

**Consultation on a change
of policy for the disposal of
animal by-products in parts of
Scotland currently designated
as remote areas as defined
under the Animal By-Products
(Enforcement) (Scotland)
Regulations 2013**

August 2015

Introduction

The Scottish Government are seeking comments on a change in policy for the disposal of animal by-products in parts of Scotland currently designated as remote areas as defined under the Animal By-Products (Enforcement) (Scotland) Regulations 2013. An amendment is needed to specify what species of livestock can make use of the remote areas derogation.

Proposed timetable

This consultation will run from 17 August to 18 September 2015.

We intended to amend the Animal By-Products (Enforcement) (Scotland) Regulations 2013 so that the legislation comes into force at the end of December 2015.

Responses to the consultation

Please email your Respondent Information Form to:

Animal-By-Products@scotland.gsi.gov.uk

Or post it to:

The Animal Health and Welfare Division
Saughton House
Broomhouse Drive
Edinburgh
EH11 3XD

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** which forms part of the consultation questionnaire as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

This consultation and all other Scottish Government consultation papers and related publications can be viewed online at the Scottish Government consultations web page at <http://www.gov.scot/Consultations/Current>.

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:

- Indicate the need for policy development or review;
- Inform the development of a particular policy;

- Help decisions to be made between alternative policy proposals; or,
- Be used to finalise legislation before it is implemented.

Final decisions on the issues under consideration will, if appropriate, also take account of a range of other factors, including other available information. While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available to the public in the Scottish Government Library. You can make arrangements to view responses by contacting the SG Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

If you have any comments about how this consultation exercise has been conducted, please send them to the same address as for your response.

Summary

The European Commission received a complaint against the UK alleging breaches of Union legislation regarding the collection and disposal of animal by-products (ABP) from aquaculture establishments in Scotland. Following discussions with the European Commission, they have confirmed that the Scottish Government is not implementing the derogation for remote areas¹ correctly.

To comply with European legislation, the Scottish Government is in the process of changing the policy that allows ABPs to be disposed of under the current derogation, i.e. “by burning or burial on site or by other means under official supervision which prevent the transmission of risks to public and animal health in the designated ABP remote areas”. The current designated ABP remote area covers a large part of the Highlands and most of the Islands in Scotland.

This change in policy will limit what species of livestock can make use of the derogation. ABPs from species of animals that are not allowed to take advantage of the remote areas derogation will have to use an approved ABP disposal route e.g. disposal via an incineration or processing (rendering) plant or by sending it to a compost or anaerobic digestion (biogas) plant.

Background

ABPs are animal carcasses, parts of animals, or other materials which come from animals but are not fit or intended for human consumption. They must be dealt with in accordance with strict regulations designed to prevent harm to people, animals and the environment.

The legislation that governs ABPs is the Animal By-Products (Enforcement) (Scotland) Regulations 2013² (ABPR) and this regulation implements the EU ABP Regulation (EC) No 1069/2009³ (EU Control Regulation) and its accompanying implementing Commission Regulation (EU) No 142/2011⁴ (EU Implementing Regulation).

The ABPR has a very wide scope covering all animal products including meat, fish, milk and eggs when they are not intended for human consumption and other products of animal origin including hides, feathers, wool, bones, horns and hoofs.

The ABPR puts strict controls on these ABPs as they can present a risk to human and animal health, especially in relation to transmissible spongiform encephalopathies (TSEs e.g. mad cow disease), dioxin contamination, and exotic diseases such as Classical Swine Fever and Foot and Mouth Disease.

The use and disposal of ABPs has been controlled for many years and it is the owner or producer of an ABP who is responsible for its safe and legal collection and

¹ Article 19(1)(b) of Regulation (EC) No 1096/2009

² http://www.legislation.gov.uk/ssi/2013/307/pdfs/ssi_20130307_en.pdf

³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:300:0001:0033:EN:PDF>

⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:054:0001:0254:EN:PDF>

disposal. Such controls mean that ABPs must not be buried or burnt on site or illegally diverted into the food or feed chain.

However, in Scotland we take advantage of a derogation that allows ABPs, such as fallen stock, to be buried or burned in areas designated as remote as defined under regulation 8 of the ABPR. A map showing the current designated ABP remote area that covers a large part of the Highlands and most of the Islands in Scotland can be found in **Annex B**.

Currently, ABPs from all species of terrestrial and aquatic livestock located within the designated ABP remote areas may be disposed of by burning or burial on site or by other means under official supervision which prevent the transmission of risks to public and animal health.

We interpret 'by other means under official supervision' as sending ABPs to an authorised landfill or another site without endangering human health and using processing methods which do not harm the environment, in particular when they could result in risks to water, air, soil and plant and animals, through noise and odour.

Information on EU requirements on the remote areas derogation

The EU Control Regulation states that the burial and burning of ABPs, in particular of dead animals may be justified in specific situations, in particular in remote areas, or in disease control situations requiring the emergency disposal of the animals as a measure to control an outbreak of a serious transmissible disease.

It goes on to define a 'remote area' as 'an area where the animal population is so small, and where disposal establishments or plants are so far away that the arrangements necessary for the collection and transport of ABPs would be unacceptable onerous compared to local disposal'.

Via the EU Implementing Regulation, the animal population in the remote area should not exceed the following:

- (a) 10% of the bovine population of the Member State concerned;
- (b) 25% of the ovine and caprine population of the Member State concerned;
- (c) 10% of the porcine population of the Member State concerned; and
- (d) A percentage of the population of other species (this would apply to farmed fish) which is determined by the competent authority, on the basis of an assessment of the possible risks for public and animal health which arise from the disposal of animals of those species by burning or burial on site.

The Scottish Government is also obliged to monitor regularly the areas categorised as remote areas to ensure that those areas and the disposal operations are properly controlled.

Discussion on why we are changing our policy

The derogated ABP remote area in Scotland was first established in 2003. To take advantage of the remote areas derogation, the UK submitted a proposal to the European Commission that provided information on Scottish agriculture. This proposal highlighted the topographical, geographical, economic and social factors which affect livestock farming in the Highlands and Islands of Scotland. It also took account of the very low sheep and cattle stocking densities and sparse human population in these areas. However, it did not take a detailed account of aquaculture (fish farming) activities in the Highlands and Islands of Scotland.

We used the same justification for the current remote areas derogation when the ABPR came into force on 1 December 2013.

The way the remote areas derogation has been implemented into the ABPR means that in Scotland's remote area all species of animals are allowed to be buried or burnt on site or by other means under official supervision which prevent the transmission of risks to public and animal health. This is not the intention of the EU Control Regulation and an amendment is needed to clarify what species of animals the remote areas derogation applies to.

The UK has a responsibility to correctly apply EU legislation into domestic legislation. We may be at risk of the European Commission starting formal infringement against the UK if we do not amend the ABPR. This could include large fines payable by the UK.

What proposals does this consultation consider?

This consultation presents three options:

- Option 1 - Status quo
- Option 2 - Amend ABPR so remote areas derogation applies to terrestrial livestock animals only
- Option 3 - Amend ABPR so remote areas derogation applies to terrestrial and aquatic animals

Outline of available options

Option 1 - Status quo

This is not a viable option; the status quo means that Scotland is in breach of the EU ABP legislation. As drafted, regulation 8 of the ABPR defines the areas of Scotland that are categorised as remote areas. The areas are defined by either the local council area or the parish name and number.

There is no mention of what species of animals the remote areas applies to so by default, all species of animals that are in scope of the ABPR are allowed to be buried or burnt on site or by other means under official supervision which prevent the transmission of risks to public and animal health.

The ABPR, as currently in force, is failing to comply with EU ABP legislation by making use of the derogation for remote areas in a way that almost the entire aquaculture industry in Scotland takes place within this derogated remote area. Infrastructure for compliant, rather than derogated, disposal options should be available for fish farms located in the currently designated remote areas.

Option 2 - Amend ABPR so remote areas derogation applies to terrestrial livestock animals only

This option would see an amendment to regulation 8 of the ABPR so that terrestrial livestock animals would be the only species of animals that are able to take advantage of the ABP remote areas derogation.

Article 19(1)(b) of the EU Control Regulation lays down the provisions on remote areas that authorise the disposal of ABP by burial or burning on site or by other means under official supervision. Article 19(2) of the EU Control Regulation states a further condition that the animal population of a particular species in the derogated remote area shall not exceed the specified maximum percentage of that animal population in the Member State concerned.

The maximum percentage of the animal population is set out in Annex VI, Chapter III, Section 2 of the EU Implementing Regulation and it is defined as follows:

The animal population in the remote area should not exceed the following:

- (a) 10% of the bovine population of the Member State concerned;
- (b) 25% of the ovine and caprine population of the Member State concerned;
- (c) 10% of the porcine population of the Member State concerned; and
- (d) A percentage of the population of other species (including farmed fish) which is determined by the competent authority, on the basis of an assessment of the possible risks for public and animal health which arise from the disposal of animals of those species by burning or burial on site.

A comparison of terrestrial livestock numbers in the designated remote areas compared to the entire population of those species in the UK can be found in the tables below.

Table 1: Comparison of terrestrial livestock numbers

Species	UK total	Remote Areas total	Remote Areas percentage compared to UK
Cattle	9,837,000	246,490	2.5%
Sheep	33,743,000	1,684,506	5%
Pigs	4,815,000	17,232	0.36%
Poultry	169,684,000	155,272	0.09%
Horse	303,000	5,873	1.9%
Goats	453,000	1,109	0.24%
Deer, camelids and other livestock	129,000	2,207	1.7%

Source: Livestock figures from June Agricultural Census 2014

The bovine, ovine and caprine animal populations in the derogated remote areas falls well below the maximum percentages set out in the EU Implementing Regulation. The animal populations for other terrestrial livestock are also extremely low in comparison to those populations in the rest of the UK.

In this option we are proposing to only allow terrestrial livestock animals to continue to take advantage of the ABP remote areas derogation.

We would welcome your views and comments on this option.

Option 3 - Amend ABPR so remote areas derogation applies to terrestrial and aquatic animals

This option would take Option 2 and expand it to include aquatic livestock animals. We would need to amend regulation 8 of the ABPR to specify what species of terrestrial livestock and aquatic animals would be able to take advantage of the ABP remote areas derogation.

To specify what species of aquatic animals are included in the derogation, the EU implementing Regulation states that we would need to determine a percentage of the population of different fish species that cannot exceed the maximum percentage of the fish population in the rest of the UK. This percentage would need to be based on an assessment of the possible risks to public and animal health which arise from the disposal of animals of those species by burning or burial on site.

An assessment was carried out for establishing the derogated ABP remote areas in 2003. However it did not take a detailed account of aquaculture activities in the Highlands and Islands of Scotland. For this option to be successful, a new assessment would need to be submitted to the European Commission that specifically looks at aquaculture activities in the derogated ABP remote areas.

Information on the different population of fish species in the designated remote areas compared to the entire population of those species in the UK can be found in the tables below.

Table 2: Marine Water Production

Species	UK total tonnage produced in 2013	Remote Areas total tonnage produced in 2013	Remote Areas percentage compared to UK
Rainbow trout	1,964	1,964	100%
Atlantic salmon	163,234	157,674	96.6 %
Sea trout	2	2	100%
Halibut	56	56	100%

Table 3: Freshwater Production

Species	UK total tonnage produced in 2013	Remote Areas total tonnage produced in 2013	Remote Areas percentage compared to UK
Rainbow trout	3,647	1,632	44.7 %
Brown trout	42	1.5	3.6 %

Table 4: Atlantic Salmon Smolt Production

Species	UK total numbers produced in 2013	Remote Areas total numbers produced in 2013	Remote Areas percentage compared to UK
Atlantic Salmon Smolt	40,457,000	36,600,000	90.5 %

From looking at the data in the tables 2, 3 and 4, it is very unlikely that we would be able to successfully argue with the European Commission that these species of aquatic animals can take advantage of the ABP remote areas derogation. Apart from freshwater production of rainbow and brown trout, almost all of aquaculture industry in Scotland takes place within the currently derogated remote area, and therefore does not meet the criteria to be described as “remote”.

There may be a stronger argument that the disposal establishments or plants are so far away that the arrangements necessary for collection and transport of ABPs would be unacceptably onerous compared to local disposal. However, this argument would also be hard to justify given that almost all of the aquaculture industry in Scotland is located within the derogated remote area and should therefore have the infrastructure in place to deal with routine disposal.

We would welcome your views and comments on this option.

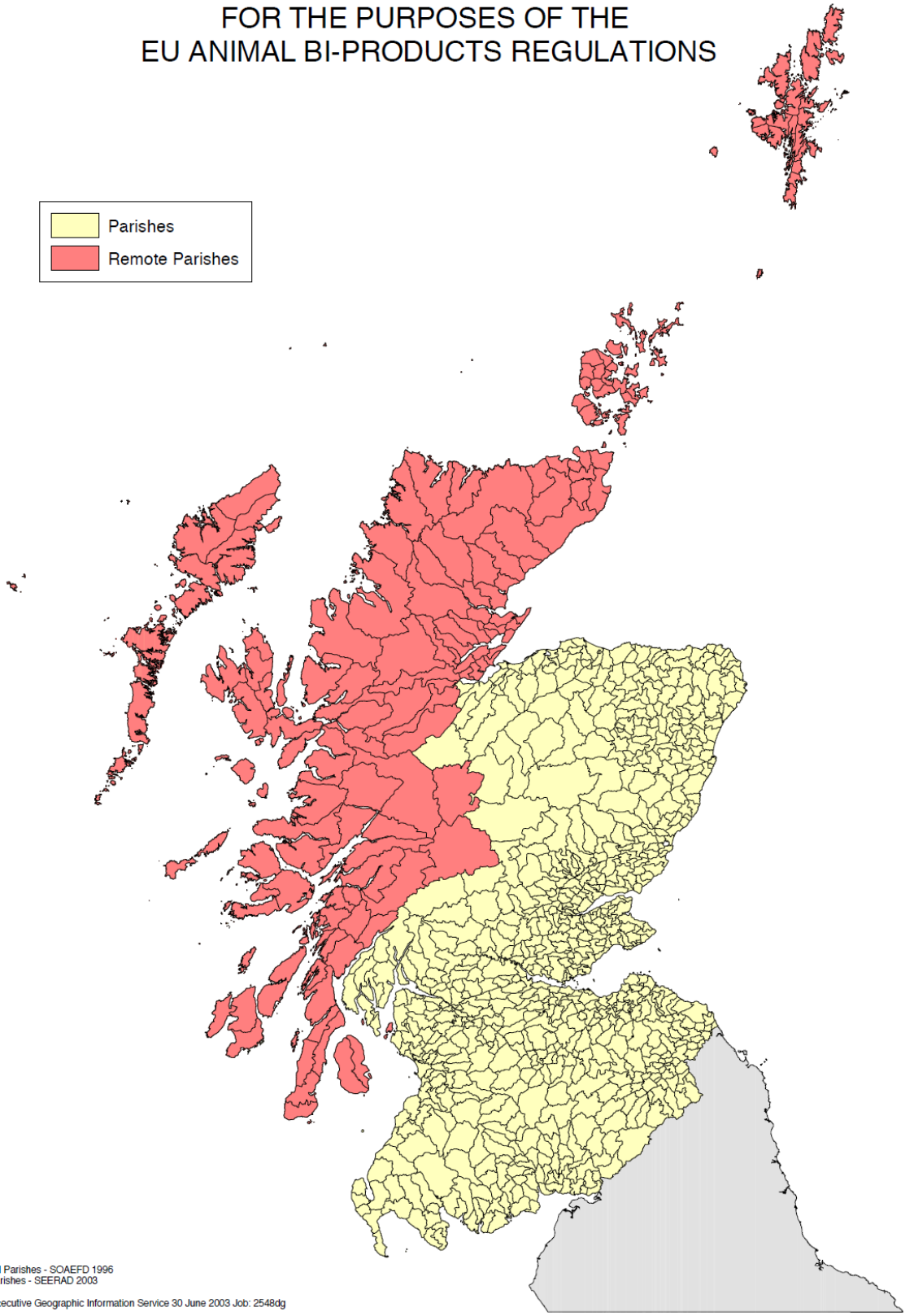
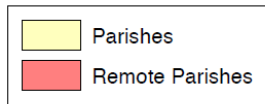
Consultation list

All Scottish MEPs
All Scottish Local Authorities
Abbey St. Bathans Trout Farm
Alba Proteins Ltd
Animal and Plant Health Agency (APHA)
Ardo Alpacas
Argent Energy (UK) Ltd
Arla Foods UK
Association of Deer Management Group
Aviagen Ltd
Balta Island Seafare Ltd
Belhaven Trout Company Ltd
Billy Bowie Special Projects
Blackface Sheep Breeders' Association
Bound Skerries Seafoods Ltd
British Alpaca Society
British Association for Shooting & Conservation Scotland
British Deer Society in Scotland
British Domesticated Ostrich Association
British Equine Veterinary Association
British Horse Society
British Llama Society
British Pig Association
British Poultry Council
British Trout Association
British Veterinary Association Scotland
Brow Well Fisheries Ltd
C & S Murphy
Caledonian Proteins
Cefas
Cloan Hatcheries Ltd
College Mill Trout Farm
Cooke Aquaculture (Freshwater) Ltd
Cooke Aquaculture Scotland Ltd
Cosla
Crofters Commission
Dairy UK
Dawnfresh Farming Ltd
Deerdykes Composting & Organics Recycling Facility
Defra
Department of Agriculture and Rural Development
Dundas Chemical Co (Mosspark) Ltd
Eildon Fallen Stock Ltd
Energen Biogas Ltd
Evanton Waste Recycling & Composting Plant
Fabra UK
Fencebay Limited

Fife Council Lochhead AD Facility
Finfish Ltd
Food Standards Scotland
Forge Fish Farm
Game & Wildlife Conservation Trust
Game Farmers Association
Glen Orrin Fish Farm
Glenstrae Farmers
GP Plantscape Ltd
Grampian Country Food Group Ltd
Grayhill Limited
Gronidaal
H & A Wason (Kamehill) Ltd
Hebridean Smolts Ltd
Highland Salmon Company Ltd
Highlands and Islands Enterprise
Hjaltland Hatcheries Ltd
Hjaltland Seafarms Ltd
Hoghill Trout Farm Ltd
Howietoun Fishery
Institute of Auctioneers & Appraisers Scotland
Inverness Fish Farming
Invicta Trout Ltd
JS Salmon Ltd
Kames Fish Farming Ltd
Keenan Recycling Ltd
Kindrochet Fish Farm
Kintail Hatchery
Lakeland (Cairndow) Ltd
Landcatch Natural Selection Ltd
Levenseat Organics
Loch Duart Ltd
Marine Harvest (Scotland) Ltd
Meavag Fish Farming
Migdale Smolts Ltd
Mill of Elrick Fish Farm
Millburn Salmon Hatchery
Moffat Fishery (Farm)
Moleigh Landfill Site
Moredun Research Institute
National Fallen Stock Company (NFSCo)
National Farmers Union Scotland
National Sheep Association Scotland
Omega Proteins Ltd
Orkney Organic Salmon Ltd
Otter Ferry Seafish Ltd.,
Quality Meat Scotland
Renewable Energy Association
River Doon Trout Co Ltd
River Lochy Association

Road Haulage Association
Rosseyew Ltd
Rothiemurchus Estate
Rysa Salmon Farm
Scottish Association of Meat Wholesalers
Scottish Consumer Council
Scottish Crofting Foundation
Scottish Environment Protection Agency (SEPA)
Scottish Gamekeepers Association
Scottish Goatkeepers Association
Scottish Land and Estates
Scottish Natural Heritage
Scottish Pig Producers
Scottish Retail Consortium
Scottish Rural University College
Scottish Salmon Producers Organisation (SSPO)
Scottish Sea Farms Ltd
Scottish Society for the Prevention of Cruelty to Animals (SSPCA)
Scottish Wildlife Trust
Scottish Women's Rural Institute
Selcoth Fisheries Ltd
Sgeir Mhor (Salmon) Ltd.,
Sheep Veterinary Society
Shetland Fish Products Ltd
Skaw Smolts
SSE Generation Limited
Sunart Community Company
Sunbeam Aquaculture Ltd
TEG Environmental Ltd
The Firm of A H Tucker
The Scottish Salmon Company
The Yarrow Fishery
Thompson Bros Salmon Ltd
Torhouse Trout Ltd
Torridon Smolts Ltd
Treaslane Fish Farm
Trouw UK Ltd (T/A Skretting)
Turkey Club UK
UK Alpacas Society
United Fish Industries Ltd
Wester Ross Fisheries Ltd
Western Isles Integrated Waste Management Facility
Women's Food and Farming Union
World Horse Welfare
Zero Waste Scotland

AREAS IN SCOTLAND TO BE CLASSIFIED AS REMOTE
FOR THE PURPOSES OF THE
EU ANIMAL BI-PRODUCTS REGULATIONS



Sources:
Agricultural Parishes - SOAEFD 1996
Remote parishes - SEERAD 2003

Scottish Executive Geographic Information Service 30 June 2003 Job: 2548dg

Consultation on a change of policy for the disposal of animal by-products in parts of Scotland currently designated as remote areas as defined under the Animal By-Products (Enforcement) (Scotland) Regulations 2013



RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Title Mr Ms Mrs Miss Dr *Please tick as appropriate*

Surname

Forename

2. Postal Address

Postcode	Phone	Email

3. Permissions - I am responding as...

Individual / **Group/Organisation**
Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate Yes No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate Yes No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate Yes No

CONSULTATION QUESTIONS

Q1. Which is your preferred option? Please explain why and provide any supporting evidence.

Comments

Q2. Do you envisage any additional costs being place on your business as a result of having to change the way you collect, transport or dispose of fish farm mortalities?

Comments

Q3. Do you think there are other unintended consequences from any of the options proposed which have not been explored?

Comments

Q4. Are there are specific practical and administrative aspects which you think need to be considered before adopting any of these options?

Comments

Partial Business and Regulatory Impact Assessment

Title of Proposal

Change of policy for the disposal of animal by-products in parts of Scotland currently designated as remote areas as defined under the Animal By-Products (Enforcement) (Scotland) Regulations 2013

Purpose and intended effect

- **Background**

The European Commission received a complaint against the UK alleging breaches of Union legislation regarding the collection and disposal of animal by-products (ABP) origination from aquaculture establishments in Scotland. Following discussions with the European Commission, they have confirmed that the Scottish Government is not implementing the derogation for remote areas¹ correctly.

- **Objective**

To change the current policy so that the new policy will limit what species of livestock can make use of the derogation. ABPs from species of animals that are not allowed to take advantage of the remote areas derogation will have to use an approved ABP disposal route e.g. disposal via an incineration or processing (rendering) plant or by sending it to a compost or anaerobic digestion (biogas) plant, working towards a zero-waste society.

- **Rationale for Government intervention**

To comply with European legislation, the Scottish Government needs to change the policy that allows ABPs to be disposed of under the current derogation i.e. “by burning or burial on site or by other means under official supervision which prevent the transmission of risks to public and animal health in the designated ABP remote areas”. The current designated ABP remote area covers a large part of the Highlands and most of the Islands in Scotland.

This proposal contributes to the [National Performance Framework](#) by reducing our local and global environmental impact and enhancing it for future generations.

Consultation

- **Within Government**

A Fish Waste Working Group was established at the start of 2015 to look at contingency planning for large scale mortality disposal. We have used this working group to consult this change in policy with colleagues in Marine

¹ Article 19(1)(b) of Regulation (EC) No 1096/2009

Scotland, the Fish Health Inspectorate, Cefas, Scottish Environment Protection Agency (SEPA), Zero Waste Scotland, Defra, Department of Agriculture and Rural Development (DARD), the Welsh Government and the Animal and Plant Health Agency (APHA).

- **Public Consultation**

A formal consultation on these Regulations will take place from 17 August to 18 September.

- **Business**

We contacted stakeholders in May to notify them about the change in policy and inform them that a formal consultation would follow in the summer.

This proposal has also been conveyed to industry representatives through the Fish Waste Working Group. The Scottish Salmon Producers Organisation and the British Trout Association are members of the working group.

We are also funding a project via Zero Waste Scotland (Scottish Fish Farm Waste Reprocessing Options – Scoping Study) to look at Scottish fish farm waste and identify current waste disposal routes, suitable alternative ABP complaint disposal routes and the existing waste capacity in Scotland.

Options

- Option 1 - Status quo
- Option 2 – Amend the Animal By-Products (Enforcement) (Scotland) Regulations 2013 (ABPR) so remote areas derogation applies to terrestrial livestock animals only
- Option 3 - Amend ABPR so remote areas derogation applies to terrestrial and aquatic animals

Outline of available options

Option 1 - Status quo

This is not a viable option; the status quo means that Scotland is in breach of the EU ABP legislation. As drafted, regulation 8 of the ABPR defines the areas of Scotland that are categorised as remote areas. The areas are defined by either the local council area or the parish name and number.

Option 2 - Amend ABPR so remote areas derogation applies to terrestrial livestock animals only

This option would see an amendment to regulation 8 of the ABPR so that terrestrial livestock animals would be the only species of animals that are able to take advantage of the ABP remote areas derogation.

Option 3 - Amend ABPR so remote areas derogation applies to terrestrial and aquatic animals

This option would take Option 2 and expand it to include aquatic livestock animals. We would need to amend regulation 8 of the ABPR to specify what species of terrestrial livestock and aquatic animals would be able to take advantage of the ABP remote areas derogation.

Sectors and groups affected

The following sectors are likely to be affected by the proposals:

- Fish farms located within the ABP remote area
- Shellfish farm located within the ABP remote area
- Landfill sites
- Fish waste hauliers/transporters

Benefits

Options 1 and 3 would see no significant change to current disposal practices.

Under Option 2:

- Fish and shellfish farms located within the ABP remote area will need to use an approved ABP disposal route e.g. disposal via an incineration or processing (rendering) plant or by sending it to a compost or anaerobic digestion (biogas) plant. They can no longer send their waste to a landfill site for disposal.
- Landfill sites that currently accept fish waste from fish or shellfish farms will lose any potential revenue from no longer accepting this type of waste.
- Local transporters delivering fish waste to landfill sites will no longer take place but the fish waste will still need to be transported to an approved ABP disposal site.

There would be no infraction risk for Options 2 and 3 as they would fully implement the EU ABP legislation

Costs

Failing to correctly apply EU legislation into domestic legislation puts the UK at risk of the European Commission starting formal infringement against us if we do not amend the ABPR. The minimum cost of infraction to the Scottish Government could be a €9,666,000 lump sum and possible daily substantial fines of thousands of pounds for continued non-compliance.

As part of the consultation process we will be asking businesses if they envisage any additional costs being placed on their business as a result of having to change the way they collect, transport or dispose of fish farm mortalities. We will also be trying to assess any potential costs through the Scottish Fish Farm Waste Reprocessing Options – Scoping Study.

A detailed assessment of all costs (additional and savings) will be available in the final Business and Regulatory Impact Assessment.

Scottish Firms Impact Test

We are in consultation with the Scottish Salmon Producers Organisation and the British Trout Association through the Fish Waste Working Group. The consultation will be sent to individual fish farm producers and organisations in the ABP sector.

The Scottish Fish Farm Waste Reprocessing Options – Scoping Study will consult with key contacts in the aquaculture sector in Scotland to discuss the detailed make-up and component parts of the ABP waste stream and any technical challenges that may arise from its transportation, collection and disposal.

This section will be updated with the results of these discussions in the final Business and Regulatory Impact Assessment.

Competition Assessment

Using the Competition and Markets Authority Competition Filter questions we have concluded that the proposals will neither directly or indirectly limit the number or range of suppliers, limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously.

Test run of business forms

There will be no specific business forms involved with the implementation of the proposed legislation.

Legal Aid Impact Test

The proposal is unlikely to have an impact on the legal aid fund.

Enforcement, sanctions and monitoring

Responsibility for compliance, monitoring and enforcement of the provisions are:

- APHA only inspect fish farms that have ABP approved incinerators on site.
- Enforcement of the ABPR is carried out by the local authorities.
- Environmental controls are enforced by SEPA.
- The Fish Health Inspectorate carries out inspection and testing of fish and shellfish farms to prevent the introduction and spread of serious fish and shellfish diseases in Scotland.
- Marine Scotland carries out annual surveys of fish farming industries, provide statistics and evaluate the production of aquaculture species in Scotland.

Implementation and delivery plan

The proposal will be implemented in legislation via an amendment to the Animal By-Products (Enforcement) (Scotland) Regulations 2013. This amendment will come into force on 1 January 2016.

- **Post-implementation review**

The Scottish Government are required to monitor regularly the areas categorised as ABP remote areas to ensure that those areas and the disposal operations are properly controlled.

Summary and recommendation

Option 2 is being recommended. This option fully implements the EU ABP legislation. The bovine, ovine and caprine animal populations in the derogated remote areas falls well below the maximum percentages set in the EU ABP legislation. The animal populations for other terrestrial livestock are also extremely low in comparison to those populations in the rest of the UK.

For option 3 to be successful, an assessment would need to be submitted to the European Commission that specifically looks at aquaculture activities in the derogated ABP remote areas. Apart from freshwater production of rainbow and brown trout, almost all of aquaculture industry in Scotland takes place within the currently derogated remote area. It seems very unlikely that we would be able to successfully argue with the European Commission that these species of aquatic animals can take advantage of the ABP remote areas derogation.

A summary costs and benefits table will be included in the final Business and Regulatory Impact Assessment.

Declaration and publication

- Sign-off for Partial BRIAs:

I have read the Business and Regulatory 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. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

Date:

Richard Lochhead
Cabinet Secretary for Rural Affairs, Food and the Environment

Scottish Government Contact point:

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