Dear Fergus,

I am writing to in relation to the Rural Economy and Connectivity Committee’s consideration of SSI 2018/164: The Tuberculosis (Miscellaneous Amendments) (Scotland) Order 2018 at its meeting on 20 June 2018.

This is an instrument which is not subject to any parliamentary procedure and, as such, is one which the Committee would not ordinarily consider formally.

However, after the instrument was laid in the Parliament, the Committee was advised that NFU Scotland (NFUS) had concerns about certain elements of the policy intentions of the instrument.

In discussing these matters with the NFUS in preparation for the Committee’s consideration of the instrument, it emerged that their submission to the Scottish Government’s consultation on the SSI appeared not to have been received or taken into account. The NFUS raised concerns about this matter in a letter to the Committee which is attached at Annex A to this letter.

In addition, the Committee received representations from the Scottish Beef Association which also raised concerns about both the compensation limit set out in the Order and the conduct of the consultation process. A copy of this correspondence is also attached at Annex B.

Following receipt of this correspondence I asked for the instrument to be formally considered by the Committee on 20 June. On the morning of the Committee
meeting, Scottish Government officials submitted a letter to the Committee in relation to the Order. This acknowledged that technical issues had resulted in two submissions, one from the NFUS and the other from the British Veterinary Association, not being received and taken into account as part of the consultation on the Order. The letter also informed the Committee that the Scottish Government has, in the circumstances, decided to revoke the instrument, consider the policy issues raised by the relevant stakeholders, and lay a new Order at a later date.

In considering the instrument, Committee members expressed concern that the technical issues which led to the submissions from the NFUS and BVA not being received may point to wider systematic issues with the Citizen Space consultation interface, which it understands is used as a standard approach across the Scottish Government.

The Committee expects the systems that are used to manage consultation exercises to be sufficiently robust to ensure that such processes are as inclusive and transparent as possible. I would ask you to assure the Committee that this matter will be fully investigated to establish the cause and steps taken to avoid any repetition.

The Committee welcomed the Scottish Government’s decision to revoke the instrument and to submit a new Order in due course. It would like to see this brought forward as a matter of urgency, given the importance of retaining Scotland’s status as being free of bovine TB. The Committee also welcomes the Scottish Government’s intention to review the policy issues raised by the NFUS, although I would make clear that the Committee does not, at this stage, have a view on these.

Kind regards

Edward Mountain
Convener
NFU SCOTLAND COMMENT ON THE TUBERCULOSIS (MISCELLANEOUS AMENDMENTS) (SCOTLAND) ORDER 2018

1. NFU Scotland (NFUS) welcomes the opportunity to comment on The Tuberculosis (Miscellaneous Amendments) (Scotland) Order 2018.

2. NFUS submitted a response to the Scottish Government consultation, Proposals to Introduce Changes to Compensation Arrangements in Scotland and Update the Tuberculosis (Scotland) Order 2007 on Other Disease Control Measures, in November 2017.

3. However, in June 2018 it came to light that despite the NFUS response to the consultation being submitted to the correct place within the specified timeframe, the NFUS response was not picked up by Scottish Government and therefore was not considered in the Scottish Government’s drafting of the SSI. Upon further investigation of this issue with Scottish Government, it appears that this omission has been made due to some form of technical fault with the Scottish Government’s consultation mailbox.

4. NFUS has reason to believe that it may not have been the only organisation whose response may have slipped through the net due to this error.

Comments on Draft SSI

5. In the consultation response which NFUS sent to Scottish Government in November 2017, the following points were made.

6. Bovine Tuberculosis (bTB) is a topic that is always at the forefront of NFUS members’ concerns. The incidence of bTB in Scotland is very low compared to that in some areas of England and Wales, and there is no sign of any increase. Scotland achieved Officially Tuberculosis Free Status (OTF) in September 2009. OTF is recognition of the low and stable incidence of TB found in Scottish herds and makes Scotland unique to the rest of the UK. It also reflects high standards of animal welfare. NFUS is aware that Scotland is in a fortunate place when it comes to bTB and most keepers are keen to do whatever is necessary to keep it that way.
7. bTB is a difficult disease and infection can be found in animals with no apparent explanation for how it may have been transmitted. It is important that Scotland continues with to test nationally and have support mechanisms in place to assist herds that have been affected even when best practice to avoid infection has been observed.

8. Measures are needed to discourage risky activities, to help protect the Scottish herd against introduction of disease. The NFUS response to Scottish Government’s 2017 consultation was very much focused on measures to discourage the introduction of disease into Scotland, by cattle moving from high risk areas.

9. One such discouragement put forward by NFUS was the suggestion that compensation should be reduced or withdrawn for animals coming from high-incidence areas. It is the view of NFUS that by not paying compensation on these animals, all the risk is placed on the buyer and makes ‘cheap’ cattle seem less of a bargain.

10. The justification of the proposal to cap the compensation payments made to TB reactors in Scotland was to bring maximum payments in line with those of England and Wales. It was suggested that capping the payment at a similar level to the rest of the UK would remove the temptation to bring high risk, high value cattle into Scotland where they would attract higher compensation.

11. The low incidence of bTB in Scotland means there is much less compensation paid out overall. NFUS believes the current valuation system for calculating compensation payments is fair and supports those keepers who have been affected by bTB through no fault of their own.

12. There is no compensation available to cover the stress and often significant incidental losses that occur when a herd is caught up in bTB restrictions and testing. Given that the losses incurred may well exceed the simple value of animals culled it only seems right that the compensation paid for those animals represents their actual value, with no cap in place. Capping payments would unfairly hit breeders of high value cattle with no impact or discouragement for more commercial herds.
13. NFUS would prefer a far ‘blunter’ approach taken to removing the temptation of bringing high risk animals into Scotland and that is to either remove or reduce the compensation paid for high risk imported cattle. This approach would act as a deterrent to all high-risk cattle and not just target those of high value, having a far wider reaching effect of reducing risk to the Scottish herd.
Dear sir,

The Scottish Beef Association, after discussion with other stakeholder organisations, are concerned about the consultation process regarding the above. In our own case, while a Board member submitted two responses which contradicted one another his second response was after a board meeting and consultation with other industry groups. The SBA position is that we do NOT think there should be a limit on compensation and are surprised there was no attempt by the Scottish Government to seek clarity on our position. It is also clear to us that other organisations are also concerned about the consultation process and we would therefore request the SSI be revoked to give Scottish Government officials time to seek clarity from all interested organisations,

Kind regards, Neil A. Mc Corkindale [chairman]