

# Draft Animal Health Bill

January 2010



# Draft Animal Health Bill

Presented to Parliament  
by the Secretary of State for Environment, Food and Rural Affairs by Command of Her Majesty  
January 2010

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ISBN: 9780101778428

Printed in the UK by The Stationery Office Limited on behalf of the Controller of Her Majesty's Stationery Office

ID P002342804 01/10

Printed on paper containing 75% recycled fibre content minimum.

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# Draft Animal Health Bill

Policy Paper

January 2010

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## Foreword



Animal diseases can have a serious impact on livestock and wider society. The last decade saw a number of serious animal disease outbreaks, including the devastating effects of Foot and Mouth in 2001. Since then we have seen other, smaller incidents of animal disease, but the risk of bigger or more serious outbreaks, with the potential to affect humans, remains.

Over the past decade we have made many improvements to reduce the risk of animal disease and minimise the opportunities for it to spread. Overall, we have strengthened our resilience. This has included: working closely with the livestock sector; preparing for possible disease; tackling existing problems; developing contingency plans in partnership; and then implementing them, in a way that reduces the risk of disease spread, but also allows essential animal movements and business to take place.

This draft Bill builds on these foundations by proposing to share responsibility with the industry for the management of animal disease. It sets out our plans to create a new body, headed by an independent Board and Chair, with responsibility for animal health policy and its application in England. The draft Bill follows consultation with the industry, including two joint industry working groups.

At present, Government's role in preventing, detecting and responding to disease outbreaks is paid for by the taxpayer. In his report on the lessons learned from the 2001 Foot and Mouth outbreak, Iain Anderson recommended that in future the costs of disease control should be shared with those who benefit. Sharing this responsibility should reduce the overall risks and costs of animal disease, both to Government and animal keepers, and a future Finance Bill will include proposals to share these costs.

I look forward to hearing views on our proposals.

A handwritten signature in black ink, appearing to read 'H. Benn'.

**Hilary Benn**  
**Secretary of State for Environment,**  
**Food and Rural Affairs**  
**Defra**

### A. PUBLISHING THE DRAFT BILL FOR PRE-LEGISLATIVE SCRUTINY

#### Why we have this document

1. This document presents for pre-legislative scrutiny a draft Bill to help implement the Government's plans for responsibility and cost sharing (RCS) in animal health. Included with this are Explanatory Notes on the detail of the legislation and an Impact Assessment of the costs and benefits of the policy.

#### Pre-legislative scrutiny and the legislative process

2. The Government increasingly publishes Bills in draft for pre-legislative scrutiny before they are formally introduced to Parliament. This aims to improve the scrutiny of Bills and draw the wider public more effectively into the Parliamentary process. In light of this, the Government can choose to amend the Bill before it is formally introduced to Parliament. Once there, the Bill is put to a series of debates, reviews and amendments in the Commons and the Lords. Subject to their agreement, the Bill ultimately goes for Royal Assent at which point it becomes law. For more on this, see Parliament's webpages.<sup>1</sup>
3. In this case, we expect that Parliament's Environment, Food and Rural Affairs Committee will give some time to scrutinising our draft Bill. We have also set up a Responsibility and Cost Sharing Advisory Group<sup>2</sup> to help us develop our proposals. Their views will help refine the Bill for introduction. Finally, we are inviting comments on the draft Bill from all those with an interest in improving animal health and welfare.

#### Your chance to comment on the draft Bill

4. Your comments on the draft Bill are very welcome, especially on whether it would be effective in achieving our desired outcomes. Please send any responses, by Monday 19 April 2010, to:  
  
by email:      [animalhealthbill@defra.gsi.gov.uk](mailto:animalhealthbill@defra.gsi.gov.uk)  
  
by post:        Animal Health Bill Team  
                  Department for Environment, Food and Rural Affairs  
                  Area 5E 9 Millbank  
                  c/o Nobel House  
                  17 Smith Square  
                  London SW1P 3JR
5. In keeping with usual practice for consultations, we will make responses available publicly. If you do not want your response, including your name, contact details and any other personal information, to be publicly available, please say so clearly in writing when you submit your response.

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<sup>1</sup> [www.parliament.uk/about/how/laws.cfm](http://www.parliament.uk/about/how/laws.cfm).

<sup>2</sup> For more about the RCS Advisory Group, including its Terms of Reference and membership, see [www.defra.gov.uk/foodfarm/policy/animalhealth/sharing/advisory-grp/index.htm](http://www.defra.gov.uk/foodfarm/policy/animalhealth/sharing/advisory-grp/index.htm).



## **B. SCOPE OF THE DRAFT BILL**

### **What the draft Bill will do**

6. As described in detail below, the main provisions of the draft Bill will:

- establish the “Animal Health Organisation” to take over from Defra responsibility for animal health policy and delivery in England;
- put on a statutory footing the role of the Chief Veterinary Officer (UK), who will be based in Defra;
- simplify existing provisions on payments for animals slaughtered, or things seized or destroyed, for disease control purposes in England and Wales. It will also introduce express provisions to allow reductions in payments where a person has contributed to the spread of disease or breached relevant regulations; and
- broaden existing powers in England and Wales to collect and test veterinary samples and vaccinate animals to help in disease management.

### **Separate legislation for cost sharing**

7. We consulted last year on measures requiring the livestock sector to pay for some of the animal disease monitoring and prevention costs currently met through expenditure incurred by Defra. Building greater responsibility sharing through the establishment of an arm’s length body with responsibility for animal health will only help to bring about the essential behaviour change we are seeking in the livestock sector in relation to risk if suitable financial contributions and incentives are also introduced. The necessary cost sharing measures will be introduced by the Government under a future Finance Bill.

## **C. WHY WE NEED RCS LEGISLATION**

### **How we got here**

8. The proposals in this draft Bill have been developed from a lengthy period of consultations, debates and reports. RCS policy emerged in response to Sir Iain Anderson’s Inquiry<sup>3</sup> into the 2001 Foot and Mouth Disease outbreak, which called for a fairer sharing of the costs of disease between industry and the taxpayer. Greater responsibility and cost sharing between Government and industry is also a key theme in the Government’s Animal Health and Welfare Strategy for Great Britain, launched in 2004. In that light, we worked with various interests to formulate practical RCS proposals.

9. Key stages in policy development have been:

- the Joint (Industry/Government) Working Group, or JIGWG report<sup>4</sup> of 2006 on Sharing Responsibilities and Costs of Exotic Animal Disease, which recommended full partnership working across Britain and a new statutory body for sharing the responsibilities and costs of exotic disease, with both industry and Government representation;
- a Defra consultation,<sup>5</sup> in 2006, on RCS principles;

3 Anderson, Iain (2002) “Foot and Mouth Disease 2001: Lessons to be Learned Inquiry Report.” Available at <http://archive.cabinetoffice.gov.uk/fmd/index.htm>.

4 Defra (2006) “Working Group Report on Sharing Responsibilities and Costs of Exotic Animal Disease, July 2006.” Available at <http://webarchive.nationalarchives.gov.uk/20060820083451/http://defra.gov.uk/farm/policy/regulation/csharead/jigwg/pprs/pdf/july2006-report.pdf>.

5 Defra (December 2006-March 2007) “Consultation: Responsibility and cost sharing for animal health and welfare: principles.”

- a Defra consultation,<sup>6</sup> in 2007, on possible approaches to RCS (which presented specific cost-saving proposals for certain BSE and Scrapie activities);
  - the discussions of the UK Responsibility and Cost Sharing Consultative Forum,<sup>7</sup> concluded in July 2008, on policy options; and
  - a Defra consultation, ending June 2009,<sup>8</sup> with proposals for creating a new body for animal health in England, and introducing cost sharing in the livestock sector through a levy.
10. The draft Bill takes forward the proposals for a new body for animal health to help share responsibility. We have taken account of responses to this last consultation, which showed mixed support for the creation of the new body. As noted above, the RCS Advisory Group, under an independent chair, and including wide industry representation, has been set up to advise on the scope and operation of the body. Cost sharing measures will be brought forward through the proposed Finance Bill.

### **Our aim for Responsibility and Cost Sharing**

11. Our proposals aim to improve the effectiveness and efficiency with which animal disease, and the risk of disease outbreaks, is managed in England, through the greater involvement of keepers of livestock and other animals.
12. We believe that embedding a partnership approach with those directly affected and the primary beneficiaries of Government action – the animal keepers – will produce better disease management and reduce overall risks and costs. Increasingly we have found that extending livestock and other animal keepers' involvement in planning for, and dealing with, disease leads to those diseases being managed more efficiently and effectively. But it is also essential that the livestock sector meets its share of the costs of these shared decisions. A good recent example is our handling of Bluetongue. We developed the strategy for dealing with an incursion of this disease – and implemented it when Bluetongue arrived in 2007 – in full partnership with the livestock sector, which also met 75% of the costs. This is the approach we are seeking to replicate across animal health more generally.
13. To reduce disease and disease risks, behaviour change is needed within the livestock industry and among animal keepers more generally. Financial incentives will be crucial to achieving this, but so too will animal keepers individually and collectively taking on, much more than before, the challenge of managing disease risks. We consider that establishing, through this draft Bill, a new body for animal health in England will help build greater responsibility sharing and lead to more effective disease management. This will be complemented by cost sharing arrangements, being developed by the Treasury and Defra, which will be introduced through a future Finance Bill.

6 Defra (December 2007-April 2008) "Consultation: Responsibility and cost sharing for animal health and welfare: next steps – your views matter."

7 For more about the UK Responsibility and Cost Sharing Consultative Forum, see [www.defra.gov.uk/foodfarm/policy/animalhealth/sharing/forum/index.htm](http://www.defra.gov.uk/foodfarm/policy/animalhealth/sharing/forum/index.htm).

8 Defra (March 2009-June 2009) "Consultation on a new independent body for animal health: A modern governance and funding structure for tackling animal diseases." Available at [www.defra.gov.uk/corporate/consult/new-independent-body-ah/index.htm](http://www.defra.gov.uk/corporate/consult/new-independent-body-ah/index.htm).

## D. THE INTENDED EFFECT OF THE DRAFT BILL

14. This section outlines the intended effect of the provisions in the draft Bill. This summarises the content of the specific clauses of, and Schedules to, the draft Bill, which are presented below and explained more fully in the Explanatory Notes.

### The Animal Health Organisation (AHO)

15. The draft Bill will establish a new Non-Departmental Public Body, the “Animal Health Organisation” (AHO), to take over from Defra responsibility for animal health policy and delivery in England, though not animal welfare which will remain with the department.
16. The draft Bill gives the AHO the **general purpose** of:
- preventing disease and its spread in animals;
  - preventing transmission of disease organisms from animals to humans; and
  - protecting the public, economy and environment from harm from animal disease.
17. ...and a **scope** that includes:
- mammals (but not humans) and birds, with a provision to extend this if needed;
  - wild animals only in as far as they harm kept animals and humans; and
  - animal diseases as set out in the Animal Health Act 1981 in relation to specific functions.
18. The draft Bill gives the AHO some **general functions** to ensure it fulfils its general purpose, including:
- assessing disease risks, and developing plans to tackle them;
  - undertaking and commissioning research;
  - developing policy, on its own initiative or at the request of Defra’s Secretary of State;
  - proposing secondary legislation;
  - providing advice and training;
  - publishing and disseminating information;
  - providing financial assistance; and
  - providing the services of its employees to others.
19. It also provides for the **transfer of some functions** in the Animal Health Act 1981 which are currently the responsibility of the Secretary of State. These include:
- providing guidance on biosecurity;
  - developing national contingency plans;
  - vaccination of animals and the slaughter of vaccinated animals;
  - slaughter of animals for disease control;
  - inspection and enforcement; and
  - charging fees for services under the Act.

20. The AHO will be led by a board of non-executive members with relevant skills and experience, including people with experience of the livestock industry and other animal related interests, animal and public health specialists. Livestock keepers, who understand well the risks, and the effects of policies, and who suffer the consequences of disease, will be among those directly responsible for disease management. This significant change will help deliver the essential behaviour change across the livestock sector, in part through increased collaboration.
21. The draft Bill sets out a framework for the AHO's organisation, including its **constitution, structure and staffing**, covering:
- Board membership, appointment procedure and terms of appointment, including pay and pensions;
  - the appointment and pay and pensions of the Chief Executive, the Chief Veterinary Officer for England, and other staff;
  - decision-making procedures, including sub-committees;
  - use of advisory committees;
  - co-operation with other public authorities; and
  - matters that the AHO must take into account in its work, including risks, costs and benefits, animal welfare and relevant research and advice.

Within this framework there will be a range of options for the way the AHO is organised. The RCS Advisory Group has been asked to consider how the AHO should operate.

22. The draft Bill also sets out provisions for the AHO's **accountability and resourcing**:
- annual reporting to Parliament and the Secretary of State;
  - annual auditing of accounts by the National Audit Office;
  - grants by the Secretary of State to fund the body;
  - the duty to provide information to the Secretary of State on request; and
  - the power for the Secretary of State to direct the AHO in cases of serious failure or in the implementation of EU and international obligations.

## **The Chief Veterinary Officer (UK)**

23. At present, the Chief Veterinary Officer (CVO) based in Defra has a dual role as CVO for both England and the UK. The devolved administrations in Wales, Scotland and Northern Ireland (which are responsible for animal health policy in their territories) each have their own CVO. The draft Bill provides for a separate CVO for England. It is important to ensure that the current co-operation between the different administrations is continued when the AHO is established. The draft Bill will put in place a framework to achieve this and to ensure that interests in all parts of the UK will continue to be represented fairly and transparently.
24. To these ends, the draft Bill will:
- establish a CVO(UK) appointed by the Secretary of State, in consultation with Ministers in the devolved administrations;
  - require co-operation among the devolved administrations, AHO and CVO(UK);
  - provide for the CVO(UK) to advise the Secretary of State and represent him or her in international animal health and welfare matters;

- allow the CVO(UK) to authorise others to perform functions on his or her behalf; and
- introduce reciprocal duties to consult and explain actions between the CVO(UK), the AHO and the devolved administrations.

## **Payments for slaughter of animals**

25. The draft Bill makes provision to amend current powers in England and Wales to make payments for the slaughter of animals and seizure and destruction of property for disease control purposes. The Bill will simplify the current range of functions in the Animal Health Act 1981. It will also introduce express provision to allow reductions in payments where somebody has contributed to the spread of the disease for which the payments are being made, or where relevant regulations have been breached.

## **Vaccination and testing**

26. The draft Bill will amend existing legislation to broaden the circumstances under which the AHO or Welsh Ministers could order the vaccination of animals (a similar provision already applies in Scotland). It will also broaden the powers in England and Wales to take samples from animals or premises for disease surveillance purposes; and to conduct additional tests on samples for any disease, with no need for further consent from the keeper.

## **Setting up the AHO, and building in flexibility to change**

27. There are provisions in the draft Bill for transfer schemes for staff, property and other rights and liabilities from Defra to the AHO (and from, and to, other public authorities) to assist in setting it up. These provisions also give some flexibility in response to changing circumstances. In addition, the draft Bill will:
- allow the AHO to use the services of civil servants;
  - allow the Secretary of State to transfer veterinary medicines functions that currently reside with Defra's Veterinary Medicines Directorate; and
  - give the power for the AHO to provide the services of its employees to the devolved administrations in Wales and Scotland.
28. Animal health delivery arrangements in England, Wales and Scotland may change. Defra is currently reviewing those arrangements, and its arms-length bodies more generally (with an eye on streamlining). Defra is also discussing with the Welsh and Scottish administrations the devolution of budgets which currently include expenditure for Wales and Scotland. The draft Bill's provisions will allow us to respond to a variety of alternative delivery arrangements. If new arrangements are decided in time, the draft Bill could be amended accordingly before introduction.

## **The draft Bill's Impact Assessment**

29. Our expectation is that the draft Bill, and the cost sharing measures to be introduced alongside it, will lead to better responsibility and cost sharing and, ultimately, better animal health. The Impact Assessment for this draft Bill demonstrates a likely positive net benefit of up to £21 million per year. There are initial set-up costs of £2.1 million and additional on-going running costs of £0.4 million. In addition to the quantified outcomes, there are significant additional non-monetised benefits, such as improved confidence and faith in the system by the livestock industry; greater transparency for livestock industry on animal health costs; and better value for money from investment by better targeting through greater industry involvement. The overall effect is a net benefit of up to £335 million over 30 years.

30. The assessment judges the main positive economic impacts of the draft Bill to be delivering reduced likelihood and impact of animal disease outbreaks including:
- resource savings for Government while managing exotic disease outbreaks;
  - livestock industry savings from reduced business disruption from livestock movement restrictions; and
  - reduced impacts on the wider rural economy arising from restricted access to the countryside.

## **E. DEVOLUTION AND THE DRAFT BILL**

31. The draft Bill is primarily about taking forward proposals for responsibility sharing in England through the establishment of the AHO. There are however provisions that have implications for, and could extend to, Scotland, Wales and Northern Ireland. Some of those provisions propose to regulate matters that fall within the responsibility of the devolved administrations. Provisions in the Bill that would affect devolved matters will only be taken forward subject to the consent of the devolved Parliaments and Assemblies through appropriate Legislative Consent Motions.
32. Some of the provisions that impact on all parts of the UK aim to ensure co-operation across the territories to deliver effective disease management policies; included in this are the arrangements for the CVO(UK) referred to above.
33. The amendments to the Animal Health Act 1981 concerning payments for slaughter, vaccination and sampling and testing extend to Wales, where the powers would be exercised by Welsh Ministers and the National Assembly for Wales.
34. The devolved administrations in Scotland, Wales and Northern Ireland have been liaising with us regarding those parts of the draft Bill with implications for them. We will continue to involve them as we develop the Bill for introduction to ensure that we resolve any outstanding concerns.



# Draft Animal Health Bill

January 2010

# Animal Health Bill

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A  
**B I L L**

TO

Establish the Animal Health Organisation and make provision about its functions; to make provision about the appointment of a Chief Veterinary Officer for the United Kingdom and the functions of that person; to impose duties of co-operation in connection with the exercise of certain functions relating to animals; to make provision about the making of payments where animals have been slaughtered for the purpose of disease prevention; to amend the Animal Health Act 1981; and for connected purposes.

**B**E IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**PART 1**

ANIMAL HEALTH ORGANISATION

*Establishment of Animal Health Organisation*

**1 The Animal Health Organisation**

- (1) There is to be a body known as the Animal Health Organisation.
- (2) The Animal Health Organisation has the functions conferred on it by this Act or any other enactment.
- (3) The Animal Health Organisation’s functions are exercisable in relation to England (except where otherwise expressly provided).
- (4) Schedule 1 (which contains provision about the constitution of the Animal Health Organisation and related matters) has effect.

**2 General purpose of Animal Health Organisation**

- (1) The general purpose of the Animal Health Organisation is—
  - (a) to prevent disease, and the spread of disease, of animals,

- (b) to prevent the transmission from animals to humans of any organism or substance that is capable of causing disease of humans, and
  - (c) to protect the public, the economy and the environment from any harm arising from disease of animals.
- (2) But paragraph (a) of subsection (1) includes the prevention of disease, and the spread of disease, of animals that are living wild only where there is a risk of harm to animals that are not living wild, or to the public, the economy or the environment, from such disease.

### *Core functions*

## **3 Assessment and plans**

- (1) The Animal Health Organisation must assess
- (a) the extent to which there is disease of animals,
  - (b) the risk of such disease occurring or spreading,
  - (c) the extent to which organisms or substances that are capable of causing disease of humans are present in animals,
  - (d) the risk of disease of humans being caused by the transmission to humans of such organisms or substances, and
  - (e) the risk of harm being caused to the public, the economy or the environment by disease of animals.
- (2) The Animal Health Organisation must
- (a) keep its assessment under review, and
  - (b) make such changes to it as it thinks appropriate.
- (3) The Animal Health Organisation may prepare a plan setting out any arrangements it intends to put in place for
- (a) preventing any disease of animals or dealing with a disease of animals that has occurred, or
  - (b) preventing the transmission from animals to humans of any organism or substance that is capable of causing disease of humans.
- (4) The Animal Health Organisation must
- (a) keep any plan prepared by it under review, and
  - (b) make such changes to it as it thinks appropriate.
- (5) The Animal Health Organisation must publish
- (a) its assessment (including any revision of its assessment), and
  - (b) any plan (or revised plan) prepared by it.

## **4 Research and other information**

- (1) The Animal Health Organisation may
- (a) undertake research into any matter relating to its general purpose, or
  - (b) commission or support (by financial means or otherwise) research into any such matter.
- (2) The Animal Health Organisation must take reasonable steps to ensure that it is aware of any research or other information relating to its general purpose.

## **5 Transfer of functions**

- (1) Schedule 2 (which makes provision about the transfer of certain functions under the Animal Health Act 1981 and other enactments to the Animal Health Organisation and related matters) has effect.
- (2) In this Act, “the 1981 Act” means the Animal Health Act 1981.

*Development of policy etc.*

## **6 Development of policy**

- (1) The Animal Health Organisation may develop a policy on any matter relating to any of its functions.
- (2) The Secretary of State may request the Animal Health Organisation to develop a policy on any matter relating to any of its functions.
- (3) The Animal Health Organisation must comply with any request made by the Secretary of State under subsection (2).

## **7 Proposals for legislation**

- (1) If the Animal Health Organisation thinks it would be desirable for the Secretary of State to exercise any power to make subordinate legislation on a matter that is related to its general purpose, it must make proposals to the Secretary of State as to how that power should be exercised.
- (2) The Secretary of State must consult the Animal Health Organisation if the Secretary of State is considering—
  - (a) whether (and, if so, how) to exercise any power to make subordinate legislation on a matter that is related to the Animal Health Organisation’s general purpose or is otherwise related to the health or welfare of animals, or
  - (b) whether it would be desirable for a Bill dealing with such a matter to be introduced into Parliament.
- (3) In this section “subordinate legislation” has the same meaning as in the Interpretation Act 1978.

## **8 Proposals for legislation under section 21 of the 1981 Act**

- (1) Before making a proposal under section 7(1) about the exercise of the power to make an order under section 21(2) of the 1981 Act (orders for the destruction of wild members of any species), the Animal Health Organisation must consult Natural England.
- (2) Where the Secretary of State consults the Animal Health Organisation under section 7(2)(a) about the exercise of the power to make an order under section 21(2) of the 1981 Act, the Animal Health Organisation must
  - (a) consult Natural England, and
  - (b) notify the Secretary of State of the views of Natural England.
- (3) In consequence of the provision made by this section, the obligation of the Secretary of State under section 21(3) of the 1981 Act to consult Natural

England before making an order under section 21(2) of that Act ceases to have effect.

*Advice and assistance*

**9 Advice and training: general powers**

- (1) The Animal Health Organisation may give advice to any person (including the Secretary of State) on any matter relating to its general purpose
  - (a) at the request of that person, or
  - (b) on its own initiative.
- (2) The Animal Health Organisation may provide training in relation to any matter relating to its general purpose.

**10 Duty to provide advice to public authorities**

- (1) The Animal Health Organisation must, at the request of a public authority, give advice to the authority on any matter relating to the Animal Health Organisation's general purpose.
- (2) If the Animal Health Organisation has reason to believe that advice given by it under subsection (1) has not been followed, the Animal Health Organisation may require the public authority to state in writing whether the advice has been followed and, if it has not been, why not.
- (3) A public authority must comply with a requirement imposed under subsection (2).
- (4) In this section “public authority” includes any person certain of whose functions are functions of a public nature.

**11 Provision of information**

The Animal Health Organisation may

- (a) provide information about any matter relating to its general purpose (whether by publishing documents or in any other way), or
- (b) assist other persons (by financial means or otherwise) to provide such information.

**12 Financial assistance**

- (1) The Animal Health Organisation may give financial assistance to any person if it thinks that doing so would further its general purpose.
- (2) The financial assistance may be given in any form and, in particular, may be given by way of a grant, a loan or a guarantee.
- (3) The financial assistance may be given subject to conditions (including, in the case of a grant or loan, conditions requiring repayment or, in the case of a guarantee, conditions requiring reimbursement of any sums paid under it).

### **13 Provision of services of employees etc.**

- (1) The Animal Health Organisation may, if the conditions in subsection (2) are met, make any of the following available to any other person (including the Secretary of State) –
  - (a) the services of its members or employees or of any other persons engaged by it;
  - (b) goods or equipment.
- (2) The conditions are that –
  - (a) the person to whom the services, goods or equipment are to be made available has requested the Animal Health Organisation to act under subsection (1), and
  - (b) the Animal Health Organisation thinks that the request concerns a matter that is related to its general purpose or is otherwise related to the health or welfare of animals anywhere in the world.
- (3) The Animal Health Organisation may make the services of its members or employees, or of any other persons engaged by it, available under this section to the Welsh Ministers or the Scottish Ministers only with the consent of the Secretary of State.
- (4) The Secretary of State may withdraw consent given for the purposes of subsection (3).
- (5) Before withdrawing consent, the Secretary of State must consult the Animal Health Organisation.

#### *General powers and duties*

### **14 Co-operation**

- (1) In exercising its functions, the Animal Health Organisation must co-operate with any body or other person that exercises functions to which this section applies.
- (2) Any body or other person that exercises functions to which this section applies must (in the exercise of those functions) co-operate with the Animal Health Organisation.
- (3) This section applies to functions that –
  - (a) are functions of a public nature, and
  - (b) relate to a matter in respect of which the Animal Health Organisation also exercises functions.
- (4) This section applies whether or not those functions are exercisable by the body or other person in relation to England (and, accordingly, this section applies to functions exercisable by the Welsh Ministers, the Scottish Ministers and Northern Ireland departments, as well as by the Secretary of State).

### **15 Matters to be taken into account**

In considering whether to exercise any function, or the manner in which any function is to be exercised, the Animal Health Organisation must, to the extent that it is reasonable and practicable to do so, have regard to –

- (a) any risks to animal health, public health, the economy or the environment that are relevant to the decision,
- (b) the likely costs and benefits of exercising or not exercising the function or of exercising the function in a particular manner,
- (c) any considerations relating to the welfare of animals that are relevant to the decision,
- (d) any relevant research undertaken, or commissioned or supported by it, under section 4(1) and any other relevant research or information of which it is aware, and
- (e) any relevant advice given to it by any person (including the Secretary of State).

## **16 Advisory committees**

- (1) The Animal Health Organisation may establish advisory committees for the purpose of giving advice or information to the Animal Health Organisation on matters connected with any of its functions.
- (2) The Animal Health Organisation may, acting jointly with one or more other public authorities, make arrangements for establishing advisory committees for the purpose of giving advice or information to the Animal Health Organisation and one or more of the other authorities on matters connected with any of their functions.
- (3) Before acting under subsection (1) or (2), the Animal Health Organisation must consult the Secretary of State except where the Secretary of State is the public authority or one of the public authorities with whom the Animal Health Organisation is acting under subsection (2).
- (4) Schedule 3 (which makes further provision about advisory committees) has effect.
- (5) In this section, and in Schedule 3, “public authority” includes any person certain of whose functions are functions of a public nature.
- (6) But, in relation to a public authority only certain of whose functions are functions of a public nature, this section and Schedule 3 apply only in relation to those functions that are of a public nature.
- (7) This section and Schedule 3 apply to a public authority whether or not its functions are exercisable in relation to England (and, accordingly, this section, and that Schedule, apply to the Welsh Ministers, the Scottish Ministers and Northern Ireland departments, as well as the Secretary of State).

## **17 Power to charge for services**

The Animal Health Organisation may make such charges for anything done by it under section 9(1)(a) or (2), 10(1), 11 or 13(1) as appear to it to be reasonable.

## **18 Use of services of civil servants etc.**

- (1) The Animal Health Organisation may enter into an agreement with any person under which the services of that person, or of officers or employees of, or other persons engaged by, that person, are made available to the Animal Health Organisation.



- (2) The Animal Health Organisation may, in particular, exercise the power in subsection (1) by entering into an agreement with the Secretary of State under which the services of persons employed in the civil service of the State are made available to the Animal Health Organisation.

## **19 Power to bring criminal proceedings**

- (1) The Animal Health Organisation may institute criminal proceedings.
- (2) A person who is authorised by the Animal Health Organisation to prosecute on its behalf in proceedings before a magistrates' court is entitled to prosecute in such proceedings even though the person would not (apart from this subsection) be so entitled.

## **20 Incidental powers**

- (1) The Animal Health Organisation may do anything that appears to it to be conducive or incidental to the exercise of its functions.
- (2) In particular, the Animal Health Organisation may
  - (a) enter into agreements,
  - (b) acquire or dispose of property,
  - (c) form bodies corporate or acquire or dispose of interests in bodies corporate, or
  - (d) accept gifts.
- (3) The Animal Health Organisation may acquire or dispose of an interest in land, or form a body corporate or acquire or dispose of an interest in a body corporate, only with the approval of the Secretary of State.
- (4) The Animal Health Organisation may not borrow money.

## **21 Provision of information to the Secretary of State**

- (1) The Animal Health Organisation must provide the Secretary of State with such information as the Secretary of State may reasonably require with respect to the exercise or proposed exercise of the Animal Health Organisation's functions.
- (2) The information which the Animal Health Organisation may be required to provide includes information which it does not hold but which it is reasonable to expect it to obtain or produce.
- (3) The information must be provided in the form and manner requested by the Secretary of State.

## **22 Annual report**

- (1) As soon as possible after the end of each financial year, the Animal Health Organisation must prepare an annual report on how it has discharged its functions during the year.
- (2) The Animal Health Organisation must
  - (a) lay a copy of each report under subsection (1) before Parliament, and
  - (b) send a copy of each such report to the Secretary of State.
- (3) In this section "financial year" means

- (a) the period that
  - (i) begins with the day on which the Animal Health Organisation is established, and
  - (ii) ends with the next 31 March, and
- (b) each subsequent period of 12 months ending with 31 March.

### *Funding*

#### **23 Grants**

- (1) The Secretary of State may make payments by way of grant to the Animal Health Organisation.
- (2) The payments may be subject to such conditions as the Secretary of State may determine.

### *Directions*

#### **24 Power to give directions**

- (1) If the Secretary of State thinks that there has been a serious failure by the Animal Health Organisation in relation to the exercise of any of its functions, the Secretary of State may give the Animal Health Organisation such directions as the Secretary of State thinks appropriate to remedy the failure.
- (2) The Secretary of State may also give the Animal Health Organisation such directions as the Secretary of State thinks appropriate for the implementation of any obligations of the United Kingdom under
  - (a) the EU treaties, or
  - (b) any international agreement to which the United Kingdom or the European Union is for the time being a party.
- (3) A direction given under this section must include a statement summarising the reasons for giving it.
- (4) The Animal Health Organisation must comply with a direction given to it under this section.
- (5) Until the coming into force of Part 2 of the Schedule to the European Union (Amendment) Act 2008, the reference in subsection (2)(a) to the EU Treaties is to be read as a reference to the Community Treaties.

#### **25 Procedure in connection with directions**

- (1) Before giving a direction under section 24, the Secretary of State must consult the Animal Health Organisation.
- (2) The Secretary of State must publish a direction given under that section in such manner as the Secretary of State thinks appropriate for the purpose of bringing the matter to which it relates to the attention of persons likely to be affected by it.

## 26 Failure to comply with directions

- (1) This section applies if the Animal Health Organisation fails to comply with a direction under section 24.
- (2) The Secretary of State may give effect to the direction and, for that purpose, may exercise any function conferred on the Animal Health Organisation.

### *Transfer schemes*

## 27 Transfer schemes

- (1) The Secretary of State may make one or more schemes for the transfer to the Animal Health Organisation of designated property, rights or liabilities of any public authority.
- (2) The power conferred by subsection (1) is exercisable only in connection with—
  - (a) the establishment of the Animal Health Organisation,
  - (b) the transfer of any functions to the Animal Health Organisation, or
  - (c) the efficient management for public purposes of any property, rights or liabilities.
- (3) The Secretary of State may (at any time) make one or more schemes for the transfer of designated property, rights or liabilities of the Animal Health Organisation to any public authority.
- (4) On the transfer date for any designated property, rights or liabilities, that property and those rights and liabilities are transferred and vest in accordance with the scheme.
- (5) Schedule 4 (which makes further provision relating to schemes under this section) has effect.
- (6) In this section “public authority” means—
  - (a) a Minister of the Crown, and
  - (b) any body or other person established by an enactment.
- (7) But “public authority” does not include the Welsh Ministers or the Scottish Ministers except in relation to subsection (3).
- (8) In this section and Schedule 4—
  - “designated”, in relation to a scheme, means specified or described in, or determined in accordance with, the scheme;
  - “enactment” means a provision contained in, or in an instrument made under—
    - (a) an Act of Parliament,
    - (b) an Act of the Scottish Parliament, or
    - (c) a Measure or Act of the National Assembly for Wales;
  - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;
  - “transfer date”, in relation to any property, rights or liabilities, means a date specified by a scheme as the date on which the scheme is to have effect in relation to that property or those rights or liabilities.

**28 Interim arrangements**

- (1) The Secretary of State may require a public authority to make available to the Animal Health Organisation on a temporary basis any of the following
  - (a) any premises or facilities occupied or used by the public authority,
  - (b) any officers or employees of, or any other persons engaged by, the public authority.
- (2) A requirement under subsection (1) must be in writing.
- (3) A public authority must comply with a requirement imposed under subsection (1).
- (4) In this section, “public authority” has the same meaning as in section 27(1).

*Miscellaneous***29 Amendment of Part 8 of Natural Environment and Rural Communities Act 2006**

In Schedule 7 to the Natural Environment and Rural Communities Act 2006 (designated bodies for purposes of Chapter 1 of Part 8 of that Act) after paragraph 4 insert

“4A The Animal Health Organisation.”

**30 Power to confer functions in relation to veterinary medicines**

- (1) The Secretary of State may by order make provision for, or in connection with, the transfer to the Animal Health Organisation of any functions of the Secretary of State in relation to veterinary medicinal products that are exercisable in any part of the United Kingdom.
- (2) An order under subsection (1) may (for the purpose mentioned in that subsection) amend, repeal, revoke or otherwise modify any enactment whenever passed or made, including any provision of this Act.
- (3) Without prejudice to the generality of subsections (1) and (2), an order under subsection (1) may provide for any provision of this Part that extends only to England and Wales to extend also to Scotland or Northern Ireland (with or without amendments or other modifications).
- (4) In this section
 

“enactment” means a provision contained in, or in an instrument made under

  - (a) an Act of Parliament,
  - (b) an Act of the Scottish Parliament,
  - (c) a Measure or Act of the National Assembly for Wales, or
  - (d) Northern Ireland legislation;

“veterinary medicinal products” has the same meaning as in the Veterinary Medicines Regulations 2009 (S.I. 2009/2297).

### **31 Amendment of section 10A of the 1981 Act**

- (1) Section 10A of the 1981 Act (annual review of import controls) is amended as follows.
- (2) In subsection (1)
  - (a) for the words from the beginning to “year” substitute “As soon as possible after the end of each financial year, the appropriate authority must prepare a report in respect of the year”, and
  - (b) in paragraph (e)
    - (i) for the words from “given to” to “by” substitute “given to the appropriate authority by”, and
    - (ii) for the words from “scientific advisers” to “, be required” substitute “scientific advisers to the appropriate authority, be required”.
- (3) After subsection (1) insert
  - “(1A) In subsection (1) “appropriate authority” means
    - (a) in relation to England, the Animal Health Organisation, and
    - (b) in relation to Wales, the Welsh Ministers.”
- (4) For subsection (2) substitute
  - “(2) The Animal Health Organisation must lay a copy of each report prepared by it under subsection (1) before Parliament.
  - (3) The Welsh Ministers must lay a copy of each report prepared by them under subsection (1) before the National Assembly for Wales.
  - (4) The appropriate authorities may combine the reports required by this section in a single document (“a combined report”).
  - (5) The power conferred by subsection (4) includes power to combine the substance of the reports in such manner as the appropriate authorities think appropriate.
  - (6) If the appropriate authorities prepare a combined report, subsections (2) and (3) do not apply but
    - (a) the Animal Health Organisation must lay a copy of the combined report before Parliament, and
    - (b) the Welsh Ministers must lay a copy of the combined report before the National Assembly for Wales.”
- (5) After subsection (6) (as inserted by subsection (4)) insert
  - “(7) In this section “financial year” means each period of 12 months ending with 31 March.”

### **32 Amendment of section 80 of the 1981 Act**

- (1) Section 80 of the 1981 Act (yearly return to Parliament) is amended as follows.
- (2) For subsection (1) substitute
  - “(1) As soon as possible after the end of each financial year, the appropriate authority must prepare a return in respect of the year stating the proceedings and expenditure under this Act of the appropriate

authority and, so far as is reasonably practicable, of local authorities in the area of the appropriate authority.”

- (3) In subsection (2)(b) for the words from “this Act” to “fit” substitute “this Act as the appropriate authority thinks fit”.
- (4) After subsection (2) insert
  - “(3) In subsections (1) and (2) “appropriate authority” means
    - (a) in relation to England, the Animal Health Organisation, and
    - (b) in relation to Wales, the Welsh Ministers.
  - (4) For the purposes of subsection (1) the area of the appropriate authority is
    - (a) in relation to the Animal Health Organisation, England, and
    - (b) in relation to the Welsh Ministers, Wales.
  - (5) The Animal Health Organisation must lay a copy of each return prepared by it under subsection (1) before Parliament.
  - (6) The Welsh Ministers must lay a copy of each return prepared by them under subsection (1) before the National Assembly for Wales.
  - (7) The appropriate authorities may combine the returns required by this section in a single document (“a combined return”).
  - (8) The power conferred by subsection (7) includes power to combine the substance of the returns in such manner as the appropriate authorities think appropriate.
  - (9) If the appropriate authorities prepare a combined return, subsections (5) and (6) do not apply but
    - (a) the Animal Health Organisation must lay a copy of the combined return before Parliament, and
    - (b) the Welsh Ministers must lay a copy of the combined return before the National Assembly for Wales.
  - (10) In this section “financial year” means each period of 12 months ending with 31 March.”

### **33 Combined reports**

- (1) The Animal Health Organisation may combine any two, or all, of the following in a single document
  - (a) a report under section 22;
  - (b) a report under section 10A of the 1981 Act (annual review of import controls), including a combined report under that section;
  - (c) a return under section 80 of that Act (yearly return to Parliament), including a combined return under that section.
- (2) The power conferred by subsection (1) includes power to combine the substance of the reports and return (or of any two of them) in such manner as the Animal Health Organisation thinks appropriate.

*Interpretation*

**34 Meaning of “animal”**

- (1) In this Part “animal” means –
  - (a) any mammal (except man), and
  - (b) any bird.
- (2) The Secretary of State may by order extend the definition of animal in subsection (1) to include fish, reptiles, crustaceans or other cold-blooded creatures that do not fall within that definition (whether by amending subsection (1) or in any other way).
- (3) An order under subsection (2) may include provision for the transfer to the Animal Health Organisation of any relevant functions of the Secretary of State or of any other person.
- (4) In subsection (3) “relevant functions” means any functions under an enactment, whenever passed or made, that are exercisable for the purpose of –
  - (a) preventing any disease, or the spread of any disease, of the creatures to which the definition of animal is extended by the order,
  - (b) preventing the transmission from such creatures to humans of any organism or substance that is capable of causing disease of humans, and
  - (c) protecting the public, the economy or the environment from any harm arising from any disease of the creatures mentioned in paragraph (a).
- (5) The provision mentioned in subsection (3) may be made by amending, repealing, revoking or otherwise modifying any enactment whenever passed or made, including any provision of this Act.

**PART 2**

CHIEF VETERINARY OFFICER

**35 Chief Veterinary Officer (UK)**

- (1) The Secretary of State must appoint a person to be the Chief Veterinary Officer for the United Kingdom (“the CVO(UK)”).
- (2) Before appointing a person under subsection (1) the Secretary of State must consult –
  - (a) the Welsh Ministers,
  - (b) the Scottish Ministers, and
  - (c) the Department of Agriculture and Rural Development for Northern Ireland.
- (3) A person appointed under subsection (1) holds and vacates office in accordance with the terms of the appointment.
- (4) Before terminating or suspending the appointment of a person as the CVO(UK) the Secretary of State must consult the persons mentioned in subsection (2)(a) to (c).
- (5) Service as the CVO(UK) is employment in the civil service of the State.

**36 Functions of the CVO(UK): general**

- (1) The CVO(UK) may give advice to the Secretary of State on any matter that is related to veterinary science or is otherwise related to the health or welfare of animals.
- (2) If so requested by the Secretary of State, the CVO(UK) must give advice to the Secretary of State on any matter to which subsection (1) applies that is specified in the request.
- (3) The Secretary of State may authorise or require the CVO(UK) to exercise any functions of the Secretary of State relating to the health or welfare of animals that are specified in the authorisation or requirement, including functions in respect of the representation of the government of the United Kingdom in matters relating to international relations in the field of the health or welfare of animals.
- (4) Subsection (3) does not apply to a function under an enactment.
- (5) In this section “international relations” means—
  - (a) relations between the United Kingdom and another State, and
  - (b) relations between the United Kingdom and an international organisation whose members include two or more States or between the United Kingdom and an organ of such an organisation.
- (6) In subsection (5) “State” includes the government of any State and any organ of its government, and references to a State other than the United Kingdom include references to any territory outside the United Kingdom.

**37 Co-operation between appropriate authorities and role of CVO(UK): general**

- (1) The appropriate authorities must co-operate with each other in the exercise of their functions relating to the health or welfare of animals (including in the development of policies in respect of the exercise of those functions).
- (2) If so requested by the Secretary of State, the CVO(UK) must liaise with each appropriate authority with a view to facilitating co-operation between the appropriate authorities in the exercise of such functions so far as relating to any matter specified in the request.
- (3) In this Part “appropriate authority” means—
  - (a) the Animal Health Organisation,
  - (b) the Welsh Ministers,
  - (c) the Scottish Ministers,
  - (d) the Department of Agriculture and Rural Development for Northern Ireland.

**38 Duty of appropriate authorities to consult CVO(UK)**

- (1) An appropriate authority must consult the CVO(UK) if—
  - (a) the authority is considering how to exercise its (or their) functions in relation to the health or welfare of animals, and
  - (b) the manner in which those functions are exercised is or could be relevant to the exercise by the Secretary of State or by another appropriate authority of functions in relation to the health or welfare of animals.



- (2) Where an authority consults the CVO(UK) under subsection (1), the authority must have regard to any advice given to the authority by the CVO(UK).
- (3) If the CVO(UK) has reason to believe that any such advice has not been followed, the CVO(UK) may require the authority to state in writing whether the advice has been followed and, if it has not been, why not.
- (4) An authority must comply with a requirement imposed under subsection (3).

### **39 Duty of CVO(UK) to consult appropriate authorities**

- (1) If so requested by the Secretary of State, the CVO(UK) must
  - (a) consult each appropriate authority on any matter relating to international relations in the field of the health or welfare of animals that is specified in the request, and
  - (b) take such steps as the CVO(UK) thinks appropriate with a view to facilitating agreement between the appropriate authorities on any such matter.
- (2) Subsection (3) applies if
  - (a) the CVO(UK) acts under subsection (1) in relation to any matter,
  - (b) an appropriate authority gives its views on the matter to the CVO(UK), and
  - (c) the CVO(UK) gives advice on the matter to the Secretary of State that differs from the views of the authority.
- (3) If so requested by the authority, the CVO(UK) must explain in writing to the authority why the CVO(UK)'s advice to the Secretary of State differs from the views of the authority.
- (4) In this section “international relations” has the same meaning as in section 36.

### **40 Duty to provide information**

- (1) The CVO(UK) may require an appropriate authority to provide such information as the CVO(UK) may require for the purpose of exercising the CVO(UK)'s functions.
- (2) The appropriate authority must comply with a requirement imposed under subsection (1).

### **41 Supplemental**

- (1) The CVO(UK) may authorise another person to exercise any of the functions of the CVO(UK) (including functions that the CVO(UK) has by virtue of a request, authorisation or requirement of the Secretary of State under this Part).
- (2) Any authorisation under subsection (1) may at any time be withdrawn by the CVO(UK).
- (3) Any request, authorisation or requirement of the Secretary of State under this Part may at any time be withdrawn by the Secretary of State.

### **42 Interpretation**

In this Part

“animal” means –

- (a) any mammal (except man),
- (b) any bird, and
- (c) any fish, reptile, crustacean or other cold-blooded creature that does not fall within paragraph (a);

“appropriate authority” has the meaning given by section 37(3).

### PART 3

#### MISCELLANEOUS

##### *Payments in respect of the slaughter of animals etc.*

#### **43 Power to make provision about payments in respect of slaughter etc.**

- (1) In this section –
  - “appropriate authority” means –
    - (a) in relation to England, the Secretary of State, and
    - (b) in relation to Wales, the Welsh Ministers;
  - “relevant body” means –
    - (a) in relation to England, the Animal Health Organisation, and
    - (b) in relation to Wales, the Welsh Ministers.
- (2) The appropriate authority may by order authorise or require the relevant body to make a payment to a person where under an enactment the relevant body or an inspector of the relevant body –
  - (a) slaughters an animal, or causes an animal to be slaughtered, for the purpose of –
    - (i) preventing disease, or the spread of disease, of animals, or
    - (ii) preventing the transmission from animals to humans of any organism or substance that is capable of causing disease of humans, or
  - (b) seizes or destroys any thing, or causes any thing to be seized or destroyed, for that purpose.
- (3) The order may provide that the authorisation or requirement applies only in prescribed circumstances.
- (4) The order may provide that the authorisation or requirement does not apply in prescribed circumstances.
- (5) The order may –
  - (a) provide that the payment is to be of a prescribed amount;
  - (b) make provision about how the amount of the payment is to be calculated.
- (6) The order may make provision about the procedure to be followed in respect of the making and determination of claims made by virtue of the order.
- (7) In particular the order may –
  - (a) make provision about the appointment of valuers (including provision about the circumstances in which valuations are binding on the relevant body and persons claiming payments);

- (b) make provision conferring rights of appeal against decisions made by the relevant body;
  - (c) make provision about the procedure to be followed on such an appeal.
- (8) Where an animal is slaughtered, or a thing is seized or destroyed, in pursuance of a requirement imposed under an enactment by the relevant body, the relevant body is to be treated for the purposes of this section as having caused the animal to be slaughtered or (as the case may be) as having caused the thing to be seized or destroyed.
- (9) In this section “prescribed” means prescribed in the order.

#### 44 Reductions etc. in payments

- (1) Without prejudice to the generality of section 43(2) to (5), an order under section 43 may authorise or require the relevant body not to make a payment, or to reduce the amount of a payment
  - (a) where the payment relates to the slaughter of an animal, in Case 1 or 2 (see subsections (2) and (3)), or
  - (b) where the payment relates to the seizure or destruction of a thing, in Case 3 or 4 (see subsections (5) and (6)).
- (2) Case 1 is where the relevant body is satisfied that the owner or a responsible person contributed to the circumstances that resulted in the slaughter of the animal.
- (3) Case 2 is where the relevant body is satisfied that the owner or a responsible person failed (at any time) to comply with a relevant requirement
  - (a) in relation to the slaughtered animal or in relation to any other animal or other thing owned (at any time) by the owner, or
  - (b) in relation to premises on which the slaughtered animal, or any other animal or other thing owned (at any time) by the owner, was (at any time) kept.
- (4) In subsections (2) and (3)
  - “owner” means the person (“P”) who owned the slaughtered animal at the time of its slaughter;
  - “responsible person” means any person (other than P) who
    - (a) had responsibility for the slaughtered animal at any time when it was owned by P, or
    - (b) had responsibility for any other animal or other thing at any time when that animal or other thing was owned by P.
- (5) Case 3 is where the relevant body is satisfied that the owner or a responsible person contributed to the circumstances that resulted in the seizure or destruction of the thing.
- (6) Case 4 is where the relevant body is satisfied that the owner or a responsible person failed (at any time) to comply with a relevant requirement
  - (a) in relation to the thing seized or destroyed or in relation to any other thing (including any animal) owned (at any time) by the owner, or
  - (b) in relation to premises on which the thing seized or destroyed, or any other thing (including any animal) owned (at any time) by the owner, was (at any time) kept.
- (7) In subsections (5) and (6)

- 
- “owner” means the person (“P”) who owned the thing seized or destroyed at the time of its seizure or destruction;
- “responsible person” means any person (other than P) who
- (a) had responsibility for the thing seized or destroyed at any time when it was owned by P, or
  - (b) had responsibility for any other thing (including any animal) at any time when it was owned by P.
- (8) If an order authorises or requires the relevant body to reduce the amount of a payment in any of Cases 1 to 4, the order must also prescribe the maximum amount by which the payment may be reduced (whether as a percentage or otherwise).
- (9) If an order authorises or requires the relevant body not to make a payment, or to reduce the amount of a payment, in Case 1 or 3, the order
- (a) may require the relevant body to publish guidance as to the factors that it intends to take into account in deciding whether it is of the opinion mentioned in subsection (2) or (as the case may be) (5), and
  - (b) must confer a right of appeal against a decision by the relevant body that it is of the opinion mentioned in subsection (2) or (as the case may be) (5).
- (10) In this section
- (a) references to a person who had responsibility for an animal or thing are to a person who had responsibility for the animal or thing whether on a permanent or a temporary basis;
  - (b) references to a person who had responsibility for an animal include references to a person who had charge of it;
  - (c) references to a person who had responsibility for a thing (other than an animal) include references to a person who had control of it.
- (11) For the purposes of this section, a requirement is a relevant requirement if it is imposed by an enactment that
- (a) is specified in the order, and
  - (b) makes provision for preventing, or preventing the spread of, disease.
- (12) But a requirement is not a relevant requirement if
- (a) it is imposed by an enactment that makes provision for preventing, or preventing the spread of, one or more diseases specified in the enactment, and
  - (b) the purpose for which the animal was slaughtered or the thing was seized or destroyed related to a disease other than one specified in the enactment.
- (13) In this section
- “disease” means any disease of animals and any disease of humans that is capable of being caused by transmission of an organism or substance present in animals;
- “premises” means any land, building or other place (including a vehicle, a vessel or an aircraft or a tent or other moveable structure);
- “relevant body” has the same meaning as in section 43.

#### **45 Meaning of “animal”**

- (1) In sections 43 and 44 “animal” means –
  - (a) any mammal (except man), and
  - (b) any bird.
- (2) The appropriate authority may by order extend the definition of animal in subsection (1) to include fish, reptiles, crustaceans or other cold-blooded creatures that do not fall within that definition (whether by amending that provision or in any other way).
- (3) In this section “appropriate authority” has the same meaning as in section 43.

#### *Miscellaneous*

#### **46 Treatment after exposure to infection etc.**

- (1) Section 16 of the 1981 Act (treatment after exposure to infection) and section 16A of that Act (slaughter of vaccinated animals) are amended as follows.
- (2) In section 16(1) omit paragraphs (a) to (c).
- (3) After section 16(1) insert –

“(1ZA) In subsection (1) “disease” is not restricted by its definition in this Act.”
- (4) In section 16(11)(b) after “animals” insert “or birds”.
- (5) After section 16(17) insert –

“(18) In this section “animal” means any mammal (except man).”
- (6) For the heading to section 16A substitute “Slaughter of treated animals or birds”.
- (7) In section 16A(1) –
  - (a) after “animal” insert “or bird”, and
  - (b) for “treated with vaccine” substitute “treated with serum or vaccine (or both)”.
- (8) After section 16A(1) insert –

“(1A) The power to make an order under subsection (1) is not restricted by the definition of “disease” in this Act.”
- (9) In section 16A(2) after “animal” insert “or bird”.
- (10) In section 16A(3)(a) after “animal” insert “or bird”.
- (11) After section 16A(9) insert –

“(10) In this section “animal” has the same meaning as in section 16.”

#### **47 Powers of entry to take samples**

- (1) Section 62D of the 1981 Act (tests and samples: power of entry) is amended as follows.
- (2) In subsection (1) –

- (a) for “A veterinary inspector” substitute “An inspector”,
  - (b) for paragraph (a) substitute –
    - “(a) whether biological indicators of any disease, or of any causative agent of any disease, exist in animals or birds on the premises;”, and
  - (c) in paragraph (b) after “animal” insert “or bird”.
- (3) After subsection (1) insert –
- “(1A) In this section –
- “animal” means any mammal (except man);
  - “biological indicator” –
    - (a) in relation to a disease, includes evidence of any form of reaction to the disease;
    - (b) in relation to a causative agent, includes anti-bodies in relation to the causative agent and evidence of any other form of reaction to the causative agent;
  - “causative agent”, in relation to a disease, includes any virus, bacterium and any other organism or substance which may cause or transmit the disease;
  - “disease” means any disease of animals or birds and any disease of humans which is capable of being caused by transmission of an organism or substance present in animals or birds.”
- (4) Omit subsections (2) to (4).
- (5) In subsection (5) for the words from “any” to the end of the subsection substitute “ –
- (a) any land or building, and
  - (b) any other place, including, in particular, a vehicle, a vessel or an aircraft or a tent or other moveable structure.”

#### 48 Testing of samples

After section 62F of the 1981 Act (tests and samples: supplementary) insert –

##### “62FA Testing of samples: additional powers

- (1) This section applies where –
  - (a) a sample has been taken by any person from an animal or bird (whether or not under an enactment), and
  - (b) the sample was taken –
    - (i) for any purpose related to the monitoring, control or prevention of any disease, or
    - (ii) for the purpose of research into any disease.
- (2) The appropriate authority, or a person authorised by the appropriate authority, may carry out such tests using the sample as the authority or (as the case may be) the authorised person thinks necessary or expedient for a purpose mentioned in subsection (1)(b)(i) or (ii).
- (3) Subsection (2) applies whether or not the sample has been used for the purpose for which it was taken.

- (4) The appropriate authority, or a person authorised by the appropriate authority, may require a person who possesses a sample required for the carrying out of a test under this section to give the sample to the appropriate authority or (as the case may be) the authorised person.
- (5) A person must comply with a requirement imposed under subsection (4).
- (6) In this section –
  - “animal” and “disease” have the same meaning as in section 62D;
  - “appropriate authority” means –
    - (a) in relation to a sample taken in England, the Animal Health Organisation;
    - (b) in relation to a sample taken in Wales, the Welsh Ministers.”

#### **49 Extension of certain provisions of 1981 Act to cold-blooded creatures**

- (1) The appropriate authority may by order extend the definition of animal in any provision of the 1981 Act specified in subsection (2) to include fish, reptiles, crustaceans or other cold-blooded creatures that do not fall within that definition (whether by amending that provision or in any other way).
- (2) The provisions specified in this subsection are –
  - (a) section 16 (treatment after exposure to infection);
  - (b) section 16A (slaughter of treated animals);
  - (c) section 62D (tests and samples: power of entry);
  - (d) section 62FA (testing of samples: additional powers).
- (3) An order under subsection (1) may amend or otherwise modify any of the provisions specified in subsection (2) in their application to the creatures to which the definition of animal is extended by the order.
- (4) In this section “appropriate authority” means –
  - (a) in relation to England, the Secretary of State;
  - (b) in relation to Wales, the Welsh Ministers.

#### **50 Removal of certain requirements for Treasury approval**

- (1) The following provisions of the 1981 Act apply in relation to England as if the words “, with the Treasury’s approval,” were omitted –
  - (a) section 3(1) (expenditure on eradication of disease);
  - (b) section 5(1) (provision of veterinary services).
- (2) Section 12(1) of the 1981 Act (provision of export quarantine stations etc.) applies in relation to England as if the words “, with the Treasury’s consent,” were omitted.
- (3) Section 33 of the 1981 Act (additional staff and expenses) applies in relation to England as if for the words from “as, subject” to the end there were substituted “as he thinks necessary”.

**PART 4**

## FINAL PROVISIONS

**51 Orders**

- (1) Any power of the Secretary of State or the Welsh Ministers to make an order under this Act is exercisable by statutory instrument.
- (2) A statutory instrument containing (whether alone or with other provision) any of the following orders of the Secretary of State may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament
  - (a) an order under section 30(1);
  - (b) an order under section 34(2);
  - (c) an order under section 45(2);
  - (d) an order under section 49(1);
  - (e) an order under section 53(3) if the order amends or repeals any provision of an Act.
- (3) Any other statutory instrument containing an order of the Secretary of State, other than one containing only an order under section 55(3), is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) A statutory instrument containing (whether alone or with other provision) any of the following orders of the Welsh Ministers may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales
  - (a) an order under section 45(2);
  - (b) an order under section 49(1);
  - (c) an order under section 53(3) if the order amends or repeals any provision of an Act.
- (5) Any other statutory instrument containing an order of the Welsh Ministers, other than one containing only an order under section 55(2), is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (6) Any power to make an order under this Act
  - (a) may be exercised so as to make provision in relation to all cases to which the power extends, in relation to those cases subject to specified exceptions, or only in relation to specified cases or descriptions of case;
  - (b) may be exercised so as to make different provision for different cases or descriptions of case, different circumstances, different purposes or different areas;
  - (c) includes power to make incidental, supplemental or consequential provision;
  - (d) includes power to make transitory or transitional provision or savings.

**52 Interpretation**

In this Act

“enactment” (except where otherwise expressly provided) means a provision contained in, or in an instrument made under, an Act of Parliament;



“the 1981 Act” has the meaning given by section 5(2).

### **53 Minor and consequential amendments and repeals**

- (1) Schedule 5 (which contains minor and consequential amendments) has effect.
- (2) Schedule 6 (which contains repeals) has effect.
- (3) The appropriate authority may by order make such incidental, supplemental or consequential provision, or such transitory, transitional or saving provision, as it considers appropriate for the general purposes, or any particular purpose, of this Act or in consequence of any provision made by or under this Act or for giving full effect to this Act or any such provision.
- (4) The power conferred by subsection (3) may be exercised by amending, repealing, revoking or otherwise modifying any enactment.
- (5) In relation to the making of provision that is in consequence of or for giving full effect to any provision made by an order under section 30(1), 34(2), 45(2) or 49(1), subsection (4) applies in relation to an enactment whenever passed or made, including any provision of this Act.
- (6) In any other case, subsection (4) applies in relation to any provision of this Act and any enactment passed or made before, or in the same Session as, this Act.
- (7) Subsection (8) applies where any provision of this Act (including any amendment made by it) comes into force before any other provision.
- (8) An order under subsection (3) may (in particular)
  - (a) provide for the provision that comes into force to have effect, until that other provision comes into force, with such amendments or other modifications as may be specified in the order;
  - (b) if that other provision repeals a provision of an Act, provide for the provision of the Act to have effect, until its repeal comes into force, with such amendments or other modifications as may be specified in the order.
- (9) Any reference in subsections (7) and (8) to a provision coming into force is a reference to a provision coming into force whether fully or in part.
- (10) In this section “the appropriate authority” means
  - (a) in relation to the making of provision that is in consequence of or for giving full effect to any provision made by an order of the Welsh Ministers under section 43(2), 45(2) or 49(1), the Welsh Ministers, and
  - (b) in any other case, the Secretary of State.
- (11) In this section “enactment” means a provision contained in, or in an instrument made under
  - (a) an Act of Parliament,
  - (b) an Act of the Scottish Parliament,
  - (c) a Measure or Act of the National Assembly for Wales, or
  - (d) Northern Ireland legislation.

### **54 Extent**

- (1) The following provisions of this Act extend to England and Wales, Scotland and Northern Ireland

- (a) section 13;
  - (b) section 14;
  - (c) section 16 and Schedule 3;
  - (d) section 30;
  - (e) Part 2;
  - (f) this section and sections 51, 52, 53(3) to (11), 55 and 56;
  - (g) paragraph 13 of Schedule 5 (and section 53(1) so far as relating to that paragraph).
- (2) Section 27 and Schedule 4 extend to England and Wales and Scotland.
- (3) Subject to subsections (1) and (2), this Act extends to England and Wales only.

## **55 Commencement**

- (1) This Part, except for section 53(1) and (2) and Schedules 5 and 6, comes into force on the day on which this Act is passed.
- (2) The following provisions come into force in relation to Wales on such day as the Welsh Ministers may by order appoint—
- (a) sections 43 to 45,
  - (b) section 49, and
  - (c) paragraphs 1 to 8 of Schedule 5, any repeal in Schedule 6 that corresponds to a repeal made by any of those paragraphs and section 53(1) and (2) so far as relating to those paragraphs or any such repeal.
- (3) Subject to subsections (1) and (2), this Act comes into force on such day as the Secretary of State may by order appoint.

## **56 Short title**

This Act may be cited as the Animal Health Act 2010.

## SCHEDULES

### SCHEDULE 1

Section 1(4)

#### THE ANIMAL HEALTH ORGANISATION

##### *Status of the Animal Health Organisation*

- 1 (1) The Animal Health Organisation (“the Organisation”) is a body corporate.
- (2) The Organisation is not to be regarded –
  - (a) as a servant or agent of the Crown,
  - (b) as enjoying any status, privilege or immunity of the Crown, or
  - (c) as exempt, by virtue of any connection with the Crown, from any tax, duty, rate, levy or other charge, whether general or local.
- (3) Accordingly, employees of the Organisation are not to be regarded –
  - (a) as servants or agents of the Crown, or
  - (b) as enjoying any status, immunity or privilege of the Crown.
- (4) The property of the Organisation is not to be regarded as property of, or held on behalf of, the Crown.

##### *Membership*

- 2 (1) The Organisation is to consist of the following members –
  - (a) a chair appointed by the Secretary of State, and
  - (b) other members (“ordinary members”) so appointed.
- (2) The Secretary of State must consult the chair before appointing any ordinary members.
- (3) In appointing a person under sub-paragraph (1), the Secretary of State must have regard to the desirability of –
  - (a) appointing a person who has knowledge of, or skills or experience in, a matter relating to the Organisation’s general purpose, and
  - (b) securing that the members of the Organisation (taken together) have knowledge of, or skills or experience in, a suitable range of matters relating to that purpose.
- (4) Before determining the procedure to be followed in appointing a person under sub-paragraph (1), the Secretary of State must consult –
  - (a) a person who appears to the Secretary of State to be a representative of the livestock industry, and
  - (b) a person who has knowledge of, or skills or experience in, animal health.

- (5) The Secretary of State may appoint one of the ordinary members to be the deputy chair of the Organisation.

*Terms of appointment of members*

- 3 (1) A person appointed as chair or as an ordinary member of the Organisation holds and vacates office in accordance with the terms of the appointment.
- (2) A member appointed as deputy chair holds and vacates office in accordance with any particular terms of the appointment as deputy chair (as well as in accordance with the terms of the appointment as an ordinary member).
- (3) No person may be appointed for more than 5 years at a time.
- (4) No person may be a member for more than a total period of more than 10 years (whether or not continuous).
- (5) The terms on which a person is appointed as chair or deputy chair, or as an ordinary member, are to be such as the Secretary of State may determine in any particular case.
- 4 A person may, by giving notice to the Secretary of State, resign from the office of chair, deputy chair or ordinary member.
- 5 (1) The Secretary of State may terminate or suspend the appointment of any person as the chair or deputy chair, or as an ordinary member, if—
- (a) the person has at any time (whether before or after appointment) been made bankrupt or made an arrangement with creditors,
  - (b) the person's estate has at any time (whether before or after appointment) been sequestrated in Scotland,
  - (c) the person has at any time (whether before or after appointment) made a composition arrangement with, or granted a trust deed for, creditors under Scots law,
  - (d) the person has been absent from meetings of the Organisation for a period of more than 6 months without its permission,
  - (e) the person has at any time (whether before or after appointment) been disqualified from acting as a company director,
  - (f) the person has at any time (whether before or after appointment) been convicted of an offence under the law of any part of the United Kingdom and the conviction is not spent for the purposes of the Rehabilitation of Offenders Act 1974 or the Rehabilitation of Offenders (Northern Ireland) Order 1978 (S.I. 1978/1908 (N.I.27)), or
  - (g) the Secretary of State thinks that the person is unable or unfit to discharge the functions of the appointment for any other reason.
- (2) If a person's appointment as an ordinary member is suspended, any appointment of that person as the deputy chair is also suspended.
- 6 A person who ceases to be the chair or deputy chair, or an ordinary member, is not (by reason of the cessation) prevented from being re-appointed to that office or from being appointed to any other office in the Organisation.
- 7 The Organisation must pay to its members such remuneration as the Secretary of State may determine.
- 8 If required to do so by the Secretary of State, the Organisation must—

- (a) pay such pensions, allowances or gratuities as the Secretary of State may determine to or in respect of any person who is or has been a member;
  - (b) pay such sums as the Secretary of State may determine towards provision for the payment of pensions, allowances or gratuities to or in respect of any such person.
- 9 If—
- (a) a person ceases to be a member, and
  - (b) it appears to the Secretary of State that there are special circumstances that make it appropriate for the person to receive compensation,
- the Secretary of State may require the Organisation to make such payments to the person as the Secretary of State may determine.

*Appointment of staff*

- 10 (1) The Organisation must appoint a person to be its chief executive.
- (2) The Organisation must appoint a person (to be known as the Chief Veterinary Officer for England) to be its chief adviser on veterinary science.
- (3) The appointment of a person as chief executive, or as the Chief Veterinary Officer for England, must have been approved by the Secretary of State.
- (4) The chief executive, and the Chief Veterinary Officer for England, are employees of the Organisation.
- (5) The Secretary of State may appoint the first chief executive and the first Chief Veterinary Officer for England.
- 11 The Organisation may appoint other employees.

*Terms of appointment of staff*

- 12 (1) The Organisation may pay such remuneration as it may determine to any of its employees.
- (2) The Organisation may only make a determination under sub-paragraph (1) with the approval of the Secretary of State.
- 13 (1) The Organisation may—
- (a) pay such pensions, allowances or gratuities as it may determine to or in respect of any person who is or has been an employee of the Organisation;
  - (b) pay such sums as it may determine towards provision for the payment of pensions, allowances or gratuities to or in respect of any such person.
- (2) The Organisation may only make a determination under sub-paragraph (1) with the approval of the Secretary of State.
- 14 The terms and conditions of an appointment under paragraph 10 or 11 must have been approved by the Secretary of State.
- 15 (1) Employment with the Organisation is to be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 can apply.

- (2) The Organisation must pay to the Minister for the Civil Service, at such times as that Minister may direct, such sums as that Minister may determine in respect of any increase attributable to this paragraph in the sums payable out of money provided by Parliament under that Act.

*Procedure*

- 16 Subject to any other provision of this Schedule, the Organisation may regulate—
- (a) its own procedure (including quorum), and
  - (b) the procedure of any of its committees or sub-committees (including quorum).

*Discharge of functions*

- 17 (1) The Organisation may authorise a committee, sub-committee, member or employee of the Organisation to exercise any of the Organisation's functions.
- (2) The Organisation must keep a record of any authorisations under sub-paragraph (1).
- (3) No authorisation under sub-paragraph (1) prevents—
- (a) the Organisation from exercising the function itself;
  - (b) the Organisation from authorising a different committee, sub-committee, member or employee to carry out the function.

*Membership of committees and sub-committees*

- 18 (1) A committee or sub-committee may include persons who are not members of the Organisation.
- (2) The Organisation may pay such remuneration and allowances as it may determine to any person who—
- (a) is a member of a committee or sub-committee, but
  - (b) is not a member of the Organisation.
- (3) The Organisation may only make a determination under sub-paragraph (2) with the approval of the Secretary of State.

*Validity of proceedings*

- 19 The validity of anything done by the Organisation, or by any committee or sub-committee of the Organisation, is not affected by any of the following—
- (a) any vacancy in the office of chair of the Organisation or chair of the committee or sub-committee;
  - (b) any vacancy in the ordinary membership of the Organisation or in the membership of the committee or sub-committee;
  - (c) any defect in, or suspension of, any person's appointment as the chair or other member of the Organisation or of the committee or sub-committee.

*Application of seal and proof of documents*

- 20 (1) The application of the Organisation’s seal must be authenticated by the signature of a member or employee of the Organisation who has been authorised for the purpose (whether generally or specially) by the Organisation.
- (2) A document purporting to be duly executed under the seal of the Organisation is to be received in evidence and taken to be so executed, unless the contrary is shown.

*Documents served etc by the Organisation*

- 21 (1) Any document that the Organisation is authorised or required by any enactment to serve, make or issue may be signed on behalf of the Organisation by any member or employee of the Organisation who has been authorised for the purpose (whether generally or specially) by the Organisation.
- (2) Every document purporting
- (a) to be an instrument made or issued by or on behalf of the Organisation, and
  - (b) to be signed by a person authorised by the Organisation for the purpose,
- is to be received in evidence and taken to be so made or issued, unless the contrary is shown.

*Accounts and records*

- 22 (1) The Organisation must keep proper accounts and proper records in relation to the accounts.
- (2) For each financial year, the Organisation must prepare a statement of accounts in respect of that financial year.
- (3) The statement must be in such form as the Secretary of State may direct.
- (4) Within such period as the Secretary of State may direct, the Organisation must send a copy of the statement to
- (a) the Secretary of State, and
  - (b) the Comptroller and Auditor General.
- (5) In this paragraph “financial year” means
- (a) the period that
    - (i) begins with the day on which the Organisation is established, and
    - (ii) ends with the next 31 March, and
  - (b) each subsequent period of 12 months ending with 31 March.

*Audit*

- 23 (1) This paragraph applies where, in pursuance of paragraph 22, the Organisation has sent a copy of a statement of accounts to the Comptroller and Auditor General.
- (2) The Comptroller and Auditor General must

- (a) examine, certify and report on the statement, and
  - (b) send a copy of the certified statement and of the report to the Secretary of State as soon as possible.
- (3) The Secretary of State must lay before Parliament a copy of the certified statement and of the report.

## SCHEDULE 2

Section 5

## TRANSFER OF FUNCTIONS

## PART 1

## FUNCTIONS UNDER THE 1981 ACT

*Expenditure on eradication of disease*

- 1 (1) The functions of the Secretary of State under section 3(1) and (2) of the 1981 Act are transferred to the Animal Health Organisation.
- (2) In relation to the Animal Health Organisation section 3(2) applies as if the words from “other officer” to “to” were “other person to”.

*Provision of veterinary services*

- 2 The functions of the Secretary of State under section 5(1) of the 1981 Act are transferred to the Animal Health Organisation.

*Guidance on biosecurity measures*

- 3 The functions of the Secretary of State under section 6A of the 1981 Act, other than the power to make an order under subsection (1)(b) of that section, are transferred to the Animal Health Organisation.

*Export quarantine stations*

- 4 The functions of the Secretary of State under section 12(1) of the 1981 Act are transferred to the Animal Health Organisation.

*Execution and enforcement of orders as to dogs*

- 5 Section 13(3) of the 1981 Act applies in relation to an order of the Secretary of State under section 13(2)(a) of that Act as if after the words “local authorities” there were inserted “or by persons authorised by the Animal Health Organisation”.

*Prevention of sheep scab*

- 6 (1) The functions of the Secretary of State under section 14(2) of the 1981 Act are transferred to the Animal Health Organisation.
- (2) Section 14(2) applies in relation to premises in England as if the words from “An inspector” to “local authority” were “An inspector of the Animal Health



Organisation and, if so authorised in writing by the Animal Health Organisation, an inspector of the local authority”.

*National contingency plans*

- 7 The functions of the Secretary of State under section 14A of the 1981 Act, other than the power to make an order under subsection (1)(b) of that section, are transferred to the Animal Health Organisation.

*Vaccination*

- 8 The functions of the Secretary of State under section 14B of the 1981 Act are transferred to the Animal Health Organisation.

*Treatment of animals and birds after exposure to infection*

- 9 The functions of the Secretary of State under section 16 of the 1981 Act are transferred to the Animal Health Organisation.

*Slaughter of vaccinated animals*

- 10 The functions of the Secretary of State under section 16A(2) of the 1981 Act are transferred to the Animal Health Organisation.

*Specification of when places will cease to be infected places*

- 11 The functions of the Secretary of State under section 18(2) of the 1981 Act are transferred to the Animal Health Organisation.

*Destruction of wildlife on infection of diseases other than rabies*

- 12 The reference in section 21(1)(b) to powers conferred by other provisions of the 1981 Act on the persons mentioned in that provision includes a reference to powers so conferred on the Animal Health Organisation.
- 13 The functions of the Secretary of State under section 21(6) to (8) of the 1981 Act are transferred to the Animal Health Organisation.

*Powers of entry*

- 14 In the application of section 22 of the 1981 Act to land in England
- (a) subsection (1) is to be read as if
    - (i) paragraph (a) referred to a person authorised for the purposes of that section by the Animal Health Organisation, and
    - (ii) paragraph (c) were omitted, and
  - (b) in subsection (7)(b) the words from “the body” to the end of the paragraph are to be read as “the body to the Animal Health Organisation.”

*Control of zoonoses: supplemental provision*

- 15 The functions of the Secretary of State under section 30(1) of the 1981 Act are transferred to the Animal Health Organisation.

*Slaughter in cases of diseases (other than those dealt with in Schedule 3 to the 1981 Act)*

- 16 The functions of the Secretary of State under section 32(1) of the 1981 Act are transferred to the Animal Health Organisation.

*Disease control (slaughter) protocol*

- 17 (1) The reference in section 32B(1) of the 1981 Act to a power exercisable by the Secretary of State includes a reference to a power exercisable by the Animal Health Organisation.
- (2) In relation to any power to which section 32B applies that is exercisable by the Animal Health Organisation, the functions of the Secretary of State under subsections (2) to (6) of that section are transferred to the Animal Health Organisation.

*Explanation of preventive slaughter*

- 18 (1) The reference in section 32D(1) of the 1981 Act to a power exercisable by the Secretary of State includes a reference to a power exercisable by the Animal Health Organisation.
- (2) In relation to any power to which section 32D applies that is exercisable by the Animal Health Organisation, subsections (2) and (3) of that section apply as if any reference to the Secretary of State were a reference to the Animal Health Organisation.

*Slaughter generally*

- 19 (1) The functions of the Secretary of State under section 34(1), (2) and (4) of the 1981 Act are transferred to the Animal Health Organisation.
- (2) Section 34(1), (2), (4), (5) and (7)(c) apply in relation to England as if any reference (however expressed) to an animal liable to be slaughtered, or that has been slaughtered, under the 1981 Act at a person's direction were a reference to an animal liable to be slaughtered or (as the case may be) that has been slaughtered under that Act at the direction of the Animal Health Organisation.

*Restrictions on breeding from genetically susceptible sheep*

- 20 The functions of the Secretary of State under section 36C of the 1981 Act are transferred to the Animal Health Organisation.

*Appeals about restrictions on breeding from sheep*

- 21 The functions of the Secretary of State under section 36D(1) and (3) of the 1981 Act are transferred to the Animal Health Organisation.

*Powers to enforce restrictions on breeding from sheep*

- 22 The functions of the Secretary of State under section 36E(1) to (4) of the 1981 Act are transferred to the Animal Health Organisation.

*Duty to retain documents relating to entry to premises under warrant: scrapie*

- 23 The functions of the Secretary of State under section 36H(8) of the 1981 Act are transferred to the Animal Health Organisation.

*Returns from local authorities about wharves*

- 24 The functions of the Secretary of State under section 54(6) of the 1981 Act are transferred to the Animal Health Organisation.

*Default*

- 25 (1) The functions of the Secretary of State under section 59(1) of the 1981 Act are transferred to the Animal Health Organisation but only in relation to the execution and enforcement of provisions that relate to the general purpose of the Organisation (see section 2 of this Act).
- (2) In its application to the Animal Health Organisation, section 59(1) has effect as if the words “may by order empower a person named in that order” were “may authorise in writing a person”.
- (3) Section 59(2) of the 1981 Act applies in relation to England as if
- (a) after “any such order” there were inserted “or authorisation”,
  - (b) before “shall be” there were inserted “or the Animal Health Organisation”,
  - (c) in paragraph (a) before “on demand” there were inserted “or (as the case may be) the Animal Health Organisation”, and
  - (d) in paragraph (b) before “to sue” there were inserted “or (as the case may be) the Animal Health Organisation”.

*Duty to retain documents relating to entry to premises under warrant: slaughter*

- 26 The functions of the Secretary of State under section 62B(8) of the 1981 Act are transferred to the Animal Health Organisation.

*Duty to retain documents relating to entry to premises under warrant: tests and samples*

- 27 The functions of the Secretary of State under section 62E(8) of the 1981 Act are transferred to the Animal Health Organisation.

*General powers of inspectors*

- 28 Section 63(9) of the 1981 Act applies in relation to a place in England as if the words from “inspector” to “may” were “inspector of the Animal Health Organisation may”.

*General powers of inspectors: poultry*

- 29 Section 64(1) of the 1981 Act applies in relation to a place in England as if the words from the first “inspector” to “and” were “inspector of the Animal Health Organisation and”.

*Powers to detain vessels*

- 30 (1) Section 65(1) of the 1981 Act applies in relation to a vessel in port in England as if—
- (a) before the words “is satisfied” there were inserted “or of the Animal Health Organisation”, and
  - (b) before the words “otherwise directs” there were inserted “or (as the case may be) the Animal Health Organisation”.
- (2) An inspector of the Animal Health Organisation may exercise the power conferred by section 65(1) of the 1981 Act (as it has effect by virtue of subparagraph (1)) only in relation to a matter related to the general purpose of the Organisation (see section 2 of this Act).

*Refusal and obstruction*

- 31 Any reference in section 66 of the 1981 Act to an officer includes a reference to a person authorised by the Animal Health Organisation for the purposes of that Act.

*Evidence and procedure*

- 32 The reference in section 79(1) of the 1981 Act to an inspector or other officer of the Minister includes a reference to an inspector of the Animal Health Organisation or other person authorised by the Animal Health Organisation for the purposes of the 1981 Act.

*Reports by local authorities*

- 33 The functions of the Secretary of State under section 81 of the 1981 Act are transferred to the Animal Health Organisation.

*Fees*

- 34 (1) The power conferred by section 84(1) of the 1981 Act includes power to prescribe fees to be paid with respect to business transacted or to be transacted under the 1981 Act by the Animal Health Organisation.
- (2) Where an order under section 84(1) provides for the payment of a fee to the Animal Health Organisation, section 84(2) applies as if the words from the end of paragraph (b) to “fit” were “the Animal Health Organisation may, if it thinks fit”.

*Powers of slaughter in relation to certain diseases*

- 35 The functions of the Secretary of State under Schedule 3 to the 1981 Act are transferred to the Animal Health Organisation.

*References to inspectors, veterinary inspectors etc.*

- 36 (1) In the application of the provisions of the 1981 Act mentioned in subparagraph (2) to England—
- “inspector” means—

- (a) a person appointed to be an inspector for the purposes of that Act by the Animal Health Organisation, including a person appointed to be a veterinary inspector;
  - (b) a person appointed to be an inspector for the purposes of that Act by a local authority;
- “inspector of the Animal Health Organisation” means a person appointed to be an inspector for the purposes of that Act by the Animal Health Organisation, including a person appointed to be a veterinary inspector;
- “inspector of a local authority” means a person appointed to be an inspector for the purposes of that Act by a local authority;
- “veterinary inspector” means a veterinary inspector appointed for the purposes of that Act by the Animal Health Organisation.
- (2) The provisions to which sub-paragraph (1) applies are –
- (a) section 3,
  - (b) section 14,
  - (c) section 16,
  - (d) section 22,
  - (e) section 30,
  - (f) section 36B,
  - (g) sections 36F to 36I,
  - (h) sections 62A to 62F,
  - (i) section 63(2) (so far as relating to paragraphs (a) and (b)), (5), (6), (7) and (9),
  - (j) section 64(1), and
  - (k) section 65.
- (3) In the application of the following provisions of the 1981 Act to England any reference to an inspector includes a reference to a person appointed to be an inspector for the purposes of that Act by the Animal Health Organisation, including a veterinary inspector –
- (a) section 60,
  - (b) section 63(1), (2) (so far as relating to paragraphs (c) and (d)), (3) and (4),
  - (c) section 64A,
  - (d) section 65A, and
  - (e) section 66.
- (4) But an inspector appointed by the Animal Health Organisation may exercise the powers conferred by a provision mentioned in any of paragraphs (b) to (d) of sub-paragraph (3) only in relation to a matter related to the general purpose of the Organisation (see section 2 of this Act).

## PART 2

### FUNCTIONS UNDER OTHER ENACTMENTS

#### *Artificial breeding of livestock*

- 37 The functions of the Secretary of State under section 10(4) of the Animal Health and Welfare Act 1984 are transferred to the Animal Health Organisation.

## SCHEDULE 3

Section 16

## ADVISORY COMMITTEES

*Advisory committees of the Animal Health Organisation*

- 1 (1) This paragraph applies to an advisory committee established under section 16(1).
- (2) The committee is to consist of a chair and other members appointed by the Animal Health Organisation (“the Organisation”).
- (3) Members and employees of the Organisation are eligible for appointment as members of the committee.
- (4) The terms of reference of the committee are to be determined by the Organisation.
- (5) The Organisation may pay remuneration or allowances to the members of the committee.
- (6) The committee may incur expenditure only with the approval of the Organisation.
- (7) Any expenditure incurred by the committee is to be met by the Organisation.
- (8) The committee may be abolished by the Organisation.

*Joint advisory committees*

- 2 (1) This paragraph applies to an advisory committee established in pursuance of arrangements made under section 16(2) by the Organisation and one or more other public authorities.
- (2) The membership of the committee, and its terms of reference, are to be determined in accordance with the arrangements.
- (3) The arrangements may, in particular, provide that members and employees of any of the public authorities that made the arrangements may be members of the committee.
- (4) The arrangements may include provision for the payment of remuneration or allowances to members of the committee.
- (5) The arrangements must include provision for expenditure to be incurred by the committee only with the approval of one or more of the public authorities that made the arrangements.
- (6) The provision mentioned in sub-paragraph (5) must specify –
  - (a) the public authority or the public authorities whose approval is required, and
  - (b) the procedure to be followed by the committee and that authority (or those authorities) in relation to requests for approval.
- (7) The arrangements –
  - (a) must provide for one or more of the public authorities that made the arrangements to meet the expenditure of the committee, and

- (b) if more than one authority is to meet the expenditure, must determine, or include provision for determining, the contribution each is to make.
- (8) The arrangements must include provision –
  - (a) permitting any of the public authorities that made the arrangements to withdraw from them, and
  - (b) specifying the procedure to be followed by a public authority that wishes to withdraw.

*Transfer of existing non-statutory advisory committees*

- 3 (1) The Secretary of State may direct that a committee specified in the direction is, from a date so specified, to be treated as if –
  - (a) it had been established by the Organisation under section 16(1), and
  - (b) its members had been appointed in accordance with paragraph 1.
- (2) A direction under sub-paragraph (1) may be given only in respect of a committee whose purpose is to give advice to one or more public authorities on matters connected with any of the Organisation’s functions.
- (3) Before giving a direction under sub-paragraph (1) the Secretary of State must consult –
  - (a) the Organisation, and
  - (b) each public authority that it is the purpose of the committee to advise.
- (4) A direction under sub-paragraph (1) may be given only with the consent of each public authority that is consulted under sub-paragraph (3)(b).
- 4 (1) The Secretary of State may direct that a committee specified in the direction is, from a date so specified, to be treated as if –
  - (a) it had been established in pursuance of arrangements made under section 16(2) by the Organisation and one or more other public authorities specified in the direction, and
  - (b) its members had been appointed in accordance with such arrangements.
- (2) A direction under sub-paragraph (1) may be given only in respect of a committee whose purpose is to give advice to more than one public authority on matters connected with any of the Organisation’s functions.
- (3) A public authority may not be specified in a direction under sub-paragraph (1) unless the public authority is one of the authorities that it is the purpose of the committee to advise.
- (4) A direction under sub-paragraph (1) may require the Organisation and the public authorities specified in the direction to make arrangements about any matter that relates to the committee and is specified in the direction.
- (5) Before giving a direction under sub-paragraph (1) the Secretary of State must consult –
  - (a) the Organisation, and
  - (b) each public authority that it is the purpose of the committee to advise.

- (6) A direction under sub-paragraph (1) may be given only with the consent of each public authority that is consulted under sub-paragraph (5)(b).
- 5 (1) A direction under paragraph 3(1) or 4(1) may not be given in relation to an advisory committee that—
- (a) is established, or is required to be established, by any enactment, or
  - (b) is established on or after the day on which this paragraph comes into force.
- (2) In sub-paragraph (1) “enactment” means a provision contained in, or in an instrument made under—
- (a) an Act of Parliament,
  - (b) an Act of the Scottish Parliament,
  - (c) a Measure or Act of the National Assembly for Wales, or
  - (d) Northern Ireland legislation.

## SCHEDULE 4

Section 27

## TRANSFER SCHEMES

*Introductory*

- 1 In this Schedule—
- “transferor” means the person from whom any property, rights or liabilities are transferred;
- “transferee” means the person to whom any property, rights or liabilities are transferred.

*The property, rights and liabilities that may be transferred*

- 2 (1) A scheme may provide for the transfer of any property, rights or liabilities that would not otherwise be capable of being transferred or assigned.
- (2) In particular, it may provide for the transfer to take effect regardless of a contravention, liability or interference with an interest or right that would otherwise exist by reason of a provision having effect in relation to the terms on which the transferor is entitled to the property or right, or subject to the liability, in question.
- (3) It does not matter whether the provision referred to in sub-paragraph (2) has effect under an enactment or an agreement or in any other way.

*Creation and apportionment of property, rights or liabilities*

- 3 (1) A scheme may—
- (a) create for the transferor interests in or rights over property transferred by virtue of the scheme;
  - (b) create for the transferee interests in or rights over property retained by the transferor or transferred to another transferee;
  - (c) create rights or liabilities between the transferor and the transferee or between transferees.
- (2) In this Schedule, any reference—



- (a) to the transfer of interests, rights or liabilities by virtue of a scheme,  
or
  - (b) to any interests, rights or liabilities transferred by virtue of a scheme,  
includes a reference to the creation of interests, rights or liabilities, or to  
interests, rights or liabilities created, by virtue of sub-paragraph (1).
- (3) A scheme may make incidental provision as to the interests, rights and liabilities of persons other than the transferor and any transferee with respect to the subject matter of the scheme.

*Vesting certificates*

- 4 A certificate by the Secretary of State that anything specified in the certificate has vested in any person by virtue of a scheme is conclusive evidence of that fact for all purposes.

*Employment contracts*

- 5 (1) This paragraph applies if rights and liabilities under a contract of employment are transferred by virtue of a scheme.
- (2) The contract of employment –
- (a) is not terminated by the transfer, and
  - (b) has effect from the transfer date as if made between the employee and the transferee.
- (3) The rights, powers, duties and liabilities of the transferor under or in connection with the contract are transferred to the transferee on the transfer date.
- (4) Anything done before the transfer date by or in relation to the transferor in respect of the contract or the employee is to be treated from that date as having been done by or in relation to the transferee.
- (5) This paragraph is subject to paragraph 6.

*Employee expressing objection to transfer of contract of employment*

- 6 (1) Rights and liabilities under a contract of employment are not transferred under this Schedule if the employee objects to the transfer and informs the transferor or transferee of that objection.
- (2) If the employee informs the transferor or transferee of an objection under sub-paragraph (1) –
- (a) the employee's contract of employment is terminated immediately before the transfer date, but
  - (b) the employee is not to be treated, for any purpose, as having been dismissed by the transferor.

*Civil servants*

- 7 (1) This Schedule applies with the following modifications in relation to employment in the civil service of the State on terms that do not constitute a contract of employment.

- (2) In the case of an individual who holds employment in the civil service of the State immediately before the transfer date
  - (a) the individual is to be treated as employed by virtue of a contract of employment,
  - (b) the terms of that employment are to be regarded as constituting the terms of that contract, and
  - (c) the reference in paragraph 6 to dismissal by the transferor is to be read as a reference to termination of that employment.
- (3) In the case of an individual who is to hold employment in the civil service of the State on and after the transfer date, the terms and conditions of the individual's contract of employment immediately before that date have effect on and after that date as if they were terms and conditions of the individual's employment in the civil service of the State.

*Compensation*

- 8 A scheme may contain provision for the payment of compensation by the Secretary of State to any person whose interests are adversely affected by the scheme.

*Validity*

- 9 A transfer under this Schedule does not affect the validity of anything done by or in relation to the transferor before the transfer date.

*Continuity*

- 10 (1) Anything that
- (a) is done by the transferor for the purposes of, or otherwise in connection with, anything transferred by virtue of a scheme, and
  - (b) is in effect immediately before the transfer date,
- is to be treated as done by the transferee.
- (2) There may be continued by or in relation to the transferee anything (including legal proceedings) that
- (a) relates to anything transferred by virtue of a scheme, and
  - (b) is in the process of being done by or in relation to the transferor immediately before the transfer date.

*Documents*

- 11 (1) This paragraph applies to any document that
- (a) relates to anything transferred by virtue of a scheme, and
  - (b) is in effect immediately before the transfer date.
- (2) Any reference in the document to the transferor is to be read as a reference to the transferee.

*Remedies*

- 12 As from the transfer date
- (a) the transferee, and
  - (b) any other persons,

are to have the same rights, powers and remedies with regard to any right or liability transferred as if the right or liability had at all times been a right or liability of the transferee.

*Interim arrangements*

- 13 (1) A scheme may include provision requiring a transferor to make available to a transferee during any interim period any of the following
- (a) any designated premises or facilities occupied or used by the transferor;
  - (b) any designated officers or employees of, or designated persons engaged by, the transferor.
- (2) In this paragraph “interim period”, in the case of any transfer by virtue of a scheme, means a period
- (a) beginning with the day following the making of the scheme, and
  - (b) ending with the transfer date.

*Retrospective modification of schemes*

- 14 (1) If, at any time after a scheme has come into force, the Secretary of State considers it appropriate to do so, the Secretary of State may direct that the scheme shall be taken to have come into force with such modifications as may be specified in the direction.
- (2) A direction under this paragraph
- (a) may make, with effect from the coming into force of the scheme, such provision as could have been made by the scheme, and
  - (b) in connection with giving effect to that provision from that time, may contain such incidental, supplemental, consequential or transitional provision or savings as the Secretary of State thinks fit.

*Incidental, supplemental, consequential or transitional provision or savings*

- 15 A scheme may include such incidental, supplemental, consequential or transitional provision or savings as the Secretary of State thinks fit.

SCHEDULE 5

Section 53(1)

MINOR AND CONSEQUENTIAL AMENDMENTS

*Amendments of the 1981 Act relating to payments in respect of the slaughter of animals etc.*

- 1 In section 12 of the 1981 Act (export quarantine stations), omit subsection (2).
- 2 In section 16A of the 1981 Act (slaughter of vaccinated animals), omit subsections (4) to (7) and (9).
- 3 In section 32 of the 1981 Act (slaughter in certain diseases), omit subsection (3).
- 4 In section 32A of the 1981 Act (slaughter to prevent spread of disease), omit subsection (1)(b).

- 5 In section 34 of the 1981 Act (slaughter and compensation generally)
- (a) in subsection (1) omit the words from “but subject to payment of compensation” to the end,
  - (b) omit subsections (3) and (6),
  - (c) in subsection (5) for “the compensation awarded to him under this Act” substitute “any payment made to him under an order made under section 43 of the Animal Health Act 2010”, and
  - (d) in subsection (7) omit paragraphs (a) and (b) and the words following paragraph (c).
- 6 In section 36 of the 1981 Act (compensation for seizure)
- (a) for the heading substitute “Regulating destruction etc. of things seized”, and
  - (b) omit subsections (1) to (4) and paragraphs (a) and (b) of subsection (5).
- 7 Omit section 36K of the 1981 Act (compensation for scrapie).
- 8 In Schedule 3 to the 1981 Act (power to slaughter in relation to certain diseases), omit the following provisions
- (a) paragraph 1(4),
  - (b) paragraph 2(3),
  - (c) paragraph 2A(10),
  - (d) paragraph 3(2),
  - (e) paragraph 4(2),
  - (f) paragraph 5(2) and (3).

*Other amendments of the Animal Health Act 1981*

- 9 In section 6A of the 1981 Act (biosecurity guidance) in subsection (5) for “Subsections (1) to (3)” substitute “Subsections (2) and (3)”.
- 10 In section 32B of the 1981 Act (disease control (slaughter) protocol), in subsection (6) for “Subsections (2) to (4)” substitute “Subsections (3) and (4)”.
- 11 In section 62E of the 1981 Act (tests and samples: warrants)
- (a) in subsection (1) for “a veterinary inspector” substitute “an inspector”,
  - (b) in subsection (2)(a) omit “land or”, and
  - (c) in subsection (3) for “a veterinary inspector” substitute “an inspector”.
- 12 In section 62F of the 1981 Act (tests and samples: supplementary)
- (a) in subsection (1) for “a veterinary inspector” substitute “an inspector”,
  - (b) in subsection (3) after “animal” insert “or bird”, and
  - (c) in subsection (5)(b) after “animals” insert “or birds”.

*Amendment of the Superannuation Act 1972*

- 13 In Schedule 1 to the Superannuation Act 1972 (kinds of employment to which the Act applies), in the list of other bodies, insert at the appropriate place
- “Animal Health Organisation.”

SCHEDULE 6

Section 53(2)

REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Animal Health Act 1981 (c. 1)	Section 12(2). Section 16(1)(a) to (c). Section 16A(4) to (7) and (9). Section 32(3). Section 32A(1)(b). In section 34 <ul style="list-style-type: none"> <li>(a) in subsection (1), the words from “but subject to payment of compensation” to the end,</li> <li>(b) subsections (3) and (6), and</li> <li>(c) in subsection (7), paragraphs (a) and (b) and the words following paragraph (c).</li> </ul> In section 36 <ul style="list-style-type: none"> <li>(a) subsections (1) to (4), and</li> <li>(b) in subsection (5), paragraphs (a) and (b).</li> </ul> Section 36K. Section 62D(2) to (4) In section 62E(2)(a) the words “land or”. In Schedule 3 <ul style="list-style-type: none"> <li>(a) paragraph 1(4),</li> <li>(b) paragraph 2(3),</li> <li>(c) paragraph 2A(10),</li> <li>(d) paragraph 3(2),</li> <li>(e) paragraph 4(2),</li> <li>(f) paragraph 5(2) and (3).</li> </ul>



# Draft Animal Health Bill

Explanatory Notes

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## INTRODUCTION

1. These explanatory notes relate to the draft Animal Health Bill which was published on 25 January 2010. They have been prepared by the Department for Environment, Food and Rural Affairs (Defra) in order to assist the reader of the draft Bill and to help inform debate on it. They do not form part of the draft Bill and have not been endorsed by Parliament.
2. These notes need to be read in conjunction with the draft Bill. They are not, and are not meant to be, a comprehensive description of the draft Bill. So where a clause or part of a clause does not seem to require any explanation or comment, none is given.

## SUMMARY AND BACKGROUND

3. Animal health is important as animal disease outbreaks impact negatively on public health, the economy and the environment. Owners and keepers of animals have primary responsibility for the health of their animals. The Government also plays a part in preventing, controlling and eradicating diseases. In England, the main responsibility for animal health policy and delivery falls to Defra.
4. Sir Iain Anderson's Inquiry (2002)<sup>1</sup> into the 2001 foot-and-mouth outbreak called for a fairer sharing of the costs of disease between industry and the taxpayer. Since the publication of this Report, the Government has developed its thinking in discussion with industry and others. These discussions included a report by a Government/industry working party in 2006,<sup>2</sup> consultations in 2006<sup>3</sup> and 2007,<sup>4</sup> discussions on policy options in the UK Responsibility and Cost Sharing Consultative Forum,<sup>5</sup> concluding in July 2008, and a consultation which ended in June 2009.<sup>6</sup> Defra currently has a stakeholder Responsibility and Cost Sharing Advisory Group, due to report in December 2010, looking at how responsibility and cost sharing would work in practice.
5. This policy development has culminated in the proposals, being put forward in part through this draft Bill, for a new framework for animal health policy and delivery. The draft Bill will also amend some existing legislation to assist in the implementation of animal health policy.

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1 Anderson, Iain (2002) "Foot and Mouth Disease 2001: Lessons to be Learned Inquiry Report. Available at <http://archive.cabinetoffice.gov.uk/fmd/index.htm>.

2 Department for Environment, Food and Rural Affairs, JIGWIG report "Sharing Responsibilities and Costs of Exotic Animal Disease" of July 2006. Available at: <http://webarchive.nationalarchives.gov.uk/20060820083451/http://defra.gov.uk/farm/policy/regulation/csharead/jigwg/pprs/pdf/july2006-report.pdf>.

3 Department for Environment Food and Rural Affairs "Consultation: Responsibility and cost sharing for animal health and welfare: principles" of December 2006 to March 2007

4 Department for Environment, Food and Rural Affairs "Consultation: Responsibility and cost sharing for animal health and welfare: next steps – your views matter" of December 2007 to April 2008

5 For more about the UK Responsibility and Cost Sharing Consultative Forum, see [www.defra.gov.uk/foodfarm/policy/animalhealth/sharing/forum/index.htm](http://www.defra.gov.uk/foodfarm/policy/animalhealth/sharing/forum/index.htm).

6 Department for Environment, Food and Rural Affairs "Consultation on a new independent body for animal health: A modern governance and funding structure for tackling animal diseases" of March to June 2009. Available at: [www.defra.gov.uk/corporate/consult/new-independent-body-ah/index.htm](http://www.defra.gov.uk/corporate/consult/new-independent-body-ah/index.htm).



## **OVERVIEW OF THE STRUCTURE OF THE BILL**

6. The draft Animal Health Bill has four Parts and six Schedules:

### **Part 1: Animal Health Organisation**

7. Part 1 establishes an independent Non-Departmental Public Body (NDPB), to be known as the Animal Health Organisation (AHO), which will be responsible for developing animal health policy and discharging the associated functions.
8. Most of the AHO's functions are exercisable only in relation to England, as animal health is a devolved policy area. The Secretary of State is accountable to Parliament for the AHO. Part 1 describes the general purpose and functions of the AHO. It contains provisions to transfer functions from the Secretary of State under existing legislation to the AHO (notably the Animal Health Act 1981 (1981 Act), the main piece of primary legislation in the UK relating to animal health). It also makes amendments to other legislation to reflect the setting up of the AHO.

### ***Schedule 1: The Animal Health Organisation***

9. This Schedule provides for the status and constitution of the AHO. This includes the appointment of a chair, other members and staff (including a Chief Veterinary Officer for England).

### ***Schedule 2: Transfer of functions***

10. Part 1 of this Schedule provides for the transfer of functions under the 1981 Act from the Secretary of State to the AHO. The 1981 Act contains many broad order-making powers, but these will not transfer to the AHO and will remain with the Secretary of State. Part 2 of Schedule 2 transfers an animal health function under the Animal Health and Welfare Act 1984.

### ***Schedule 3: Advisory Committees***

11. This Schedule provides for the establishment and membership of advisory committees which may be created by the AHO to provide it with advice on matters connected with any of its functions.

### ***Schedule 4: Transfer Schemes***

12. This Schedule enables the Secretary of State to create transfer schemes to ensure that the AHO has transferred to it all necessary property, staff, and contractual rights and obligations to enable it to discharge its functions.

### **Part 2: Chief Veterinary Officer**

13. Part 2 makes provision in relation to the role of the Chief Veterinary Officer for the United Kingdom (CVO(UK)). It establishes this role in legislation, which will have the effect of separating it from the role of the CVO for England who will be appointed by the AHO. At present the CVO based in Defra fulfils both roles. This Part confers functions on the CVO(UK), including duties in relation to liaison and consultation with the AHO and the devolved administrations.

### **Part 3: Miscellaneous**

14. Part 3 contains provisions relating to animal health policy and delivery. Clauses 43 to 45 simplify current provisions and give the Secretary of State and the Welsh Ministers more flexible order-making powers in relation to making payments (by the AHO or the Welsh Ministers) where animals have been slaughtered or other property has been seized or destroyed for disease control purposes. Clauses 46 to 50 amend sections of the 1981 Act to expand powers relating to the treatment of diseased animals with serums or vaccines, and the taking and further testing of samples. An order-making power is included to extend the categories of animal to which these expanded powers apply. This Part also removes existing requirements for Treasury consent to the exercise of certain powers in the 1981 Act.

### **Part 4: Final Provisions**

15. Part 4 contains provisions relating to the making of orders, the definitions of terms used in the Bill, the territorial extent of specific clauses and the commencement of the Act that may result from the Bill.

### ***Schedule 5: Minor and Consequential Amendments***

16. Schedule 5 makes minor amendments, and amendments required as a consequence of provisions within this Bill, to the 1981 Act and the Superannuation Act 1972.

### ***Schedule 6: Repeals***

17. Schedule 6 lists the provisions of the 1981 Act that will be repealed by the Bill.

## **TERRITORIAL EXTENT AND APPLICATION**

18. Generally, the Bill extends to England and Wales, with the following exceptions where the Bill also extends to Scotland and Northern Ireland:
  - a. Clause 13 (provision of services of employees, etc.), which (among other things) makes provision about the circumstances in which the AHO may make the services of its employees available to the Welsh and Scottish Ministers;
  - b. Clause 14 (co-operation), on co-operation between the AHO and other authorities. This has the effect of requiring the AHO and the devolved administrations to co-operate in the field of animal health. Action to prevent the spread of animal disease across the UK can require co-ordinated action across borders, including compliance with European legislation;
  - c. Clause 16 and Schedule 3 (advisory committees), which allows the AHO to set up joint advisory committees with other public authorities including those exercising functions in Wales, Scotland and Northern Ireland;
  - d. Clause 30 (power to confer functions in relation to veterinary medicines), which allows for functions undertaken by Defra's Veterinary Medicines Directorate (which has a UK remit) to be transferred to the AHO;
  - e. Part 2 (Chief Veterinary Officer), as the CVO(UK) will take an overview of animal health and welfare in each part of the UK. This is designed to assist with co-ordinated action across the UK, where needed, and representation internationally that reflects the circumstances in different parts of the UK; and
  - f. Various elements of the final provisions of the Bill in Part 4.

19. The provisions on transfer schemes (clause 27 and Schedule 4) extend to England and Wales and Scotland as there may be a need for transfers of property, rights or liabilities to take effect under the law of Scotland (as well as the law of England and Wales).
20. Animal health is a matter which has been devolved to Wales, Scotland and Northern Ireland. Most of the AHO's functions are exercisable only in relation to England, and most of the changes made in order to establish the AHO and transfer functions to it will not impact on the powers of the Ministers in Wales, Scotland and Northern Ireland in relation to animal health.
21. Some provisions of the Bill will have effect in Wales, and will change the powers of the Welsh Ministers. Those provisions are found in Part 3 of the Bill, namely, clauses 43, 44 and 45 on payments in relation to slaughter, etc., clause 46 on treatment after exposure to infection, etc. (use of vaccines and serums), clauses 47 and 48 on the taking and further testing of samples, and clause 49 (extending certain provisions of the 1981 Act to cold-blooded creatures).

## COMMENTARY

### PART 1 – ANIMAL HEALTH ORGANISATION

#### *Establishment of Animal Health Organisation*

##### **Clause 1: The Animal Health Organisation**

22. This clause and Schedule 1 establish a new independent body, to be known as the Animal Health Organisation (AHO), which will have responsibility for the formulation and implementation of animal health policy in England. This responsibility will be transferred from the Secretary of State (in practice this means the Secretary of State for Defra). Animal welfare policy will remain with Defra. The AHO's functions are set out in the Bill, and will be exercisable in England only, unless otherwise stated. Animal health policy is generally a devolved matter, so the administrations in Wales, Scotland and Northern Ireland will continue to have responsibility for animal health policy in their respective jurisdictions. However, the AHO will be able to provide the Welsh Ministers and the Scottish Ministers with the services of its employees on request, for which the AHO may make charges (see clauses 13 and 17).

##### **Clause 2: General purpose of the Animal Health Organisation**

23. This clause sets out the AHO's general purpose which is to protect animal health by preventing disease and the spread of disease in animals; to prevent the transmission of disease-causing substances from animals to humans; and to protect the public, the economy and the environment from harm arising from animal disease.
24. Disease can be transferred from animals to humans, and disease can reduce the productivity of livestock with its attendant economic impact (healthy herds and flocks are generally more productive and require less restocking). Animal disease outbreaks can also impact on the economic health of rural communities, and the existence and success of rural tourism. As the outbreak of foot-and-mouth disease in 2001 showed, animal disease can have a wide-reaching impact on society.
25. *Subsection (2)* provides that the general purpose of the AHO of preventing disease and its spread only extends to animals living wild to the extent that such disease may be a risk to kept animals, the public or the wider economy or environment.

#### *Core functions*

##### **Clause 3: Assessment and plans**

26. *Subsections (1) and (2)* require the AHO to carry out and keep under review assessments of animal disease and disease risks and *subsection (5)* requires it to publish those assessments. The assessments will assist it in determining how to take forward its general purpose and specific functions, and inform its future actions and decisions.
27. These assessments will also inform any plans for dealing with disease that it may prepare, publish and keep under review (see *subsections (3) to (5)*). These assessments and the plans prepared can also assist the Government, and others responsible for dealing with animal disease, such as Government delivery agents, industry itself and veterinarians.

**Clause 4: Research and other information**

28. *Subsection (1)* of this clause enables the AHO to undertake, commission, support or fund research which relates to its general purpose, and formulate policies to tackle animal disease. This might include the testing of animal disease control measures, such as vaccination. It will allow it to undertake research of the kind currently undertaken by Defra.
29. *Subsection (2)* imposes an obligation on the AHO to take reasonable steps to ensure that it is aware of any current research or information relevant to its general purpose. This may include, for example, research published in journals, or that which is otherwise accessible to a specialist organisation like the AHO.

**Clause 5: Transfer of functions**

30. This clause and Schedule 2 provide that the functions under the 1981 Act which concern animal health and that are currently the responsibility of the Secretary of State (which, in practice, means that Defra and its delivery agents perform these functions) will be transferred to the AHO. The AHO will be accountable to the Secretary of State in the exercise of its functions under this Bill. Schedule 2 specifies which functions of the 1981 Act will be transferred.

*Development of policy, etc.*

**Clause 6: Development of policy**

31. Clause 6 deals with the development of policies by the AHO. *Subsections (2) and (3)* require the AHO to comply with any request from the Secretary of State to develop policy on matters relating to any of its functions. Whilst it is expected that the AHO will decide what policies to develop, this provision will provide scope for the Secretary of State to ensure that appropriate policies are developed in the area of animal health. It may be used, for example, to require the development of an animal health policy which has implications for improving animal welfare, the primary responsibility for which remains with the Secretary of State.

**Clause 7: Proposals for legislation**

32. Many aspects of animal health under the 1981 Act are governed by subordinate legislation (orders, rules, and regulations). The transfer of functions to the AHO does not include transfer of any of the powers to make such subordinate legislation, which will remain with the Secretary of State. This clause requires the AHO to make proposals to the Secretary of State for the making of subordinate legislation relating to its general purpose, when the AHO thinks it appropriate for such legislation to be made. As the AHO develops its assessments, plans and policies, it will be able to consider what further or amended subordinate legislation is required. Such plans, policies and subordinate legislation will include implementation of relevant animal health European legislation.
33. The clause also requires the Secretary of State to consult the AHO when considering using any power to make subordinate legislation (or whether it would be desirable for a Bill to be introduced to Parliament) which relates to the AHO's general purpose, or to animal health or welfare generally. This will ensure that the AHO's views are taken into account when any such subordinate legislation (or proposals for a Bill) is being considered.
34. *Subsection (3)* provides that, in this clause, "subordinate legislation" has the same meaning as in the Interpretation Act 1978; that is orders, rules, regulations, schemes, warrants, bye-laws and other instruments made or to be made under an Act.

**Clause 8: Proposals for legislation under section 21 of the 1981 Act**

35. This clause requires that Natural England is consulted by the AHO when it proposes to the Secretary of State that he or she makes an order under section 21 of the 1981 Act, which relates to the destruction of wild members of any species for disease control purposes. In addition, the obligation on the Secretary of State to consult Natural England before making such an order is replaced with a requirement for the AHO to do so when it is consulted on such an order by the Secretary of State. The AHO must inform the Secretary of State of the views of Natural England, following that consultation. Natural England is the Government's advisor on the natural environment and provides practical advice on how best to safeguard England's natural environment and resources.

*Advice and assistance*

**Clause 9: Advice and training: general powers**

36. The AHO will be able to provide advice and training to others in support of its general purpose. Examples of persons or bodies the AHO may wish to provide with advice or training under this clause include other parts of Government (including Defra), other public bodies (such as the Food Standards Agency and local authorities), livestock keepers and businesses, and the general public. The AHO may make reasonable charges for services provided under this clause (see clause 17).

**Clause 10: Duty to provide advice to public authorities**

37. Further to clause 9, this clause requires the AHO to provide advice on request to public authorities on any matter relating to its general purpose. Local authorities or other Government departments and Agencies will be able to request such advice (for example, in developing local animal disease management plans or animal welfare policies). The AHO may make reasonable charges for services provided under this clause (see clause 17).
38. Under *subsections (2) and (3)* the AHO will be able to require a public authority which has sought its advice, but appears not to have followed it, to say whether it has been followed and, if it has not been, why not.

**Clause 11: Provision of information**

39. One key aspect of giving advice and assistance to animal keepers, the livestock industry, and the general public, is the provision of information including the publication of documents. This clause allows the AHO, whether directly or by assisting others, to provide information and to do so, if the information relates to the AHO's general purpose. The AHO may make reasonable charges for services provided under this clause (see clause 17).

**Clause 12: Financial and other assistance**

40. The AHO may give financial assistance to others if it thinks doing so would further its general purpose. Examples of the kinds of financial assistance which have been given by Defra in the past to assist in animal health related matters include the provision of finance to the National Farmers Union and other bodies to promote Bluetongue Disease vaccination campaigns, and the setting up and funding of the National Fallen Stock Company (which arranges for the collection and proper disposal of fallen livestock). It is anticipated that the AHO will continue to give financial assistance in similar circumstances in pursuit of its general purpose.

**Clause 13: Provision of services of employees, etc.**

41. This clause authorises the AHO to make the services of its employees, members or other persons engaged by it, or its goods or equipment, available to others if the AHO thinks the request is related to its general purpose or to animal health and welfare in general. The AHO may make reasonable charges for services provided under this clause (see clause 17).
42. *Subsection (3)* makes special provision where services of AHO members or employees (or other persons engaged by it) are provided under the clause to the Scottish or Welsh Ministers. The consent of the Secretary of State is required. The provision of such services could involve a significant number of the AHO's employees if staff currently working for Defra's Animal Health Agency are transferred to the AHO. If they are transferred, the AHO would be able to provide the services of its employees to the devolved administrations in the same way that the Animal Health Agency currently provides the services of its employees to those administrations.
43. The AHO would also be able to provide the services of its employees to Defra's Secretary of State, for example, to work on the delivery of animal welfare policies. The AHO may also provide the services of its employees to persons beyond those specified in *subsection (3)*. For instance, vets or other specialist staff might be made available to other countries to help deal with a particular animal disease outbreak in the same way that the UK used vets from other countries during the 2001 foot-and-mouth outbreak.

*General powers and duties*

**Clause 14: Co-operation**

44. This clause creates a reciprocal duty of co-operation between the AHO and any other body exercising functions which relate to, or overlap with, the functions of the AHO. These bodies might include Government delivery Agencies across the UK. This will help ensure effective and co-ordinated action in dealing with animal diseases.

**Clause 15: Matters to be taken into account**

45. This clause requires the AHO to take into account the following matters (to the extent they are relevant to the issue at hand) before deciding whether to exercise a power, or when determining how to exercise a power or any of its duties:
  - Risks to animal or public health, the economy and the environment (including the likelihood, nature and magnitude of any such risk), to ensure it takes a considered approach to the risks it is managing;
  - The costs and benefits of using or not using the power or duty, or of using the power in a particular way, to ensure that its actions provide value for money;
  - Animal welfare, which has a close interconnection with animal health, but is not part of its general purpose or one of its specific functions;
  - Any relevant research (such as research commissioned or supported under clause 4(1)), so that its decisions are informed by relevant scientific and other information; and
  - Any advice or information it has been given by anyone. This may include, for example, information from scientific institutions, the European Commission, or others on the presence of animal diseases in particular parts of the world, and the risk of them spreading to the UK.

**Clause 16: Advisory committees**

46. Under clause 16 the AHO has the power to create advisory committees to provide advice or information to it about anything related to any of its functions. The AHO may set up the committees alone or jointly with other public authorities (such as Defra, the Food Standards Agency, the Department of Health or the Welsh administration) where the matter is of common interest. Defra currently has such advisory committees on a number of topics (e.g. the Bovine TB Eradication Group for England and the Spongiform Encephalopathy Advisory Committee).
47. *Subsection (4)* provides that Schedule 3 to this Bill, which contains further provisions relating to advisory committees, has effect. This Schedule provides detail on the establishment and membership of advisory committees and how existing advisory committees can be transferred to the AHO.

**Clause 17: Power to charge for services**

48. This clause gives the AHO the power to make charges it thinks are reasonable for services it provides. The services referred to are those set out in clauses 9(1)(a) and (2), 10(1), 11 and 13(1) (which comprise the provision of advice, information and training, and the use of AHO employees). In addition the AHO will also have powers derived from the 1981 Act, to charge for services (for example, this will include the power to provide veterinary services under section 5 of that Act.) The clause means, for example, that the AHO can charge for services provided to the Welsh and Scottish administrations (of the kind currently provided by Defra's Animal Health Agency) under clause 13.

**Clause 18: Use of services of civil servants, etc.**

49. This clause allows the AHO to use other organisations (and/or their staff, or other people engaged by them) to undertake work on its behalf. In particular, this allows the AHO to make an agreement with the Secretary of State to use the services of civil servants. Most of the delivery of animal health policy is currently undertaken by Defra Agencies (notably the Animal Health Agency and the Veterinary Laboratories Agency). This provision will allow the AHO to continue having such work undertaken by Defra, or its Agencies, on its behalf.

**Clause 19: Power to bring criminal proceedings**

50. *Subsection (1)* gives the AHO the power to institute criminal proceedings and so to prosecute offences and enforce animal health legislation. This may be in response to breaches of the 1981 Act or other primary or subordinate legislation. *Subsection (2)* allows the AHO to authorise a person to prosecute on its behalf in proceedings before a magistrates' court, even if he or she is not a solicitor or barrister.

**Clause 20: Incidental powers**

51. *Subsection (1)* gives the AHO the power to do anything conducive or incidental to the discharge of its functions. This includes, but is not limited to, the activities listed in *subsection (2)*. The acquisition or disposal of interests in land or of interests in bodies corporate, or the setting up of new bodies corporate, requires the Secretary of State's consent.

**Clause 21: Provision of information to the Secretary of State**

52. As the AHO is to be accountable to the Secretary of State, he or she may on occasion require information from the AHO relating to its functions (including information it can reasonably be expected to obtain or produce).



**Clause 22: Annual report**

53. This clause requires the AHO to prepare an annual report on how it has fulfilled its functions during the past financial year, and to send it to the Secretary of State. The AHO must lay the report before Parliament. This report may contain, as permitted by clause 33, both the annual report on import controls required by section 10A of the 1981 Act, and the yearly return to Parliament required under section 80 of that Act. This will allow for simpler and unified reporting arrangements.

*Funding*

**Clause 23: Grants**

54. This clause provides the power for the Secretary of State to fund the AHO by way of grant and to make payment of the grant subject to conditions.

*Directions*

**Clause 24: Power to give directions**

55. This clause gives the Secretary of State the power to direct the AHO to remedy anything he or she thinks amounts to a serious failure by the AHO in relation to the exercise of any of its functions. The AHO will be an independent body but the Secretary of State will be ultimately accountable to Parliament for its activities. This clause also allows the Secretary of State to give the AHO directions to fulfil or implement UK obligations under EU treaties or international agreements. The AHO must comply with any such directions. Clause 26 sets out the consequences of a failure to comply.

**Clause 25: Procedure in connection with directions**

56. This clause stipulates the procedures to be followed when the Secretary of State gives directions to the AHO under clause 24. The Secretary of State must consult the AHO before giving any such directions, and must publish them.

**Clause 26: Failure to comply with directions**

57. This clause allows the Secretary of State to take action if the AHO fails to comply with a direction given under clause 24. The Secretary of State may exercise any of the functions of the AHO to give effect to any such direction, which can include the functions transferred from the Secretary of State to the AHO by this Bill, set out in Schedule 2.

*Transfer Schemes*

**Clause 27: Transfer schemes**

58. This clause and Schedule 4 are to facilitate the creation of the AHO, and the efficient management and future development of public services relating to animal health. *Subsection (1)* enables the Secretary of State to make schemes to transfer, from any public authority to the AHO, property, rights or liabilities. Public authorities are, for the purposes of this clause, Ministers of the Crown and any bodies or persons established by, or under, an enactment (that is, statutory bodies). In particular this will allow contracts currently held by Defra in relation to animal health policy and its delivery to be transferred to the AHO.
59. *Subsection (3)* permits schemes that allow the transfer of property, rights or liabilities from the AHO to any public authority. This will allow for future organisational developments. For instance, as explained at paragraph 41, the AHO will be able to provide the services of its employees to the Scottish or Welsh Ministers. Should either the Scottish or Welsh administrations, at some point in the future, wish this work to be done by someone other

than the AHO's employees, then this clause would allow for transfer of, say, office accommodation as part of the transfer of such work.

***Clause 28: Interim arrangements***

60. This clause allows the Secretary of State to require any public authority (as defined for the purposes of clause 27(1)) to provide staff, premises or facilities temporarily to the AHO. This is intended to cover periods of transition when the AHO takes on new functions.

*Miscellaneous*

***Clause 29: Amendment of Part 8 of the Natural Environment and Rural Communities Act 2006***

61. This clause amends the Natural Environment and Rural Communities Act 2006 to include the AHO as one of the designated bodies listed in Schedule 7 to that Act. This ensures that the Secretary of State may enter into agreements with the AHO in order to authorise it to carry out a Defra function on behalf of a Minister. This also allows the AHO to enter into an agreement with another designated body to authorise that body to carry out a function of the AHO that is related to, or connected with, a Defra function (or vice versa). This would be by mutual agreement, and subject to the approval of the Secretary of State. This will provide some flexibility to allow for future changes in the administration of Defra's functions.

***Clause 30: Power to confer functions in relation to veterinary medicines***

62. This clause gives the Secretary of State the ability, through the making of an order, to transfer to the AHO any of his or her functions in relation to veterinary medicinal products. These functions (which are UK-wide functions) are currently carried out by the Veterinary Medicines Directorate (an executive Agency of Defra). One option being considered as part of a current review of Defra's animal health delivery arrangements is that these functions transfer to the AHO. This power would allow this transfer to take place.

***Clause 31: Amendment of section 10A of the Animal Health Act 1981***

63. This clause amends section 10A of the 1981 Act which provides for an annual review of import controls and how it should be prepared. It is currently prepared and published as a joint report with the Welsh Ministers. This clause places responsibility for preparing and publishing this report (so far as it relates to England) on the AHO. It also gives flexibility to the AHO about how this report is prepared and published. In particular, it allows the AHO to continue to produce a joint report with the Welsh Ministers, or to prepare a separate report.

***Clause 32: Amendment of section 80 of the Animal Health Act 1981***

64. This clause amends section 80 of the 1981 Act which requires that a yearly return to Parliament should be prepared on enforcement proceedings under the Act, including information on imported animals found to be diseased.
65. This clause places responsibility for preparing and publishing this report (so far as it relates to England) on the AHO. It also gives flexibility to the AHO in how this report is prepared and published. In particular, it allows the AHO to continue with a joint report with the Welsh Ministers, or to prepare a separate report.

**Clause 33: Combined reports**

66. For convenience and to avoid duplication, the AHO may combine in one document its annual report (under clause 22), its yearly return to Parliament (under section 80 of the 1981 Act as amended by clause 32) and its annual review of import controls (under section 10A of the 1981 Act as amended by clause 31). This could include producing a single substantive report or a set of discrete reports published in one document. However, the AHO is also free to keep these reports and returns as separate documents if it so desires. It could also continue to produce combined reports with the Welsh Ministers if it wished to do so.

*Interpretation*

**Clause 34: Meaning of “animal”**

67. This clause defines the meaning of “animal” as it is used in this Part of the Bill. The role of the AHO under this Part covers all mammals (other than humans) and birds. These include the animals covered by the majority of the animal health policy work of Defra at present, and to which much of the 1981 Act applies. *Subsections (2) to (5)* allow the Secretary of State to extend (by order) the meaning of “animal” to include fish, reptiles, crustaceans, or other cold blooded creatures. Defra currently exercises some responsibilities in respect of these animals (notably in relation to fish) and this provides scope for these functions to be transferred to the AHO.

**PART 2 – THE CHIEF VETERINARY OFFICER**

68. Currently, Defra employs a Chief Veterinary Officer (CVO) who has the dual role of CVO for England and the United Kingdom. In the England role the CVO is, for instance, responsible for leading on the measures in England to deal with a disease outbreak. In the UK role he/she is responsible for co-ordinating action with the CVOs in other administrations for disease outbreaks and he/she represents the Secretary of State in international matters to do with animal health and welfare in European and other bodies. These roles will be separated with the creation of the AHO. The AHO will be required to appoint its own CVO for England (see Schedule 1). The Secretary of State will appoint a separate CVO(UK), and Part 2 of the Bill puts this on a statutory footing.

**Clause 35: Chief Veterinary Officer (UK)**

69. This clause requires the Secretary of State to appoint a CVO(UK), having consulted the Welsh and Scottish Ministers and Department of Agriculture and Rural Development in Northern Ireland. The Secretary of State must also consult them if he/she wishes to dismiss or suspend the CVO(UK), who will be employed by Defra as a civil servant. At present the appointment of the CVO in Defra is made by the Secretary of State without such consultation.

**Clause 36: Functions of the CVO (UK): general**

70. This clause provides for the CVO(UK)'s functions. A principal function will be to give advice to the Secretary of State on veterinary science or other matters related to the health and welfare of animals. The CVO(UK) must advise the Secretary of State in response to any specific request. The Secretary of State can also authorise or require the CVO(UK) to take on other related functions and to represent the UK government internationally. Whilst animal health is a devolved matter, responsibility for international relations within this field, including with the European Union, remains with the Secretary of State.

**Clause 37: Co-operation between appropriate authorities and role of CVO(UK): general**

71. This clause imposes on the AHO and the devolved administrations a duty of co-operation in the exercise of their functions relating to animal health and welfare matters, including policy development. At the request of the Secretary of State, the CVO(UK) must liaise with the appropriate authorities to facilitate co-operation in the exercise of those functions, as far as they relate to any matter specified in the request. The appropriate authorities are the AHO, the Welsh Ministers, the Scottish Ministers and the Department of Agriculture and Rural Development for Northern Ireland. Co-operation in tackling animal disease outbreaks across the UK can be crucial in tackling them effectively. Each authority will still remain responsible for exercising its animal health functions in its own territory.

**Clause 38: Duty of appropriate authorities to consult CVO(UK)**

72. This clause sets out circumstances in which the AHO and the devolved administrations must consult the CVO(UK). For example, the AHO must consult the CVO(UK) if it is considering exercising its functions in a way which may be relevant to the exercise of functions by the Secretary of State or by one of the devolved administrations. It must take into account any advice given by the CVO(UK), and the CVO(UK) may require it to state if the advice has been followed, and if not, why not. This will provide a statutory framework for a process of co-operation on these matters which operates at present on an informal basis.

**Clause 39: Duty of CVO(UK) to consult appropriate authorities**

73. This clause provides that, at the request of the Secretary of State, the CVO(UK) must consult the AHO and devolved administrations on any specified matter relating to international relations in the field of animal health and welfare. This may include facilitating agreement between the authorities on such matters. If the CVO(UK) gives advice to the Secretary of State which differs from the views of an appropriate authority then the CVO(UK) can be asked to explain why his/her advice differs. This will provide a statutory framework for a process of consultation on these matters which operates at present on a largely informal basis.

**Clause 40: Duty to provide information**

74. This clause requires the appropriate authorities to provide information to the CVO(UK) that is required by him or her to undertake the functions set out above.

**Clause 41: Supplemental**

75. This clause empowers the CVO(UK) to authorise another person to carry out the CVO(UK)'s functions, including representing the UK internationally on animal health and welfare matters. Such persons may include officials of Defra, the AHO or the devolved administrations.

**Clause 42: Interpretation**

76. This clause specifies the meaning of 'animal' and 'public authority' as used in Part 2 of the Bill. The definition of animal is wider than in Part 1 because the CVO(UK) will advise on all the categories of animals for which Defra has responsibility.

## PART 3 – MISCELLANEOUS

*Payments in respect of the slaughter of animals or the seizure or destruction of things, etc.*

### **Clause 43: Powers to make provision about payments in respect of slaughter, etc.**

77. This clause concerns the payments made in connection with the slaughter of animals and the seizure or destruction of property for disease control purposes. Payment schemes of the kind currently in operation can be made under this new power but it will also provide greater flexibility in the way such schemes can be designed.
78. The Secretary of State may make an order creating a scheme, authorising or requiring the AHO to make such payments. The order can provide for different payments to apply in different circumstances, and set out how the payment should be calculated.
79. The order can set out procedures for dealing with claims for payments, the appointment of valuers, and the making of any appeals.
80. Powers are provided for the Welsh Ministers to make orders for the same kinds of payments by them in Wales.

### **Clause 44: Reductions, etc. in payments**

81. This clause allows a scheme to provide no payment, or for the reduction of the payment in certain cases. One set of cases (Cases 1 and 3) is where the AHO considers that the owner or person responsible for the animal or property contributed to the circumstances which resulted in slaughter or seizure, for example by actions which increased the risk of spread of the disease. A second set of cases (Cases 2 and 4) is where the owner or person responsible for the animal or thing has failed to comply with regulations associated with the disease in relation to which the animals were slaughtered (or the property seized). Such regulations might make provision, for example, regarding biosecurity requirements.
82. This clause also defines who may be regarded as a person responsible for animals or things for the purposes of such payment schemes. The definition includes other people responsible for animals or things owned by the person whose animal has been slaughtered or things destroyed. The clause also specifies the sort of regulations which, if breached, can give rise to reductions in payments under a scheme. Such regulations must relate to the prevention of, or the prevention of the spread of, the disease in connection with which the animal was slaughtered or the property seized or destroyed. Disease is defined to include both diseases of animals and diseases of humans that could be caused by organisms or substances transmitted from animals.
83. The AHO may be required to issue guidance as to the factors that the AHO will take into account in deciding whether a person's actions contributed to the circumstances giving rise to slaughter of an animal or destruction or seizure of other property. There is a requirement that an order should confer a right to appeal in respect of such decisions.
84. Where reductions can be made the scheme must set out the maximum amount by which a payment can be reduced. This might be as a percentage or expressed in another way.

### **Clause 45: Meaning of "animal"**

85. This clause defines the meaning of "animal" as used in clauses 43 and 44 of the Bill. Animal is any mammal (except humans) or bird.
86. *Sub-section (2)* allows the Secretary of State or the Welsh Ministers to extend, by order, the meaning of "animal" to include fish, reptiles, crustaceans, or other cold blooded creatures.

*Miscellaneous*

**Clause 46: Treatment after exposure to infection, etc.**

87. This clause amends section 16 of the 1981 Act in order to broaden the circumstances under which the AHO or the Welsh Ministers can order the treatment of animals and birds with serum or vaccine, or both. A serum contains disease antibodies and a vaccine contains antigens, an antigen is any substance capable of triggering an immune response.
88. Section 16 of the 1981 Act currently provides that treatment may only be given where the animal in question:
  - a. has been in contact with a diseased animal or bird,
  - b. appears “to be or to have been in any way exposed to the infection of disease”, or
  - c. is in an “infected area” (which is defined in section 17 of the 1981 Act).
89. These three situations are considered to constrain authorities when seeking to control and prevent the spread of disease. The amendment, therefore, through the omission of paragraphs (a) to (c) of section 16(1) of the 1981 Act, provides that the power to treat animals or birds with vaccine or serum may be exercised, for the purposes of preventing the spread of disease, in any situation where the AHO or Welsh Ministers think fit. This may form part of a strategy to stop animal disease from spreading, in particular through treating animals outside of an infected area.
90. A similar provision currently applies in Scotland.

**Clause 47: Powers of entry to take samples**

91. Every year, many samples of substances such as blood, tissue, excreta and milk are taken from a range of animals to be tested for signs of infection with various animal diseases, or human diseases which can be transmitted by animals. This is part of a general strategy of disease surveillance and the powers to take samples are provided by a range of legislation, including statutory sampling and testing powers for surveillance purposes under the 1981 Act. For example, sections 21 and 22 of the 1981 Act, which relate to wild life infected with diseases other than rabies, enable authorised officers to enter land in an area defined by order and to take samples of wild members of the species, or of any materials with which they may have been in contact. These powers are provided in relation to specified circumstances, and are subject to certain limitations.
92. This clause amends section 62D of the 1981 Act (tests and samples: power of entry) by broadening the existing power to enter premises to find out whether disease, or causative agents of disease, exist on those premises. The amended power extends to inspectors appointed by local authorities, as well as inspectors and veterinary inspectors appointed by the AHO, and covers all diseases of mammals (except humans) or birds, and diseases of humans which can be caused by transmission of an organism or substance present in animals or birds. It also covers biological indicators of disease or of causative agents of disease. The definition of “premises” is extended to include vehicles, vessels, aircraft and moveable structures. Section 62F(3) allows the inspector to take any samples he/she considers necessary for the purpose mentioned in section 62D(1).

93. Section 62D of the 1981 Act will now apply as if it read:

**“62D Tests and samples: power of entry**

- (1) An inspector may at any time enter any premises for the purpose of ascertaining –
- (a) whether biological indicators of any disease, or of any causative agent of any disease, exist in animals or birds on the premises;
  - (b) whether any animal or bird on the premises, or which was kept there at any time is, or was at that time, infected with disease;
  - (c) whether any causative agent of disease is present on the premises.
- (1A) In this section –
- “animal” means any mammal (except man);
  - “biological indicator” –
    - (a) in relation to a disease, includes evidence of any form of reaction to the disease;
    - (b) in relation to a causative agent, includes anti-bodies in relation to the causative agent and evidence of any other form of reaction to the causative agent;
  - “causative agent”, in relation to a disease, includes any virus, bacterium and any other organism or substance which may cause or transmit the disease;
  - “disease” means any disease of animals or birds and any disease of humans which is capable of being caused by transmission of an organism or substance present in animals or birds.
- (2) In this section and sections 62E and 62F premises includes–
- (a) any land or building, and
  - (b) any other place, including, in particular, a vehicle, a vessel or an aircraft or a tent or other movable structure.”

94. The amendment extends only to England and Wales.

**Clause 48: Testing of samples**

95. As discussed in the note on clause 47, many samples are taken from animals, items or premises for animal disease control purposes each year.
96. At present it is generally not possible, without the consent of the keeper or owner of the animal, for a sample taken for one purpose under a particular power to be kept and later tested under another power for a different disease.
97. This clause, through adding a new section to the 1981 Act (62FA Testing of samples: additional powers), provides a statutory power for the AHO and the Welsh Ministers (or anyone authorised by them) to test existing samples for any purpose related to the monitoring, control or prevention of, or for research into, any animal disease, or human disease which can be transmitted by animals, without the need to obtain consent (or further consent). This can be done whether or not the sample has been used for the purpose for which it was first taken (*subsection (3)*). A person holding a sample required for testing can be required to give it to the AHO or the Welsh Ministers (or a person authorised by them) for testing (*subsection (4)*). This power applies to samples that were originally collected for research, as well as for disease control and surveillance purposes.

98. This is intended to reduce the number of samples which need to be taken, as a sample may be tested more than once, obviating the need to take a fresh sample for each test. Further, if specific diseases are found to be present in the sample after testing, then, if the sample has not been rendered anonymous, the owner of the animal can be notified.
99. The amendment extends only to England and Wales.
100. A similar power already applies in Scotland under section 6F of the 1981 Act.

***Clause 49: Extension of certain provisions of 1981 Act to cold-blooded creatures***

101. This clause provides a power for the Secretary of State (in relation to England) and the Welsh Ministers (in relation to Wales) to extend by order the definition of animal applying to the sections of the 1981 Act which govern treatment after exposure to infection, powers of entry to take samples and testing of samples, which are amended by clauses 46, 47 and 48 of the Bill respectively.

***Clause 50: Removal of certain requirements for Treasury approval***

102. This clause removes the need, in relation to England, for Treasury approval to be sought for expenditure under sections 3(1), 5(1), 12(1) and 33 of the 1981 Act.

## **PART 4 – FINAL PROVISIONS**

***Clause 51: Orders***

103. This clause sets out the procedure to be followed in relation to the different order making powers in the Bill.
104. *Subsections (2) and (3)* deal with the procedure for orders made by the Secretary of State. Where statutory instruments are subject to Parliamentary control, there are two main types of procedure: the “affirmative” and the “negative” resolution procedures. Under the affirmative resolution procedure, a statutory instrument is laid in draft and cannot be made unless the draft is approved by Parliament. Under the negative resolution procedure, a statutory instrument is first made, then laid before Parliament, but is subject to revocation if a resolution for annulment is passed by either House of Parliament within 40 days of laying.
105. *Subsection (2)* provides that the affirmative resolution procedure must be used for any order relating to the transfer to the AHO of functions of the Secretary of State regarding veterinary medicinal products (clause 30(1)), the extension of the meaning of “animal” for the purposes of Part 1 of the Bill (clause 34(2)), any extension of the meaning of animal for the powers to make payments in respect of slaughter, etc. (clause 45(2)), or for the purposes of the powers in the 1981 Act revised by clauses 46 to 48 (clause 49(1)) or any incidental, supplemental or consequential provisions that amend an Act of the UK Parliament (clause 53(3)).
106. *Subsection (3)* provides that any other statutory instrument made under the Bill, except for a commencement order under clause 55(3), must be made using the negative resolution procedure.
107. *Subsections (4) and (5)* relate to orders made by the Welsh Ministers under the Bill. The equivalent of the Parliamentary affirmative resolution procedure must be used for any extension of the meaning of animal for the powers to make payments in respect of slaughter, etc. (clause 45(2)), or for the purposes of the powers in the 1981 Act revised by clauses 46 to 48 (clause 49(1)) or any incidental, supplemental or consequential provisions that amend an act of the UK Parliament (clause 53(3)). This means that the order is laid in



draft and cannot be made unless the draft is approved by the National Assembly for Wales.

108. Other orders of the Welsh Ministers, except for a commencement order under clause 55(2), will be exercisable by statutory instrument made using the equivalent of the Parliamentary negative resolution procedure, that is, they will be subject to annulment in pursuance of a resolution of the National Assembly for Wales.

**Clause 53: Minor and consequential amendments and repeals**

109. This clause states that Schedules 5 and 6 have effect. Schedule 5 provides for minor and consequential amendments to the 1981 Act and the Superannuation Act 1972. Schedule 6 contains repeals of the 1981 Act.

110. The clause also enables the Secretary of State (or, where appropriate, the Welsh Ministers) to make orders making incidental, supplemental or consequential provision (or transitory, transitional or saving provision) for the general purposes, or a particular purpose, of the Bill. This power can be used to amend the Act resulting from this Bill, or other Acts passed or made before, or in the same session as, the Act resulting from this Bill. In relation to provisions which are consequential on, or which give full effect to, provisions made by order under clause 30(1) (power to confer functions in relation to veterinary medicines), 34(2) and 45(2) (the extension of the meaning of “animal” in Part 1 and in clauses 43 and 44 of the Bill respectively to cover cold-blooded creatures), or clause 49(1) of the Bill (the extension of certain provisions of the 1981 Act to cold-blooded creatures), however, the power can be used to amend the Act resulting from this Bill, or other Acts passed or made at any time.

**Clause 54: Extent**

111. This clause sets out to which parts of the UK the provisions in the Bill apply. This is different for different Parts of the Bill.

112. The whole Bill extends to England and Wales. Various provisions also extend to Scotland or to Scotland and Northern Ireland. These provisions are listed in this clause. The territorial extent of the Bill is discussed in more detail in paragraphs 18 and 19 of these notes.

**Clause 55: Commencement**

113. This clause provides that Part 4 of this Bill (except clause 53(1) and (2), which introduces Schedules 5 (Minor and consequential amendments) and 6 (Repeals) and Schedules 5 and 6 themselves) will come into force on the day Royal Assent is given.

114. In relation to Wales, clauses 43 to 45, clause 49, paragraphs 1 to 8 of Schedule 5 and any repeal in Schedule 6 corresponding to a repeal made by any of those paragraphs, and clause 53(1) and (2) (so far as it relates to those paragraphs or any such repeals) will come into force on a day which the Welsh Ministers appoint by order, and the rest of the Bill will come into force on a day which the Secretary of State appoints by order.

**Clause 56: Short title**

115. This clause provides that the short title of the Act will be the “Animal Health Act 2010”.

## SCHEDULES

### SCHEDULE 1 – THE ANIMAL HEALTH ORGANISATION

116. This Schedule sets out detailed arrangements for the establishment of the AHO, including for the appointment, terms of appointment (including allowances) and resignation or suspension from office of the AHO chair and other board members.

#### ***Status (paragraph 1)***

117. The AHO will be a non-departmental public body – a corporate organisation but not a Crown body. Its employees will not be civil servants.

#### ***Membership (paragraph 2)***

118. A chair and Board members are to be appointed by the Secretary of State. In making appointments the Secretary of State must consider the overall balance of knowledge, skills and experience among the Board members and the desirability of these including knowledge, skills or experience relating to the AHO's general purpose.

119. The Secretary of State must consult a representative of the livestock industry and a person with knowledge, skills or experience of animal health before determining the procedure for appointing the chair and members. This will allow the Secretary of State (consistent with public appointment principles) to involve those with relevant interests (and their representative bodies) in attracting and assessing the suitability of candidates.

#### ***Terms of appointment (paragraphs 3 to 9)***

120. These paragraphs outline the terms under which persons may be appointed to the AHO as the chair, the deputy chair or an ordinary member. Such terms are to be determined by the Secretary of State, who also has the power to terminate or suspend appointments in the circumstances set out in paragraph 5. The AHO must pay such remuneration, pensions, allowances and gratuities in respect of its members as the Secretary of State may determine (paragraphs 7 and 8).

#### ***Staff (paragraphs 10 to 15)***

121. The Schedule also makes provision for the appointment of staff to the AHO. It requires the AHO to have a chief executive and a Chief Veterinary Officer for England who must be approved by the Secretary of State. The Chief Veterinary Officer for England will be the AHO's chief adviser on veterinary science. To avoid delay in establishing the AHO the Secretary of State may make the first appointment of both the chief executive and the Chief Veterinary Officer for England. The AHO may pay remuneration, pensions, allowances and gratuities in respect of any staff but this must be approved by the Secretary of State.

122. The Schedule also provides that the staff of the AHO will fall within the provisions of the Civil Service pension scheme.

#### ***Procedure and related matters (paragraphs 16 to 21)***

123. These paragraphs set out matters relating to how the AHO conducts its business and discharges its functions through committees, sub-committees, and its employees.

**Accounts and audit (paragraphs 22 and 23)**

124. The AHO must produce annual accounts, in a form determined by the Secretary of State and which are to be audited by the Comptroller and Auditor General. The audited accounts must be submitted to the Secretary of State who must lay before Parliament copies of the certified statement of accounts and auditor's certificate.

**SCHEDULE 2 – TRANSFER OF FUNCTIONS**

**PART 1 – FUNCTIONS UNDER THE 1981 ACT**

125. This Schedule provides for the transfer of functions under the 1981 Act from the Secretary of State to the AHO. All functions are being transferred except order-making powers which require the making of statutory instruments, and those functions which concern animal welfare. The Welsh Ministers will continue to undertake, in relation to Wales, each function transferred to the AHO in relation to England.

***Expenditure on eradication of disease***

126. Paragraph 1 transfers the functions of the Secretary of State under section 3(1) and (2) of the 1981 Act to the AHO. This has the effect that the AHO can spend such sums of money as it considers appropriate to fulfil the objective of eradicating animal disease in England. Further, in order to obtain information needed to fulfil that objective, the AHO may authorise in writing a veterinary inspector or other person to inspect animals. Note also the effect of clause 50(1)(a), which removes the need for Treasury consent to such expenditure.

***Provision of veterinary services***

127. Paragraph 2 transfers the functions of the Secretary of State under section 5(1) of the 1981 Act to the AHO. This gives the AHO the power to provide veterinary services, whether they are free of charge or not, to those in the livestock business and those who participate in approved arrangements for keeping their livestock, as far is practical, free from disease. Note also the effect of clause 50(1)(b), which removes the need for Treasury consent to the provision of such services.

***Guidance on biosecurity measures***

128. Paragraph 3 transfers the functions of the Secretary of State under section 6A of the 1981 Act to the AHO. This has the effect that the AHO is required to prepare guidance on the biosecurity measures to be taken in relation to foot-and-mouth disease or any other disease the Secretary of State specifies by order. This must be sent to persons and organisations considered to be representative of those with an interest in the guidance, and may be amended after consideration of any comments made by such persons. The AHO must then publish the guidance in an appropriate manner and, from time to time, review it and, if appropriate, amend it. Unless the AHO considers the revision to be urgent, it must send the amended guidance to representative persons and organisations and must consider their comments. Initially, guidance already published by the Secretary of State will continue to have effect.

129. The power under section 6A(1)(b) is not transferred, as this gives the Secretary of State power to make an order. The AHO will not have the power to make subordinate legislation (but is required to make proposals to the Secretary of State about the making of certain subordinate legislation- see clause 7).
130. 'Biosecurity measures' are defined in section 6A(7) of the 1981 Act as measures taken to prevent the spread of causative agents of disease.

### ***Export quarantine stations***

131. Paragraph 4 transfers the functions of the Secretary of State under section 12(1) of the 1981 Act to the AHO. This section has the effect that in order to prevent the transfer of disease by animals exported from England, the AHO may provide facilities for the examination of animals to be exported and provide quarantine stations for the isolation and examination of such animals. Clause 50(2) removes the need for Treasury consent to such action.

### ***Execution and enforcement of orders as to dogs***

132. Paragraph 5 modifies section 13(3) of the 1981 Act so that, in relation to an order of the Secretary of State under section 13(2)(a), it reads:-
- “(3) An order under subsection (2)(a) above may include provision for the execution and enforcement of the order by the officers of local authorities *or by persons authorised by the Animal Health Organisation* (and not by the police force for any area).
133. This subsection refers to an order made by the Secretary of State prescribing and regulating the wearing of collars by dogs.

### ***Prevention of sheep scab***

134. Paragraph 6 transfers the functions of the Secretary of State under section 14(2) of the 1981 Act to the AHO. These functions relate to orders of the Secretary of State made in relation to the periodical treatment of sheep to prevent sheep scab. As such orders are not made by statutory instrument, there is no reason why the AHO cannot make them. The paragraph also has the effect that an inspector of the AHO can carry out inspections in relation to treatment of sheep scab.
135. The effect of paragraph 6(1) and (2) together is that, in relation to England, section 14(2) will have effect as if it read:
- “(2) *An inspector of the Animal Health Organisation* and, if so authorised in writing by the Animal Health Organisation, an inspector of the local authority, may –
- (a) subject to the directions of the authority by which he/she was appointed, and
  - (b) for the purposes of any order or regulation under subsection (1) above, enter any premises and examine any sheep on those premises.”

### ***National Contingency Plans***

136. Paragraph 7 transfers the functions of the Secretary of State under section 14A of the 1981 Act, excluding the power to make an order under *subsection (1)(b)*, to the AHO. This will require the AHO to produce a contingency plan for England documenting the arrangements it intends to put in place for dealing with an occurrence of foot-and-mouth disease (or any other disease specified by order).

137. The AHO must send a copy of the plan to persons and organisations considered representative of those who have an interest in the arrangements. The AHO must also take into consideration any comments made by such persons and may amend the draft contingency plan in light of these comments. It must then lay the national contingency plan before Parliament and publish it in a manner which is likely to bring it to the attention of those affected by the arrangements. The AHO must also, at least once a year, review the plan and revise it as it thinks appropriate. This procedure, including laying the plan before Parliament, also applies to revisions of a national contingency plan. Initially, the plan already published by the Secretary of State will continue to have effect.

***Vaccination***

138. Section 14B of the 1981 Act states that the Secretary of State must, when an outbreak of foot-and-mouth disease occurs, consider the most appropriate means by which to stop the disease from spreading. This includes considering whether using a serum or vaccine to treat the animals is the most appropriate tool of prevention. Paragraph 8 transfers this requirement from the Secretary of State to the AHO.

***Treatment of animals and birds after exposure to infection***

139. Paragraph 9 transfers the functions of the Secretary of State under section 16 of the 1981 Act to the AHO. This section is amended by clause 46 of the Bill, and is considered above, in paragraphs 84 to 87. Hence, in order to prevent the spread of disease, the AHO may direct that any animal or bird be treated with a vaccination or serum. Consequently, the AHO has the power to take any action which is essential to enable the treatment to be administered or which is required in connection with the treatment. Through the exercise of this power, an AHO inspector may, subject to providing proof of authority, enter any land or premises. A Justice of the Peace may also issue a warrant for such entry, allowing use of reasonable force if necessary. If this is the case, the AHO must keep for 12 months a copy of the warrant, a record of any steps taken to gain access to the premises and a record of the actions taken by the inspector once on the premises.

***Slaughter of vaccinated animals***

140. Paragraph 10 transfers the functions of the Secretary of State under section 16A(2) of the 1981 Act to the AHO. Together with clause 46 of this Bill, this will have the effect that the AHO can request the slaughter of any mammal (except man) or any bird which has been treated with serum or vaccine (or both) in order to prevent the spread of any disease.

***Specification of when places will cease to be infected places***

141. Section 16 of the 1981 Act provides a power to treat any mammal (except man) and any bird with vaccine or serum (or both) for the purpose of preventing the spread of any disease. Section 17 gives the Secretary of State the power to make orders prescribing the way in which places and areas are declared infected with disease and how the declarations may be discontinued. Where a place or area (or a portion of an area) has been declared free from disease or where a declaration of a place being an infected place has been cancelled (whether as regards the whole or part of that place), section 18(2) of the 1981 Act gives the Secretary of State the power to specify the time from which that place or area (or portion of it) shall cease to be an infected place or area. Paragraph 11 transfers this power to the AHO. Local authorities have a similar power under the section.

***Destruction of wildlife on infection of diseases other than rabies***

142. Section 21 of the 1981 Act provides a power for the Secretary of State, in certain circumstances, to make orders for the destruction of wild members of a species where a disease exists among them. The order may include provisions for how this destruction is to be carried out. Paragraph 13 transfers the functions of the Secretary of State under section 21(6) to (8) to the AHO. This requires the AHO, before commencing the destruction of wild members of a species as specified by order from the Secretary of State, to inform the occupier of the land and any other resident persons of the intention to carry out the destruction and the methods to be used. It will be the duty of the AHO to ensure the destruction is carried out in as safe a manner as is possible, in all the circumstances. When such destruction is taking place under an order from the Secretary of State, the AHO also has the power to take measures it considers appropriate to prevent the movement of living creatures in or out of the specified area while the destruction takes place or to prevent the recolonisation of an area by members of the species being destroyed for as long as necessary to prevent the reappearance of disease among the population.
143. Further, under section 21(8) of the 1981 Act, once the AHO is satisfied that measures taken on any land, such as those described above, are no longer necessary it must remove from the land anything it has placed on it and take such other steps as are reasonably practicable to reinstate the land.

***Powers of entry***

144. Paragraph 14 provides for a change in the application of section 22 of the 1981 Act in relation to England, and so effectively transfers the functions under that section to the AHO. In this context, in relation to any disease to which section 21 applies, persons authorised by the AHO and veterinary officers appointed by the AHO are authorised officers for the purposes of section 21. This provides a range of powers of entry. These can be used to take samples from wild members of species, and carry out other investigations regarding the species and the disease to decide whether destruction of wild species is appropriate. They can also be used to carry out the destruction and assess whether destruction has been achieved and subsequently whether recolonisation by the species and recurrence of disease in them happens.

***Control of zoonoses: supplemental provision***

145. Section 29 of the 1981 Act empowers the Secretary of State to make orders designating a disease or organism carried in animals which may pose a risk to humans. Such orders can provide for people who know or suspect an animal to be carrying the disease or organism to report it to an appropriate authority. Paragraph 15 transfers the functions of the Secretary of State under section 30(1) of the 1981 Act to the AHO. Consequently, if the AHO has reason to believe a person may have information relating to an animal which is infected with, or is a carrier of, a designated disease, as specified in an order under Section 29 of the 1981 Act then the AHO may require, in writing, that such person provide any information they hold in a specified form and time period.

***Slaughter in cases of diseases (other than those dealt with in Schedule 3 of the 1981 Act)***

146. Paragraph 16 transfers the functions of the Secretary of State under section 32(1) of the 1981 Act to the AHO. This empowers the AHO, if it thinks fit, to cause the slaughter of any animal (which here includes horses) affected with, exposed to or under suspicion of being affected by any disease of animals which has been directed by order by the Secretary of State. This excludes the diseases covered by Schedule 3 to the 1981 Act.

These are:

- cattle plague;
- pleuro-pneumonia;
- foot-and-mouth disease;
- swine-fever; and
- diseases of poultry.

147. (Paragraph 35 transfers the functions of the Secretary of State under Schedule 3 to the 1981 Act to the AHO: see notes below).

### ***Disease control (slaughter) protocol***

148. Paragraph 17(1) provides that section 32B of the 1981 Act applies to the exercise by the AHO of the powers referred to in *subsection (1)* of that section, which concern the slaughter of animals to prevent the spread of foot-and-mouth disease (as set out in Schedule 3 to the Act and transferred to the AHO under paragraph 35 of this Schedule). Paragraph 17(1) also transfers to the AHO any powers of slaughter to prevent the spread of other diseases (where the Secretary of State makes an order under section 32A(1)(a) of the 1981 Act), and any other powers in that Act relating to the control of disease (where the Secretary of State so specifies in an order made under section 32B(1)(c)).

149. Paragraph 17(2) provides that where any power set out in section 32B(1) has been transferred to the AHO, the functions of the Secretary of State under section 32B(2) to (6) of the 1981 Act relating to that power are also transferred to the AHO. In the context of such functions, this transfer requires the AHO to prepare a document indicating the purposes for which its powers to slaughter for disease control will be exercised. The document must also describe: the principal factors to be considered before exercising the power; the procedure to be used when deciding whether a set of circumstances requires the exercise of the power (including the application of methods used for detecting disease); the procedure to be followed by those that have functions in relation to the exercise of the power; and how a decision to exercise the power may be reviewed. This document is known as a disease control (slaughter) protocol.

150. The transfer of functions to the AHO under paragraph 17(2) will also require the AHO, after preparing a draft disease control (slaughter) protocol, to send a copy of that draft to persons and organisations representative of those who have an interest in the exercise of the AHO's power to slaughter for disease. The AHO must also consider any comments made about the draft by such persons, and may amend the draft if it considers this to be necessary. After completing such a process, the AHO must publish the protocol in an appropriate manner. After publishing the protocol, the AHO must, from time to time, review it and amend it if considered appropriate. The process described above for the production of a draft protocol must also be followed by the AHO in relation to the revision of the protocol.

### ***Explanation of preventive slaughter***

151. Paragraph 18(1) provides that section 32D of the 1981 Act applies to the exercise by the AHO of the powers referred to in *subsection (1)* of that section, which concerns the slaughter of animals to prevent the spread of foot-and-mouth disease.

152. Hence, before the AHO can exercise any power to cause the slaughter of animals to prevent the spread of foot-and-mouth disease (and any other diseases added to Schedule 3 to the 1981 Act by order) it must first publish its reasons for doing so and its reasons for not treating the animals in question with serum or vaccine under section 16. If the AHO does not comply with this requirement, the slaughter must be taken to have been carried out without lawful authority.

### ***Slaughter generally***

153. Paragraph 19 transfers the functions of the Secretary of State under section 34(1), (2) and (4) of the 1981 Act to the AHO. This has the effect that the AHO may reserve for observation and treatment an animal liable to be slaughtered under the 1981 Act at its direction.

154. If any animal is slaughtered at the direction of the AHO under the 1981 Act, its carcass is to belong to the AHO and shall be buried, sold or disposed of as it directs. This burial may take place on any land belonging to, or occupied by, the owner of the animal, or on any common land, that the AHO deems suitable.

### ***Restrictions on breeding from genetically susceptible sheep***

155. Paragraph 20 transfers the functions of the Secretary of State under section 36C of the 1981 Act to the AHO. Therefore, this section applies where it appears to the AHO that a sheep is of a genotype which has been specified under order as being more susceptible to contracting Transmissible Spongiform Encephalopathy (known as scrapie) than other genotypes. The AHO must consider whether there are exceptional circumstances which justify the use of such sheep for breeding such as whether restrictions are likely to cause the extinction of the breed. If no such circumstances exist, the AHO must give notice to the keeper prohibiting the use of the sheep for breeding purposes, requiring the destruction of any existing semen, eggs, or embryos and the castration or sterilisation of the sheep or its slaughter. This 'restriction notice' may apply to more than one sheep, and the AHO may describe the sheep to which it applies in a manner it considers appropriate. If the keeper of the sheep in question is not the same as the owner, the AHO may issue separate restriction notices.

### ***Appeals about restrictions on breeding from sheep***

156. Paragraph 21 transfers the functions of the Secretary of State under section 36D(1) and (3) of the 1981 Act to the AHO. This specifies that a person on whom a restriction notice has been served under section 36C of the 1981 Act (as considered above) has the right to appeal to an "assessor" appointed by the AHO to deal with such appeals. The person on whom the notice was served has 21 days, beginning when the notice was given, to bring an appeal. However, the AHO has the power to extend this timeframe if it considers there are exceptional circumstances.

### ***Powers to enforce restrictions on breeding from sheep***

157. Paragraph 22 transfers the functions of the Secretary of State under section 36E(1) to (4) of the 1981 Act to the AHO. This section applies if the AHO considers that a person on whom a restriction notice under section 36C has been served has failed to comply with its restrictions. However, it does not apply if an appeal has been lodged and is either not yet disposed of or has been successful. If no appeal has been lodged, or it has failed, the AHO may take steps to ensure that the compliance failure is remedied. If necessary, the AHO has the power to cause the castration, sterilization or slaughter of any sheep subject to the notice.



***Duty to retain documents relating to entry to premises under warrant: scrapie***

158. Section 36G of the 1981 Act provides a power of entry to premises at reasonable times for an inspector or constable carrying out any function in relation to the control of scrapie under Part 2A of the 1981 Act. Section 36H provides for an inspector to obtain a warrant to obtain entry where, for example, it has been refused by the occupier of the premises. Paragraph 23 transfers the functions of the Secretary of State under section 36H(8) of the 1981 Act to the AHO. This section applies to circumstances where, under section 36H, a warrant for entry has been obtained. It requires the AHO to retain, for at least 12 months, a copy of the warrant in question and a copy of any record of steps taken to gain access to the premises and any actions taken by persons authorised by the warrant whilst on the premises.

***Returns from local authorities about wharves***

159. Paragraph 24 transfers the functions of the Secretary of State under section 54(6) of the 1981 Act to the AHO. This has the effect that under section 54(6) the AHO has the power to require periodical returns from local authorities detailing their expenditure and receipts with respect to wharves, stations, lairs, sheds and other places for the landing, reception, keeping, sale, slaughter or disposal of imported or other animals, carcasses, fodder, litter, dung and other things.

***Default***

160. Paragraph 25 transfers the functions of the Secretary of State under section 59(1) of the 1981 Act to the AHO, so far as they concern the execution and enforcement of provisions that relate to the AHO's general purpose.

161. Thus, if a local authority has failed to carry out functions under the 1981 Act which relate to the general purpose of the AHO, the AHO may authorise a person to execute or enforce the provisions in question. Such an authorisation must be in writing.

162. The effect of paragraph 25, *sub-paragraph (3)* is that expenses incurred by the AHO in executing or enforcing the Act when a local authority has failed to do so can be recovered from the local authority.

***Duty to retain documents relating to entry to premises under warrant: slaughter***

163. Section 62A of the 1981 Act provides a power of entry to premises at any time for an inspector to determine whether an animal should be slaughtered under the Act. Section 62B provides for an inspector to obtain a warrant to obtain entry where, for example, this has been refused by the occupier of the premises. Paragraph 26 transfers the functions of the Secretary of State under section 62B(8) of the 1981 Act to the AHO. This section applies to circumstances where a warrant for entry has been obtained. It requires the AHO to retain, for at least 12 months, a copy of the warrant in question and a copy of any record of steps taken to gain access to the premises and any actions taken by persons authorised by the warrant whilst on the premises.

***Duty to retain documents relating to entry to premises under warrant: tests and samples***

164. Section 62D (as amended by clause 47 of the Bill) allows an inspector to enter premises to ascertain whether biological indicators of disease or of a causative agent of any disease is present in animals or birds on the premises, whether any animal or bird infected with disease is, or has ever been, kept on the premises and whether any causative agent of disease is present on the premises. Section 62E provides for an inspector to obtain a warrant to obtain entry where, for example, it has been refused by the occupier of the premises. Paragraph 27 transfers the functions of the Secretary of State under section 62E(8) of the 1981 Act

to the AHO. This section applies to circumstances where a warrant for entry has been obtained. It requires the AHO to retain, for at least 12 months, a copy of the warrant in question and a copy of any record of steps taken to gain access to the premises and any actions taken by persons authorised by the warrant whilst on the premises.

### **General powers of inspectors**

165. Sections 63 and 64 confer general powers of entry and inspection on inspectors in relation to disease control (see also paragraph 36 of Schedule 2 which contains references to inspectors). Paragraph 28 provides that section 63(9) of the 1981 Act, in relation to a place in England, is to be read as if it contained the following provision:

“In addition to the powers conferred by this section upon inspectors, an *inspector of the Animal Health Organisation* may at any time, enter any land, building or other place, on or in which he has reasonable grounds for supposing that animals are or have been kept, for the purpose of ascertaining whether any disease exists there or has within 56 days existed there.

This subsection does not have effect in relation to poultry.”

166. Paragraph 29 provides that section 64(1) of the 1981 Act, in relation to a place in England, applies as if it read:

“An *inspector of the Animal Health Organisation* and, if so authorised by an order of the Minister, an inspector of a local authority, may at any time enter any pen, shed, land or other place in which he has reasonable grounds for supposing that poultry are or have been kept, for the purpose of ascertaining whether disease exists or has existed in or on them.”

### **Powers to detain vessels**

167. The effect of paragraph 30 is that AHO inspectors have the power to detain vessels in port in England under section 65(1) of the 1981 Act.

### **Refusal and obstruction**

168. Section 66 of the 1981 Act makes refusal of admission to premises, etc. or obstruction of officers or inspectors, an offence. Paragraph 31 provides that references to an ‘officer’ in this section include any person authorised by the AHO for the purposes of the 1981 Act. Thus, refusing admission to or obstructing AHO inspectors or officers will be an offence.

### **Evidence and procedure**

169. The effect of paragraph 32 is to extend section 79(1) of the 1981 Act (which provides that, in any proceeding under the Act, no proof of the appointment or handwriting of inspectors or other persons is required) to inspectors and other persons authorised by the AHO.

### **Reports by local authorities**

170. Paragraph 33 transfers the functions of the Secretary of State under section 81 of the 1981 Act to the AHO. As such, every local authority, including its inspectors and officers, is required to give the AHO any notices, reports, information and returns that it requests.

### **Fees**

171. The effect of paragraph 34, *sub-paragraph (2)* is that, if an order under section 84(1) prescribes the payment of fees to the AHO, the AHO may repay the whole or part of the fee if the business in respect of which the fee was paid was not transacted or not wholly transacted.

***Powers of slaughter in relation to certain diseases***

172. Paragraph 35 transfers the functions of the Secretary of State under Schedule 3 to the 1981 Act to the AHO. Hence, the AHO has powers of slaughter in relation to the following diseases:

- Cattle plague;
- Pleuro-pneumonia;
- Foot-and-mouth disease;
- Swine fever; and
- Diseases of poultry.

***References to inspectors, veterinary inspectors, etc.***

173. Paragraph 36 states that the meaning of ‘inspectors’ under the 1981 Act is amended to mean a person appointed as an inspector for the purposes of that Act by the AHO or a local authority. This may include veterinary inspectors.

174. *Sub-paragraph (2)* lists the provisions in the 1981 Act to which this amended definition applies. The effect of paragraph 36(2) is that the AHO will appoint inspectors and veterinary inspectors who will exercise the powers of inspectors in the following provisions of the Act:

- Section 3 (inspection of animals for disease purposes);
- Section 14 (examining sheep for sheep scab);
- Section 16 (treating animals with vaccine or serum for disease control purposes);
- Section 22 (assessing and destroying wild members of species for disease control purposes);
- Section 30 (making tests and taking samples to determine whether a disease or organism which may present a risk to humans is present in animals on premises);
- Section 36B (taking samples from sheep to establish their genotype or attaching an electronic identification device);
- Sections 36F to 36I (enforcing restrictions on the breeding of sheep of certain genotypes designated by order);
- Sections 62A to 62F (inspection in relation to implementing powers for slaughter for disease control purposes);
- Section 63(2) (so far as relating to paragraphs (a) and (b), (5), (6), (7) and (9)) and 64(1) (power of entry);
- Section 65 (detention of vessels when the Act or an order under it has not been complied with).

175. *Sub-paragraph (3)* lists provisions where an inspector of the AHO may exercise powers under the Act but inspectors appointed by the Secretary of State may also exercise these powers. These include:

- Section 60 (obstruction of inspectors);
- Section 63(1) and (2) (so far as relating to paragraphs (c) and (d)), (3) and (4) (general powers of inspectors in respect of non-compliance);

- Section 64A (inspections for compliance with orders implementing Community legislation);
  - Section 65A (inspection of vehicles);
  - Section 66 (obstruction of inspectors carrying out their duties).
176. *Sub-paragraph (4)* restricts the exercise of the powers in sub-paragraph (3) by an inspector appointed by the AHO to matters related to the general purpose of the AHO (see clause 2).

## **SCHEDULE 3 – ADVISORY COMMITTEES**

### ***Advisory committees of the Animal Health Organisation***

177. This Schedule concerns advisory committees created by the AHO under clause 16. The AHO must consult the Secretary of State before establishing such committees, but may determine the membership, remuneration and allowances of members once appointed. The AHO must also approve and meet any expenditure incurred by its advisory committees.
178. The AHO can also set up joint committees with other public authorities on matters of common interest. In these cases, arrangements for the appointment of members, for remuneration and allowances, and for approving and meeting payments must be agreed with the other public authorities concerned and set out in the arrangements for the committee.
179. This Schedule also allows the Secretary of State to transfer existing advisory committees to the AHO. The Secretary of State must obtain the agreement of any other authorities concerned before doing so and, if necessary, require the arrangements to make provision for the appointment of members, for remuneration and allowances, and for approving and meeting payments.

## **SCHEDULE 4 – TRANSFER SCHEMES**

### ***Introductory***

180. Paragraph 1 defines the terms ‘transferor’ and ‘transferee’ as they are used in this Schedule. The transferor is likely to be Defra or one of its executive agencies and the transferee is likely to be the AHO, but the AHO could be the transferor.

### ***The property, rights and liabilities that may be transferred***

181. Paragraph 2(1) makes further provision about the creation of transfer schemes. It allows the transfer of property, rights and liabilities which would, legally, be incapable of being transferred in the absence of a scheme.

### ***Creation and apportionment of property, rights or liabilities***

182. Paragraph 3 enables the creation of interests in, or rights over, transferred property for the benefit of the transferor or another transferee or of interests in, or rights over, retained property for the benefit of the transferee. It also allows the creation of rights and liabilities between the transferor and transferee and between transferees.

### **Employment Contracts**

183. Paragraph 5 makes provision in relation to rights and liabilities under a contract of employment transferred by means of a transfer scheme. It provides that a contract of employment does not end when there is a transfer of employment under a transfer scheme. The contract of employment will continue as if it had been made between the employee and the AHO (assuming it is the transferee). This provision is equivalent to regulation 5 of the Transfer of Undertakings (Protection of Employment) Regulations 1981 (“TUPE”) and conforms to the Cabinet Office statement of practice of January 2000 “Staff Transfers in the Public Sector”. This states that public sector bodies should ensure that the principles of TUPE are followed and that transferring public sector staff are offered terms that are, overall, no less favourable than those set out in TUPE.

### **Employee expressing objection to transfer of contract of employment**

184. Paragraph 6 makes provision for what happens if an employee objects to the transfer of their employment contract under a scheme. The contract of employment will cease at the point the transfer would have taken place, but the employee is not to be considered to have been dismissed.

### **Civil Servants**

185. Paragraph 7 ensures that paragraphs 5 and 6 will operate correctly in relation to civil servants who do not have a contract of employment.

### **Continuity**

186. Paragraph 10, *sub-paragraph (1)* provides that anything the transferor does before the transfer date of a scheme, which is in relation to anything transferred under that scheme, is to be treated as if it had been done by the transferee (which is likely to be the AHO). *Sub-paragraph (2)* states that the transferee may continue anything which is in the process of being done by the transferor before the transfer date if it relates to anything transferred under the scheme. This may include legal proceedings. For example, where an employee had brought an action against their employer (the transferor), their case would continue against the AHO (assuming the AHO is the transferee) after the transfer. This is to allow for continuity of actions between Defra and the AHO in any area relevant to the purpose of the organisation.

### **Retrospective modification of schemes**

187. Paragraph 14 gives the Secretary of State the power to modify a transfer scheme after it has come into force. Modifications are to be made in a direction given by the Secretary of State, and will be capable of dealing with any matter which could have been dealt with by the scheme itself. Any such direction will also be capable of making any necessary incidental, consequential, supplemental or transitional provisions or savings if the Secretary of State considers this appropriate. The power could be used to remedy any mistake made in a transfer scheme.

## **SCHEDULE 5 – MINOR AND CONSEQUENTIAL AMENDMENTS**

188. This Schedule makes a number of amendments to the 1981 Act, and a single amendment to the Superannuation Act 1972.

## **SCHEDULE 6 – REPEALS**

189. This Schedule lists repeals made to provisions of the 1981 Act.

### **FINANCIAL EFFECTS**

190. The new body will have set-up and additional running costs, which are discussed in the Impact Assessment.

### **EFFECTS ON PUBLIC SECTOR MANPOWER**

191. The draft Bill will impact on public service manpower through the creation of the Animal Health Organisation. Defra staff working on animal health (currently around 235 people based in London) will transfer to the new body, thereby becoming Public, rather than Civil, Servants. The Impact Assessment looks at the possible cost impact of relocation and notes that Defra will conduct an Equality Impact Assessment.

### **SUMMARY OF THE IMPACT ASSESSMENT**

192. The Impact Assessment for the draft Animal Health Bill is based on the creation of the AHO being accompanied by cost-sharing measures introduced by the Government through a future Finance Bill. These two measures together demonstrate a likely net benefit of up to £21 million per annum. For the AHO there are initial set-up costs of £2.1 million and additional on-going running costs of £0.4 million per annum. There will be additional costs associated with the cost-sharing measures, which are not included in this impact assessment.

193. In addition to the quantified benefits, there are significant additional non-monetised benefits, such as the livestock industry's improved confidence in the system; greater transparency for livestock industry of animal health costs; and better value for money from investment, due to better targeting through greater industry involvement. The overall effect is a net benefit of up to £335 million over 30 years.

194. The Impact Assessment concludes that implementation of the legislation will not impact significantly on race, disability, gender or small businesses. Equally, there will be no tangible impact on carbon levels as a result of this legislation.

195. The main positive economic impacts of the Bill, together with the cost-sharing measures to be brought forward in a future Finance Bill, are judged to be: delivering a reduced likelihood and impact of animal disease outbreaks, including:
- Resource savings for Government, while managing exotic disease outbreaks;
  - Savings to the livestock industry because of less business disruption through fewer livestock movement restrictions; and
  - Reduced impacts on the wider rural economy from fewer restrictions on access to the countryside.

## **COMPATIBILITY WITH THE EUROPEAN CONVENTION ON HUMAN RIGHTS**

196. This section of the explanatory notes sets out the most significant human rights issues thought to arise from the draft Bill.
197. The draft Bill contains a number of provisions which engage rights set out in the European Convention on Human Rights (the “ECHR”), in particular Article 1 of Protocol 1 (right to property), Article 6 (right to a fair trial) and Article 8 (right to respect for family and private life, etc.). However the Government feels that there are grounds to justify any such interference for the reasons set out in this section of the notes.
198. In this section of the explanatory notes, “Article” refers to an Article of the ECHR.

### ***Part 1: Animal Health Organisation***

199. This Part establishes the AHO and sets out the powers it is to have, and the obligations to which it is to be subject. A significant number of the powers it is to have are currently exercised by the Secretary of State, and clause 5 of, and Schedule 2 to, the draft Bill provides for the transfer of a range of powers from the Secretary of State to the AHO. Those powers are contained in the 1981 Act, with one additional power under the Animal Health and Welfare Act 1984 also transferred. These powers concern a range of issues, several of which concern rights under the ECHR. In particular, there is a range of powers to enter land, buildings, premises and vehicles in order to inspect and test animals, to take samples, and to carry out a range of activities which engage Article 8 and Article 1 of Protocol 1 and the rights engaged are discussed later in this section of the notes, in relation to the powers to take samples.
200. There is also a range of powers to slaughter animals and to seize and destroy items which engages Article 1 of Protocol 1, since this involves either a control of use or deprivation of property, and also Article 8. The right under Article 1 of Protocol 1 is not absolute and any interferences with this are subject to the “fair balance” test to ensure that a balance between public and private interests is achieved. Under the “fair balance” test the deprivation of possessions generally requires compensation to be paid. The new power to make payments in relation to animals slaughtered, or things seized or destroyed, ensures that those affected will, in appropriate circumstances, be compensated for any loss and this power is discussed later in this section of the notes.
201. These pre-existing powers, all of which are presently available to the Secretary of State, and many of which are routinely used, are all exercised with a view to preventing and controlling the spread of diseases in, and of, animals, and the Government considers that these provisions are necessary and proportionate and so compatible with the Convention rights. In addition to these existing powers, the draft Bill provides the AHO, and in some cases the Secretary of State, with powers not contained in existing legislation. In the context of the ECHR, the provisions set out below are of particular interest.

202. Clause 27 and Schedule 4 empowers the Secretary of State to make one or more schemes for the transfer to the AHO of property, rights or liabilities from any public authority to the AHO, in connection with the establishment of, or the transfer of any functions to, the AHO or in connection with the efficient management for public purposes of any property, rights or liabilities. A scheme may also concern transfers from the AHO to any public authority.
203. This provision may be used to make transfers, even if this interferes with or overrides existing interests or rights. A transfer may in principle affect the property rights of individuals, thus engaging Article 1 of Protocol 1. The Government considers that circumstances requiring compensation for any deprivation of possessions under a transfer scheme are unlikely to arise. However to the extent that they do arise, the provision is capable of being read and exercised compatibly with this right in view of the broad provision for compensation under Schedule 4, paragraph 8.

## **Part 2: Miscellaneous**

204. Part 3 of the Bill contains general and miscellaneous provisions, some of which raise ECHR related issues. Clause 43 acts to transfer responsibility for payments in relation to the compulsory slaughter of animals, and the seizure or destruction of items, for disease control purposes from the Secretary of State to the AHO in relation to England. The clause provides a framework power to allow for the introduction of a broad range of schemes providing for such payments by the AHO (or the Welsh Ministers in relation to Wales). The new power will serve to rationalise the various existing provisions under the 1981 Act about compensation, and to provide a single overriding power for the Secretary of State (and the Welsh Ministers in relation to Wales) to create payment schemes by way of orders. Such schemes will either impose a duty to make payments on, or grant a discretion to make payments to, the AHO (or the Welsh Ministers in relation to Wales).
205. Clause 43 allows orders to either prescribe the level of payment to be made or to make provision about how the amount of any payment is to be calculated. This will be the starting point for determining the level of payment made to any one individual. The payment could, for example, be based on the full value of healthy animals, a table valuation based on the average market value of specified categories of animals, or the salvage value of the slaughtered animal, depending on what is considered to be most appropriate in the circumstances.
206. Clause 44 introduces a mechanism to allow the AHO (or the Welsh Ministers in relation to Wales) to exclude or reduce any such payments in two circumstances.
207. Firstly, where the owner or a person with responsibility for an animal or thing may have contributed to the circumstances that gave rise to the need for slaughter, seizure or destruction. The power to make such reductions will be limited to situations where the conduct of the owner or a person with responsibility for an animal or thing (whether deliberate or negligent) has been assessed by an inspector as likely to have contributed to the need for slaughter, seizure or destruction. This would include any failure of biosecurity that may have made the incursion of disease more likely on their premises. The level of reduction in payment will generally be assessed with reference to published guidance.
208. Secondly, where the owner or a person with responsibility for an animal or thing has failed to comply with an enactment which concerns the disease which has led to the animal being slaughtered or the thing being seized or destroyed. The power to make such reductions will be limited to situations in which a person with responsibility for an animal or thing has failed to comply with existing enactments which concern the same disease as the disease which has led to the animal being slaughtered or thing seized or destroyed, in relation to that animal or thing or any animal or thing on the same holding or a holding under the same control.



209. The Government considers that these provisions engage Article 1 of Protocol 1 and Article 6 (right to a fair hearing). As discussed above, the slaughter of an animal or seizure or destruction of anything engages Article 1 of Protocol 1 as it may amount to a deprivation of property, or in the case of seizure, the control of use of that property. Animal disease may pose serious risks to any combination of animal health, public health, the farming economy, or the general economic well-being of the United Kingdom. It is often necessary to seize or destroy animals or things to prevent the spread of disease. As noted above, the Government feels that any such interferences would be necessary and proportionate due to the strong public interest justification for such compulsory measures, but accepts that under the “fair balance” test the deprivation of possessions generally requires compensation to be paid. Animals or things will normally have some economic value at the time of slaughter, destruction or seizure. This is the case even in respect of diseased animals which will normally have a salvage value (in some cases, however, the cost of disposal may exceed the salvage value of the animal).
210. The taking of property without payment of an amount reasonably related to its value will normally constitute a disproportionate interference that cannot be justified under Article 1 of Protocol 1. In the vast majority of compulsory slaughter cases, the animals being destroyed are diseased and at that point worth only a fraction of their full value when healthy. In such cases, a “fair balance” will only require a small payment reasonably related to the salvage value of the animal. In rare instances, for example during contiguous culls in foot and mouth disease outbreaks, healthy animals will be slaughtered to reduce the risk of rapid spread of disease from animal to animal. In such cases, a “fair balance” will require a payment reasonably related to the value of healthy animals.
211. The Government accepts that clause 44 may be exercised to exclude or reduce a payment so that the resulting payment is less than that which would, in other circumstances, strike a “fair balance”. As mentioned, the powers to exclude or reduce payments are confined to two limited circumstances. Under the ECHR, contracting states are given a considerable margin of appreciation in determining appropriate levels of compensation, and it is recognised that legitimate objectives of public interest may call for reimbursement of less than full market value of the property that a person is deprived of, or in some cases no payment at all.
212. The Government considers that there is a strong public interest justification for the powers to reduce payments in the confined circumstances that clause 44 would allow for. The main function of an exclusion or reduction of a payment is to encourage positive and responsible behaviour that will reduce the risks of the incursion or spread of animal disease. This is necessary in the wider public interests in relation to animal health, public health, the farming economy, or the general economic well-being of the United Kingdom.
213. Overall, the powers conferred by the provisions about payments under clauses 43 and 44 are sufficiently broad and discretionary so as to enable the Government to strike a “fair balance” in the wide range of different circumstances that will arise. Accordingly, the Government takes the view that the provisions are themselves compatible with Article 1 of Protocol 1 rights and are capable of being exercised in such a way.
214. Decisions to exclude or reduce payments under clause 44 may engage Article 6 (right to a fair trial). Article 6 guarantees a right of access to court for the determination of disputes of a civil or criminal character, procedural fairness in the course of those proceedings, and a right to have civil judgements enforced. Decisions to exclude or reduce payments are likely to amount to the determination of civil obligations for Article 6 purposes and so engage this right. Such decisions may give rise to “disputes” for Article 6 purposes. This may be particularly so where such decisions contain elements of fact that are contested.

215. As described above, the powers in clauses 43 and 44 will be used to create a variety of payment schemes in different animal disease contexts, and there is considerable scope to set payments, exclusions and reductions at different levels within each of those contexts. Clause 43 provides the means to construct appeal procedures that are compliant on a case-by-case basis, and so the Government considers that it is compatible, and capable of being exercised in a way that is compatible, with Article 6.
216. Clause 46 amends section 16 of the 1981 Act, which provides the Secretary of State and the Welsh Ministers with the power to prevent the spread of disease by treating any animal or bird with serum or vaccine, or with both. The existing power provides that treatment may only be given where the animal has been in contact with a diseased animal or bird, where it appears to be, or has been, exposed to the infection of disease or is in an infected area. Clause 46 extends this power so that treatment can be given to animals or birds in all circumstances to allow, for example, for a buffer-zone to be created when there is a disease outbreak. This power will be transferred to the AHO.
217. The widening of section 16 of the 1981 Act by clause 46 will also impact on section 16A of the 1981 Act, which provides the power to slaughter animals that have been treated with vaccine for the purpose of preventing the spread of foot-and-mouth disease or any other disease that is specified in an order made by the Secretary of State. This power to slaughter will be transferred to the AHO. As discussed in this section of the notes on payments in relation to slaughter, etc., the slaughter of animals engages Article 1 of Protocol 1 since it constitutes the deprivation of property. The right under Article 1 of Protocol 1 is not absolute, and any interferences with this are subject to the “fair balance” test to ensure that a balance between public and private interests is achieved. As already discussed previously in this section in relation to the new provisions on payments, the Government considers that any such interference would be necessary and proportionate due to the public interest justification for taking such measures, but accepts that under the “fair balance” test the deprivation of possessions generally requires compensation to be paid. The new power to make payments in relation to animals slaughtered, or things seized or destroyed, ensures that those affected will, in appropriate circumstances, be compensated.
218. The Government considers that extending the powers to vaccinate animals engages Article 1 of Protocol 1. The exercise of these powers will require the treatment of animals with serums or vaccines, therefore interfering with the owners’ property. Article 1 of Protocol 1 is a qualified right and case law establishes that where a measure constitutes a “control of use” as opposed to a “deprivation” (as is the case here, as the owner will not be deprived of his/her property), the measure will be justified as long as it strikes a “fair balance” between the rights of the owner of the property and a legitimate wider public interest. The permitted interference with any animal will be limited to administering the vaccine or serum, and will therefore have a very minimal impact on the owner’s peaceful enjoyment of that property. Since the prevention of animal disease is in the public interest and the extension of the existing powers that this clause will introduce will allow the AHO and the Welsh Ministers to better control and prevent the spread of disease the Government considers that the provisions in clause 46 are compatible with Article 1 of Protocol 1.
219. Clause 47 has the effect of broadening the existing powers in sections 62D to 62F to enter premises and take samples for disease control purposes. The Government considers that this power engages Article 1 of Protocol 1 since it will interfere with the right of the farmer to peacefully enjoy his/her property. This may also engage Article 1 of Protocol 1 rights in that there will be a requirement for the inspectors to handle and remove samples from animals and to remove any samples from the premises. Such an interference is likely to constitute a “control of use” or a “deprivation”. Since Article 1 of Protocol 1 is a qualified right, and case law establishes that where a measure constitutes a control on the use of property, as opposed to a deprivation of the property, the measure will be justified as long as it strikes a “fair balance” between the rights of the owner of the property and a legitimate

interest of public policy. It is important for inspectors to enter premises to ascertain the presence of disease, and take samples, in order to prevent the spread of disease. The Government therefore considers that the powers strike a “fair balance” between the general interest and the individual concerned and so are compatible with Article 6. The Government considers that any interference with Article 8 rights (right to a private life) by such powers to enter premises are justified for the same reasons.

220. Clause 48 provides a general power to the AHO, or a person authorised by the AHO (or the Welsh Ministers or a person authorised by them), to conduct further tests on samples if it is thought to be necessary or expedient for the purpose of monitoring, controlling or preventing foot-and-mouth disease or any disease in animals specified in an order, or for the purpose of research into any such disease. There may be an argument that the owner of the animal continues to have property rights in the sample, in which case any further testing of the sample may constitute “control of use” of the property for Article 1 Protocol 1 purposes. If this is the case, the extended power to test samples in clause 48 may further engage Article 1 of Protocol 1 since the use of the sample will to some degree interfere with the right of the owner of the animal to peacefully enjoy his/her possessions. The Government believes that if there is any such interference, this is proportionate and in the public interest. The testing will be on a sample that has already been collected, therefore no further deprivation of property will take place. Clause 48 only allows for the retention and retesting of samples for the purpose of monitoring, controlling or preventing diseases in animals or for the purpose of research into any such disease. These activities provide valuable information to facilitate disease control and prevention. The Government considers that the balance between any minimal interference with property rights and the benefit to the public interest in conducting further tests means that this policy is compliant with the ECHR.
221. Clause 48 also provides that the AHO, or a person authorised by the AHO (or the Welsh Minister or a person authorised by them), may require a person in possession of a sample which is required for the carrying out of a test under the new section 62FA of the 1981 Act to give the sample to them. This could relate to samples that have been taken privately, at the request of the owner of the animal, and could be done even if the owner objects to this. For example, during a foot-and-mouth disease outbreak, it is necessary to establish how long the FMD virus has been circulating before detection. Re-testing samples taken for other purposes from the farm infected and surrounding farms would, if the samples have not been anonymised, assist with this. Article 1 of Protocol 1 may be engaged if such samples belong to a private individual, such as a laboratory. Again, such an interference may constitute a “control of use”, or alternatively, as seems more likely, a “deprivation”. It may be that the private laboratory at which the sample was originally tested is deprived of the potential to generate commercial income from the sample.
222. Again the interference will be in the public interest in such cases since the testing of the sample will help to increase understanding of the spread of disease. If the sample belongs to the private laboratory, this may constitute a deprivation of property. Any such deprivation would again need to be in the public interest and would need to be proportionate to the aim. The Government considers that this is the case and that the policy is therefore compliant with the ECHR.
223. Although samples are not themselves personal data, any information taken in relation to them, such as the keeper or owner’s name and address, would be. It may also be that information taken from samples, such as the results of tests, could constitute personal data. In some cases it will be necessary to have access to the owner’s or keeper’s details in order to notify him or her if their animal has been found to have a disease. In such cases the data could clearly not be rendered anonymous and it would be in the public interest not to do so. It is likely that this information may need to move from one body to another.

224. The taking, storing and moving of such data may engage Article 8 and the right to respect for a person's private and family life. The Government notes that a person's name and address alone may be regarded as part of their private life so this measure may be considered to be an interference with this right. However the nature of the personal data in question here does not relate to an intimate aspect of a person's private life and the information stored will be limited to no more than is necessary to identify the source of the sample so any interference will be limited. Article 8 is a qualified right and there is a clear public interest in storing such personal data. The prevention of animal disease is in the interests of public safety, the protection of health and the economic wellbeing of the country. The Government therefore considers that the storage and movement of data in consequence of clauses 47 and 48 are compatible with Article 8.



# Draft Animal Health Bill

Impact Assessment

January 2010

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## Summary: Intervention & Options

<b>Department/Agency:</b> Defra	<b>Title:</b> Impact assessment of an independent body for animal health in England	
<b>Stage:</b> Command Paper	<b>Version:</b> 1.0	<b>Date:</b> January 2010
<b>Related Publications:</b> Draft Bill on an independent body for animal health in England: a new governance framework for tackling animal diseases.		

Available to view or download at:

<http://www.official-documents.gov.uk/document/cm77/7784/7784.asp>

Contact for enquiries: Tony Hilton

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### What is the problem under consideration? Why is government intervention necessary?

The problem under consideration has been widely debated in the aftermath of the 2001 Foot and Mouth Disease outbreak and has two strands: (i) ensuring the livestock industry has a greater say in animal health policy, and (ii) achieving a fairer balance in who pays for controlling disease outbreaks and who benefits.

Government intervention is necessary as only the State can implement the required actions to control many diseases and maintain preparedness for exotic disease outbreaks. But it is important that those most affected should take major responsibility for managing disease risks to reduce the likelihood of a disease incursion and improve the response to a disease outbreak thereby reducing the impacts on both themselves and the wider public and economy.

More recently, action on disease control measures, such as Bluetongue vaccines, demonstrates the extent to which government policy benefits from substantive industry input.

### What are the policy objectives and the intended effects?

The aim is to establish a new governance and funding framework for animal health policy which will:

- Help reduce incidence and lower overall costs of animal diseases;
- Deliver effectiveness, efficiency and economy from investment in disease prevention, control and management; and
- Improve confidence in the way disease outbreaks and disease risks are managed.

**What policy options have been considered? Please justify any preferred option.** Since 2005 a range of measures have been considered with stakeholders, including maintaining existing government structures with increased industry involvement or establishing a new body. From intensive consultation, the following option has been identified on which to base legislative changes:– create a new non-departmental public body for animal health in England as a framework for sharing responsibility between livestock keepers and Government.

**When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?** Costs and benefits will be further refined at Bill introduction. Evaluation will form part of the new body once it is established.

**Ministerial Sign-off** For final proposal Impact Assessments:

*I have read the 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.*

Signed by the responsible Minister:

Date:

## Summary: Analysis & Evidence

**Policy Option: 1**

**Description:** A new independent body for animal health in England which, in addition to public funding, will have a revenue stream from livestock keepers (by numbers and types of animals).

ANNUAL COSTS		Description and scale of <b>key monetised costs</b> by 'main affected groups' Taxpayers: Set-up of new body (£2.1m) & additional running costs of body (£400k).
<b>One-off</b> (Transition)	<b>Yrs</b>	
£2.1 million	1	
<b>Average Annual Cost</b> (excluding one-off)		
£0.4 million	30	<b>Total Cost (PV)</b>
		<b>£8.3 million</b>
Other <b>key non-monetised costs</b> by 'main affected groups'		

ANNUAL BENEFITS		Description and scale of <b>key monetised benefits</b> by 'main affected groups' Reduced costs of endemic disease and exotic disease outbreaks – Livestock industry and taxpayers – reduced costs through reduced disease risks £0 to £21m annually.
<b>One-off</b>	<b>Yrs</b>	
£nil	1	
<b>Average Annual Benefit</b> (excluding one-off)		
£0 to 21 million	30	<b>Total Benefit (PV)</b>
		<b>£0 to 335 million</b>
Other <b>key non-monetised benefits</b> by 'main affected groups' Improved confidence/faith in the system by livestock industry; greater transparency for livestock industry on animal health costs; better value for money from investment by better targeting through greater industry involvement.		

### Key Assumptions/Sensitivities/Risks

Assessment of risk of future disease outbreaks (affects both benefits and costs). Extent of behaviour change which the new arrangements are expected to foster – affects level of benefits.



<b>Price Base</b> Year 2008	<b>Time Period</b> Years 30	<b>Net Benefit Range (NPV)</b> £-8.3 to +335	
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What is the geographic coverage of the policy/option?	England			
On what date will the policy be implemented?	2012			
Which organisation(s) will enforce the policy?	N/A			
What is the total annual cost of enforcement for these organisations?	£0.00k			
Does enforcement comply with Hampton principles?	N/A			
Will implementation go beyond minimum EU requirements?	No			
What is the value of the proposed offsetting measure per year?	£0.00			
What is the value of changes in greenhouse gas emissions?	£0.00			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro 0.00	Small 0.00	Medium 0.00	Large 0.00
Are any of these organisations exempt?	No	No	No	No

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)		(Increase – Decrease)	
Increase of £0	Decrease of £0.00	<b>Net Impact £0.00</b>	

Key:

**Annual costs and benefits: Constant Prices**

**(Net) Present Value**

## Evidence Base (for summary sheets)

### Summary of Costs and Benefits

<b>Table A: Summary of costs for Option 1 compared to “business as usual”</b>		
	<b>Set-up in London</b>	<b>Running in London</b>
New body for animal health	£2.1m	£0.4m
<b>TOTAL</b>	£2.1m	£0.4m

Source: Summary figures are taken from Tables 6-9.

<b>Table B: Summary of potential scale of benefits of reduction in overall cost of disease range</b>					
Percentage reduction in disease prevalence and/or cost	1%	2%	5%	10%	25%
Expected annual benefits (in the “average” year) – exotic	£1m	£2m	£5m	£10m	£25m
Expected annual benefits (in the “average” year) – endemic	£8m	£16m	£40m	£80m	£200m

Source: Summary figures are taken from Table 4 and 5.

It is considered that that the proposals are more likely to impact on exotic disease than endemic disease costs so the maximum possible benefit is calculated on a 2% decrease in costs for endemics (£16m) and 5% for exotics (£5m) making a total of £21m. These costs and benefits are used to calculate the present values presented in the summary sheets. A 30 year period has been used as the proposals are for significant changes which are expected to last for at least that time and to deliver benefits over a long term period.

These benefits are predicated on both the creation of the new body, which is the subject of this Bill, and cost sharing arrangements that would be introduced via a future Finance Bill. In the absence of an appropriate and effective cost sharing arrangement to incentivise behaviour change in the livestock sector, the new body’s ability to realise the benefits will be limited.

## Introduction

1. This impact assessment is for the creation of an independent body for animal health. It accompanies the draft Animal Health Bill,<sup>1</sup> and builds on the Impact Assessment presented with the March 2009 consultation.
2. The Bill sets out Government proposals to establish a new body for animal health which will have responsibility for all animal health policy and delivery in England and some UK and GB animal health functions. The new body will take over Defra's current public funding for animal health.
3. This Bill will be supported by measures introduced under a future Finance Bill to share costs between the livestock industry and government and will incentivise behaviour change in the animal keeping community to reduce the risks and impacts of disease outbreaks.
4. This Impact Assessment assesses the impacts, cost and benefits of the proposals in the draft Animal Health Bill.

## Reasons for Actions

5. Animal health policy and its funding is currently the responsibility of the Department for Environment, Food and Rural Affairs (Defra). While industry stakeholders are increasingly involved in advising on decision-making through partnership-working, final decisions lie with government, while taxpayers pay for many of the costs. Since the Foot and Mouth Disease (FMD) outbreak of 2001 there has been debate about sharing the responsibility for the decisions that give rise to them.
6. Animal health is important for animals, their owners, public health, society and the wider rural economy. Animal diseases, and the measures to control them, can be costly to farmers and the livestock industry. Some animal diseases can pose a potential threat to public health. Consumers may face higher prices and wildlife may be affected. The occurrence of diseases from which the country is currently free (exotic diseases) is an ever-present threat to the sustainability of the livestock industry. In the worst cases the wider economy suffers, as was illustrated in the FMD outbreak in 2001
7. The immediate responsibility for the health of animals lies with their keepers. The owners of animals are the major beneficiaries of effective animal health. One of the key principles of better regulation is that government should only intervene where market forces either fail to deliver solutions or cause significant damage. Protection of public health is the paramount issue underlying government animal health policy – much of it achieved through regulation.
8. However, animal keepers have a poor record for taking “corporate” action, particularly with regard to exotic disease control and traditionally government has also acted to prevent, control and eradicate infectious animal diseases because only the Government can undertake and enforce the necessary measures such as controlling animal movements, and culling animals that are infected or who are potential carriers. This action is primarily for the collective benefit of the livestock industry, but the direct costs of much of these actions fall to the Government and the general taxpayer – around £2.6 billion for FMD in 2001,<sup>2</sup> and around £44m per annum for the Government costs of exotic disease preparedness and

1 <http://www.official-documents.gov.uk/document/cm77/7784/7784.asp>

2 Iain Anderson's review of the 2001 FMD outbreak concluded, those who benefit directly from measures being taken for their specific benefit should contribute to the cost of those measures. Accordingly, those engaged in livestock production should, in a disease outbreak, share the costs of compensation for animals culled and items seized, and associated disease control costs such as cleansing & disinfection, slaughter, disposal, haulage.

surveillance. However, this has created little incentive for individual animal keepers to manage disease risks actively, or for collective action by the farming industry.

## Aims

9. The aim of the new arrangements proposed is to achieve a modern governance framework for animal health to tackle these issues by:
  - a. Ensuring more independent and better informed decision making;
  - b. Increasing the involvement of livestock keepers and other key stakeholders in policy decisions;
  - c. Providing incentives to reduce the costs of managing disease;
  - d. Providing incentives for better risk management; and
  - e. Making the costs of animal disease prevention, preparedness and outbreaks more transparent and offering greater accountability to the livestock industry.

### Aims of new arrangements

- Reduce the overall levels and total costs of animal diseases;
- Deliver effectiveness, efficiency and economy from investment in disease prevention and management;
- Share responsibility between main beneficiaries and risk managers; and
- Improve confidence of the livestock industry and other stakeholders in the way disease risks are managed.

## Consultation and Option Development Process

10. The livestock sectors have been engaged in the process of developing the Government's policy of responsibility and cost sharing over a considerable period, starting in the wake of the Classical Swine Fever outbreak in East Anglia in 2000 and in the aftermath of the 2001 FMD outbreak. In England work continued in December 2005 through the Joint (Industry/Government) Working Group (JIGWG) on exotic diseases, which reported in July 2006 recommending that full partnership working should be implemented across Great Britain and a new statutory body established for sharing the responsibilities and costs of exotic animal disease with both industry and government representation.<sup>3</sup>
11. In December 2006, there was a UK-wide public consultation on the principles of responsibility and cost sharing and, in the same month, the UK Consultative Forum on Responsibility and Cost Sharing<sup>4</sup> was constituted, concluding its activities in June 2008. When the Forum resumed after FMD in 2007, Defra conducted an 18 week public consultation from December 2007 on possible approaches to responsibility and cost sharing, supplemented by a national seminar and 12 regional workshops during February and March 2008, plus three rounds of meetings with livestock sector groups comprising representatives of the main livestock organisations between February and June 2008.

<sup>3</sup> <http://webarchive.nationalarchives.gov.uk/20060820083451/http://defra.gov.uk/farm/policy/regulation/csharead/jigwg/pprs/pdf/july2006-report.pdf>

<sup>4</sup> Henceforth referred to as 'the Forum' and comprising representatives of Defra, NFU, CLA, the 3 DAs and the farming unions of Scotland, Wales and NI. <http://www.defra.gov.uk/foodfarm/policy/animalhealth/sharing/forum>

A sub group of the England Implementation Group<sup>5</sup> for the Animal Health and Welfare Strategy held several meetings with the team to discuss, challenge and advise on emerging policy options.

12. The role that private insurance could play in new arrangements was considered as part of the policy development process. Discussions with the insurance industry indicated that the option of a requirement for compulsory private insurance by livestock keepers to cover all or part of the costs of controlling exotic disease outbreaks currently met by government was possible but the relevant insurance products are not available at the present time. However, after further discussions with industry, the insurance option was considered to be unworkable in the short to medium term.
13. Papers on key policy issues were developed and presented to the Forum for discussion (and made available on the Defra website).<sup>6</sup> These considered the merits of different responsibility sharing options, the operation of a fund raised from the livestock industry and different ways of raising funds from the livestock sectors. Along with the other consultations this helped to refine the options and determine the proposals which were set out in another consultation which ran from March to July 2009. This consultation primarily sought views on the nature of the new body and considered detail of sharing costs via a levy based compulsory registration scheme. Consideration was given to the benefits of just creating the new body without an associated cost sharing mechanism and it was concluded that the benefits achievable would not be sufficient in either scale or certainty to justify the associated costs. It is therefore the creation of the new body as specified in the current draft Bill supported by an appropriate cost sharing arrangement that is assessed here.

## Key Proposals Assessed

14. One main proposal is assessed here which is set out in detail in the draft Bill. It has the following main element:
  - a. Establish a new non departmental public body to which all of Defra's animal health responsibilities for England will be transferred.
15. The new body will take on responsibility for developing and implementing all the policy for animal health currently undertaken by Defra. Its objectives will encompass the aims of the Animal Health and Welfare Strategy – a lasting and continuous improvement in the health of kept animals, having regard to their welfare, while protecting society, the economy and the environment from the effect of animal disease. This will be supported by a cost sharing mechanism, introduced under a future Finance Bill, which will aim to encourage behavioural change. The March 2009 consultation provided the costs for a registration based levy scheme however these have not been repeated here as there will be no levy included in the Bill.
16. The relevant statutory functions of the Secretary of State, other than the functions of making legislation, will be exercised by the Board rather than Defra Ministers. Its scope will cover all animal diseases and all species.
17. No decision has yet been taken on the location of the new body therefore the costs for both a London based organisation and relocating out of London have been provided. The draft Bill proposes that the body would have the status of a non departmental public body.

<sup>5</sup> [http:// www.defra.gov.uk/foodfarm/policy/animalhealth/sharing/rccs\\_sub-group.htm](http://www.defra.gov.uk/foodfarm/policy/animalhealth/sharing/rccs_sub-group.htm)

<sup>6</sup> [http:// www.defra.gov.uk/foodfarm/policy/animalhealth/sharing/index.htm](http://www.defra.gov.uk/foodfarm/policy/animalhealth/sharing/index.htm)

18. These proposals are compared with a “business as usual” approach in which there would be no new body but where partnership working between Defra and the industry would continue to develop.
19. Subsequent sections look at the impacts of these proposals which are a mixture of economic, financial, social and environmental. The costs and benefits of these proposals for those who will be affected is described and, where possible and appropriate, quantified and expressed in monetary values.

## Who will be affected

20. The main groups affected by these proposals are:
- Livestock keepers;
  - Taxpayers generally; and
  - Defra staff.

### Livestock keepers

21. Primary livestock production in England is made up of a very varied range of systems and patterns. Table 1 shows the size of the main livestock sub-sectors in England.

<b>Sector</b>	<b>No. of holdings<sup>7</sup></b>	<b>Population</b>	<b>Median<sup>8</sup> no. of animals per holding</b>
Dairy cattle	21,134	2,083,085	39
Beef cattle	44,706	3,512,503 <sup>9</sup>	12
Pigs	9,566	3,943,345	16
Sheep	47,155	15,436,410	109
Poultry	31,570	128,742,542	21,260
Goats	6,651	80,163	–
Deer	481	21,466	–
Horses	550,000	1,000,000	1
Other livestock (eg donkeys, llamas, mules, hinnies)	1,897	27,613	–

Source: 2007 June Census.

<sup>7</sup> Holdings on which relevant animal type is kept.

<sup>8</sup> Median holdings are holdings with 50% of farms bigger or smaller.

<sup>9</sup> Of which 1,503,720 attributed as male calves.

22. The overwhelming majority of primary livestock producers are *micro or small businesses*.<sup>10</sup> This means that the question of differential impacts on businesses according to their size will not apply in the normal way. However, we recognise that the resilience of such small businesses has to be taken into account when looking at the impacts of these proposals.
23. It is not expected that there will be a significant direct impact on livestock producers as a result of the creation of the new body. However, any cost sharing mechanism is likely to place new burdens on this sector. We consulted on options for the cost sharing arrangements in March 2009 and are considering the options on how to take this forward. Until this is agreed, the details of the impacts from these will not be able to be assessed until proposals are developed.

### **Taxpayers**

24. Taxpayers in England will be affected by the proposals in that in the longer term, they would benefit by paying a reduced cost for endemic and exotic disease outbreak costs resulting from reduced incidents of these events. This is estimated to be between £0 and £21m per year. There would be some initial set-up costs which amount to around £2.1 million in the first year and on-going additional annual running costs of around £400K.

### **Defra staff**

25. There are currently circa 235 Defra staff working on animal health issues based in London plus 10 London-based Animal Health staff. Depending on the location of the new body there could be significant impacts on staff – as identified in paragraphs 58-61. Should the proposals be taken forward we will carry out an Equalities' Impact Assessment to examine these issues in detail.

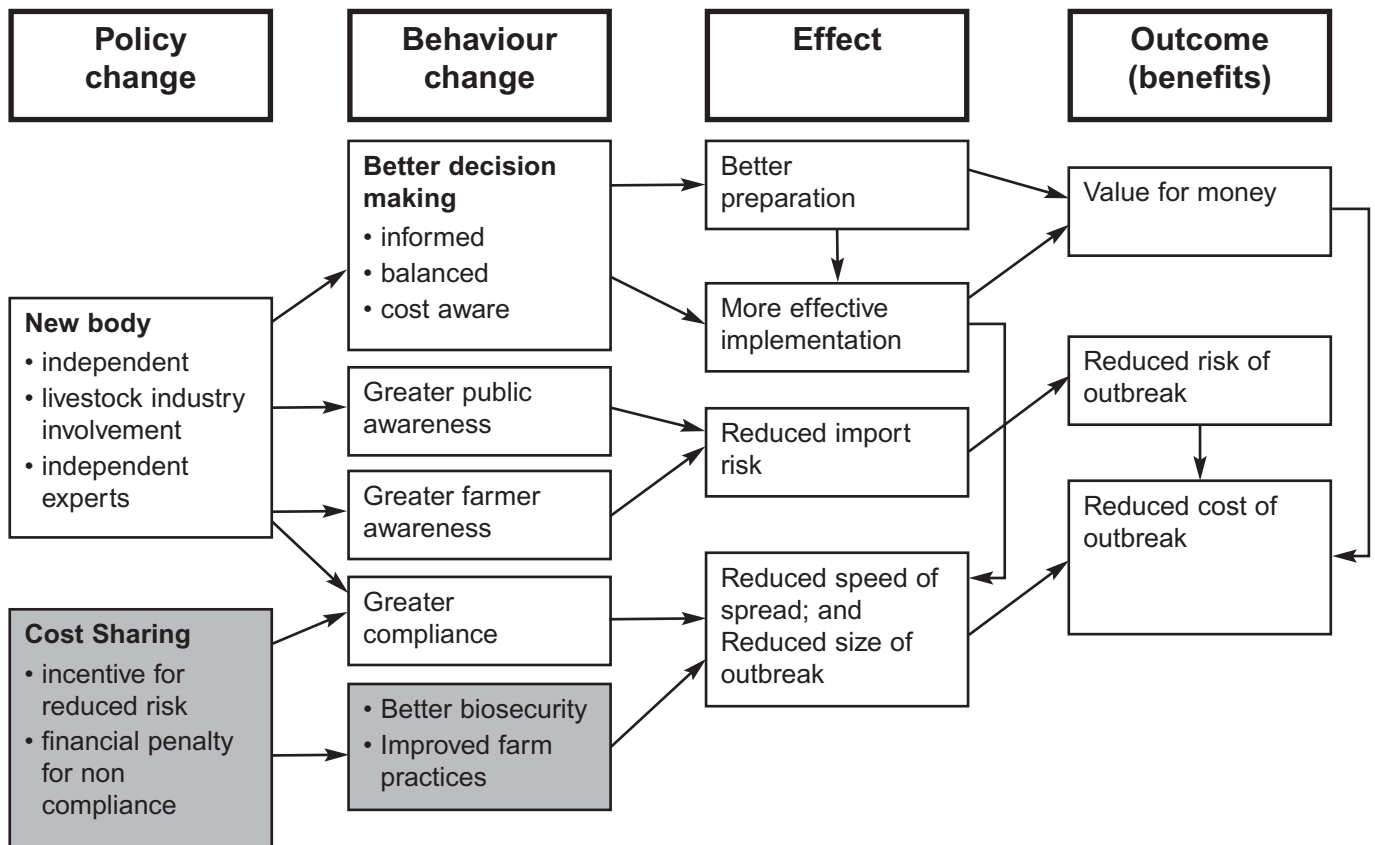
### **Benefits**

26. Animal health policy is intended to deliver a range of benefits including protection of public health, and the environment and the improvement of animal welfare as well as supporting the sustainability of the livestock industry. The implementation of the proposals is intended to increase all these benefits over the short, medium and longer term (see benefits' map at Annex 6).
27. A variety of work has been, and continues to be, undertaken to assess the risk pathways for disease incursion and its spread. Annex 7 summarises some of this work in diagrammatic form – identifying some key parameters in the behaviours and actions of the key players.
28. The new arrangements for animal health governance are intended to influence some of these parameters. This will deliver benefits over and above those secured through carrying on with “business as usual”. These are summarised in Diagram 1 below and described in the following paragraphs. Greyed out boxes relate to the cost sharing element as this will not be included in the Animal Health Bill but will be introduced under a future Finance Bill.

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<sup>10</sup> Micro businesses are those with 0-9 employees; small businesses are defined as having 0-49 employees (source: Small Business Service)

**Diagram 1: Disease benefit chain**



29. The new body will have an independent Board with a mixture of relevant skills and experience making decisions in a transparent and consultative way. The cost of animal health policies will also be made more transparent. This should lead to better informed, cost-aware and balanced decisions. Equally important it should command greater confidence with the public and the livestock industry. This should help to bring about a change in the way in which decisions and policies are viewed with an increased sense of ownership of issues, and the measures to solve them, by the livestock industry. This, in turn, should also lead to improved compliance with controls and regulations designed to reduce the likelihood of disease incursions and spread.
30. Equally, awareness by farmers and the public should reduce the risk from imports and encourage early identification and reporting of disease. Increased awareness should also help the more effective dissemination of information for plans to tackle outbreaks and their implementation possibly leading to quicker and cheaper eradication of diseases.
31. The new arrangements are expected, over time, to deliver better value for money for resources invested in disease prevention, management and control and to deliver reduced levels of animal disease generally. The extent to which these benefits can be quantified is discussed below.
32. The proposals are also expected to deliver improved confidence in the animal disease management system by the livestock industry, and by the public in the management of animal diseases which have a potential to affect public health. The development of the new arrangements should also make it easier to comply with expected future harmonised EU arrangements on responsibility and cost sharing.



33. There are potential risks that the new body will not have the same level of influence to broker the level of cooperation and collaboration particularly required during an outbreak. However, it would be expected that Ministers would remain closely involved during disease outbreaks and would ensure such cross-agency activities continued to maximise the effectiveness of the response activity.
34. Cost sharing, to be introduced under a future Finance Bill, will reinforce these aims by providing financial incentives for animal keepers to improve their activities that affect the likelihood and scale of disease outbreaks.

### **Quantification of benefits**

35. Significant benefits are anticipated under the new system from reducing the cost of disease as set out in the paragraphs above. These will take time to occur and it is not possible to quantify them exactly at present. But work has been undertaken to illustrate what the effect of different levels of impact would be.

### **Exotic diseases**

36. A first step in quantifying the benefit of reducing the risks and costs of exotic disease outbreaks is an assessment of future disease risks. Assessing future likelihood of disease outbreaks and their scale is very difficult. Outbreaks of any particular exotic disease in this country are generally rare or may never have occurred at all (see Annex 5). Diseases change as new strains develop (e.g. Avian Influenza or Bluetongue) and the possibility of new diseases arriving in this country can change rapidly, for example, a few years ago Bluetongue was considered extremely unlikely.
37. Changes in the way the industry and wider economy operates can influence the risk of incursion and speed of spread. Increased travel of various kinds (animals, people, products) can increase the possibility of the spread of diseases. Knowledge of the characteristics of some diseases is more limited than others.
38. Instances of disease outbreaks in the last couple of decades include BSE which posed an important threat to public health (public spending on BSE has been over £5 billion); and the FMD outbreak in 2001 whose eradication cost government £2.6 billion and around 0.2% of GDP for the economy as a whole. The exotic disease outbreaks in 2007 (FMD, Bluetongue, Avian Influenza) cost government around £50m and industry costs for the FMD outbreak have been estimated at more than £100m. This experience shows that there is a great variation in the level of costs of exotic disease outbreaks between different years. This means there is great uncertainty about what may happen in the future with limited evidence on which to base assessments.
39. In view of the risk from a number of exotic animal diseases, a variety of measures are used to reduce this risk. These include measures to reduce the risk of the certain disease agents arriving in the country or getting into livestock, for example, controls on the imports of animals and animal products and the ban on the feeding of swill and other food waste to pigs. They also include measures to reduce the rate and extent of spread should certain diseases be introduced, for example, livestock movement controls and livestock market and transport hygiene measures. The success of these risk management measures means that major disease outbreaks are much rarer than they would be if there were no controls and, importantly, that they do not conform to a predictable pattern. The risk management measures currently in place have reduced the likelihood of disease incidents significantly to a residual level. Additional measures under consideration are expected to reduce the incursion risk further, to a lower level of residual risk below which it may not be practically possible to reduce the risk further. What may be reduced, however, is the scale and costs of outbreaks when they do occur. Benefits can be

generated through better outbreak management and cost control, for instance through a combination of improved detection and reporting during the early stages of an outbreak and better biosecurity on farms, reducing the spread of disease when incursions occur and the subsequent impact on other livestock.

### **Costs of exotic disease outbreaks**

40. The scale and costs of an outbreak will depend on the degree of “silent spread” (the stage between the incursion of the disease and the first case being confirmed), and the speed and effectiveness of the contingency response. The eventual costs are influenced by any public health implications and the effects of disease controls on other industries. But typically the main elements of the costs due to control measures in a disease outbreak include:
- a. Disposal of culled animals;
  - b. Payments to owners for culled animals;
  - c. Tracing, testing and diagnosis of animals;
  - d. Cleaning and disinfection of infected premises;
  - e. Loss of animals to food chain additional to the compensated value (b above);
  - f. Loss of exports;
  - g. Admin costs in managing the outbreak;
  - h. Costs to industry of movement restrictions; and
  - i. Impact of loss of consumer confidence
41. These costs will vary according to the scale of the outbreak with key factors being the number of infected premises, numbers of animals culled, and the length of the outbreak. Part of these costs is currently borne by government and part by livestock keepers, slaughter houses and food supply chain.

### **Potential cost of future exotic disease outbreaks**

42. The approach taken here is to consider eight important potential diseases in three stages. The stages are:
- a. How likely is the disease to occur in England? This is expressed as the average interval in years between outbreaks. For example, an average interval of 1 year or less would imply outbreaks are frequent, while an average of 100 years would imply that an outbreak is a very rare event.
  - b. What proportion of outbreaks would be minor rather than major? This is a simplistic representation of disease outbreaks, which can range from small (one animal or premises affected), to nationwide (hundreds of affected premises, very high eradication costs), and all the scales in between. This approach is justified because it captures the range of disease outbreaks without claiming greater knowledge about the probability of all the different scales than we truly have.
  - c. What would be the average cost to government of a minor and a major outbreak of each disease.
43. The estimates in Table 2 are a reasonable reflection of expert opinion within Defra about disease risks based on the information we currently have, including historical information on previous outbreaks (summarised in Annex 5).

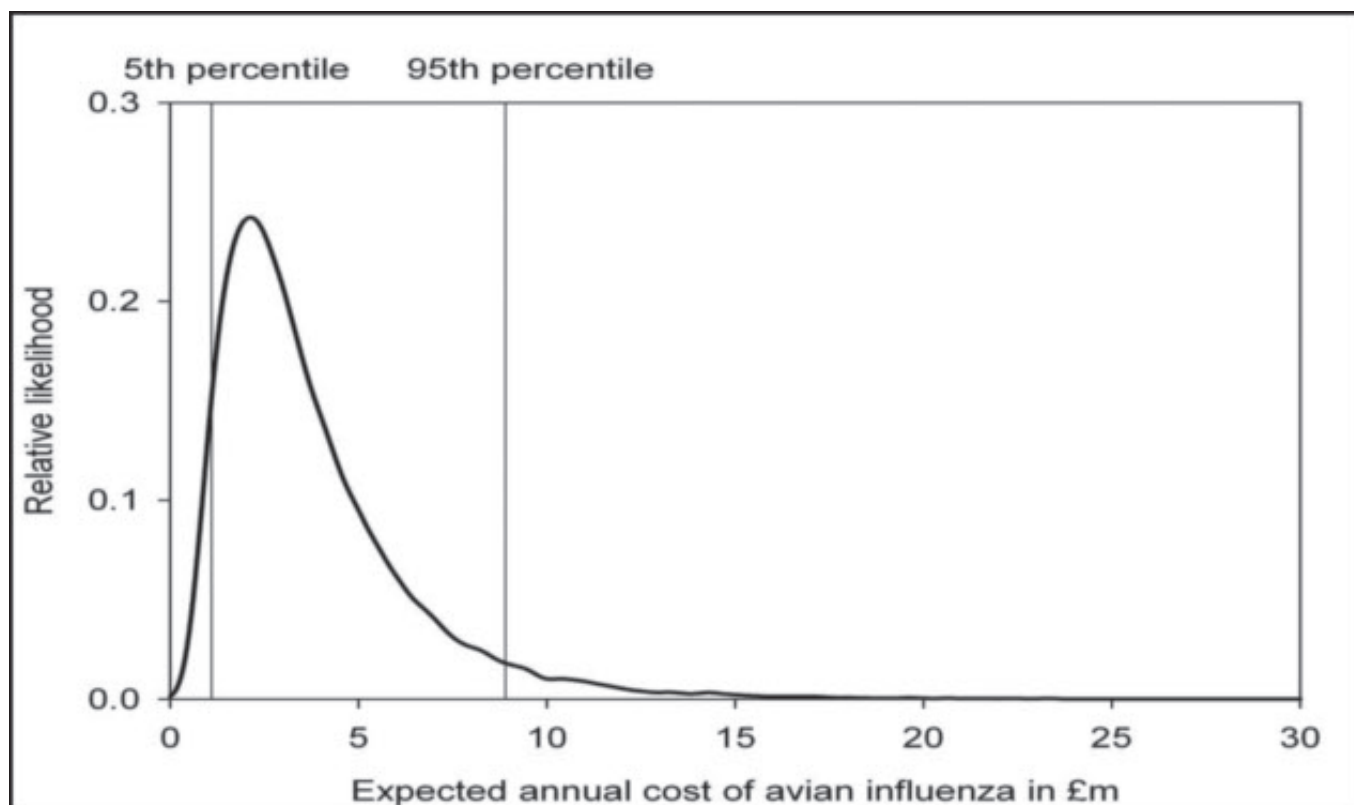
44. The previous version of Table 2 that accompanied the March 2009 consultation was based on a relatively basic analysis of the limited information that was available. The revised Table below is based on a much more structured approach using a well recognised methodology for estimating uncertainties (in this case, probable costs for outbreaks). Compared to the initial basic approach, this approach has included possible ranges in estimates for each of the diseases under consideration.<sup>11</sup>

<b>Table 2: Estimated annual costs to Government of future outbreaks in England.</b>						
<b>Disease</b>	<b>Main species affected</b>	<b>Average interval between outbreaks</b>	<b>% probability that outbreak is major</b>	<b>Incidence cost £M if outbreak</b>		<b>Average annual cost £M</b>
				<b>Minor</b>	<b>Major</b>	
<b>Avian influenza</b>	Poultry	1.2	2.0	3.0	24	3.8 (1.1,8.9)
<b>Bluetongue</b>	Sheep, goats, cattle	1.9	2.4	0.57	13	0.84 (0.13,2.46)
<b>Newcastle disease</b>	Poultry	4.0	2.4	3.0	24	1.4 (0.28,3.9)
<b>Classical swine fever</b>	Pigs	10	72	10	42	3.5 (1.0,8.6)
<b>Foot and mouth disease</b>	Cattle, sheep, pigs	28	4.6	56	950	4.5 (0.86,12)
<b>African swine fever</b>	Pigs	24	94	10	51	2.7 (0.44,8.2)
<b>Swine vesicular disease</b>	Pigs	28	46	5.6	50	1.2 (0.18,3.7)
<b>Other known notifiable</b>	Various	0.82	3.4	0.08	20	1.2 (0.10,4.1)
<b>Total excluding unknowns</b>						19 (11,32)
<b>Unknown infectious disease</b>	Unknown	8.2	2.4	34	3100	32 (2.0,113)
<b>Total including unknowns</b>						51 (17,132)

<sup>11</sup> This new analysis uses a formal procedure to elicit all of the estimates in Table 2, and to assess their uncertainty. A more detailed account is given in Annex 8 of this document.

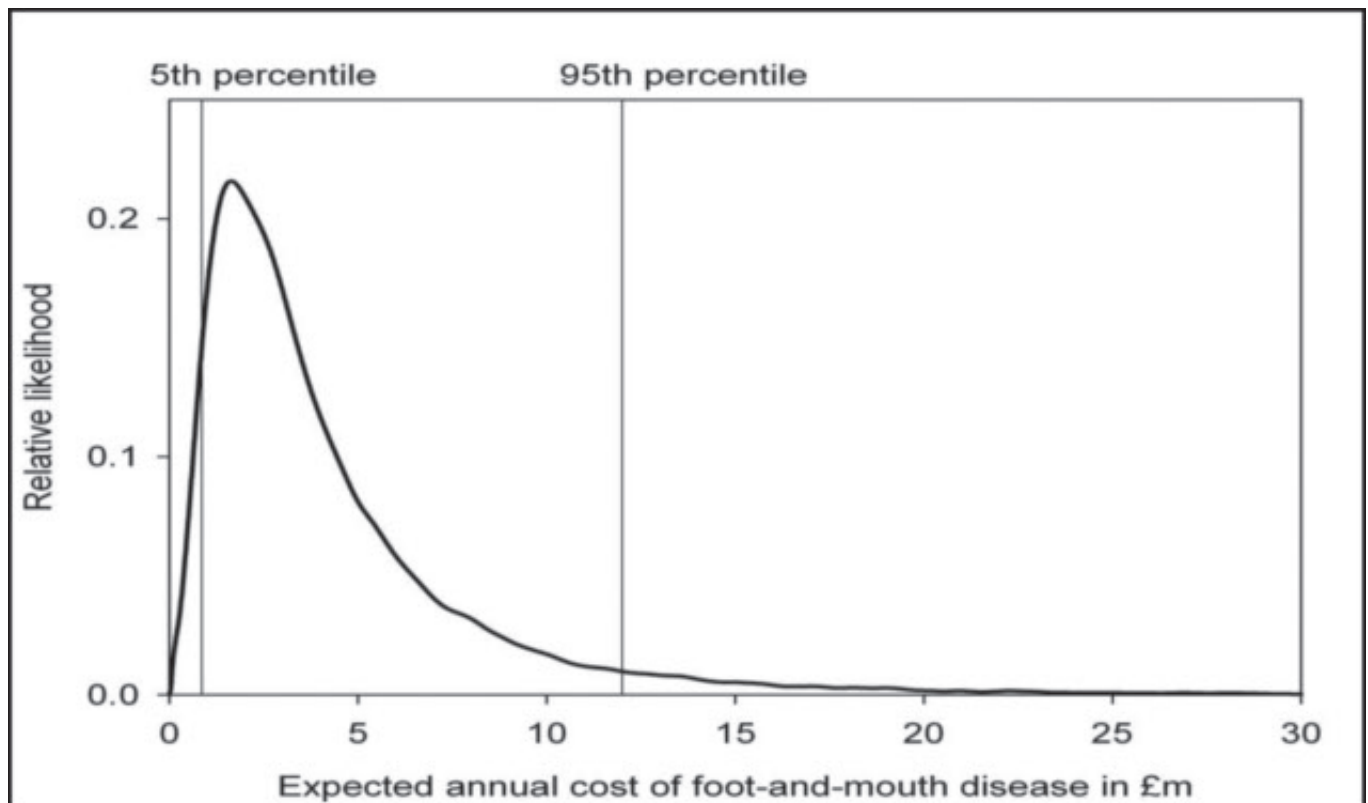
45. Nevertheless, in preparing the new table it should still be recognised there remains a very high level of uncertainty behind the assumptions made and that this can create a wide predicted cost range. See annex 8 for details.
46. The right hand column in Table 2 shows the estimated median annual cost for each disease and for all the listed exotic diseases combined.<sup>12</sup> In reality there is never an “average” year and the figures in Table 2 would be made up of many years with minor disease outbreaks controlled at low cost, together with much rarer years of major high cost disease outbreak(s). It is essential to take account of the uncertainty affecting these estimates which are shown in brackets underneath the average annual cost figures. Figures 1 and 2 demonstrate the potential cost ranges for AI and FMD and shows for AI, the 90% certainty range is between £1.1m and £8.9m, while for FMD the range is between £0.86M and £12m.

**Figure 1: Outbreak cost range for AI**



<sup>12</sup> Excluding rabies and European bat lyssavirus.

**Figure 2: Outbreak cost range for FMD**



47. There are five diseases listed in Table 2 with an expected annual cost over £1m (as shown by the figures in the right hand column). Although we do not expect to have outbreaks of these diseases every year, the expected annual costs reflect the fact that previous outbreaks of some diseases when they have occurred in England have been very expensive to control and eradicate. The expected costs for avian influenza are dominated by the Highly Pathogenic H5N1 (Asian strain) that is still causing outbreaks worldwide and is in wild birds. If that H5N1 strain had not appeared, the figure for avian influenza may have been closer to that listed for Newcastle Disease.
48. The “unknown infectious disease” row has a different character to the other rows as a major outbreak is a highly unlikely event. The expected annual figure reflects the very high costs of control or eradication of such a disease once the decision has been made to act. The major cost is shown in Table 2 as being in the region of £3 billion, which is similar in scale to BSE.
49. The estimated average annual Government costs associated with the control and eradication of the listed diseases are £51m. It should be noted that this figure has been calculated on the basis of the current threat level (as far as it can be ascertained) and the current risk management measures being implemented to manage threats, including the maintenance of standard “peacetime” rules that prevent the incursion of spread of exotic diseases. It should be noted that risk management measures are not all implemented by UK Government policy decisions alone. Much is influenced or required under EU Animal Health legislation. If we are to continue to trade within and outside EU we must maintain required practices such as border controls & feed controls so we maintain our current trading status. Failure to continue implementation means loss of that status whether there are animal disease threats or not.
50. The estimated costs of an outbreak would increase considerably if risk management measures (for example, movement controls, border controls, feed controls) were reduced or eliminated. In the absence of risk management measures being in place or outbreak responses rehearsed, disease will spread more quickly and affect more premises, and

the response to control it would inevitably be slower. The recovery time and resumption of normal trade would also be longer. The threat level is subject to change due to factors largely outside of the Government's control and a regular (say, annual) iteration will be required to maintain the estimates as current.

51. Comparing the new Table 2 with the previous version, the estimated average annual figures for Avian influenza (AI) and Bluetongue (BT) have reduced significantly. For AI this appears to be driven mainly by two factors: a decrease in the estimated interval between outbreaks; and a lower probability that an outbreak would be major. For BT there also appears to be two main factors: a decrease in the likelihood of a major outbreak; and a decrease in the estimated cost to government of outbreaks. In both cases the revision of estimates seems to reflect further consideration of the recent outbreaks (here and elsewhere) in terms of their costs and spread, and (for Bluetongue) the nature of the disease control policy to take into account availability of vaccine.
52. Table 3 below shows the consequent revisions to both the total cost (to industry and Government) and their relative shares of the total.

Disease	Minor incident cost			Major incident cost			Mean cost per incident			Average annual Govt cost £M	Total average annual costs £M
	Total £m	Govt £m	Govt share	Total £m	Govt £m	Govt share	Total £m	Govt £m	Govt share		
Avian Influenza	3.1	3.0	98%	35.8	24.0	67%	3.7	3.4	91%	3.8	4.2
Bluetongue	2.0	0.6	29%	86.7	13.0	15%	4.0	0.9	22%	0.84	3.9
Newcastle Disease	3.1	3.0	98%	35.8	24.0	67%	3.8	3.5	91%	1.4	1.5
Classical Swine Fever	20.4	10.0	49%	62.7	42.0	67%	50.8	33.0	65%	3.5	5.4
Foot and Mouth Disease	140.0	56.0	40%	2375.0	950.0	40%	242.8	97.0	40%	4.5	11.3
African Swine Fever	14.9	10.0	67%	76.1	51.0	67%	72.4	49.0	68%	2.7	4.0
Swine Vesicular Disease	5.7	5.6	98%	62.5	50.0	80%	31.8	26.0	82%	1.2	1.5
Other known notifiable not listed above(*)	0.1	0.1	98%	40.0	20.0	50%	1.4	0.8	53%	1.2	2.3
Unknown major disease	68.0	34.0	50%	6200.0	3100.0	50%	215.2	108.0	50%	32	63.8
<b>Total of above</b>										<b>51</b>	<b>98</b>

Source: Defra illustration of costs falling to industry and Government under the existing funding arrangements in the outbreaks shown in Table 2.

	£98m	£98m	£98m	£98m	£98m
“Expected” total annual cost of disease outbreaks	£98m	£98m	£98m	£98m	£98m
Percentage reduction in disease risk and/or outbreak cost	1%	2%	5%	10%	25%
Expected annual benefits (in the “average” year)	£1m	£2m	£5m	£10m	£25m

53. Based on the illustrative result that the “expected” cost of disease outbreaks in an “average” year totals £98m, Table 4 shows that if the new system could achieve a reduction of 1%<sup>13</sup> in disease risk or cost, then this would amount to a benefit of about £1m. Similarly, a reduction of 25% would be a benefit of £25m, and so on. These numbers are hypothetical but they are intended to be helpful in enabling an appreciation of the relative orders of magnitude of the possible impacts.
54. Such benefits, if they occur, will accrue to the economy as a whole and, in immediate financial terms, be shared between the livestock sector and the taxpayer. Under existing arrangements, the Government share of the £98m “expected” annual cost of outbreaks would amount to around £51m.

### Endemic diseases

55. Endemic diseases (including Bovine TB) are estimated to cost the economy around £800m a year<sup>14</sup> and the Government about £150m annually. Table 5 below shows what the savings would be if, for illustrative purposes, these costs could be reduced by 1%, 2%, 5%, 10% or 25%.<sup>15</sup>

	£800m	£800m	£800m	£800m	£800m
Average annual cost of endemic diseases	£800m	£800m	£800m	£800m	£800m
Percentage reduction in disease prevalence and/or cost	1%	2%	5%	10%	25%
Average annual benefits	£8m	£16m	£40m	£80m	£200m

Source: Based on Bennett, R and Ijpelaar, J (2003) “Economic Assessment of Livestock Diseases in Great Britain” Department of Agricultural and Food Economics, University of Reading, Final Report to Defra, with limited updating by Defra.

	1%	2%	5%	10%	25%
Percentage reduction in disease prevalence and/or cost	1%	2%	5%	10%	25%
Expected annual benefits (in the “average” year) – exotic	£0.5m	£1m	£2.5m	£5m	£12.5m
Expected annual benefits (in the “average” year) – endemic	£8m	£16m	£40m	£80m	£200m

Source: Summary figures are taken from Table 4 and 5.

<sup>13</sup> Arbitrary percentages have been used to exemplify scale.

<sup>14</sup> Based on Bennett, R and Ijpelaar, J (2003) “Economic Assessment of Livestock Diseases in Great Britain” Department of Agricultural and Food Economics, University of Reading, Final report to Defra, with limited updating by Defra.

<sup>15</sup> Arbitrary percentages have been used to exemplify scale.

## Costs of the New Body

56. This section looks at the costs of Option 1. It considers firstly the costs of the new body and secondly the costs of the new funding arrangements.
57. The following assumptions are made in assessing the additional costs of a new body compared to the current situation. The costs are based on available data and comparable experience as appropriate:
- The body is for England (and some UK/GB animal health policy functions currently undertaken by Defra) with the expectation that the devolved administrations would develop arrangements with current delivery agents to ensure co-ordinated disease management);
  - Scope would include Defra's animal health policy (excluding welfare);
  - Staff numbers remain the same at the time of transfer (for ease of modelling) i.e. 235 core Defra staff plus 10 Animal Health staff currently based in London;
  - Running (admin) costs remain the same, and do not take account of inflation;
  - Running costs do not include specialist support resources – legal, finance, economic etc;
  - A new body will not be in place before 2012 if Royal Assent is granted late 2011; and
  - It is not proposed to pass on set-up or running costs onto industry.
58. The costs identified below are estimated to cover one year only. Figures have been calculated on the assumption that staff turnover would not be high on the basis that the new body remains in London and staff are employed according to their existing terms. (Annex 2 provides explanatory notes on the budget lines in the tables below).

	<b>Item</b>	<b>Cost (£)</b>
A	Specialist set-up team	1,210,000
B	IT	31,000
C	Recruitment of Shadow Board, Chairman/Deputy and Chief Executive	120,000
D	Chief Executive (inc pension), Shadow Board and Chairman/Deputy salaries	399,000
E	Secretariat for Shadow Board	204,000
F	Re-branding	65,000
G	Removals within London building	29,000
	<b>Total</b>	<b>2,058,000</b>

Source: Defra best estimate based on available evidence, see Annex 2.



	<b>Item</b>	<b>Savings (£)</b>	<b>Cost (£)</b>
A	Chief Executive (inc pension), Shadow Board and Chairman/Deputy salaries	–	399,000
	<b>Total</b>	<b>–</b>	<b>399,000</b>

Source: Defra best estimate based on available evidence, see Annex 2.

### **Possible relocation to Defra offices outwith London: set-up costs**

The assumption for this impact assessment is that the new body will be based in London. The cost implications of relocating outside London are set out below but this is not an issue which will be determined by the outcome of this consultation.

The Lyons' Review (Annex 3) requires that all new bodies should consider locating outside of the South East. In the interests of keeping costs down, Defra offices outwith the South East do, in principle, have spare capacity but no immediate savings would be apparent as the earliest date that Defra sites can be disposed of is 2013.

Relocation would undoubtedly be the biggest single factor affecting staff retention rates and therefore staff costs. The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) does not apply to NMDs (as a transfer of civil servant staff between Departments), but in accordance with recent Cabinet Office guidance, Defra must make every effort to provide an opportunity for those who wish to stay with or return to the Department to do so. This could reduce the numbers of staff transferring to the new body, which would mean increased costs of recruitment and training of new staff.

Costs for the tables below are based on the assumption that 50% of Defra staff, plus London-based Animal Health staff (in total 122 staff) would be content to relocate and that 50% would not. The half that do not relocate require support (and salary) until alternative employment is found, or voluntary redundancy could be paid. To allow for this, 'pre-redundancy' salary has been factored in for those staff. Of the 122 staff staying in London, it is estimated that half would gain alternative employment, and the remainder would require redundancy.

	<b>Item</b>	<b>Cost (£)</b>
A	Costs identified A-F in Table 1 above	2,029,000
B	Staff relocation expenses	4,600,000
C	Pre-redundancy salary for staff not relocating	3,200,000
D	Voluntary redundancy for staff not relocating	5,200,000
E	Recruitment to replace staff not relocating	66,000
F	Removals	38,000
	<b>Total</b>	<b>15,133,000</b>

Source: Defra best estimate based on available evidence, see Annex 2.

**Table 9: Initial estimate of additional savings and running costs of new body: outwith London**

	Item	Savings (£)	Cost (£)
A	Chief Executive (inc pension), Shadow Board and Chairman salaries	–	399,000
B	National pay scale savings	808,000	–
C	Accommodation rental savings	1,428,000	–
	<b>Total</b>	<b>2,236,000</b>	<b>399,000</b>

Source: Defra best estimate based on available evidence, see Annex 2.

There could also be significant costs of relocation that cannot be easily quantified. Loss of existing specialist staff (particularly those of longer standing) could lead to loss of corporate knowledge, and accumulated experience and competence. This could substantially reduce the initial effectiveness of the body. Many of the activities of the body are likely to be more effectively carried out in London (e.g. cross-government co-ordination during a significant disease outbreak).

59. The draft Bill proposes that the body could have the status of a non departmental public body. This has additional cost implications on budget allocations as set out below.

**Table 10: Initial estimate of cost and savings resulting from the body being an NDPB**

	Item	NDPB Costs (£)	NDPB (£) Savings
A	VAT payments on services	1,010,000	–
B	Replacement staff for vacancies (25) on transfer: recruitments	17,500	158,000
	<b>Total</b>	<b>1,027,500</b>	<b>158,000</b>

Source: Defra best estimate based on available evidence, see Annex 2.

60. The costs of VAT payments would represent an internal government transfer but would need to be considered in the initial public funding of the body.

## Costs of Sharing Costs

61. Appropriate systems would need to be developed and implemented to allow the collection of the cost sharing element that will accompany the new body. Illustrative figures for a registration based levy scheme were provided with the March 2009 consultation.

## Administrative Burden

62. Keepers of the main farm animals (cattle, sheep, pigs, goats and poultry) are already required to register and owners of horses are required to apply for passports for their animals. As a result, for these keepers, it is not thought the administrative burdens will change as a result of the creation of the new body.
63. There should be potential savings from a reduction of the administrative burden incurred during exotic disease outbreaks to the extent that the scale of such outbreaks is reduced. These are difficult to quantify but could be substantial.

## Hampton Principles

64. In March 2005 the Hampton Review reported on the scope for promoting more efficient approaches to regulatory inspection and enforcement while continuing to deliver excellent regulatory outcomes. In particular the report discouraged the formation of new regulatory bodies unless no existing organisation could carry out those functions, it recommended merging 31 smaller regulatory bodies into seven larger bodies, and, it set targets for reductions in form filling for business. These proposals are in step in the following ways:
  - a. Industry's involvement in the arm's length body will fundamentally re-define the way that farmers interface with the regulatory system – from better decision-making on animal disease policy through to the way in which forms are devised. Over time this will have the potential to reduce the regulatory burden on the livestock sector.
  - b. At the same time, much of the infrastructure is proposed to remain the same. Animal Health, for example, will retain its functions though infrastructure may be streamlined depending on the outcome of further work (paragraph 67). The option to maintain Defra staff as civil servants within their existing locations would clearly cause minimal disruption. Furthermore, the use of a common location would help to foster good relations between staff in the new body and the parent Department.
  - c. The overall policy objective is to reduce risk of animal disease and to reduce spread when incursions occur. In meeting this objective, the measures will reduce the need for government intervention.
  - d. The proposals will bring about a clearer rationale for the contribution of public funds to exotic disease control that is more transparent and justifiable.
65. Further, the Government is committed to conducting further analyses on how the delivery landscape in the area of animal health can be improved and streamlined.<sup>16</sup>

## EC Context and Requirements

66. As part of the Community Animal Health Policy 2007-2013, the Commission is expected to develop proposals for the harmonisation of responsibility and cost sharing for epidemic diseases in 2010. Defra is working closely with the Commission, and it is our view that working up options relevant for England in advance of the Commission proposals, is the best way to help shape the direction of Community policy as it emerges.

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<sup>16</sup> [www.defra.gov.uk/foodfarm/policy/animalhealth/deliver/review.htm](http://www.defra.gov.uk/foodfarm/policy/animalhealth/deliver/review.htm).

## Implementation

67. Primary legislation will be needed to establish a body with decision-making powers and a revenue generating mechanism. Proposed implementation dates are given below, clearly at this point they remain provisional.

Spring 2010	Publish a draft Bill for pre-legislative scrutiny
Summer/Autumn 2010	Introduce Bill to Parliament
Summer 2011	Shadow Board established
November 2011	Royal Assent
April 2012	Act takes effect (on Common Commencement Date)
	Body up and running

## Monitoring, Review and Evaluation

68. The new body will be required to put in place monitoring, review and evaluation mechanisms for its work. These will be subject to consultation with relevant stakeholders. As an NDPB it will be assessed by the sponsor department in accordance with good practice.

## Future Development of Assessment of Impacts

69. This impact assessment will be revised and developed in the light of further information and as the proposals are developed in more detail.

## Specific Impact Tests: Checklist

The potential impacts of these policy options have been considered against the areas set out below.

Type of testing undertaken	Results in Evidence Base?	Results annexed?
Competition Assessment	No	Yes
Small Firms Impact Test	No	Yes
Legal Aid	No	Yes
Sustainable Development	No	Yes
Carbon Assessment	No	Yes
Other Environment	No	Yes
Health Impact Assessment	No	Yes
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	Yes
Rural Proofing	No	Yes

## Annex 1: Impact Tests

### Competition assessment

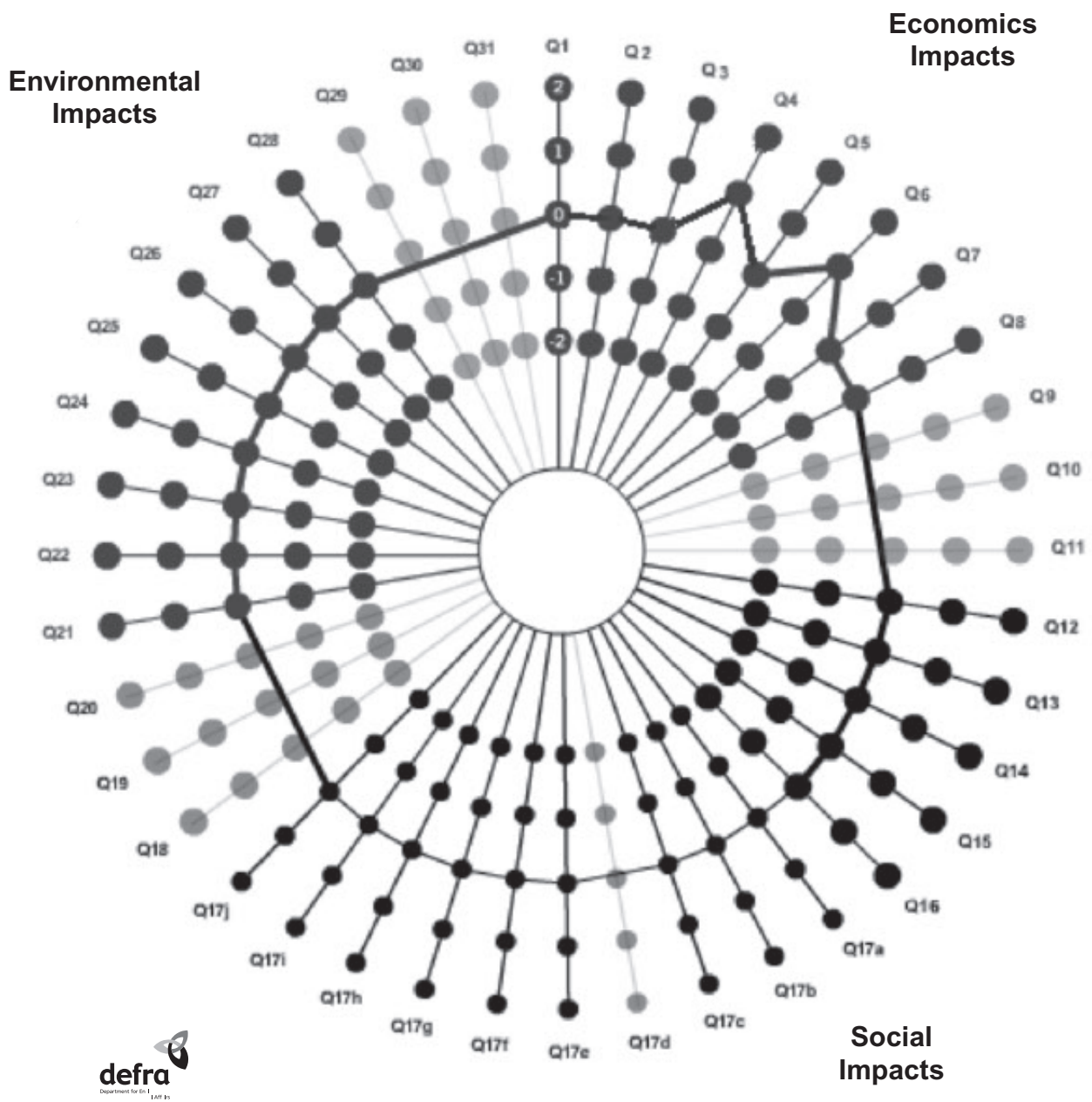
1. The creation of a new animal Health body will, in itself, not impact on any commercial aspect of farming activity and will therefore have no impact on competition.

### Small Firms Impact Test: Checklist

**A. At an early stage in the impact assessment preparation make a preliminary assessment of the businesses likely to be affected**

1. These proposals will apply to small businesses in that the majority of livestock farms are small enterprises. The main Impact Assessment, therefore, has been constructed from this perspective.
2. It is not expected that the creation of the new body will have any impact on any animal keeping enterprise.

# Sustainable Development: Policy Web



<http://www.defra.gov.uk/sustainable/think/stretch/index.htm>

1. The policy web is a tool for illustrating graphically the overall social, environmental and economic impacts of the responsibility and cost sharing proposals.
2. Discussions were held to create a web for the policy proposals – generating the policy’s ‘score’ for each question in the impact assessment.
3. The two policy proposals (new body and cost sharing measures) have been considered together as they are interdependent to the overall policy aim of achieving new arrangements for animal health which:
  - Reduce the overall levels and total costs of animal diseases;
  - Deliver effectiveness, efficiency and economy from investment in disease prevention and management;
  - Share costs between main beneficiaries and risk managers; and
  - Improve confidence of the livestock industry and other stakeholders in the way disease risks are managed.
4. The questions listed below represent each “spoke” of the policy web. Negative (-1) or positive (+1) impacts and neutral (0) impacts resulting from a balancing exercise between negative and positive effects are briefly outlined below.

### **Economic impacts**

- Q1. *Will it impact on the levels of competition within the affected sector? [0]*  
 A1. There is not expected to be any impact on competition arising from the creation of a new independent body for animal health.
- Q2. *Will the proposal impact on small businesses? [-1]*  
 A2. As most livestock producers are classified as small businesses, the proposals will impact on small businesses. The Impact Assessment has been drafted from this perspective and a Small Firms’ Impact Test forms part of Annex 1 within the impact assessment.
- Q3. *Will the proposals introduce new criminal sanctions or civil penalties? [0]*  
 A3. No.
- Q4. *Will the proposal bring receipts or savings to the Government? [+2]*  
 A4. Some additional financial support (set-up costs) will be necessary to establish the new body. These costs will be more than off-set by savings to government expenditure on disease surveillance/preparedness and reducing the likelihood and cost of such outbreaks.
- Q5. *Will it impact on the costs, quality or availability of goods and services? [0]*  
 A5. For consumers, there should be no increase in the costs of meat products.
- Q6. *Will it impact on the public sector, the third sector, consumers? [+1]*  
 A6. The proposals will impact on the elements of the public sector directly related to the policies. As such, the new body would entail a transfer of staff from Defra (estimated 235 staff) to the new body which may or may not involve a move out of London. In the main these will be policy and specialist staff. In addition, one of Defra’s existing delivery agents would need to be contracted to run the registration scheme. The wider public sector will not be affected nor, on the whole, will the voluntary sector. The proposals will continue to safeguard public health in relation to zoonotic diseases.



Q7. *Will the proposal result in new technologies? [0]*

A7. No.

Q8. *Will the proposal result in a change in the investment behaviour both into the UK and UK firms overseas and into particular industries? [0]*

A8. The proposals are not expected to change the investment behaviour of UK firms

Q9-Q11. *Blank*

### **Social impacts**

Q12. *Will the proposal have an impact on health, wellbeing or health inequalities? [0]*

A12. No. The proposals will continue to safeguard public health in relation to zoonotic diseases.

Q13. *Will the proposal influence safety at work or affect the likelihood of accidents in the community? [0]*

A13. No.

Q14. *Will the proposal affect the rate of crime or crime prevention or create a new offence / opportunity for crime? [0]*

A14. No.

Q15. *Will the proposal affect the levels of skills and education? [0]*

A15. No.

Q16. *Will the proposal affect the provision of facilities or services that support community cohesion or in other ways affect the quality of life in the local community?*

A16. No.

Q17. *Could the proposal result in any changes in or a differential impact on any of the following?:*

- a. race equality [0]
- b. rural proofing [0]
- c. human rights [0]
- d. gender equality [0]
- e. disabled equality [0]
- f. children and young people [0]
- g. older people [0]
- h. income groups [0]
- i. devolved administrations [0]
- j. particular regions of the UK [0]

Q18-20. *Blank*

### **Environmental impacts**

Q21. *Will the policy option lead to a change in the emission of greenhouse gases? [0]*

A21. No.

Q22. *Will the policy option be vulnerable to the predicted effects of climate change? [0]*

A22. No.

Q23. *Will it lead to a change in the financial costs or the environmental and health impacts of waste management? [0]*

A23. No.

Q24. *Will it impact significantly on air quality? [0]*

A24. No.

Q25. *Will it involve any material change to the appearance of the landscape or townscape? [0]*

A25. No.

Q26. *Will it change the degree of water pollution, levels of abstraction of water, or exposure to flood risk? [0]*

A26. No.

Q27. *Will it disturb or enhance habitat or wildlife? [0]*

A27. No.

Q28. *Will the policy option affect the number of people exposed to noise or the levels to which they are exposed? [0]*

A28. No.

### **Legal Aid**

The proposals are not believed to result in any significant change in the demand for legal aid.

### **Carbon Assessment**

The proposals are not believed to result in any significant change in carbon emissions, though it is possible that there may be an increase in vehicle movements associated with enforcement/inspection of the registration scheme. Ideally these visits would be combined with other purposes, but it is too early to say whether this will be possible in practice.

### **Other Environmental Issues**

As the nature and scale of the livestock sector is likely to remain the same, the proposals have no implications in relation to climate change, waste management, landscapes, water and floods, habitat and wildlife or noise pollution.

### **Health Impact Assessment**

The proposals will continue to safeguard public health in relation to zoonotic diseases.

### **Race/Disability/Gender Equality**

We considered carrying out an equalities impact assessment in relation to the proposals – particularly in relation to the establishment of a new body – to assess possible impacts on race, disability and gender as a minimum. However, following discussion with Defra's Diversity Team, it was agreed that it was too early to carry out such an assessment at this stage of the process. Should the proposals be taken forward, an equality impact assessment will be undertaken to assess any potential impacts on different groups.

### **Human Rights**

The proposals are consistent with the Human Rights Act 1998.

### **Rural Proofing**

The majority of producers affected by the proposals are based in rural areas. The proposals are likely to have an economic impact which will be specific to those involved in livestock production. The impact assessment looks at this in detail.

## Annex 2: Notes to Accompany Costs of New Body

The costs identified are best estimates based on data available and based on comparable experience, in particular the experience of establishing the Agriculture and Horticulture Development Board.

*Table 6 Initial estimate of additional set-up costs of a new body: London*

### **A Specialist set-up team**

Salary of full-time staff in specialist areas to oversee the development of the body: Legal (1xG6, 1xG7, 1xE0), HR (1xG6, 1xG7 and 1xHEO), Estates (1xSEO). The creation of the new body would also involve a team of administrators (1xG6, 1xG7, 2xSEOs, 2xHEOs and 1xE0 as existing civil servants) and a Bill team (of 1xG7, 1xHEO and 1xE0) to see through the transition from Defra to the new body. Staff could be expected to be in place for a year, requiring full-time input from around 17 staff in total.

### **B IT**

It is assumed that the new body would use the Defra 'e-nabling' contract at a cost of £1,100 per staff member (not included as it represents a transferred running cost). In terms of set-up costs, transfer of IT services would be approximately £125 per person, although this depends on the remoteness of the location and the networks already available at the site.

### **C Recruitment of Shadow Board, Chairman and Chief Executive**

This item covers the costs of contracting an agency to recruit at executive level and the (senior) Defra staff costs to be involved in sifts and interviewing panels.

### **D Shadow Board, Chairman and Chief Executive**

This line covers for one year Board staff costs and Chief Executive costs whilst the body is being set-up:

Shadow Board (non-pensionable) @ 8 members x £300 per day x 40 days per year = £96k

Chairman (non-pensionable) @ £91k

Deputy Chairman (non-pensionable) @ £75k

Chief Executive (including pension) @ £136.5k (£100k salary + £11k NI + £25.5k pension)

### **E Secretariat for Shadow Board**

This line covers the salary costs of employing (1xG7, 1xHEO, 1xE0, 1xAO as existing civil servants) for one year to provide a secretariat service to the Shadow Board in advance of the Board being up and running.

### **F Re-branding**

Re-branding is not expected to be a significant cost. In addition to internal signage, stationery, logo development, a separate front desk arrangement would be needed within the Defra complex.

## **G Removals within London building**

At present Defra staff working on animal health policy are sited in different buildings of the London complex. There would be some cost involved in bringing together 235 Defra staff + 10 AH staff @ £120 per person to work in one or more floors of the same building. This is the amount that Bishops Move (removals' company) would charge, which includes transporting hardware, assuming a desk top. As Defra staff move to laptops in the future, there may be less demand to move hard drives, screens, docking stations etc.

*Table 7 Initial estimate of additional running costs of a new body: London*

### **A Shadow Board, Chairman and Chief Executive**

This line covers the annual pay for Board staff, Chairman and Chief Executive:

Shadow Board (non-pensionable) @ 8 members x £300 per day x 40 days per year = £96k

Chairman (non-pensionable) @ £91k

Deputy Chairman (non-pensionable) @ £75k

Chief Executive (including pension) @ £136.5k (£100k salary + £11k NI + £25.5k pension)

*Table 7 Initial estimate of additional set-up costs of new body: outwith London*

### **A Costs identified A-F in Table 6 above**

These costs are the same for a London location as for an outwith London location and as such have not been itemised again.

### **B Staff relocation expenses**

These costs are spread over nine years (in accordance with Defra's relocation policy) and include moving costs and additional travel expenditure for half of current staff numbers (i.e. 122 staff).

### **C Pre-redundancy salary for staff not relocating**

These costs are based on the additional pay necessary for an estimated 59 staff who are not prepared to relocate, but who either go on to find alternative employment within a year, or accept voluntary redundancy.

### **D Voluntary redundancy for staff not relocating**

These estimates are based on the costs of voluntary redundancies for an estimated 59 staff.

### **E Recruitment to replace staff not relocating**

This line includes the costs of contracting an agency to manage the process of recruiting an estimated 122 members of staff. The recruitment drive also requires management time in terms of sifting, interviewing and moderating. This is estimated at £500 per posting, (07/08 figures) plus an additional £5,000 for specific local advertising. The costs of adverts could increase substantially if the vacancies required specific (separate) job descriptions. There may be a limited amount of interest in these posts from other government departments, which could reduce external recruitment costs slightly.

## **F Removals**

This line covers the costs of removing office furniture and equipment from Defra's HQ site and installing it at an outwith London site @ £155 per person.

*Table 9 Initial estimate of additional savings and running costs of new body: outwith London*

### **A Shadow Board, Chairman and Chief Executive**

This line (as with table 6) covers the annual pay of Board staff, Chairman, Deputy and Chief Executive:

Shadow Board (non-pensionable) @ 8 members x £300 per day x 40 days per year = £96k

Chairman (non-pensionable) @ £91k

Deputy Chairman (non-pensionable) @ £75k

Chief Executive (including pension) @ £136.5k (£100k salary + £11k NI + £25.5k pension)

### **B National pay scale savings**

The savings estimated are based on reduced staff costs which derive from establishing the body outside of London (savings in pay, pension, National Insurance etc. from adopting national pay scales for new staff, as opposed to London pay scales). It should be noted that further savings will be released over a number of years as staff who do transfer from London will be on "marked time".

### **C Accommodation rental savings**

Savings are calculated on the basis that accommodation outside of London will be cheaper than renting from Defra's HQ estate. For the purposes of estimating costs, the figures are based on moving to Defra's Crewe site. Savings may take time to filter through as existing accommodation contracts cannot be released until 2013.

*Table 10 Additional costs for an NDPB*

### **A VAT payments on services**

NDPBs are not considered as government departments for VAT purposes and must comply with normal VAT regulations. They are treated in the same way as private VAT-registered traders and are not able to take advantage of the special VAT procedures available to government departments, including refunds of VAT on contracted-out services. As such, 17.5% would need to be added to services contracted-out such as accounting, pay and IT. The figure provided is a working estimate based on the VAT reclaimed by the administration side of Animal Health (not including the VAT reclaimed for official veterinary services).

### **B Replacement staff for vacancies at transfer:**

The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) protects employees' terms and conditions, when the service in which they work is transferred from one employer to another and the service retains its identity. However, it is estimated that 10% of those staff being transferred (245) will not wish to lose their civil service status, and will endeavour to transfer to a different department before then transfer date. This will potentially leave additional vacancies at the point of transfer, which the new body will be required to fill @ £500 per post (for 25 posts), plus local advertising at £5,000. Replacing staff would potentially release a saving of £158,248 based on the terms and conditions for new staff.

## Annex 3: Lyons' Review

In March 2004 Sir Michael Lyons' independent review of government accommodation in London and the South East "Well Placed to Deliver? – Shaping the Pattern of Government Service"<sup>17</sup> was announced. The review concluded that the pattern of government needed to be reshaped:

"National public sector activity is concentrated in and around London to an extent which is inconsistent with Government objectives. In particular this pattern fails fully to reflect the large cost disparities between London and other parts of the UK and the revealed benefits of dispersal for the efficient delivery of government business and for regional economies. London as capital needs a governmental core supporting ministers and setting the strategic policy framework. In every other respect the status quo is open to challenge."

He made 10 recommendations which included:

- Identifying more than 27,000 jobs that could be taken out of London and the South East;
- Major dispersals are unlikely to offer a quick payback and they incur considerable costs up front. The Government must be prepared to make the necessary investment;
- Whitehall headquarters should be radically slimmed down, reflecting a clearer understanding of what is really needed in London, and of the distinction between policy and delivery;
- There should be a strongly enforced presumption against London and South East locations for new government bodies and activities; for functions such as back office work and call centres which do not need to be in London; and for bodies and functions whose effectiveness or authority would stand to be enhanced by a location outside London.

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<sup>17</sup> [http://www.hm-treasury.gov.uk/the\\_lyons\\_review.htm](http://www.hm-treasury.gov.uk/the_lyons_review.htm)

## Annex 4: Government Expenditure on Animal Health and Welfare

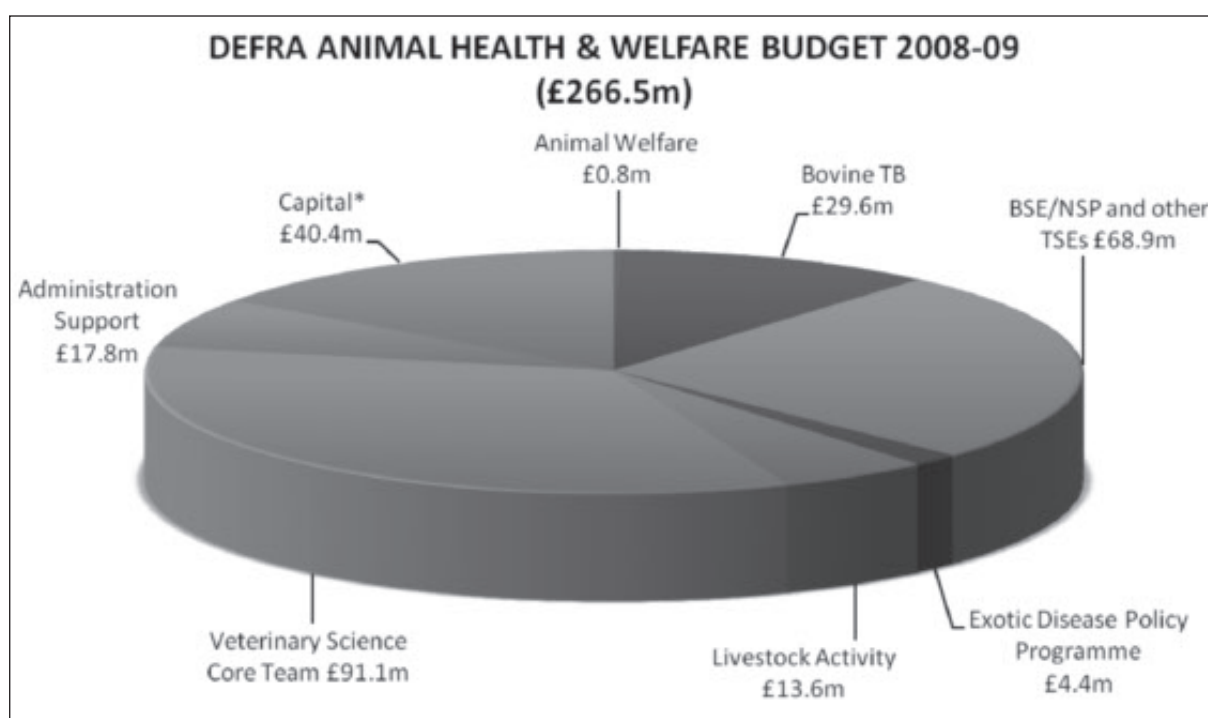
This Annex provides a summary breakdown in Tables 1 and 2 below of Defra expenditure on animal health and welfare. Table 1 covers expenditure managed by animal health and welfare policy part of the department while Table 2 covers expenditure by the Animal Health executive agency. In both cases it includes some expenditure which relates to activities in Scotland and Wales as well as England.

Table 3 summarises the costs to Defra of the exotic disease outbreaks in 2007.

<b>Table 1: Defra animal health and welfare budget 2008-09</b>		
<b>2008-09</b>	<b>£m</b>	<b>%</b>
Animal Welfare	0.750	0%
Bovine TB	29.551	11%
BSE/NSP and other TSEs	68.916	26%
Exotic Disease Policy Programme	4.399	2%
Livestock Activity	13.640	5%
Veterinary Science Core Team	91.074	34%
Administration Support	17.833	7%
Capital*	40.385	15%
	<b>266.548</b>	<b>100%</b>

Source: Defra and Animal Health finance teams

**Figure 1: Defra animal health and welfare budget 2008-09**



Source: Defra and Animal Health finance teams

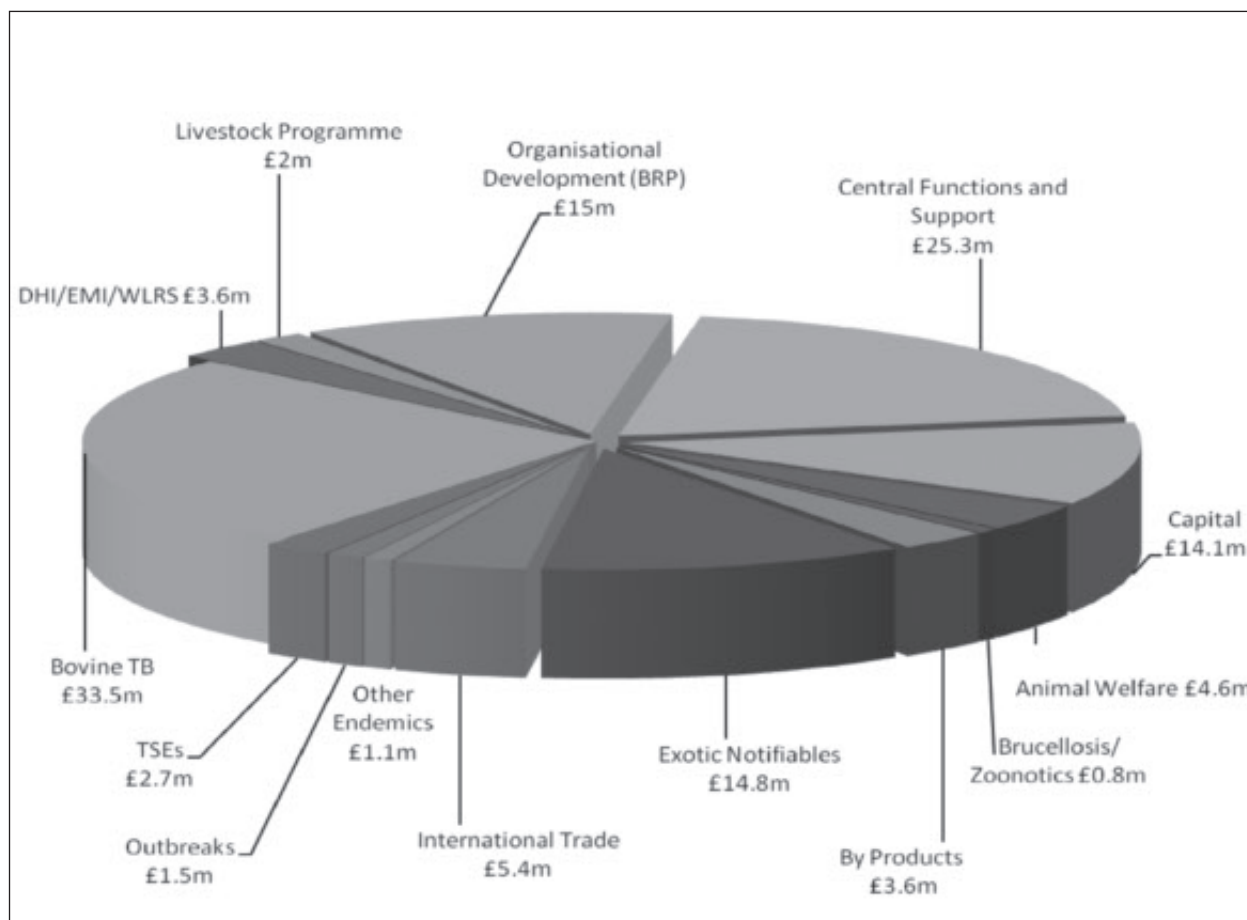
Capital\* – Includes a one-off £10m for VLA redevelopment

<b>Table 2: Animal Health costs information</b>		
<b>Budget analysis – Aug 08</b>	<b>£m</b>	<b>%</b>
Animal Welfare	4.604	4%
Brucellosis/Zoonotics	0.838	1%
By Products	3.635	3%
Exotic Notifiables	14.754	12%
International Trade	5.366	4%
Other Endemics	1.137	1%
Outbreaks	1.521	1%
TSEs	2.698	2%
Bovine TB	33.472	26%
DHI/EMI/WLRS	3.616	3%
Livestock Programme	2.000	2%
Organisational Development (BRP)	15.000	12%
Central Functions and Support	25.332	20%
Capital	14.070	11%
	<b>128.043</b>	<b>100%</b>

Source: Defra and Animal Health finance teams



**Figure 2: Animal Health costs information**



Source: Defra and Animal Health finance teams

Outbreaks in 2007	Cost
FMD	£47m
Bluetongue	£2m
Avian Influenza	£3m
<b>Total</b>	<b>£52m</b>

Source: Defra finance team

Table 4 provides an indication of the costs involved in Defra's exotic disease preparedness work with its delivery partners. The figures are based on the 2007/8 budget and represent a best estimate based on available data. The costs provided are for operational costs only, and do not include the pay and on-costs of officials conducting this work.

<b>Table 4: Exotic disease preparedness and surveillance costs</b>		
<b>Category</b>	<b>Item</b>	<b>Total (£000s)</b>
<b>Surveillance</b>	VLA contract to scan surveillance of emerging diseases (eg testing samples & animal carcasses)	<b>8,880</b>
	MLC surveillance of wild birds and dead wild birds' helpline for Avian Influenza	<b>1,000</b>
<b>Record keeping, movement recording &amp; control</b>	Payment to local authorities (for activities including data capture and traceability work on Animal Movement Licensing System and Animal Health and Welfare Management and Enforcement System (AMES), and enforcement).	<b>8,500</b>
	Livestock identification and movement	<b>1,450</b>
	Implementation of Madders review (changes to the way in which Defra records the location to and from which livestock are moved).	<b>1,000</b>
	Poultry register	<b>1,153</b>
	National Equine Database	<b>200</b>
<b>Contingency planning</b>	Animal Health Agency (preparing for outbreaks, including exercises, setting up and reviewing contingency contracts and updating processes such as disposal arrangements in the event of an outbreak, reviewing FMD and other contingency plans and recruiting, training and coordinating the activities of Regional Operation Directors and Deputy Operational Managers).	<b>8,039</b>
	Contract with VLA to provide consultancy and diagnostic services in relation to a range of statutory and exotic viruses and bacteria. This contract contains an element of preparedness in that it provides for a ramp up of testing capacity in the event of an outbreak.	<b>4,334</b>
	Vaccine banks for FMD & AI	<b>1,286</b>
<b>Research &amp; development</b>	Research and development for FMD, AI, Newcastle Disease, Bluetongue, CSF, ASF, Brucellosis & new and emerging diseases	<b>6,900</b>
<b>Laboratory infrastructure</b>	Payment to Institute of Animal Health for reference laboratory services for FMD, Swine Vesicular Disease, Rinderpest, Bluetongue, African Swine Fever, African Horse Sickness, Lumpy Skin Disease and Sheep & Goat Pox.	<b>1,699</b>
<b>Total</b>		<b>44,439</b>

Source: Defra policy teams

## Annex 5: Notifiable Diseases

Notifiable Disease	Species Affected	Occurred last in Great Britain
African Horse Sickness	Horses	Never
African Swine Fever	Pigs	Never
Anthrax	Cattle and other mammals	Present
Aujeszky's Disease	Pigs and other mammals	1989
Avian Influenza (Bird Flu)	Poultry	Present
Bovine Spongiform Encephalopathy	Cattle	Present
Bluetongue	All ruminants and camelids	Present
Brucellosis (Brucella Abortus)	Cattle	2004
Brucellosis (Brucella Melitensis)	Sheep and goats	1956
Classical Swine Fever	Pigs	2000
Contagious Agalactia	Sheep and goats	Never
Contagious Bovine Pleuro-pneumonia	Cattle	1898
Contagious Epididymitis (Brucella Ovis)	Sheep and goats	Never
Contagious Equine Metritis	Horses	2008
Dourine	Horses	Never
Enzootic Bovine Leukosis	Cattle	1996
Epizootic Haemorrhagic Virus Disease	Deer	Never
Epizootic Lymphangitis	Horses	1906
Equine Viral Arteritis	Horses	2004
Equine Viral Encephalomyelitis	Horses	Never
Equine Infectious Anaemia	Horses	2010
Foot and Mouth Disease	Cattle, sheep, pigs and other cloven hoofed animals	2007
Glanders and Farcy	Horses	1928
Goat Pox	Goats	Never
Lumpy Skin Disease	Cattle	Never
Newcastle Disease	Poultry	2006
Paramyxovirus of pigeons	Pigeons	Present
Pest des Petits Ruminants	Sheep and goats	Never
Rabies	Dogs and other mammals	2006
Rift Valley Fever	Cattle, sheep and goats	Never
Rinderpest (Cattle Plague)	Cattle	1877
Scrapie	Sheep and goats	Present
Sheep Pox	Sheep	1866
Swine Vesicular Disease	Pigs	1982
Teschen Disease (Porcine Enterovirus Encephalomyelitis)	Pigs	Never
Tuberculosis (Bovine TB)	Cattle and deer	Present
Vesicular Stomatitis	Cattle, pigs and horses	Never
Warble Fly	Cattle, (deer and horses)	1990
West Nile Virus	Horses	Never

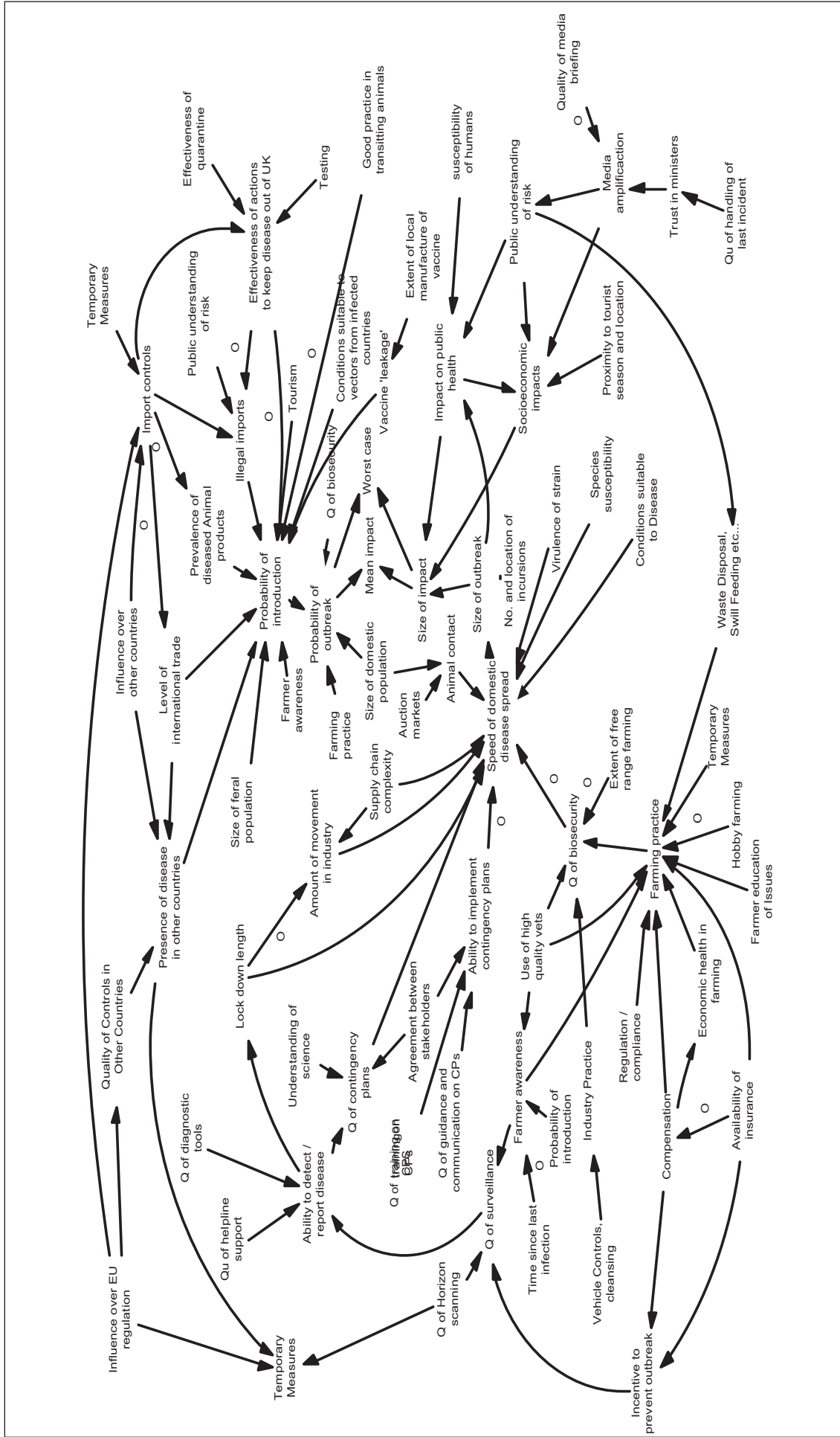
Source: <http://www.defra.gov.uk/animalh/diseases/notifiable/index.htm>

## Annex 6: Benefit Modelling

ENABLERS	INTERMEDIATE		END BENEFIT
<b>NEW BODY</b>	Farmers will develop efficient and effective animal health measures	Reduced costs of disease outbreaks through financial incentives/penalties	Improved confidence/faith in system by livestock industry
	Decision making which better effectively protects public health, the environment and improves and encourages animal health	Improved decision making leading to: <ul style="list-style-type: none"> <li>– More efficient use of resources</li> <li>– Improved mgt of exotic disease outbreaks</li> <li>– Improved control of endemic disease</li> </ul>	Better prepared
	Partnership working	Increased farmer awareness of disease risks and how to minimise them	Increased/better detection and reporting of disease
	Increased public awareness of disease risks	Better compliance with import controls reducing risk of disease being imported	Improved animal health (disease freedom)
	Industry has opportunity to address animal health issues beyond public interest		Increased public/consumer confidence
			Cost of disease outbreaks reduced

Source: Defra programme on responsibility and cost sharing

# Annex 7: Exotic Disease Systems' Thinking



Source: Defra illustration of the range of drivers that affect the likelihood and impact of exotic animal disease, based on experience of policy owners and delivery partners.

## Annex 8: Technical annex for disease cost sharing project

Estimating the potential cost of exotic disease outbreaks

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January, 2010



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### 1. Introduction – expert elicitation

In risk assessments that consider rare or future events, opinions elicited from experts are often an important source of information. In the context of statistical analysis, elicitation is the process of translating someone's beliefs about some uncertain quantities into a probability distribution. Elicitation is therefore an important process: it has a part to play in every application where data and observations do not provide enough information by themselves. Elicitation cannot replace data-driven scientific studies, but it can help us to make rigorous use of available knowledge when time or resources to gather new data are limited, and to take stock of uncertainty about the quantities of interest. In order to quantify the uncertainty, we mathematically model the uncertainty using probability distributions.

Elicitation methodologies capture experts' current knowledge in coherent ways. However, it can be difficult for the expert to articulate their beliefs. There are also other complications due to the biases of the expert and the biases created by the questioning process. The process of questioning people about their beliefs is not a new subject; it has been the focus of innumerable studies. Psychologists have done most of the work on the process of actually eliciting beliefs from people. In these studies, the people they question are not always experts in the field of interest. There is a vast amount of literature on the subject from a psychological perspective; two important works on the subject are Tversky and Kahneman (1974), and Hogarth (1975). A review of the psychological literature from a statistical viewpoint can be found in O'Hagan et al. (2006).

The technique of eliciting *distributions* to represent the value of quantities of interest was used in this study. Risk assessments are often undertaken by eliciting *point* estimates of quantities from experts. A, potentially major, disadvantage of that approach is that it leads to decisions being made with no appreciation of the size of the uncertainty associated

<sup>18</sup> [www.defra.gov.uk/fera](http://www.defra.gov.uk/fera)

with the evidence. A more sophisticated approach is to elicit distributions from experts that describe both the value of a quantity of interest and the degree of certainty the expert has about that value. A recent report by Boatman and Gosling (2009) shows the value of formally eliciting distributions that represent expert opinion where they are used to provide evidence for the discussions on environmental management on farms.

## **2. Elicitation for estimating the costs of future exotic disease outbreaks**

As part of a consultation into the formation of a new body to manage livestock diseases, government veterinarians and economists produced estimates of the average annual costs for a number of exotic infectious diseases. In the impact assessment for this consultation (Defra, 2009), a table was given that illustrated veterinarians' and economists' opinions about the frequency and costs of exotic infectious disease outbreaks. In that table, there are point-estimates of the average interval between outbreaks, the costs of minor and major outbreaks, and the probabilities of outbreaks being major for a number of diseases. These estimates are combined in a simple arithmetical way to arrive at an estimate for the total expected annual cost. Of course, there is a great deal of uncertainty about the numbers given in this table, and, to make an informed decision about the value of the new body, this uncertainty should be accounted for.

Table 1 is the output of the elicitation exercise where we have accounted for the uncertainty. In Table 1, estimates for various factors associated with exotic disease outbreaks are given alongside ranges that are representative of the uncertainty in those estimates. The intervals shown under the median values are 90% credible intervals for the unknown values (for each value, the experts believe that there is a 10% chance the true value will be outside the interval). For contrast, in Table 1b, we report mean values and 90% credible intervals. It should also be noted that, as the underlying probability distributions are mostly positively skewed, the means are higher than the judged medians.

In this report, we detail the process used to capture the experts' judgements about the average interval between disease outbreaks, the probability of an outbreak being major, and the costs of an outbreak for the diseases in Table 1. We also show how the final calculations were made for the numbers in this table. Due to the subjective nature of elicitation, it is important to make the process as transparent as possible. A written record was kept of the workshops, which included details of experts present at the meeting, a summary of each expert's relevant expertise, and any declarations of interest (the names of the experts involved are given in Appendix 1). The declarations of interest were recorded for the purposes of transparency only, and were not be used as grounds for exclusion from the elicitation. It is common for experts in elicitation exercises to be stakeholders in the wider process.

<b>Table 1: median estimates and 90% credible intervals for parameters associated with the costs of exotic disease outbreaks.</b>							
<b>Disease</b>	<b>Main species affected</b>	<b>Average interval between outbreaks</b>	<b>% probability that outbreak is major</b>	<b>Incidence cost £M if outbreak</b>		<b>Mean cost per outbreak £M</b>	<b>Expected annual cost £M</b>
				<b>Minor</b>	<b>Major</b>		
<b>Avian influenza</b>	Poultry	1 (0.43,2.5)	2 (1.5,2.7)	3 (1.5,5.2)	15 (5.3,64)	3.2 (1.8,5.8)	3.1 (1.1,8.9)
<b>Bluetongue</b>	Sheep, goats, cattle	1 (0.38,5.1)	2 (0.56,6.3)	0.5 (0.25,1.0)	12 (7.3,20)	0.79 (0.42,1.6)	0.57 (0.13,2.46)
<b>Newcastle disease</b>	Poultry	3 (0.97,9.8)	2 (0.54,6.3)	3 (1.5,5.2)	15 (5.3,63)	3.2 (1.8,6.1)	1.1 (0.28,3.9)
<b>Classical swine fever</b>	Pigs	10 (6.1,16)	75 (39,95)	10 (6.1,16)	30 (13,101)	26 (12,79)	2.7 (1.0,8.6)
<b>Foot-and-mouth disease</b>	Cattle, sheep, pigs	25 (10,59)	5 (2.3,7.9)	50 (18,125)	400 (90,3200)	76 (30,227)	3.1 (0.86,12)
<b>African swine fever</b>	Pigs	20 (8.6,50)	95 (76,100)	10 (6.1,16)	35 (13,135)	36 (13,130)	1.7 (0.44,8.2)
<b>Swine vesicular disease</b>	Pigs	25 (10,59)	50 (15,80)	5 (1.8,12)	35 (10,134)	19 (6.1,70)	0.76 (0.18,3.7)
<b>African horse sickness</b>	Horses	50 (18,126)	75 (38,95)	4 (2.7,6.4)	35 (15,82)	26 (11,63)	0.55 (0.15,2.1)
<b>Other known notifiable</b>	Various	0.75 (0.32,1.6)	2 (0.38,11)	0.05 (0.01,0.25)	15 (4.9,49)	0.40 (0.09,2.5)	0.57 (0.10,4.1)
				<b>Total excluding unknowns</b>			18 (11,34)
<b>Unknown infectious disease</b>	Unknown	5 (1.1,25)	2.5 (0.38,6.9)	20 (3.7,109)	3100 (1000,5300)	79 (22,290)	15 (2.0,113)
				<b>Total including unknowns</b>			36 (17,134)

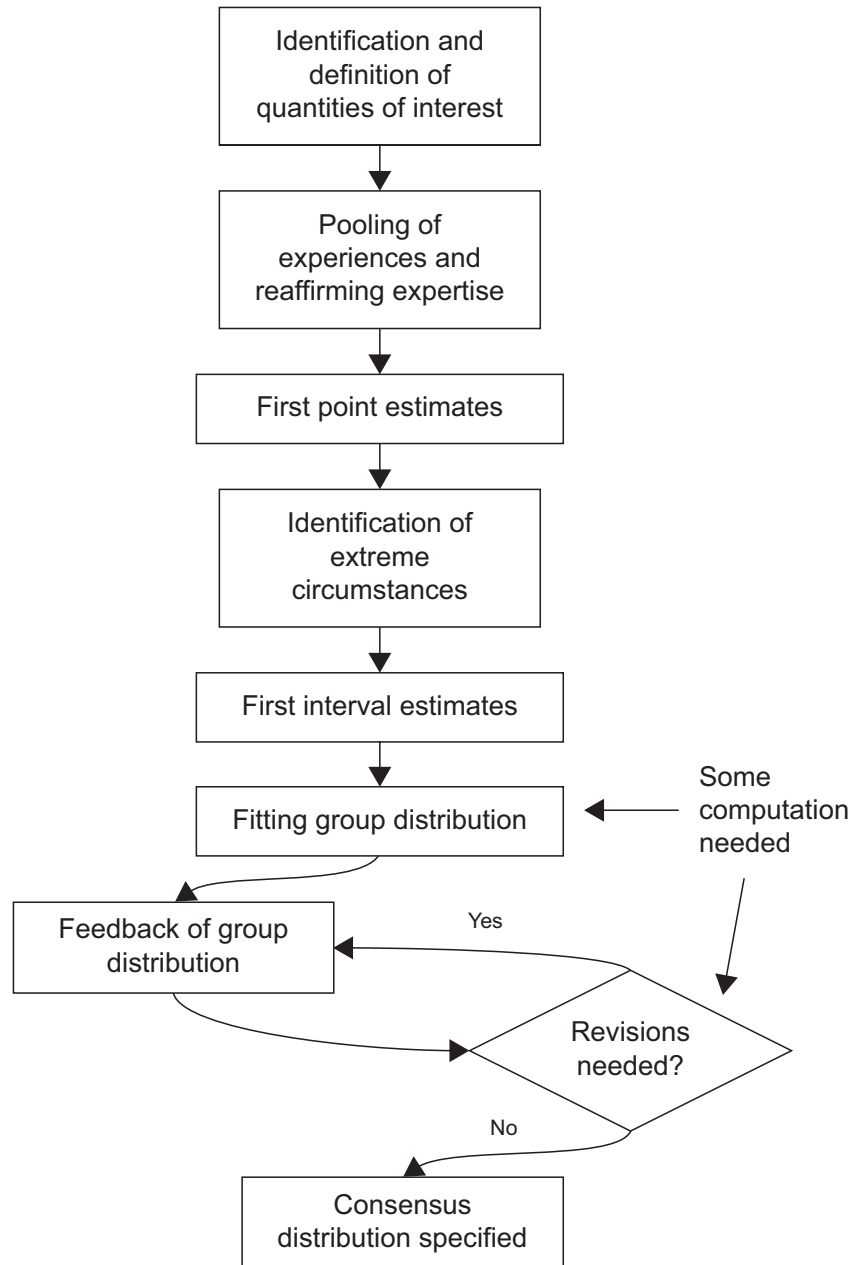


<b>Table 1b: mean estimates and 90% credible intervals for parameters associated with the costs of exotic disease outbreaks.</b>							
<b>Disease</b>	<b>Main species affected</b>	<b>Average interval between outbreaks</b>	<b>% probability that outbreak is major</b>	<b>Incidence cost £M if outbreak</b>		<b>Mean cost per outbreak £M</b>	<b>Expected annual cost £M</b>
				<b>Minor</b>	<b>Major</b>		
<b>Avian influenza</b>	Poultry	1.2 (0.43,2.5)	2.0 (1.5,2.7)	3.0 (1.5,5.2)	24 (5.3,64)	3.4 (1.8,5.8)	3.8 (1.1,8.9)
<b>Bluetongue</b>	Sheep, goats, cattle	1.9 (0.38,5.1)	2.4 (0.56,6.3)	0.57 (0.25,1.0)	13 (7.3,20)	0.87 (0.42,1.6)	0.84 (0.13,2.46)
<b>Newcastle disease</b>	Poultry	4.0 (0.97,9.8)	2.4 (0.54,6.3)	3.0 (1.5,5.2)	24 (5.3,63)	3.5 (1.8,6.1)	1.4 (0.28,3.9)
<b>Classical swine fever</b>	Pigs	10 (6.1,16)	72 (39,95)	10 (6.1,16)	42 (13,101)	33 (12,79)	3.5 (1.0,8.6)
<b>Foot-and-mouth disease</b>	Cattle, sheep, pigs	28 (10,59)	4.6 (2.3,7.9)	56 (18,125)	950 (90,3200)	97 (30,227)	4.5 (0.86,12)
<b>African swine fever</b>	Pigs	24 (8.6,50)	94 (76,100)	10 (6.1,16)	51 (13,135)	49 (13,130)	2.7 (0.44,8.2)
<b>Swine vesicular disease</b>	Pigs	28 (10,59)	46 (15,80)	5.6 (1.8,12)	50 (10,134)	26 (6.1,70)	1.2 (0.18,3.7)
<b>African horse sickness</b>	Horses	57 (18,126)	71 (38,95)	4.3 (2.7,6.4)	40 (15,82)	30 (11,63)	0.75 (0.15,2.1)
<b>Other known notifiable</b>	Various	0.82 (0.32,1.6)	3.4 (0.38,11)	0.08 (0.01,0.25)	20 (4.9,49)	0.76 (0.09,2.5)	1.2 (0.10,4.1)
				<b>Total excluding unknowns</b>			20 (11,34)
<b>Unknown infectious disease</b>	Unknown	8.2 (1.1,25)	2.4 (0.38,6.9)	20 (3.7,109)	3100 (1000,5300)	108 (22,290)	32 (2.0,113)
				<b>Total including unknowns</b>			52 (17,134)

### 3. Steps in this elicitation exercise

The elicitation exercise consists of a number of steps that are designed to enable the experts to make judgements that they trust. Figure 1 is a flowchart representation of the elicitation process. In the three elicitation workshops, there were two facilitators: one chaired the meeting and the other recorded key points and performed any calculations that were needed.

Figure 1: diagrammatic representation of the elicitation exercise.



To obtain judgements about the quantities of interest, we used the bisection method of Raiffa (1968). This method involves dividing the range of possible values into areas of equal probability. This leads to judgements being made on the median of the expected distribution and then the lower and upper quartiles. Part of this task is to question the experts about extreme events to prevent overconfidence in their median estimate before asking them about the quartiles. The bisection method was selected as it does not require the experts to have a good understanding of statistics. Before they were questioned about the variables of interest, the experts were introduced to the methodology using unrelated examples.

In order to fit representative distributions to the experts' judgements, a least-squares fitting procedure was used to select appropriate parameters for the representative distributions. For a least-squares procedure, an optimisation routine is used to find the distribution parameters that minimise the squared difference between the experts' judgements and the corresponding summaries from the fitted distribution. This is close to the procedure for fitting beta distributions described in O'Hagan (1998).

Feedback of the results is important to confirm that the fitted distributions are representative of the experts' beliefs. The experts in the workshops had a good appreciation of probability distributions and simple statistical summaries. Therefore, after fitting the distributions, details of the consequences of using those distributions in Table 1 were discussed with the experts. Ideally the experts would be asked to review all distributions, but due to limited time they were asked to review only distributions with a large influence on the results (identified by sensitivity analysis, see below) and distributions for parameters that had seemed more difficult for the experts to estimate.

#### **4. Key considerations for each disease**

Before the experts were asked to quantify their opinions about the variables in Table 1, they discussed the factors surrounding the frequency of outbreaks and costs for each disease. The facilitator helped the participants to recall information relevant to the quantities of interest by asking about their experiences and evidence they have encountered in the past. During this process, it was possible for the facilitator to ascertain where gaps in the knowledge may occur and assess whether these may lead to biases in the opinions.

At the beginning of the discussion with the experts, it was necessary to define the scenario being considered (that is, in terms of geographic location, current farming legislation and government spending on disease prevention). Here are the assumptions made by the experts that underpin the scenario that was under consideration in this elicitation exercise:

- Roughly speaking, the scenario is analogous to the current situation including a budget reduction for 2010/11 and planned (or expected) changes in policy for disease control measures over the next 12 to 24 months.
- For the costs, the experts were considering the cost of outbreaks in England to the government alone. The experts felt unable to account for the potential costs of agroterrorism.
- The definition of minor and major outbreaks is different for each disease under consideration: some are based on number of infected farms and while for some a minor outbreak is the detection of an infected animal.

Below are lists of key points for each of the diseases under consideration. Within the lists is the definition of what is meant by 'minor' and 'major' outbreaks for each disease.

##### *African horse sickness*

- This disease has never occurred in the UK. Should the disease be present and not controlled in another trading partner, it would be reasonable to expect that the average interval between outbreaks would not be less than 10 years, and it is improbable that it is above 100 years.
- No UK example to work from to estimate the costs. This disease is highly likely to spread in the same way as bluetongue. However, the major difference is that the target species is horses and other equidae and that this population is different to that of farmed livestock.

- The disease should be easy to detect as it produces marked clinical disease in horses.
- There are some live vaccines that are used in known endemic areas of Africa that could help against the disease. These are not readily available in the UK.
- EU rules require 150km zone(s) to be established. Their set up and maintenance for a period of time would be relatively expensive.
- The policy response is under review: it is difficult to imagine many horses being culled out.
- The time to detection could also have a major impact on the spread of the disease.
- Minor: an out-of-vector season outbreak with quick detection and established control and surveillance zones.
- Major: an outbreak during the vector season, fast spread of disease due to intense movement of horses, culling of affected horses, no vaccine approved or applied.

#### *African swine fever (ASF)*

- This disease has never occurred in the UK. No UK example to work from to estimate the costs. Given a number of similarities, it is reasonable to assume that the opinion may be similar to that for classical swine fever (CSF).
- The average interval for the disease introduction and an outbreak of this disease would be longer than for CSF as we do not import live pigs and pig products from countries where ASF is present.
- Unlike CSF, there is no vaccine for ASF, and this could lead to dealing with ASF being more costly.
- ASF is in Sardinia and is spreading in Armenia, Georgia and Russia.
- The time to detection could also have a major impact on the spread of the disease.
- Minor: outbreak localised in area with low pig density.
- Major: spread amongst several pig industry pyramids across the UK.

#### *Classical swine fever (CSF)*

- The last outbreak of the disease in the UK was in 2000. Current compartmentalised industry (pyramids) can help reduce the spread of this disease to other pig pyramids.
- Risk mitigation measures were introduced on the back of Swine Vesicular Disease outbreaks in the 1970s (movement controls) and FMD in 2001 (prohibition of swill feeding); these will help control CSF.
- There is a vaccine available for this disease, and this could be used to help control an outbreak.
- Strict compliance with cleansing and disinfection of livestock vehicles should help reduce the spread of an outbreak.
- Apart for sporadic outbreaks, the only major outbreak was seen the Netherlands in 1997/8.
- There is concern that the reporting of suspicion of this disease has fallen dramatically over the past decade, despite the presence of endemic diseases that have similar clinical signs. The time to detection could also have a major impact on the spread of the disease.

- Minor: outbreak in area with low pig density.
- Major: spread amongst several pig industry pyramids.

#### *Swine vesicular disease (SVD)*

- Clinical suspicion of SVD is dealt with as FMD until the lab results come through because of almost indistinguishable clinical signs.
- The vast majority of European outbreaks would be classified as major.
- As this is a group of diseases there is uncertainty about the minor and major definitions and subsequent estimates for these are specific to each disease.
- Risk mitigation measures were introduced on the back of Swine Vesicular Disease outbreaks in the 1970s (movement controls – 21 day standstill rule) and FMD in 2001 (prohibition of swill feeding); these will help control CSF.
- Minor: Outbreak in clinical form, where sick pigs are detected early and disease is eradicated quickly.
- Major: Outbreak is the sub-clinical form which is not detected early resulting in spread through pig pyramids through the movements of infected pigs and the use of contaminated livestock vehicles – this virus is very resistant to many disinfectants with the result that surfaces may not be effectively cleansed and disinfected.

#### *Avian influenza*

- This covers all forms of notifiable avian influenza – that is low pathogenic H5 or H7 and all highly pathogenic forms
- This disease is often seasonal and is more likely to occur in spring and autumn when wild birds are migrating. However, a possibility that they may occur at any time of the year cannot be excluded.
- There have been between one and three outbreaks a year recently – mainly due to the highly pathogenic H5N1 (Asian strain) in domestic poultry and also arising from detection in wild birds.
- We are yet to experience a major outbreak of this disease in England. The closest major outbreak was in the Netherlands in 2003 that was highly pathogenic H7.
- The time to detection could also have a major impact on the spread of the disease. For highly pathogenic strains, if detection is very quick it could limit the size of an outbreak. For low pathogenic strains, detection may be delayed due to absence of obvious clinical signs, so the spread could be insidious – although that has not been self-evident in recent outbreaks.
- The time to detection could also have a major impact on the spread of the disease.
- Minor: outbreak affecting 1 to 3 farms.
- Major: outbreak affecting 30+ farms.

#### *Newcastle disease*

- Vaccination against this disease is permitted in the UK. Vaccination for this disease means that a large immune population may have lengthened the interval between outbreaks.
- The costs are similar to those for avian influenza despite the probabilities for dissemination of Newcastle Disease being much smaller as the unvaccinated

(susceptible) population tend to be small backyard flocks and the number of such premises is high.

- Minor: outbreak affecting 1 to 3 farms.
- Major: outbreak affecting 30+ farms.

#### *Bluetongue*

- In 2006, the disease introduction (BTV-8) was novel in the EU, resulting in a major outbreak of this disease in a naive population and subsequent circulation of the disease.
- BTV-8 was introduced in the UK in 2007. Vaccine against BTV-8 was made available in 2008. Vaccine uptake in the UK (BTV-8) and in the EU (for BTV-8 and BTV-1) may increase the intervals between another introduction and outbreaks in the UK.
- The time to detection could also have a major impact on the spread of the disease.
- A major outbreak would usually involve the introduction of a new serotype (e.g. BTV-1) that would lead to movement restrictions,
- Minor: disclosure of BTV 8 infected viraemic animal (this can be extended to other serotypes once we have vaccines available for use). No established virus circulation
- Major: circulation of the disease – where disease cycle has been established and maintained throughout the year. (i.e. circulation of the virus from livestock into midges and rapid spread in the absence of an effective vaccine).

#### *Foot-and-mouth disease (FMD)*

- If rules were followed, the average interval should be towards 100 years.
- The 2007 outbreak cost the government around £50m. The Isle of Wight incident in 1981 is a good example of a minor outbreak.
- Delays in the detection of the disease will have an impact on the disease spread, and this was one of the major drivers in 2001.
- The estimates take on board the disease control measures introduced after the 2001 epidemic – standstills, prohibition of swill feeding and markets legislation.
- The time to detection could also have a major impact on the spread of the disease.
- Minor: this has the same characteristics of the 1981 or 2007 outbreaks.
- Major: this has similar characteristics of the 1967/8 or 2001 outbreak.

#### *Other known notifiable infectious diseases*

- This group of other exotic livestock diseases include: Aujeszky's, anthrax and contagious equine metritis. It does not include the costs of ad hoc surveillance activities, for example following up non-negative post-import tests for diseases such as Glanders or equine infectious anaemia.
- As this is a group of diseases there is uncertainty about the minor and major definitions and subsequent estimates for these are specific to each disease.
- The time to detection could also have a major impact on the spread of the disease.
- A minor outbreak may cause minimal staff and compensation costs.
- Aujeszky's was taken as an example for the major costs.

### *Unknown infectious diseases*

- An unknown infectious disease could produce a public health threat that could have enormous costs; BSE is a past example of this.
- The character of such a disease could be uncontrollable spreading with an unknown pattern of transmission; hence, the first cost is for research into the disease.
- There are instances of unknown new diseases that cost little when they first appear (e.g. novel H1N1 in pigs and Bloody Calf Syndrome in 2009, BSE in 1986) – these initial costs are not included in the table until a decision is taken to apply control measures.
- The opinion for this set of diseases reflects the fact that the costs (after a decision has been taken to control this disease) could be from minor surveillance to full-scale culling (this is reflected in the minor/major division).

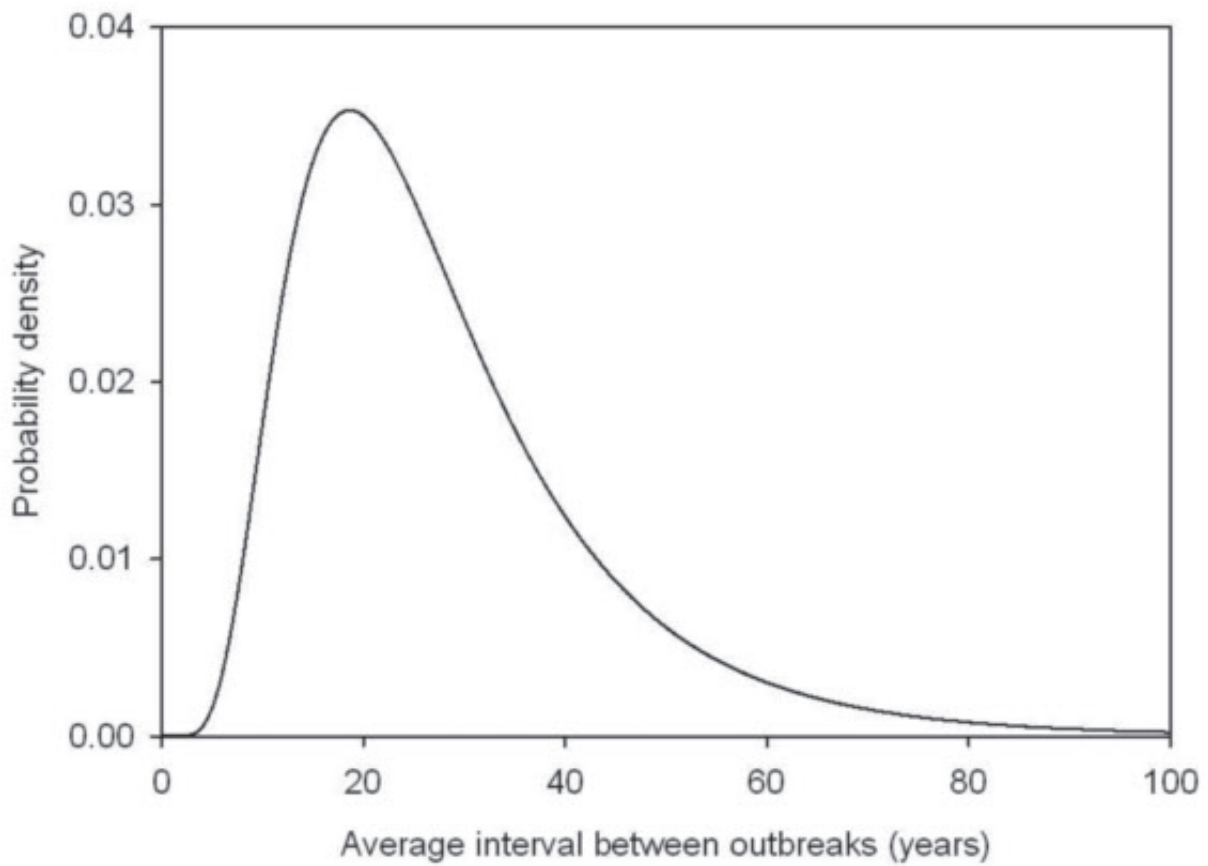
## **5. Results from the elicitation exercise**

As stated earlier, we elicited the three quartiles for each quantity of interest from the experts. We found that we could fit probability distributions from two parametric families (lognormal and beta) that were judged to be reasonable representations of the experts' beliefs. The full set of judgements that were elicited at the three workshops and the details of the fitted distributions are given in Appendix 2.

After fitting distributions, we could produce a number of summaries that are used to judge the adequacy of the distributions. For example, we were able to produce averages (means, medians and modes) and measures of spread (standard deviations, percentiles, credible intervals). In Table 1, we report medians and 90% credible intervals. It should also be noted that, as the distributions are positively skewed, the means are higher than the medians. We can also graph probability density and cumulative distribution functions. A probability density function describes the relative likelihood of a variable taking different values, and a cumulative distribution function outputs the probability of a variable being less than a given value. Figures 2 to 5 are the probability density functions for the four foot-and-mouth variables.

It is clear from Figures 2 to 5 that there is a great deal of uncertainty about the variables considered in Table 1. One of the most uncertain quantities in the table is the cost of a major outbreak of an unknown disease (shown in Figure 6). In the subsequent analysis of the uncertainties in Table 1, we were able to identify the quantities the experts' were most uncertain about and which quantities had the greatest impact when calculating the total annual costs.

**Figure 2: fitted density function for the average interval between foot-and-mouth outbreaks.**



**Figure 3: fitted density function for the probability of a foot-and-mouth outbreak being major.**

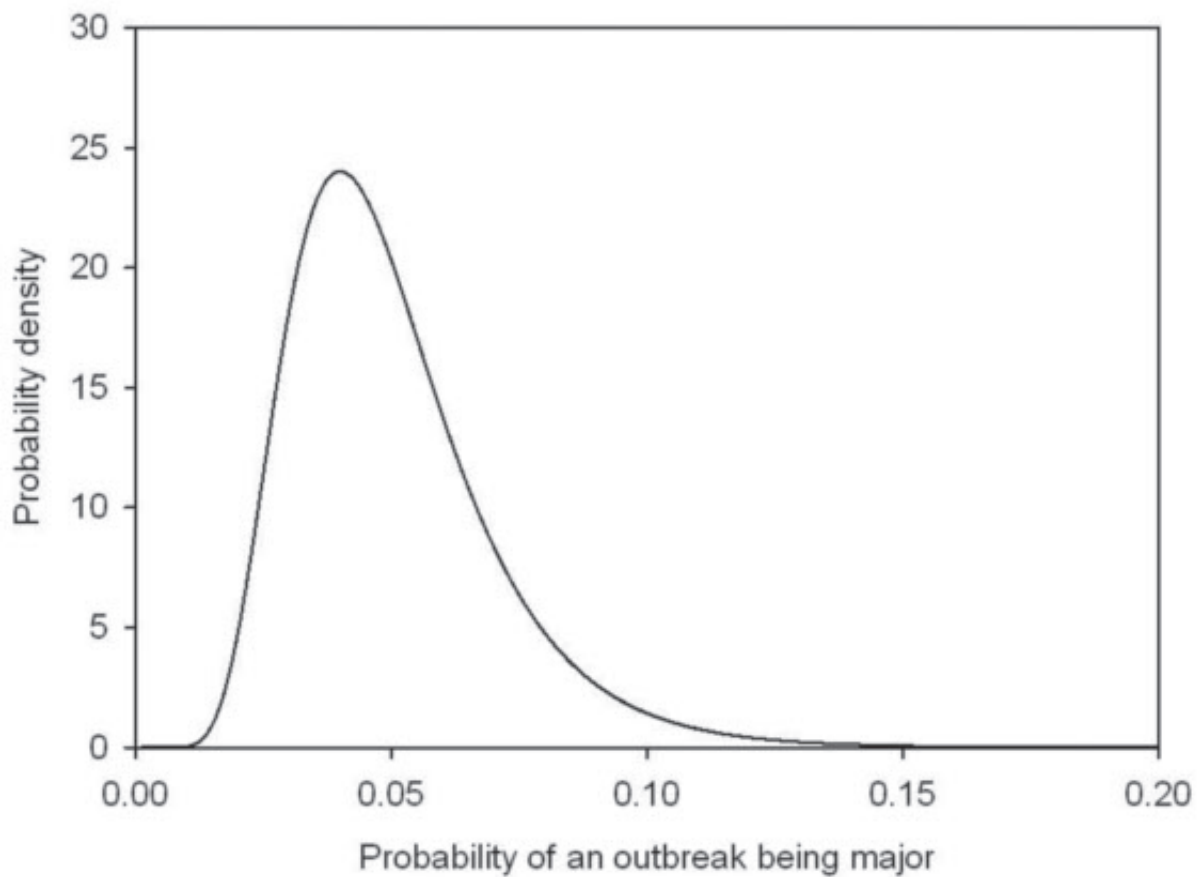




Figure 4: fitted density function for the cost of a minor foot-and-mouth outbreak.

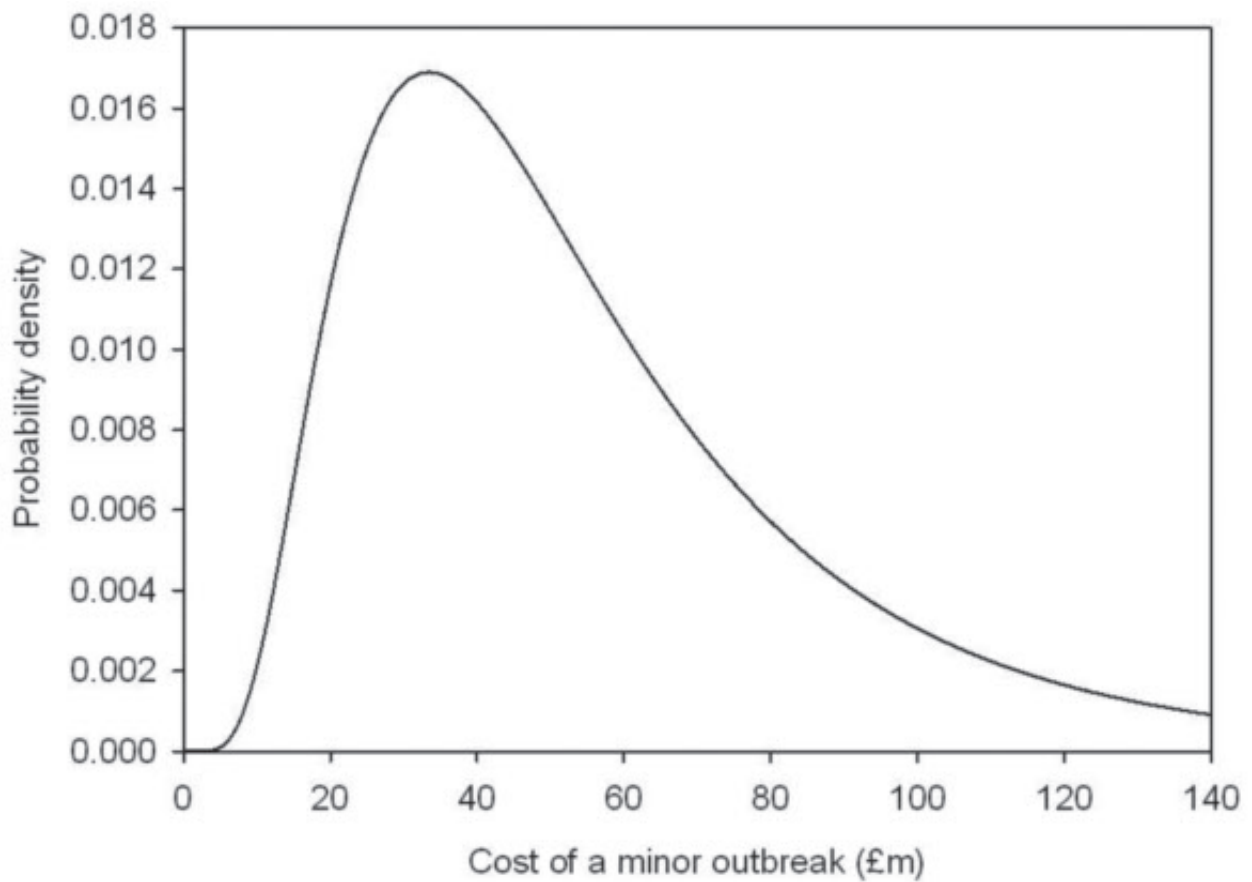
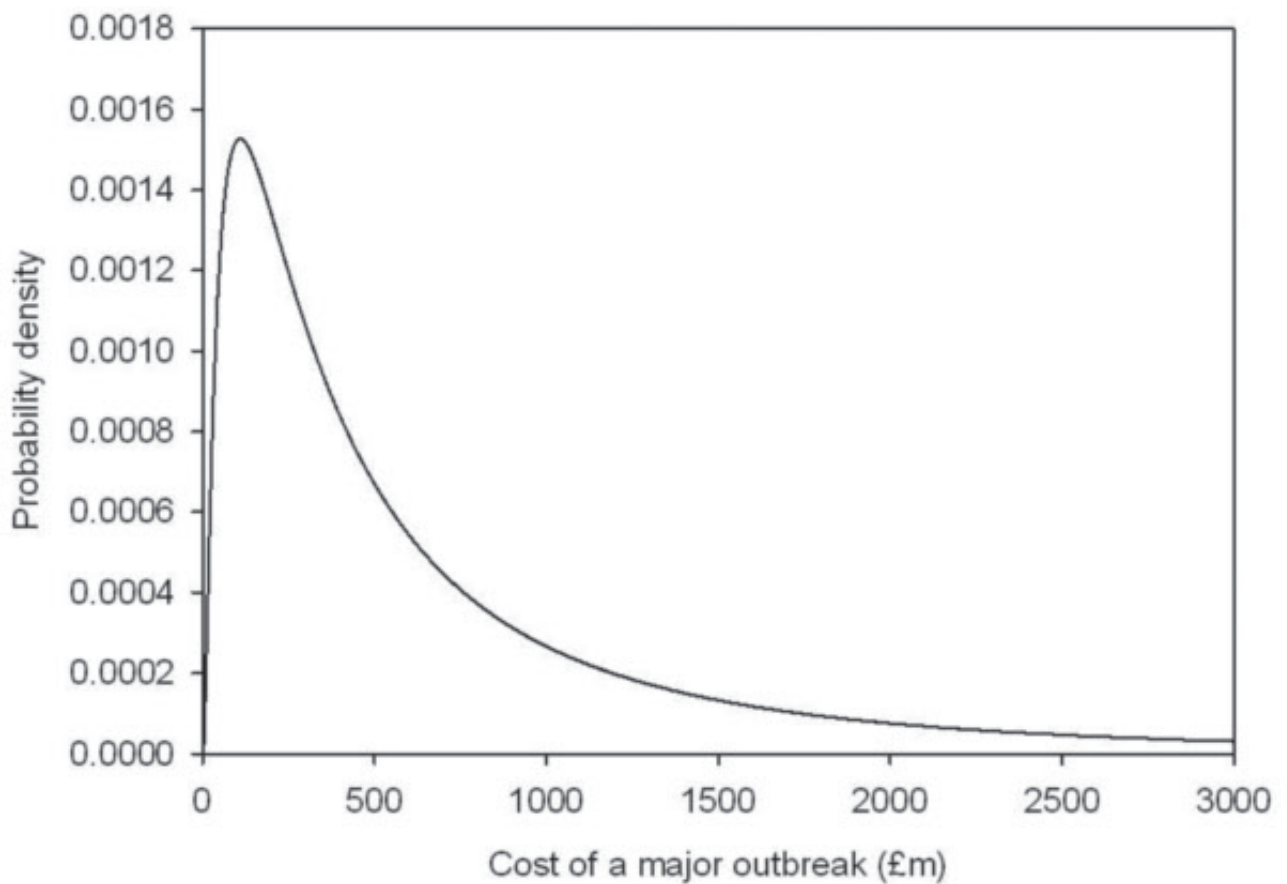
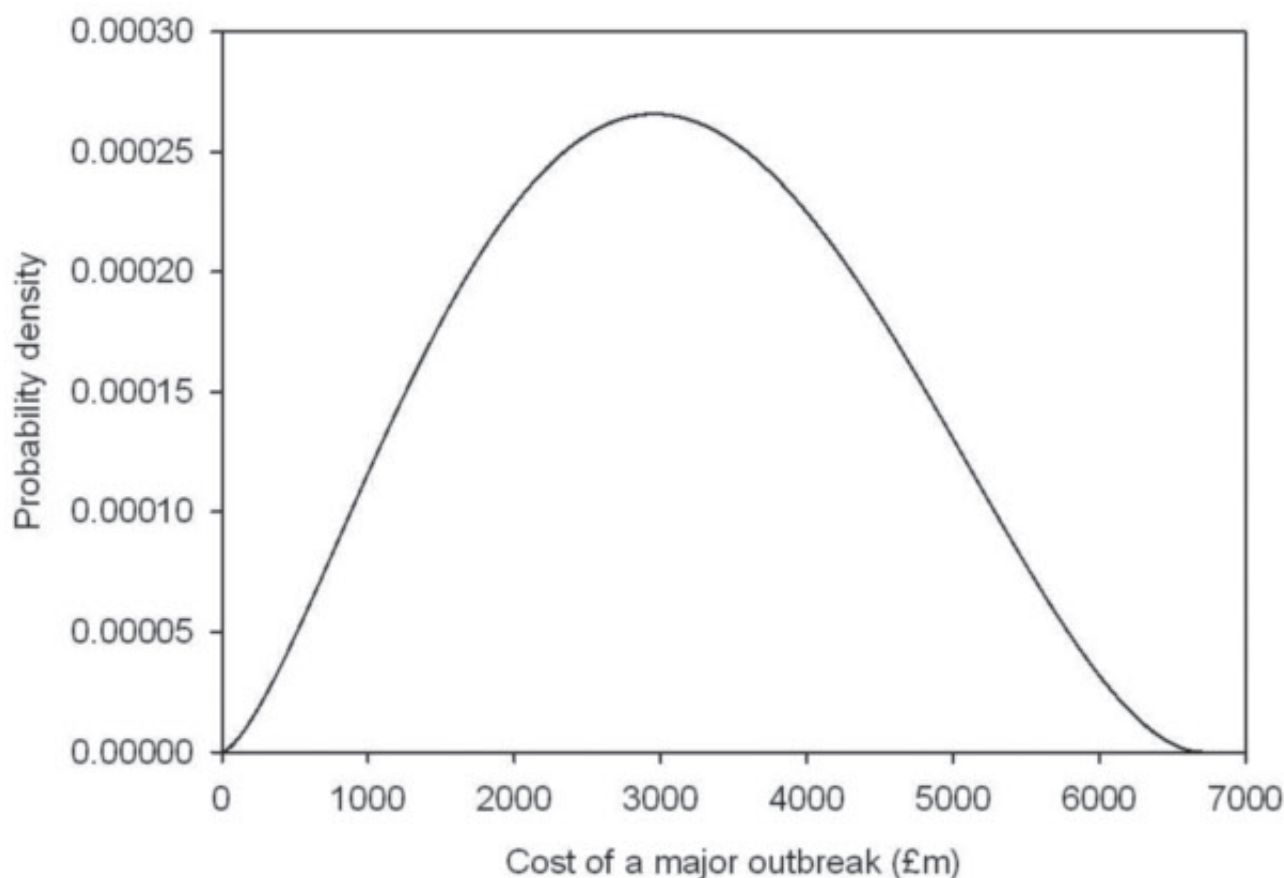


Figure 5: fitted density function for the cost of a major foot-and-mouth outbreak.



**Figure 6: fitted density function for the cost of a major outbreak of an unknown infectious disease.**



## 6. Uncertainty analysis using Monte Carlo techniques

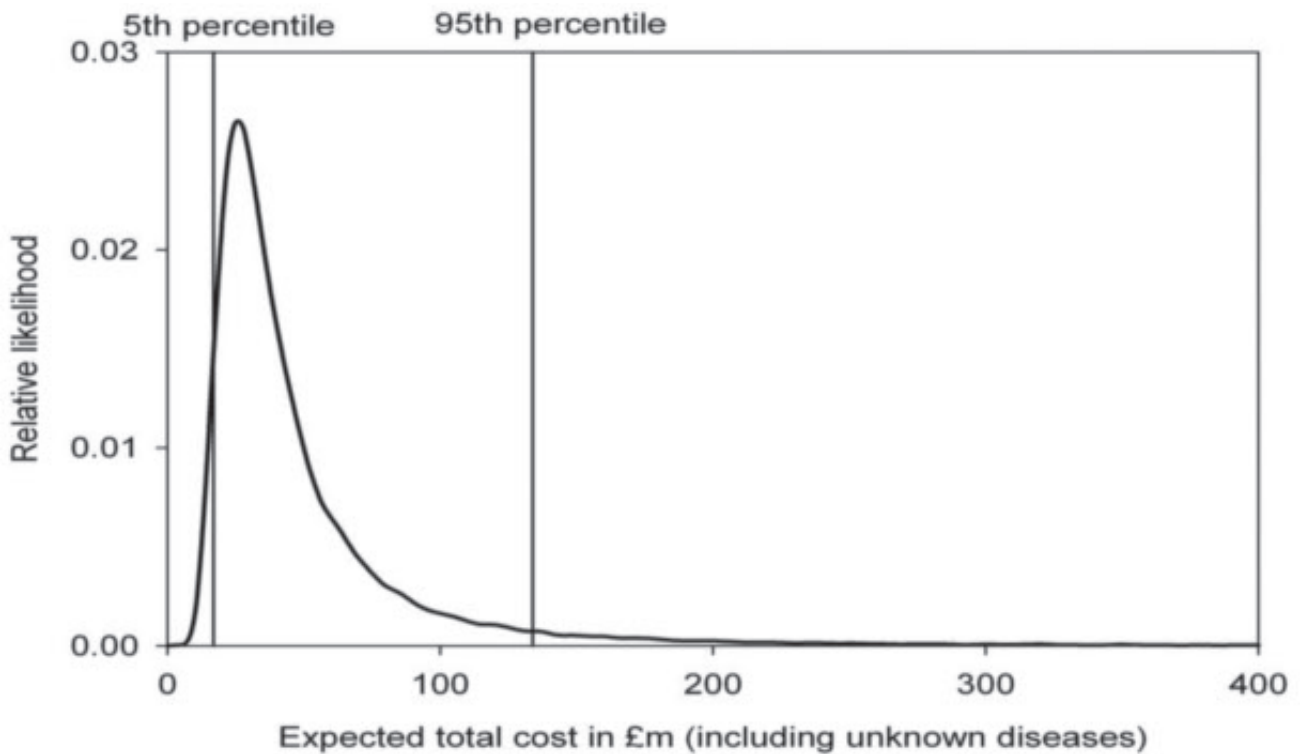
With the fitted probability distributions in hand, we are able to estimate the effects of the uncertainties about each quantity on the total annual cost estimates. We use a straightforward Monte Carlo estimation procedure (a modern overview of Monte Carlo methods is given in Robert and Casella, 2004):

1. Draw a set of random values from the fitted distributions.<sup>19</sup>
2. Enter the drawn values into Table 1.
3. Record the new values for the expected total costs and the costs for each disease.

In our analysis, we repeated the above steps 50,000 times to get a good appreciation of the uncertainty surrounding the total costs. Figure 7 shows a distributional representation of the Monte Carlo simulations of the total annual costs for government. It is plain to see that there is great uncertainty about the true value: as stated in Table 1, (£17m, £134m) is a 90% credible interval for the total annual costs.

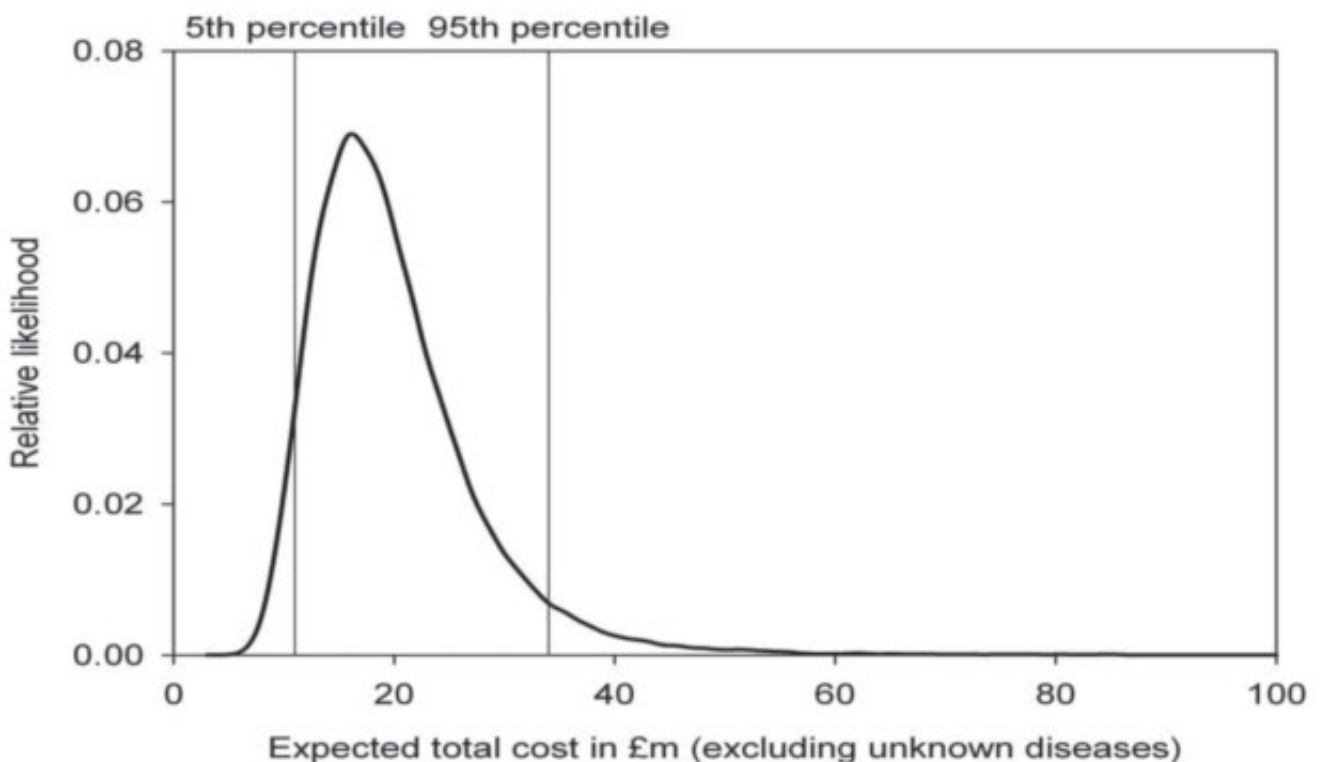
<sup>19</sup> We added the constraint that the values drawn for the costs of a major outbreak were higher than for a minor outbreak by discarding draws where that happened.

**Figure 7: results from the Monte Carlo simulations for the expected annual total cost to government of exotic infectious diseases.**



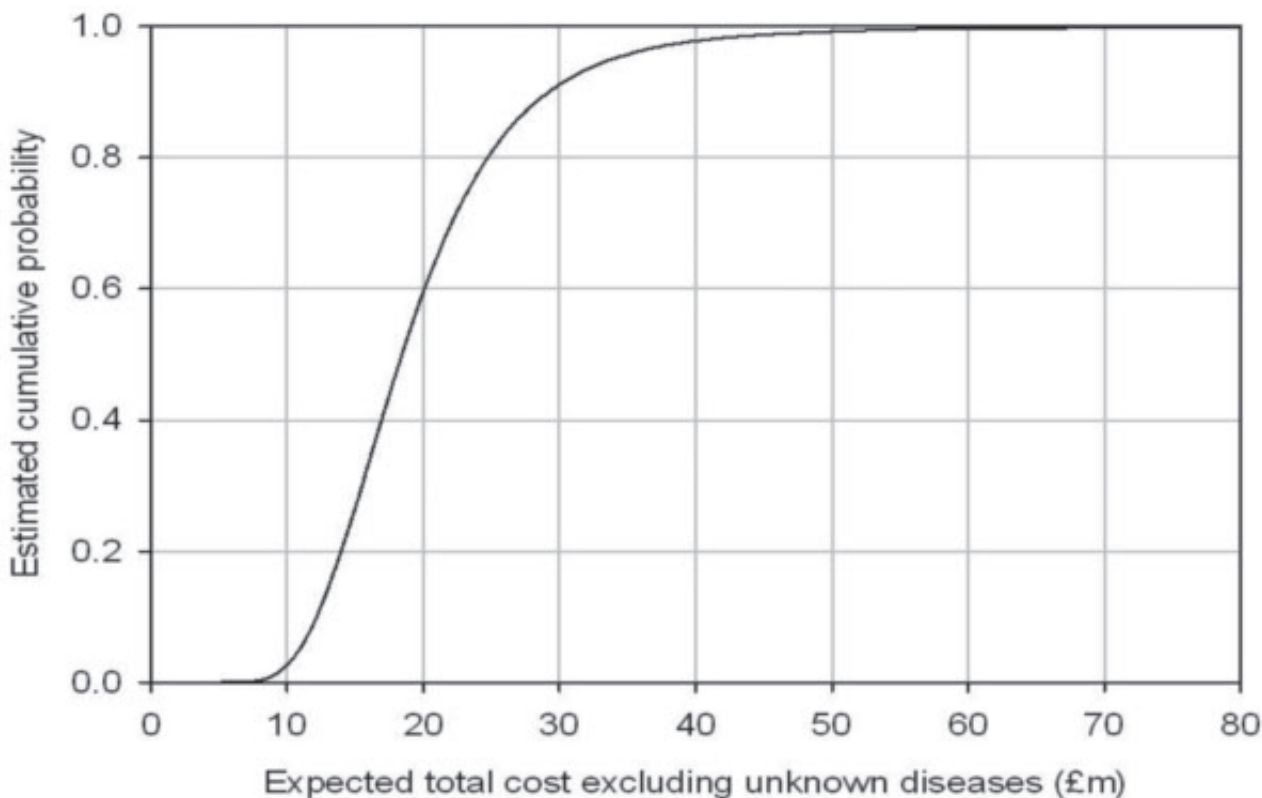
When we remove the unknown diseases from the calculations, we get a large reduction in the expected total cost. As shown in Figure 8, there is still a lot of uncertainty about the total cost, and this is reflected in a 90% credible interval of (£11m, £34m). In addition to Figure 8, we are able to fit a cumulative distribution function to the results of the Monte Carlo analysis (see Figure 9). This allows us to read off what the experts believe the probability is of the total cost being less than a given value. For example, from Figure 9, we can see that there is the belief that there is a 60% chance of the total cost being less than £20m.

**Figure 8: results from the Monte Carlo simulations for the expected annual total cost to government of exotic infectious diseases excluding the outbreak of unknown infectious diseases.**

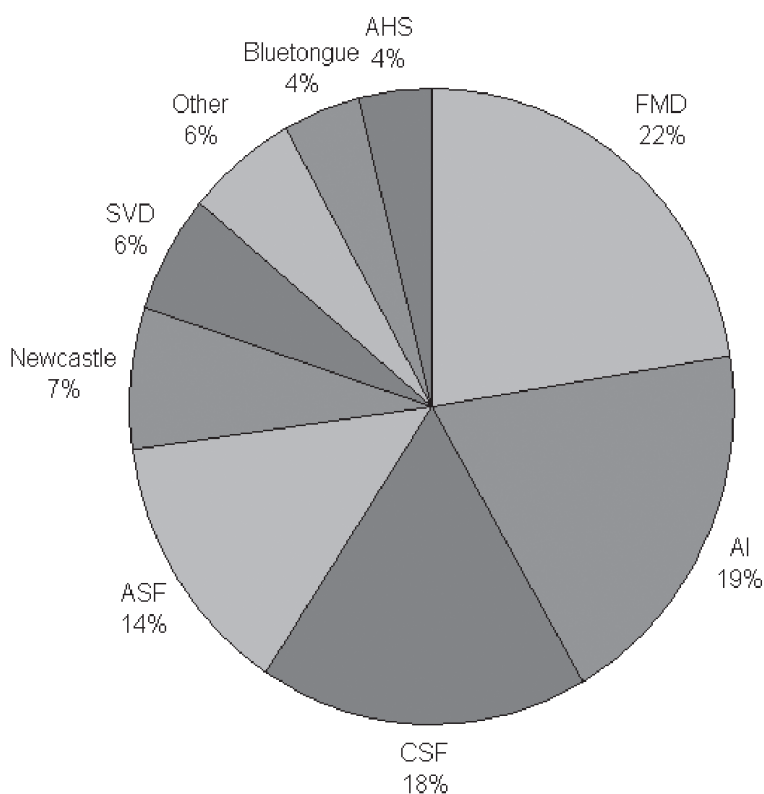


We were also able to assess the contribution of each disease to the expected value of total cost and the associated uncertainty. Figures 10 and 11 show pie chart representations of the contributions of each disease to the expected total and associated uncertainty respectively. If we include the unknown infectious diseases in these calculations, they account for 61% of the expected total cost and 98% of the uncertainty.

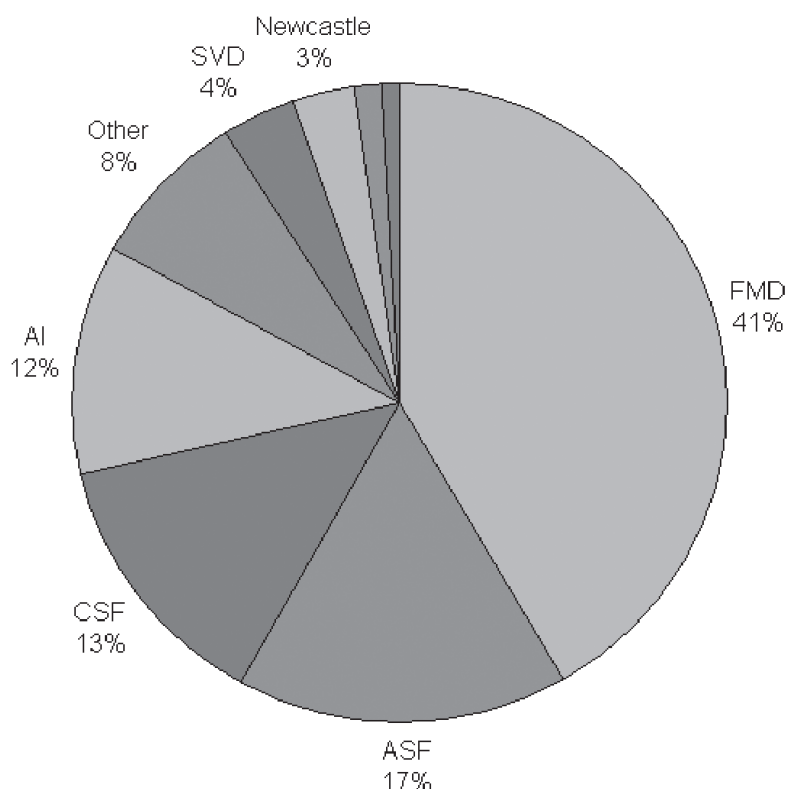
**Figure 9: an estimated cumulative distribution function for the expected annual total cost excluding unknown infectious diseases.**



**Figure 10: a pie chart showing the contributions of each disease to the expected total annual cost excluding the unknown diseases.**



**Figure 11: a pie chart showing the contributions of each disease to the uncertainty of the total annual cost excluding the unknown diseases.**



## **7. Other sources of uncertainty**

It is important to consider the potential impact of additional, unquantified uncertainties that may affect the quantitative analysis, including uncertainties associated with assumptions used in the analysis. Additional uncertainties were identified in discussion with the experts. An additional meeting was held to elicit the experts' views on the potential impact of these uncertainties on the results obtained from the quantitative analysis. These judgements were given in narrative form, as presented in Table 2.

In summary, a number of factors were identified that might alter the estimates in Table 1. Some involve the possibility of step changes in the wider scenario, which should be addressed by periodic review of the assessment. Others might change the estimates for current conditions, but it is difficult to assess how large those changes might be. It is recommended to examine these issues further if the assessment is reviewed in the future

**Table 2: Evaluation of additional uncertainties affecting the estimation of average annual cost of exotic diseases.**

Source of uncertainty	Potential influence on estimates of total average annual costs
<p>Selection of diseases for individual assessment.</p>	<p>The diseases considered in Table 1 were considered to be the main infectious diseases that the government is currently (or recently) been spending on. Of course, the named diseases do not cover all possible infectious exotic diseases.</p> <p>Some other list B diseases (currently considered within “other notifiable diseases”) might merit separate analysis (e.g. Brucellosis). The selection of diseases should be reconsidered in future assessments, taking account of disease rankings from Defra’s decision support tool.</p>
<p>Potential interactions between diseases. Government costs could be slightly reduced if there were concurrent outbreaks, as the set up costs can be split, e.g. Foot-and-Mouth Disease, Highly Pathogenic Avian Influenza and Bluetongue serotype 8 in 2007. This would mainly affect headquarters costs and delivery costs would only be significantly affected when concurrent diseases occurred in the same geographic region, which is rare (perhaps once in the 30 years prior to 2007). On the other hand, headquarters costs could be increased if management of concurrent diseases required significant overtime working. Costs could also be increased if disease control was weakened due to unusual strain on resources from concurrent outbreaks (e.g. FMD had some impact on TB control in 2001, although the latter is endemic not exotic).</p>	<p>More likely to increase than decrease costs. Difficult to estimate, might be significant but not likely for long-term average due to low frequency of concurrent outbreaks of exotic diseases.</p>
<p>Potential dependencies between different parameters for the same disease, e.g. between estimates for the costs of minor and major outbreaks, or between these and the estimated proportion of outbreaks that are major.</p>	<p>Expected to be minor. Limited dependency between estimates of costs for minor and major outbreaks as these are very different types of events, not just arbitrary cost categories.</p>
<p>Changes in risk factors outside the UK may affect the likelihood of an outbreak and if the risk increases then the predicted annual cost can increase, e.g. in 2009 the risk of Bluetongue serotype 1 in France.</p>	<p>These are examples of substantial changes in the context for the assessment. The current estimates are relevant for current conditions. It is recommended that they should be reviewed regularly (e.g. annually) in order to take account of changing conditions and new information.</p>

<b>Source of uncertainty</b>	<b>Potential influence on estimates of total average annual costs</b>
<p>The sudden and unexpected appearance of a disease (e.g. BTV 8 in Northern Europe in 2006) would significantly change the overall actual annual costs by the inclusion of a new disease.</p>	
<p>If the H5N1 (Asian strain) adapts such that it is no longer killing wild birds or poultry the predicted annual costs can be expected to fall.</p>	
<p>Selection of experts could affect results as opinions differ</p>	<p>Involving different experts might have a large impact, in either direction. Some interested parties might give more weight to particular diseases. There is significant scientific debate about some relevant factors, e.g. how severely pathogenic is African Horse Sickness. The participants were all Defra staff with a high level of experience and expertise covering both the science and management of exotic animal disease, which they endeavoured to apply in a balanced way.</p>
<p>Uncertainty about degree to which chosen distributions reflect the uncertainty actually felt by the experts.</p>	<p>The experts reviewed the fitted distributions for the most important diseases and the diseases that had the greatest change from the original estimates. During this feedback phase of the elicitation exercise, few of the distributions were altered. If all of the distributions were comprehensively reviewed, the experts may have wanted to alter more of their original judgements. However, we are confident that the most important diseases were reviewed.</p>
<p>Additional or different factors and relationships that might be revealed by a more detailed analysis if time and resources permitted (e.g. in-depth modelling of epidemiology or government costs)</p>	<p>The experts considered that their deliberations and judgements took account of the relevant factors and relationships that would be included in more detailed models. Based on recent experience with Bluetongue they felt that existing models would not give significantly more precise or reliable estimates.</p>
<p>Having detailed statistics on frequencies and costs of exotic diseases in the UK and abroad available during the elicitation would have been helpful to the experts and might have led to different estimates.</p>	<p>Having such data to hand might have led to different estimates, but it is difficult to judge the potential magnitude of this. It is recommended to arrange for such data to be available for any future repetition or review of the assessment.</p>
<p><b>Overall assessment of unquantified uncertainties affecting the estimates of total annual costs in Table 1</b></p>	<p>A number of factors that might alter the estimates were identified. Some involve the possibility of step changes in the wider scenario, which should be addressed by periodic review of the assessment. Others might change the estimates for current conditions, but it is difficult to assess how large those changes might be. Recommendations are made for addressing these issues if the assessment is reviewed in the future.</p>

## **Appendix 1: Elicitation workshop participants**

The workshops were facilitated by Andy Hart and John Paul Gosling (Risk analysis team, The Food and Environment Research Agency), and the following experts participated in the elicitation workshops and made the judgements outlined in this report.

Martin Cox (*Defra Policy manager, disease responsibility and cost sharing*)

Jane Gibbens (*Defra Portfolio manager for surveillance and epidemiology*)

Ian Mitchell (*Defra Lead on economic advice on animal health*)

David Mouat (*Defra Head of veterinary exotic notifiable diseases unit*)

Emma Paul (*Defra Veterinary advisor, Exotic notifiable diseases unit*)

Bill Parish (*Defra Exotic disease policy programme*)

Mirzet Sabirovic (*Head of imports, risks and enforcement units*)

Simon Scanlan (*Defra Economist*)

Alick Simmons (*Defra Deputy chief veterinary officer*)

Balazs Toth (*Defra Veterinary advisor, Exotic notifiable diseases unit*)

In addition to these, Edgar Black (Defra's risk coordinator) and Frank Schiller (Cranfield University) participated in the meetings as observers.



## Appendix 2: judgements and details of the probability distributions

Disease	Variable	Elicited judgements			Dist <sup>20</sup>	Para 1	Para 2
		P25	P50	P75			
African horse sickness	Interval	30	50	70	LN	56.6	36.7
	Prob Maj	0.5	0.75	0.9	B	4.0	1.6
	Minor Cost	3.5	4	5	LN	4.3	1.2
	Major Cost	25	35	50	LN	40.3	22.3
African swine fever	Interval	15	20	30	LN	23.9	13.8
	Prob Maj	0.92	0.95	0.97	B	7.4	0.5
	Minor Cost	8	10	12	LN	10.3	3.1
	Major Cost	20	35	60	LN	48.3	46.4
Avian influenza	Interval	0.75	1	1.5	LN	1.2	0.7
	Prob Maj	0	0.02	0.03	LN	0.02	0.00
	Minor Cost	2	3	3.5	LN	3.0	1.2
	Major Cost	12	15	30	LN	23.5	21.9
Bluetongue	Interval	0.9	1	2.5	LN	1.9	1.8
	Prob Maj	0.01	0.02	0.05	LN	0.02	0.02
	Minor Cost	0.4	0.5	0.7	LN	0.6	0.3
	Major Cost	10	12	15	LN	12.7	4.0
Classical swine fever	Interval	8	10	12	LN	10.3	3.1
	Prob Maj	0.6	0.75	0.85	B	4.0	1.6
	Minor Cost	8	10	12	LN	10.3	3.1
	Major Cost	20	30	50	LN	39.6	31.7
Foot-and-mouth disease	Interval	17	25	35	LN	28.3	16.0
	Prob Maj	0.01	0.05	0.1	LN	0.05	0.02
	Minor Cost	30	50	70	LN	56.6	36.7
	Major Cost	250	400	1000	LN	898.5	1576.3
Newcastle disease	Interval	2	3	5	LN	4.0	3.2
	Prob Maj	0	0.02	0.03	LN	0.02	0.02
	Minor Cost	2	3	3.5	LN	3.0	1.2
	Major Cost	12	15	30	LN	23.5	21.9

<sup>20</sup> In this analysis, we used two families of distributions: LN denotes a lognormal and B denotes a beta distribution bounded between 0 and 1. For LN, 'Para 1' is the mean and 'Para 2' is the standard deviation; for B, 'Para 1' and 'Para 2' are the two shape parameters.

Disease	Variable	Elicited judgements			Dist <sup>20</sup>	Para 1	Para 2
		P25	P50	P75			
Swine vesicular disease	Interval	17	25	35	LN	28.3	16.0
	Prob Maj	0.3	0.5	0.6	B	2.5	2.9
	Minor Cost	3	5	7	LN	5.7	3.7
	Major Cost	20	35	60	LN	48.3	46.4
Other known	Interval	0.5	0.75	1	LN	0.8	0.4
	Prob Maj	0.01	0.02	0.04	LN	0.02	0.02
	Minor Cost	0.03	0.05	0.1	LN	0.08	0.10
	Major Cost	10	15	25	LN	19.8	15.8
Unknown disease	Interval	3	5	10	LN	8.2	9.9
	Prob Maj	0.015	0.025	0.04	LN	0.03	0.05
	Minor Cost	10	20	40	LN	33.9	46.3
	Major Cost	2200	3100	4000	B <sup>21</sup>	2.5	2.9

<sup>21</sup> This beta distribution is bounded between 0 and 6700.

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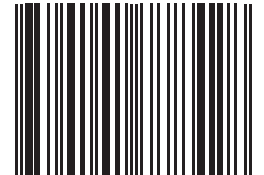
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