article 5). These Orders give powers to Ministers to declare a wider control area where disease is suspected to exist and to prohibit the movement of live pigs within this area unless licensed by government. We will in due course update the disease control strategy to reflect this and make it clearer under what circumstances we anticipate these existing powers will be applied.

7.2. Exercise Walnut raised practical issues with applying the compensation policy. However, it is not our intention in laying the Diseases of Swine Regulations to amend our compensation policy. Compensation will continue to be paid for animals culled for disease control purposes at 50% of market valuation for animals affected with either ASF or CSF. Compensation for SVD-affected animals will be the value of the pig immediately before it became affected (less any price received by the owner at slaughter). For pigs not affected, the compensation paid is at 100% of the market value.

7.3. In considering lesson 12 of the Exercise Walnut report concerning the level of cleansing and disinfection required before zones can be lifted, we have reviewed the text about lifting zones (Regulation 25) and conclude that the wording is legally accurate. However, we will seek to clarify requirements within the Disease Control Strategy which explains how the law will be applied. We anticipate publishing an updated version of the ASF and CSF Disease Control Strategies when the proposed Diseases of Swine Regulations come into force and expect it to address other lessons from Exercise Walnut and to correct out-of-date references such as organisations' names and web links.

8. Vaccination

8.1. Regulations 29 and 30 of the proposed Regulations transpose the requirements set out in the CSF EU Directive to permit vaccination against CSF. Regulation 31 also sets out the controls which would be required for vaccination against SVD, in line with the SVD Directive, although no vaccine currently exists for SVD. No vaccine is available for ASF and, unlike for CSF or SVD, EU law does not make any provision for vaccination against ASF to be permitted. If in the future a vaccine against ASF becomes available for use the European Commission will consider its suitability for use in controlling an outbreak within the EU and if appropriate would amend the ASF Directive with the necessary controls and permits. Therefore, the proposed Regulations do not provide for the vaccination of pigs against ASF.

9. Powers of Entry & offences and penalties

9.1. In parallel with this consultation, the powers of entry provided under Regulations 34 and Regulation 42 and the criminal offences outlined in Regulation 39 are pending clearance through gateways of the Home Office and the Ministry of Justice, respectively. Whilst we do not anticipate any change it is possible these consultation processes may lead to amendments.

Part C - Tell us what you think

10. Who will be interested in responding?

10.1. This is a public consultation and it is open to anyone with an interest to provide comments. The consultation should be of particular interest to the commercial pig sector, pig small holders, pig vets and related industries such as those producing or retailing pork and pig products. The proposed Regulations will apply to England, Scotland and Wales.

11. Having your say

11.1. If you wish to respond, please submit your comments by **27 May 2014**.

11.2. You can respond in one of three ways:

- Online by completing the questionnaire at <https://consult.defra.gov.uk/>
- Email to: DoS.Consultation@defra.gsi.gov.uk
- Post to:

Diseases of Swine Consultation Team, Defra
Area 5B, Nobel House
17 Smith Square
London
SW1P 3JR

11.3. Our preferred method is online because it is the fastest and most cost-effective way for us to collate and analyse responses.

11.4. Unless you specifically request your response to be treated confidentially, responses may be made publicly available.

12. Consultation Questions

12.1. In particular we would be interested in knowing your views on the following:

- i. To what extent do you agree there is benefit in consolidating the legislation for these three pig diseases?
- ii. As noted in section 4, the OIE is considering removal of the requirement to notify the OIE if a case of SVD occurs. Do you agree that if either the OIE confirms this will happen or we have a strong indication this will happen, we should remove SVD from these proposed regulations and continue to rely on the existing domestic legislation until such time that the European Commission repeal legislation for the control of SVD?
- iii. As noted under section 5, the optional powers available under EU law to permit limited derogation from culling certain special categories of pig have been included within the proposed Diseases of Swine Regulations. This was not previously available for ASF or CSF but was available for SVD. Do you agree that this option should be available for all 3 diseases?
- iv. Section 7.1 confirms that existing legislation gives powers to apply movement controls over a wider area if this is considered to be a proportionate control measure in relation to the specific outbreak circumstances. Do you agree that the proposed Diseases of Swine Regulations should not duplicate the existing legislation listed in 7.1 and thus no additional powers should be taken?
- v. Do you agree that since the policy on control of these diseases (outlined in Section 1.4) has not changed there will be no significant familiarisation costs for these proposed Regulations across the sector?
- vi. Do you have any other comments or suggestions on the proposed Regulations?

13. Next steps

13.1. We will publish a summary of the consultation responses received.

13.2 Subject to Ministerial agreement, we plan to lay the legislation in July 2014 or as soon as practicable thereafter.

Annex

Further background information

Pig notifiable, exotic diseases

1. CSF and ASF are highly contagious viral diseases of pigs. In their acute forms, these diseases result in high morbidity and mortality. Both diseases are spread through:
 - Direct contact with infected pigs, faeces or body fluids
 - Indirect contact via fomites such as equipment, vehicles or people who work with pigs between pig farms with ineffective biosecurity
 - Pigs eating infected pig meat or meat products
2. In addition, ASF can also be spread through infected ticks of the species *Ornithodoros*. However, ASF-competent ticks are not currently present in the UK.
3. CSF was eradicated from Great Britain in 1966. Since then there have been sporadic outbreaks in 1971 and 1986. A more serious outbreak in East Anglia in 2000 affected 16 farms.
4. CSF has been present in certain areas of some EU Member States in wild boar over recent years but there has been a considerable improvement in the situation recently after widespread vaccination of wild boar and across the pig industry.
5. ASF has never occurred in the UK. ASF is present in Sardinia and has recently been confirmed in a small number of wild boar in Lithuania and Poland.
6. SVD is a contagious viral disease of pigs, although mortality due to SVD is rare. The clinical signs of SVD are indistinguishable from foot-and-mouth disease in pigs. However, it is reported that signs of SVD are becoming subclinical and the impact on the pig herd is minimal. SVD can be spread through:
 - Direct contact with infected pigs, faeces or body fluids
 - Indirect contact via fomites such as equipment, vehicles or people who work with pigs between pig farms with ineffective biosecurity
 - Pigs eating infected pig meat or meat products
7. The first outbreak of SVD in Great Britain was in 1972. Over the next ten years 532 cases involving a total of 322,081 pigs were confirmed before the disease was eradicated from Great Britain in 1982.
8. SVD continues to be endemic in Italy.

Disease control strategy

9. The GB disease control strategies for CSF and ASF were published in March 2010 (<http://www.defra.gov.uk/animal-diseases/a-z/classical-swine-fever/> and <http://www.defra.gov.uk/animal-diseases/a-z/african-swine-fever/>). These are in line with the relevant EU Directives and were developed working closely with delivery agents and

the pig industry. The measures for SVD are also set out at <http://archive.defra.gov.uk/foodfarm/farmanimal/diseases/atoz/svd/index.htm>. These all follow similar general disease control principles to those used in recent outbreaks of other major notifiable exotic diseases (for example, Foot-and-Mouth Disease in 2007 and Avian Influenza in 2008).

10. These general disease controls principles are:

i) On suspicion of disease:

- Requirement to notify government if suspicion of disease
- Basic restrictions on suspect premises to reduce risk of spread of disease
- Requirement to sample and test suspect animals
- Possible Temporary Control Zone (such a zone is unlikely to be applied for first suspect case of ASF or CSF in UK)

ii) On confirmation of disease:

- Culling of all pigs on premises where disease has been confirmed.
- Requirement to cleanse and disinfect an infected premises and controls on restocking of this premises.
- Area controls – a protection and surveillance zone will be placed around the infected premises. Controls will apply in these zones to reduce potential spread of disease. Surveillance is also carried out to ensure any disease in these zones is detected.
- Vaccination – This is unlikely to be used during a controlled disease outbreak and at present there is only a vaccine available for CSF (not for ASF or SVD). We would only use vaccination if supported by a favourable cost-benefit analysis of the specific scenario.

Also there are:

- Controls when suspicion or confirmation of disease in feral pigs. These controls seek to reduce risk of spread of disease to domestic pigs and also to eradicate disease from a feral pig population as quickly as possible.