

EXPLANATORY MEMORANDUM TO
THE OLDER CATTLE (DISPOSAL) (ENGLAND) REGULATIONS 2005

2005 No. 3522

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 Commission Regulation 716/96 (as last amended by Commission Regulation 2109/2005) introduces the basis for the Older Cattle Disposal Scheme (OCDS) where the United Kingdom is authorised to purchase cattle (or any other bovine) born or reared within the United Kingdom before 1 August 1996, not exhibiting clinical signs of BSE and which was, during a period of at least six months prior to its sale, present on a holding located in the United Kingdom.

2.2 The Commission Regulation places requirements on operators of slaughterhouses and incinerators or processing plants who process animals (or their subsequent products) submitted under the OCDS. These requirements are specified in the Schedule to these Regulations and they relate specifically to the appropriate treatment and disposal of animals and subsequent animal products to be processed under the scheme. Enforcement measures are needed to ensure that operators of slaughterhouses and other processors comply with these requirements.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 Prior to its recent amendment, Commission Regulation 716/96 (via the European Communities Act 1972) provided the legal basis for the implementation of the Over Thirty Months Scheme (OTMS). The enforcement measures needed to support this scheme were provided by The Bovine Animals (Enforcement of Community Purchase Scheme) Regulations 1996 (S.I. 1996/1193) (hereafter the 'OTMS SI').

4.2 However, Commission Regulation 716/96 has now been amended by Commission Regulation 2109/2005 to replace the OTMS and introduce the Older Cattle Disposal Scheme (OCDS). The 'OTMS SI' cannot accommodate this amendment to domestic law. Therefore, these Regulations are needed to replace the 'OTMS SI' and accommodate the amendment to Community Law.

4.3 The Commission Regulation 716/96 (as last amended) is directly applicable in England, with the necessary amendments to domestic law being made by this SI under section 2(2) of the European Communities Act 1972.

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

7.1 The Over Thirty Month Slaughter Scheme (OTMS) is a market support measure for the UK beef industry and it was introduced in May 1996 to provide an outlet for cattle over thirty months of age that could not enter the food chain because of the Over Thirty Month (OTM) Rule.

7.2 The OTM rule banned the sale for human consumption of meat from most cattle aged over thirty months at the time of slaughter, and was established by Government following public concern over the probable link between Bovine Spongiform Encephalopathy (BSE) in cattle, and variant Creutzfeldt-Jakob Disease (vCJD).

7.3 The framework for the OTMS was established in European Commission Regulation 716/96 adopting exceptional support measures for the beef market in the UK.

7.4 In 2004, the Food Standards Agency completed a review of the UK's Over Thirty Month rule and advised Ministers that it would be acceptable on health grounds to replace the rule with BSE testing of OTM cattle born after July 1996. This coincided with an opinion of the Scientific Panel on biological hazards of the European Food Safety Authority (EFSA) of 21 April 2004, which concluded that cattle born or reared in the UK before 1 August 1996 should be permanently excluded from the food and feed chain on the basis that

they represent a heightened risk of carrying BSE infectivity.

7.5 On 15 September 2005 the Government announced that it had accepted advice from the Food Standards Agency (FSA) that Defra's proposed robust BSE testing system for older cattle should replace the OTM Rule. On 7 November 2005 the new testing arrangements for OTM cattle born after 1 August 1996 became effective. However, all cattle born before 1 August 1996 remain permanently excluded from the food and feed chain and a new offence of consigning such animals for slaughter for human consumption has been created in domestic TSE legislation. The OCDS will provide a disposal route for these older animals with compensation, 50% co-financed by the Commission for producers for the next 3 years.

8. Impact

8.1 A regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is deregulatory.

9. Contact

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