

Bovine Tuberculosis: Proposals to amend The Tuberculosis (Scotland) Order 2007

**A consultation on proposals to amend and
consolidate legislation relating to Bovine
Tuberculosis**

May 2022

Consultation on amendments to the Tuberculosis (Scotland) Order

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Part A: About this consultation

Background

Bovine Tuberculosis (TB) is a notifiable disease of cattle, which can also affect other mammals. It continues to present a significant challenge to the farming sector across the UK.

Scotland achieved Officially Tuberculosis Free Status (OTF) in September 2009, in recognition of the relatively low and stable incidence of TB found in Scottish herds, and this pattern is consistent with sporadic introductions of disease which are eradicated through testing and removal of infected cattle.

The current [Tuberculosis \(Scotland\) Order](#) came into force in 2007 and has been amended a number of times since, most recently to make amendments arising from the withdrawal of the United Kingdom from the EU. We are proposing to consolidate all of the bovine tuberculosis legislation in one updated TB Order. We are also considering a number of amendments to the legislation.

The proposals set out below support the maintenance of our OTF status in Scotland, and the eradication of bTB across Great Britain.

Scope of the Consultation

Scottish Government are launching this consultation to gather views on specific proposals for TB diagnostic testing, cattle movements, isolation requirements and unclean cattle.

The following amendments are proposed:

- Amend the provisions for the application of diagnostic tests, to include a requirement for the prior written permission of Scottish Ministers where non-statutory and private samples are taken with the intention of applying a diagnostic test for TB.
- End the practice of accepting a clear final short interval test (SIT) at the end of all TB breakdowns as a valid pre-movement test. Cattle to be moved out of such herds will need to have a further (bespoke) pre-movement skin test with negative results;
- Shorten the period during which a pre-movement test with negative results remains valid, from the current 60 days to 30 days after tuberculin injection - to bring domestic pre-movement testing into line with the testing of cattle intended for export and further reduce the risk of cattle contracting TB between the dates of the test and the movement;
- Reduce compensation for unclean cattle at slaughter; and

- Tighten the measures relating to the isolation of reactors and inconclusive reactors (IRs).

Animal Health and Welfare is a devolved matter and the proposals included in this consultation apply to Scotland only.

Anyone is welcome to respond to this consultation. The Scottish Government would particularly like to hear from: the keepers of cattle or livestock, cattle or livestock associations, veterinary surgeons or associations, agricultural markets and valuers, animal welfare advocates and anyone else with an interest in the eradication and control of bovine TB in Scotland.

This consultation will help us to gauge attitudes towards these proposals and make informed decisions from the responses, but will also help us to account for any unanticipated impacts that these changes could have on those they will affect. We also would be interested to know if there are any other policy changes that there is an appetite for but we have not covered in our proposals.

Responding to this Consultation

We are inviting responses to this consultation by 1st August 2022. This consultation will run from 9th May 2022 until 1st August 2022, which is a period of 12 weeks.

Please respond to this consultation using the Scottish Government's consultation platform, Citizen Space. You view and respond to this consultation online at <https://consult.gov.scot/agriculture-and-rural-economy/bovinetb-the-tuberculosis-scotland-order>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 1st August 2022.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form and return along with your response to:

Bovine TB Consultation
Scottish Government
Animal Health & Welfare
P Spur, Saughton House
Broomhouse Drive
Edinburgh EH11 3XD

Or send this by email to: BovineTB.consultation@gov.scot

The Scottish Government consultation process

Consultation is an essential part of the policy-making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.scotland.gov.uk>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. 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
- be used to finalise legislation before it is implemented

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.

Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is 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.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy: <https://www.gov.scot/privacy/>

Next steps in the process

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 at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

How to make an enquiry

The Scottish Government's Animal Health & Welfare Division, Disease Control Team is responsible for this consultation. If you have any queries about this consultation please contact the Scottish Government Animal Health & Welfare Disease Control Team at: BovineTB.consultation@gov.scot

Comments and complaints

You may provide any comments on your experience of the consultation as a part of the consultation questions. Alternatively you may also send any comments that you may have about how this consultation exercise has been conducted to BovineTB.consultation@gov.scot

Part B: Proposed amendments to the TB Order

Section 1: TB Diagnostic Testing

Amend the provisions for the application of diagnostic tests, to include a requirement for the prior written permission of Scottish Ministers where non-statutory and private samples are taken with the intention of applying a diagnostic test for TB.

1.1. Occasionally cattle keepers, research companies, or other third parties, seek permission to take samples from Scottish herds to undertake TB testing in private laboratories, either within Scotland or elsewhere. Written consent is needed from the Scottish Ministers to apply a diagnostic test for tuberculosis to a bovine animal in Scotland. However, samples taken in Scotland may be sent to laboratories for diagnostic testing/validation studies in countries outside of Scotland without prior written permission from Scottish Ministers and without disclosing the sample numbers or results. This is not consistent with a competent authority's responsibility for notifiable disease control. This arises because:

- While the application of diagnostic tests to bovine animals in Scotland requires Scottish Ministers consent, the taking of blood or milk samples and then sending them to other jurisdictions / abroad for diagnostic TB testing is not expressly restricted;
- While there is an obligation on laboratories in Scotland which identify the presence of *M.bovis* in a sample to notify a laboratory approved by the Scottish Ministers for further investigation, that obligation does not apply to laboratories outside of Scotland
- We are committed to facilitating the development of new diagnostic tests for TB, but have no current powers to oversee the process, monitor sample numbers or results.

1.2. We would like to ensure that Scottish Government have full knowledge of the sampling and results for non-statutory / private diagnostic testing for tuberculosis in Scotland.

1.3 Requiring the prior permission of Scottish ministers where samples are taken with the intention of diagnostic TB testing, could include the pre-condition of information about sample types, numbers, farm locations and results.

Consultation questions on TB diagnostic testing

Q1. Do you agree with the proposed change which would mean that no samples should be taken in Scotland for TB with the intention of applying a diagnostic test, either in Scotland or elsewhere, without permission from the Scottish Ministers?

Section 2: Cattle Movements

a) End the practice of using a clear final short interval test at the end of all TB breakdowns as a valid pre-movement test, including for moves into Scotland. Cattle to be moved out of such herds will need to have a further (bespoke) pre-movement skin test with negative results.

2.1. No diagnostic test has 100% specificity and there remains a possibility that infection is undetected and remains in a herd at the end of a breakdown. This can happen especially in high incidence TB areas where recurrence of tuberculosis is a feature. The risk is that infected, undetected cattle may move from a herd and infect the new recipient herd.

2.2. A similar policy for persistent breakdowns (breakdowns of 18 months and over) has been in place in Wales since 2017¹. In November 2021 the Welsh Government launched a consultation document to seek views on whether this should be extended to all breakdowns.

b) Shorten the period during which a pre-movement test with negative results remains valid from the current 60 days to 30 days after tuberculin injection for skin testing of cattle, including for moves into Scotland, to align with new EU Animal Health Law requirements to facilitate continued trade with EU member states.

2.4. Shortening the period that the pre-movement test remains valid, from the current 60 days to 30 days, would reduce the risk of a negative testing beast becoming infected in the period between the test and the movement to the new destination. This would lower the risk of TB being spread to the post-movement destination.

2.5. This change also aligns with the requirements of the EU Animal Health Law. The EU Animal Health Law came in place on 21 April 2021 and the accompanying Commission Delegated Regulation (EU) 2020/688² Article 10 (1)(d)(ii) requires that the traded animals have been subjected to a test for infection with *Mycobacterium tuberculosis* complex with negative results, during the last 30 days prior to departure, and would bring the requirements for cattle moving between domestic countries in line with export requirements. Additionally the OIE recommendations for importation of bovinds states that they should '*originate from a herd free from infection with M. tuberculosis complex and have been tested for infection with M. tuberculosis complex with negative results within 30 days prior to shipment*'³ and thus changing this period would mean we remain in line with the international standard.

Consultation questions on Cattle Movements

Q2. Do you agree with ending the practice of using a clear final short interval test at the end of all TB breakdowns as a valid pre-movement test, including for domestic moves into Scotland?

¹ [The Tuberculosis \(Wales\) \(Amendment\) Order 2017 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

² Commission Delegated Regulation (EU) 2020/688 [EUR-Lex - 32020R0688 - EN - EUR-Lex \(europa.eu\)](https://eur-lex.europa.eu/eur-lex)

³ [Terrestrial Code Online Access - OIE - World Organisation for Animal Health](https://www.oie.int)

Q3. Do you support the proposal to shorten the period during which a pre-movement test with negative results remains valid from the current 60 days to 30 days after tuberculin injection for skin testing of cattle, including for domestic moves into Scotland?

Section 3: Unclean Cattle

3.1. Cattle must be clean when they are presented for slaughter, and Food Standards Scotland provide guidance on producing clean cattle for slaughter⁴. If hides are unclean at the point of slaughter there is a risk of the meat being contaminated with bacteria such as E.coli or salmonella, which can present a risk to human health. Subsequent cleaning of an unclean animal presented at slaughter can result in delays and extra costs to producers and abattoir operators. As such, it is important the cattle are clean both in the interest of human health, and for efficiency.

3.2. Where Scottish Ministers require the slaughter of cattle for TB purposes, the carcass belongs to the Scottish Government who will organise the disposal of the carcass through a slaughterhouse. Where the meat would be safe for human consumption, the Scottish Government may receive some money from the slaughterhouse, known as 'salvage'. Any income received by the Scottish Government will be less than the compensation which Scottish Ministers pay to the owner of the cattle. In the instance that the animal is unclean at the slaughterhouse, the meat would not be considered as safe for consumption and the salvage would not be granted to the Scottish Government.

3.3. Proper cleaning of cattle is behaviour which we would already expect of farmers, and as such a change in legislation should not require a significant change in practice across the sector, but rather acts as a means of providing consequence in the instance that this basic requirement is not met.

3.4. Defra introduced legislation in November 2018 which reduced compensation by 50% for animals which could not be processed for human consumption because they were unclean when brought to the slaughterhouse⁵. In practice, this is a very small proportion of the TB-infected cattle that are sent to slaughter, with only around 20 cases of this nature each year⁶. There are no known cases where animals have been rejected for slaughter due to being unclean in the abattoirs which serve Scotland, but it is considered necessary to have a statutory provision which protects against the potential loss of salvage.

3.5. We consider that Scottish legislation should be amended to provide for reduced compensation in incidents where cattle are presented for slaughter with dirty hides. This could incentivise owners to take better biosecurity measures.

⁴ [Clean livestock | Food Standards Scotland](#)

⁵ Schedule 6(1) [The Cattle Compensation \(England\) Order 2019 \(legislation.gov.uk\)](#)

⁶ [Changes to bovine TB compensation in England - Bovine TB | TB Hub](#)

Consultation questions on Unclean Cattle

Q4. Should a financial penalty, such as a reduction in compensation, be introduced for cattle which are presented as unclean at slaughter?

Q5. If you agree with a financial penalty, would you agree with a 50% reduction to compensation for cattle which are presented as unclean at slaughter? If not, what amount would you suggest that compensation should be reduced by?

Section 4: Isolation Requirements

4.1. These measures are being proposed following incidents where failures to isolate reactor / test positive cattle or inconclusive reactors (IRs) are considered to have initiated the spread of disease within herds. Failure to properly isolate test positive cattle or IRs can result in the unnecessary spread of bTB within the herd, more cattle being slaughtered, and a significantly higher amount of compensation being paid.

4.2 We propose to introduce statutory requirements for isolation, and to specify that a location within the holding should be identified for the isolation of affected animals to ensure that isolation is being carried out properly and the risk of onward spread is mitigated.

(a) include requirements for ‘isolation’ in legislation to ensure that proper isolation of reactors and inconclusive reactors is undertaken

4.3 Isolation is defined in the current APHA Notice ‘Requiring Isolation of Inconclusive Reactors’ as ‘the animals must be kept on land or in accommodation where no airspace is shared with other cattle and where no other cattle can access manure, slurry or drainage from that accommodation’.

4.4 Including statutory requirements for ‘isolation’ within the TB Order would make the specific legal obligation clearer, when cattle keepers are required by Notice to isolate their cattle, where a reactor or inconclusive reactor is disclosed at testing, or when they suspect an animal is affected with tuberculosis.

4.5 In Wales, isolation is defined as ‘kept on land or in accommodation, where no air space, drainage, or manure storage is shared with other cattle’.

Consultation Question

Q6. Do you think it would be useful to include statutory requirements for “isolation” in the TB Order to ensure that keepers of bovine animals are aware of the expectations when an animal is affected, or suspected of being infected, with TB?

(b) Strengthen the TB isolation requirements by specifying a location for isolation to take place

4.6. The legislation could provide powers to specify a location within the holding for the isolation of affected animals when the need arises to prevent the spread of TB.

Options for next steps:

4.7 The isolation of reactors or inconclusive reactors should be taking place in the part of the premises which is specified within the existing isolation notice. A location for isolation could either:

- be agreed with the Animal and Plant Health Agency (APHA) and recorded in the notice at the point of disclosure of the reactor / IR, or
- require that cattle keepers take responsibility by making themselves aware of the definition of isolation (made available either through the TB Order, the notice, or both) and be subject to enforcement if it is found the cattle are not adequately isolated.

Option 1: Require isolation to be undertaken in a specific part of the premises, as specified within the notice following APHA inspection, or

Option 2: Require farmers to identify a suitable location for isolation and undertake ad-hoc enforcement activity where cattle are found not to be isolated following the disclosure of a reactor or IR.

Consultation Question

Q7. Upon the disclosure of a reactor or IR, do you agree with Option 1 or Option 2?

Include a reduction in compensation where subsequent reactors in the herd are found as a result of a failure to properly isolate a reactor or IR

4.8. Compensation for test positive cattle could be reduced where they have been exposed to cattle which should have been isolated under a statutory notice.

Potential measures to introduce

Where animals are not being properly isolated, and may subject further animals in the herd to infection, there should be a penalty.

Measure 1: Reduce compensation for test positive cattle when there is a failure to isolate cattle, and / or

Measure 2: Reduce compensation for subsequent reactors in the herd that are considered to have been infected as a result of failure to isolate test positive cattle.

Consultation Questions on Isolation Requirements

Q8. Do you agree with measure 1 that a reduction in compensation should be introduced for any test positive cattle which are not isolated?

Q9. Do you agree with measure 2 that a reduction in compensation should be introduced for all subsequent test positive cattle in the herd that are considered to have been infected as a result of a failure to isolate animals affected, or suspected of being infected, with TB?

Q10. Would you agree with a 95% reduction in compensation for a failure to isolate? If not, what amount would you suggest that compensation should be reduced by?

Consultation Questions

Q1. Do you agree with the proposed change which would mean that no samples should be taken in Scotland for TB with the intention of applying a diagnostic test, either in Scotland or elsewhere, without permission from the Scottish Ministers?

Yes No

Please explain the reasons for your answer.

Q2. Do you agree with ending the practice of using a clear final short interval test at the end of all TB breakdowns as a valid pre-movement test, including for domestic moves into Scotland?

Yes No

Please explain the reasons for your answer.

Q3. Do you support the proposal to shorten the period during which a pre-movement test with negative results remains valid from the current 60 days to 30 days after tuberculin injection for skin testing of cattle, including for domestic moves into Scotland?

Yes No

Please explain the reasons for your answer.

Q4. Should a financial penalty, such as a reduction in compensation, be introduced for cattle which are presented as unclean at slaughter? Please explain the reasons for your answer.

Yes No

Please give us your views.

Q5. If you agree with a financial penalty, would you agree with a 50% reduction to compensation for cattle which are presented as unclean at slaughter? If not, what amount would you suggest that compensation should be reduced by?

- The penalty should be more than 50%
- I agree with a 50% reduction in compensation
- The penalty should be less than 50%

Please provide further comments.

Q6. Do you think it would be useful to include statutory requirements for “isolation” in the TB Order to ensure that keepers of bovine animals are aware of the expectations when an animal is affected, or suspected of being infected, with TB?

Yes No

Please give us your views.

Option 1: Require isolation to be undertaken in a specific part of the premises, as specified within the notice following APHA inspection.

Option 2: Require farmers to identify a suitable location for isolation and undertake ad-hoc enforcement activity where cattle are found not to be isolated following the disclosure of a reactor or IR.

Q7. Upon the disclosure of a reactor or IR, do you agree with Option 1 or Option 2?

- Option 1
- Option 2
- Not Sure

Please provide your reasoning.

Measure 1: Reduce compensation for test positive cattle when there is a failure to isolate cattle

Measure 2: Reduce compensation for subsequent reactors in the herd that are considered to have been infected as a result of failure to isolate test positive cattle

Q8. Do you agree with measure 1 that a reduction in compensation should be introduced for any test positive cattle which are not isolated?"

Yes No

Please explain your views.

Q9. Do you agree with measure 2 that a reduction in compensation should be introduced for all subsequent test positive cattle in the herd that are considered to have been infected as a result of a failure to isolate animals affected, or suspected of being infected, with TB?

Yes No

Please explain your views.

Q10. Would you agree with a 95% reduction in compensation for a failure to isolate?
If not, what amount would you suggest that compensation should be reduced by?

- The penalty should be more than 95%
- I agree with a 95% reduction in compensation
- The penalty should be less than 95%

Please give your views.

Q11. Do you have any further comments on the proposals we have set out within this consultation, or are there any further measures relation to bovine TB in Scotland which we should consider?

Please give your views.



Title - Bovine Tuberculosis: Proposals to amend The Tuberculosis (Scotland) Order 2007

Respondent Information Form

Please Note this form **must** be completed and returned with your response. To find out how we handle your personal data, please see our privacy policy: <https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual
- Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
- Publish response only (without name)
- Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

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?

Yes

No



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