

EXPLANATORY MEMORANDUM

Title: The Veterinary Surgery (Artificial Insemination of Mares) Order 2004
No. 1504

Laying Authority and Purpose:

This explanatory memorandum is laid before Parliament by Command of Her Majesty.

Department responsible:

Department for Environment, Food and Rural Affairs.

Description:

This Order will permit lay persons, who are aged 18 years or more, to carry out the artificial insemination of mares if (i) they are undergoing supervised training in the artificial insemination of mares on an approved course; or (ii) they hold a 'certificate of exemption' after successfully completing an approved course.

Legislative Background

Artificial insemination of mares constitutes 'an act of veterinary surgery' as defined in Section 27 of the Veterinary Surgeons Act 1966. However, Section 19(4)(e) of the Act allows Ministers, after consultation with the Royal College of Veterinary Surgeons, to introduce Exemption Orders to permit a minor treatment, test or operation to be carried out by people who are not veterinary surgeons.

This Order specifies artificial insemination of mares by lay persons as a minor treatment, test or operation for the purpose of Section 19(4)(e) of the Act.

Extent:

This Order applies to the UK.

Policy Background:

Due to the demand for the use of artificial insemination it has now become a key technique in stud farms. Defra and the Royal College of Veterinary Surgeons agree this is a procedure which can be carried out by properly trained and competent lay persons at a lower cost to stud farms without compromise to animal welfare. The Order is, therefore, necessary to enable such persons to carry out the artificial insemination of mares.

An important part of this new legislation is that such lay persons attend a training course approved by Defra in consultation with the Royal College of Veterinary Surgeons. Having successfully completed their training, including an assessment of their competence, they will be issued with a non-renewable 'certificate of exemption' by Defra. Currently, 230 lay persons have

successfully completed an approved course and will receive their certificates when the legislation comes into force.

The Royal College of Veterinary Surgeons, the British Equine Veterinary Association and other key stakeholders have been closely involved in developing this legislation. Industry, veterinary, farming and welfare organisations have all had an opportunity to comment on the proposals to introduce this legislation and contribute to the Regulatory Impact Assessment. The comments received welcomed the proposals and there was strong support for the training requirement.

Impact:

A Regulatory Impact Assessment has been prepared and a copy is attached to this Explanatory Memorandum.

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REGULATORY IMPACT ASSESSMENT

1. Title of proposed measure

The Veterinary Surgery (Artificial Insemination of Mares) Order 2004

2. Purpose and Intended Effects

Issue

2.1 The performance of artificial insemination of mares by people who are not veterinary surgeons.

2.2 The Veterinary Surgeons Act 1966 reserves most minor surgery and procedures requiring entry into a body cavity to registered veterinary surgeons. Since the introduction of the Act various new and technically more advanced procedures, including artificial insemination of mares, have been introduced. The proposed regulations are intended to ensure that artificial insemination procedures are not carried out by untrained or inadequately trained lay people, which could result in welfare problems for the animal.

Objective

2.3 The objective is to permit properly trained and competent non-veterinarians to perform artificial insemination in mares. This will protect the welfare of animals and ensure that trained technicians are available to horse owners. The new regulations are expected to encourage greater co-operation between AI technicians and veterinary surgeons.

Risk Assessment

2.4 A number of organisations have expressed concern that the current performance of artificial insemination of mares by untrained non-veterinarians could cause health and welfare problems for the animal. The Royal College of Veterinary Surgeons and British Equine Veterinary Association are keen to see the situation regularised to safeguard the health and welfare of the animals.

2.5 The timing of artificial insemination must be very precise and regular scanning is essential to maximise effective insemination. All scanning per rectum of developing follicles up to ovulation and scanning post insemination for pregnancy diagnosis must be carried out by a veterinary surgeon experienced in the procedures. If a mare is to be inseminated by non-veterinarians they must work under the direction of a veterinary surgeon. This will help achieve maximum impregnation. Artificial insemination carried out professionally has the potential for reducing the risk of spreading disease when compared to natural covering. If carried out unprofessionally it has the potential to seriously increase a disease risk by spreading it more quickly and over greater distances than natural covering.

2.6 Mares are prone to reproductive tract infections which can cause temporary or permanent infertility. The approved courses will ensure that the AI technicians are trained to the highest standards.

3. Options

Options identified

3.1 Three options were identified as possible ways forward. **Option 1** was to do nothing. Take no action to change the law and leave the industry as it stands with lay people carrying out artificial insemination of mares illegally; **Option 2** would be to enforce the Veterinary Surgeons Act 1966 more rigorously; and **Option 3** would be to amend the Veterinary Surgeons Act 1966 to allow trained and competent lay people to perform artificial insemination of mares.

Issues of Equity or Fairness

3.2 The fundamental principle underlying these proposals is the need to protect the welfare of mares by ensuring that only competent, trained people treat them. Within this context, it is also necessary to take account of the fairness of imposing economic costs and regulatory burdens on the horse industry and owners, and of depriving lay people carrying out AI in mares of all, or part, of their livelihood.

4. Benefits

Identify the benefits

Option 1 - would maintain the status quo without financial cost.

Option 2 – would prevent lay technicians carrying out a procedure currently reserved to veterinary surgeons.

Option 3 - would protect the welfare of mares, protect the interests of owners and allow qualified lay technicians to offer a service for which there is a demand.

Quantifying and valuing the options and benefits

Option 1 – it is considered undesirable for procedures which could be performed by trained and competent lay technicians to be restricted to veterinary surgeons, as they are currently. The legislation needs to be modernised to keep pace with technological advances. Furthermore, if this option was followed and no action taken, then the present legislation would continue not to be fully enforced allowing lay technicians to carry out this procedure illegally with the accompanying risks to animal welfare.

Option 2 – would needlessly penalise existing experienced and competent lay technicians by preventing them from continuing to offer their services. It would also require an enhanced enforcement capability. It could be difficult to obtain owners' co-operation if they are satisfied with their AI technician.

Option 3 - would protect the interests of owners, their horses and the lay technicians themselves. The benefits of following Option 3 and amending the law are that:

- i The welfare of mares will be protected, as only certified and trained AI technicians will be allowed to perform artificial insemination of mares. This benefit is difficult to quantify in monetary terms. However, the cost of a valuable mare becoming infertile as a result of poor practice by an AI technician is considerable.
- ii When employing an AI technician, owners will be able to ensure that the person they use is certified as being fully trained and competent;
- iii Qualified technicians will benefit by being able to advertise their services as such. The requirement to undertake training and certification will provide a quality guarantee to customers. Job prospects for professionally qualified AI technicians will be enhanced.
- iv Improved co-operation between lay technicians and veterinary surgeons.

5. Compliance Costs for Business, Charities and Voluntary Organisations

5.1 A vast majority of mares are bred naturally. In most circumstances natural breeding will remain the cheapest method. This is due to less veterinary involvement. However, artificial insemination of mares is increasing due, in part, to the Foot and Mouth Disease situation in the UK during 2001. There is also a continuous increase in the private ownership of horses for recreational purposes. In these cases AI may be the most convenient option if owners wish to breed their mares. The use of artificial insemination in the thoroughbred industry is strictly prohibited.

5.2 There is a relatively small percentage of veterinary practices in the UK which offer an artificial insemination service and an even smaller percentage carrying out artificial insemination of mares on a regular basis.

5.3 Some business may be lost at AI Centres or veterinary practices, as the number of trained owners increases and they carry out artificial insemination of their animal(s). In contrast, we are also advised that there is a move towards sending mares to AI Centres. The owner can select the preferred stallion on the internet, pay for the semen and let professionals carry out the procedures with a greater chance of the mare being impregnated successfully. Some stud farms will not benefit from the proposed changes, because they will continue to use the para-professionals who previously were carrying out the procedure illegally.

5.4 The proposed arrangement for training and certification of competence will impose costs on the AI industry. The figures in paragraph 5.5 are based on information supplied by the three Defra approved course providers. Although our priority has been to introduce 'refresher courses' for those experienced technicians currently carrying out the procedure, we have approved one course for new entrants.

5.5 The cost for those experienced technicians attending an approved 'refresher course' range from £290 to £470 (excluding travel and accommodation). The approved course for new entrants costs around £525 (excluding travel and accommodation). It is highly unlikely that the AI technicians will pass on these training costs to their clients. This would mean that there would be no additional compliance costs to the mare owners when they employ AI technicians.

Business Sectors Affected

5.6 The new regulations will affect all those involved in the horse breeding industry (apart from thoroughbreds intended for racing, where the use of artificial insemination is not permitted), namely AI technicians, veterinary surgeons, stud farms and horse owners.

Compliance Costs for a Typical Artificial Insemination Technician

5.7 Costs will be incurred in obtaining the necessary training and certification. There will be a one-off cost to all AI technicians. As mentioned above, the estimated cost for experienced AI technicians will be between £290 and £470 (excluding travel and accommodation) and £525 (excluding travel and accommodation) for new entrants.

5.8 The approved courses are advertised by the course providers, and the decision on which course to attend will be up to the individual. The new legislation will require all AI technicians to attend such a course. A certain amount of responsibility will remain with the mare owner, who employs the services of an AI technician, to ensure the technician they employ has a 'certificate of exemption', and is adequately insured.

5.9 It has not proved possible to provide an estimate of the total compliance cost to the industry. Although we have consulted with the industry, we have been unable to determine exactly how many AI technicians are currently carrying out the procedure.

6. Consultation with Small Business

6.1 In preparing this Regulatory Impact Assessment, we have consulted representatives of the small business sector likely to be affected by the new regulations, including stud farms and horse breeders, horse veterinary practices, horse owners, and AI technicians. We are grateful to those who provided information. There was general agreement on the need for training and certification of AI technicians.

6.2 The Small Business Service has contributed to the preparation of this Regulatory Impact Assessment.

7. Other Costs

7.1 We have been encouraged by the feedback during our discussions with the main industry associations that training and certification costs for AI technicians would not lead to increased costs to mare owners.

7.2 The costs to Defra are minimal. Defra officials approve training courses, in consultation with the RCVS. There are currently four approved training courses throughout the UK. Those who successfully complete the training provide a copy of their certificate of attendance to Defra officials and are issued with a 'certificate of exemption', signed by a Defra official.

8. Competition Assessment

8.1 The competition filter looks at the impact regulation has on various sectors of an industry. It tries to ensure no firm or type of firm gains or loses disproportionately as a result of new legislation. The Veterinary Surgery (Artificial Insemination of Mares) Order 2004 is unlikely to have a negative impact on competition in the horse industry. Most providers of AI services are self-employed. The cost of compliance with the proposed legislation will not impact excessively on any one sector of the industry.

9. Results of Consultations

9.1 The Royal College of Veterinary Surgeons, the British Equine Veterinary Association and other main industry associations have been closely involved in developing these proposals. Industry, veterinary, farming and welfare organisations have also had an opportunity to comment on the proposals and contribute to this Regulatory Impact Assessment.

9.2 There was some concern expressed on the likely impact upon veterinary surgeons who, at present, perform AI in mares. Although there may be some financial impact, we have been advised that only a small percentage of veterinary practices offer an artificial insemination service, and even less do so on a regular basis. On the other hand, some veterinary practices indicated that they would be content to give up routine AI work which competent trained AI technicians are more than capable of undertaking.

9.3 AI technicians will be required to work in close collaboration with the veterinary profession. The veterinary surgeon's skills will be required for diagnosing ovulation and scanning post insemination for pregnancy. On occasions it may be more convenient for the owner to have the veterinary surgeon inseminate the mare during the course of regular visits to the stud farm.

9.4 It is thought that some AI Centres may lose a proportion of their clients as owners become trained and do their own AI. However, some of those responding to our consultation took the opposing view, that is owners would prefer to send their mares to AI Centres and let trained and competent AI technicians carry out the procedure.

9.5 Most industry representatives agree that the investment in training would be worthwhile, and there would be financial benefits from accreditation of AI technicians. Training both in theory and practice will be required before certification.

10. Summary and Recommendations

10.1 The Government announced, as part of the Action Plan for Farming, proposals to make it lawful for non-veterinarians to perform some procedures currently reserved to veterinary surgeons. Option 3, to amend the law to allow trained and competent non-veterinarians to perform artificial insemination in mares, is the preferred deregulatory option.

11. Enforcement, Sanctions, Monitoring and Review

11.1 We intend to include in the legislation a provision that any qualified AI technician who is convicted of any offence under welfare legislation directly linked to his performance of artificial insemination of a mare must attend an approved retraining course before being permitted to carry out the procedure again.

DECLARATION

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed by the Minister responsible:

Ben Bradshaw

Date: 8 June 2004

12. Contact Point

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13. **Date of preparation**

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