

## SCHEDULE 4

Regulation 5

### CONTROL AND ERADICATION OF TSE IN SHEEP AND GOATS

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Explanatory Note

#### **Notification of TSE**

1.—(1) For the purposes of Article 11 of the EU TSE Regulation, any person who has in their possession or under their charge a sheep or goat suspected of being affected with a TSE must immediately notify the Department and detain it on the premises until it has been examined by a veterinary inspector.

(2) Any veterinary surgeon who examines or inspects any such animal must, with all practical speed, notify the Department.

(3) Any person (other than the Department) who examines the body of any sheep or goat, or any part of it, in a laboratory and who reasonably suspects the presence of a TSE must immediately notify

the Department, and retain the body and any parts of it until a veterinary inspector has authorised disposal.

(4) Failure to comply with this paragraph is an offence.

#### **Restriction of a notified animal**

2.—(1) If notification is given to the Department under paragraph 1 in relation to a sheep or goat an inspector may, pending determination by a veterinary inspector of whether or not it is suspected of being affected with a TSE, serve a notice prohibiting the movement of that animal from the premises on which it was detained and the movement of any other sheep or goat onto or from those premises.

(2) Movements of animals restricted under this paragraph are only permitted in accordance with regulation 16.

#### **Slaughter of a suspect animal**

3.—(1) For the purposes of Article 12(1) and (2) of the EU TSE Regulation, if a veterinary inspector suspects that a sheep or goat is affected with a TSE, the veterinary inspector must either—

- (a) kill it immediately on the premises on which it was kept;
- (b) serve a notice prohibiting the animal from being moved from the premises until it has been killed; or
- (c) serve a notice directing the owner to consign it to other premises for killing and prohibiting movement other than in accordance with that direction.

(2) If the animal is killed on any premises in accordance with this paragraph, it is an offence to remove the body from the premises except in accordance with a written direction from an inspector.

#### **Movement restrictions**

4.—(1) For the purposes of Article 12(1) and point 2(2) of Annex VII, of the EU TSE Regulation, following suspicion of a TSE in a sheep or goat (“a suspected animal”) (whether in a live animal or through the monitoring under Annex III of the EU TSE Regulation), an inspector—

- (a) must serve a notice prohibiting the movement of any other sheep or goat onto or from the premises on which the suspected sheep or goat is kept if the inspector considers that the sheep or goat was exposed to a TSE on those premises;
- (b) may serve a notice prohibiting the movement onto or from any premises of any sheep or goat if there is evidence that the suspected sheep or goat was exposed to a TSE on those premises;
- (c) may serve a notice prohibiting movement onto or from any premises where an animal specified in point 1(b) of Annex VII to the EU TSE Regulation is kept or where the inspector suspects such an animal is kept; and
- (d) must serve a notice prohibiting the movement of milk or milk products derived from any sheep or goat present on any holding referred to in sub-paragraphs (a) to (c).

(2) Movements of animals or products restricted under this Schedule are only permitted in accordance with regulation 16.

(3) A notice served under paragraph (1)(d) does not prohibit the use of milk or milk products within the premises.

(4) A notice referred to in paragraph (1)(a) to (d) remains in force until one of the paragraphs 5, 6, 7 and 9 applies.

### **Action where TSE is not confirmed**

5. If it is confirmed in any case to which this Schedule applies that a suspected animal was not affected with a TSE, an inspector must, as soon as is reasonably possible, remove all restrictions imposed because of the suspected animal.

### **Confirmation of TSE in sheep**

6.—(1) This paragraph applies if it is confirmed that a suspected sheep, or a body of a sheep monitored under Annex III to the EU TSE Regulation, is affected with a TSE, and BSE is excluded in accordance with the procedure set out in Annex X, Chapter C, point 3(2)(c) of that Regulation except where the Department decides to exercise the power in paragraph 10(2) and (3).

(2) The Department, after—

- (a) carrying out the inquiry specified in Article 13(1)(b) and point 1(b) of Annex VII to the EU TSE Regulation; and
- (b) sampling the animals to establish their genotype (if this is necessary),

must decide which of the options set out in points 2 (3) (b)(i) and 2 (3) (b)(ii) of Annex VII of that Regulation it intends to exercise.

(3) The Department must then serve a notice on the occupier of the premises in question informing the occupier of which of the options in those points it intends to exercise.

(4) The notice must specify—

- (a) the identity of the animals to be killed and destroyed;
- (b) the identity of the animals (if any) to be slaughtered for human consumption;
- (c) the identity of the animals (if any) that may be retained;
- (d) the identity of any ovum or embryo to be destroyed; and
- (e) the time limit for complying with the notice.

(5) The appeals procedure in regulation 10 applies in relation to any decision under this paragraph.

### **Confirmation of TSE in goats**

7.—(1) This paragraph applies if it is confirmed that a suspected goat, or a body of a goat monitored under Annex III to the EU TSE Regulation, is affected with a TSE, and BSE is excluded in accordance with the procedure set out in Annex X, Chapter C, point 3(2)(c) of that Regulation except where the Department decides to exercise the power in paragraph 10(2) and (3).

(2) The Department, after carrying out the inquiry specified in Article 13(1)(b) and point 1(b) of Annex VII of the EU TSE Regulation must serve a notice on the occupier of the premises informing them that it intends to kill and destroy all the goats on the premises and all embryos and ova from those animals in accordance with Article 13(1)(c) and point 2.3(b)(i) of Annex VII of that Regulation.

(3) The appeals procedure in regulation 10 applies in relation to any decision under this paragraph.

### **Use of milk or milk products following confirmation of classical scrapie**

8.—(1) This paragraph applies to milk or milk products derived from a sheep or goat that is to be destroyed in accordance with paragraph 6 or 7.

(2) Milk or milk products must not—

- (a) be used for feeding ruminants, other than ruminants within the premises; or
- (b) be exported, or allowed to be exported, to a member State or third country as feed for non-ruminants.

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- (3) Milk or milk products that are to be fed to non-ruminants in the United Kingdom must be—
  - (a) accompanied by documentation that clearly states that it must not be fed to ruminants; and
  - (b) contained in packaging that is clearly marked “must not be fed to ruminants”.
- (4) Feedingstuffs containing milk or milk products must not be stored on premises where ruminants are kept.
- (5) Bulk feedingstuffs containing milk or milk products must not be transported in vehicles that also transport feedingstuffs for ruminants.
- (6) Vehicles that have transported bulk feedingstuffs containing milk or milk products must, before being used for the transport of any feedingstuffs intended for ruminants, be thoroughly cleaned so as to avoid cross-contamination, in accordance with a procedure approved by the Department.
- (7) Failure to comply with any of sub-paragraphs (2) to (6) is an offence.

#### **Inability to exclude BSE in sheep or goats**

- 9.—(1) This paragraph applies if a TSE is confirmed in a suspected sheep or goat, or a body of a sheep or goat monitored under Annex III to the EU TSE Regulation, and BSE cannot be excluded by the results of a ring trial carried out in accordance with the procedure set out in Annex X, Chapter C, point 3(2)(c) of that Regulation.
  - (2) The Department, after carrying out the inquiry specified in Article 13(1)(b) and point 1(b) of Annex VII to the EU TSE Regulation, must serve a notice on the occupier of the premises informing them of its intention to kill and destroy the animals, destroy the embryos and ova and milk or milk products in accordance with Article 13(1)(c) and point 2(3)(a) of Annex VII of that Regulation.
  - (3) In sub-paragraph (2), “milk or milk products” means the milk or milk products that derived from the sheep or goats that were present on the relevant premises on and from the date on which notice was served under paragraph 4(1)(d).
  - (4) The appeals procedure in regulation 10 applies in relation to any decision under this paragraph.

#### **Confirmation of atypical scrapie in sheep or goats**

- 10.—(1) This paragraph applies if the TSE confirmed in a suspected sheep or goat, or a body of a sheep or goat monitored under Annex III to the EU TSE Regulation is atypical scrapie, and BSE is excluded in accordance with the procedure set out in Annex X, Chapter C, point 3(2)(c) of that Regulation.
  - (2) The Department may decide not to apply paragraph 6 in respect of sheep, or paragraph 7 in respect of goats.
  - (3) If the Department decides not to apply either paragraph 6 or 7, it must instead of complying with the requirements in that paragraph—
    - (a) carry out the inquiry specified in Article 13(1)(b) and in point 1(b) of Annex VII of the EU TSE Regulation; and
    - (b) decide which of the options set out in points 5(a) and 5(b) of Annex VII of that Regulation it intends to exercise.
  - (4) The Department must then serve a notice on the occupier of the premises informing them of which of the options in those points it intends to exercise.
  - (5) If the Department chooses the option set out in point 5(a) of Annex VII to the EU TSE Regulation, the notice must specify—
    - (a) the identity of the animals to be killed and destroyed;

- (b) the identity of any ovum or embryo (if any) to be destroyed; and
- (c) the time limit for complying with the notice.

(6) If the Department chooses the option set out in point 5(b) of Annex VII of the EU TSE Regulation, for two breeding years following the detection of the last TSE case, the occupier must—

- (a) identify all sheep and goats on the premises by attaching a tag to the ear of each animal;
- (b) ensure that no tag is removed, other than as directed or permitted by the Department; and
- (c) subject the premises to the intensified TSE monitoring set out in point 5(b)(ii) of that Annex,

and failure to comply with this sub-paragraph is an offence.

(7) A person may not export any live ovine or caprine animals identified under sub-paragraph (6) (a) or embryos or ova from such animals to a member State or third country, and failure to comply with this sub-paragraph is an offence.

(8) The appeals procedure in regulation 10 applies in relation to any decision under this paragraph.

(9) In sub-paragraph (6), “tag” means an identification tag approved for the purposes of sub-paragraph (6) by the Department.

### **Derogation**

11.—(1) Subject to sub-paragraphs (2) to (4)—

- (a) the Department may decide to delay the destruction of any animals specified in a notice served under paragraph 6 or 7; or
- (b) the occupier of the relevant holding may apply to the Department for a delay in the destruction of any such animals.

(2) The Department must not decide upon, or consent to, a delay unless satisfied that—

- (a) the frequency of ARR allele within the relevant breed or holding is low or absent; or
- (b) a delay is necessary in order to avoid inbreeding.

(3) Subject to sub-paragraph (4), the Department may decide upon, or consent to, a delay of up to five breeding years.

(4) The Department must not decide upon, or consent to,—

- (a) any delay, if a breeding ram (other than a ram of the ARR/ARR genotype present within the breed or holding) is on the holding; or
- (b) a delay of more than 18 months in relation to sheep or goats kept for the production of milk or milk products intended for placing on the market.

(5) An application under sub-paragraph (1)(b) must be in writing and must set out in full the reasons for the application.

(6) The Department must provide the applicant with a decision in writing, stating that the Department —

- (a) consents to the application;
- (b) consents in part to the application; or
- (c) refuses the application.

(7) The Department may impose any conditions that it considers to be reasonably necessary in relation to any decision made, or consent granted, under this paragraph.

(8) Unless the Department consents to the application in full, the appeals procedure in regulation 10 applies.

### **Time for appeals**

12. The Department must not kill any sheep or goat, or destroy any ovum or embryo, under this Schedule until—

- (a) it has received written notification from the person on whom the notice is served to indicate that person has no intention to proceed with an appeal; or
- (b) after the 21 day period for appeal under regulation 10 is completed; or
- (c) if there is an appeal, the appeal is determined or withdrawn.

### **Killing and destruction following confirmation**

13.—(1) An inspector must ensure that any animal specified for killing in the notice in paragraph 6(3), 7(2), 9(2) or 10(5) is killed and that all the ova and embryos, and milk or milk products specified for destruction in the notice are destroyed.

(2) If an animal to which sub-paragraph (1) applies is not killed on the premises on which it is kept, an inspector must direct the owner in writing to consign it to other premises for killing as specified in the direction.

(3) When an animal has been killed in accordance with this paragraph, it is an offence to remove the body from the premises on which it was killed except in accordance with a written direction from an inspector.

### **Infected animals from other premises**

14. For the purposes of point 2(4) of Annex VII to the EU TSE Regulation, if the infected animal was introduced from any other premises onto the premises where the infection was confirmed, the Department may act in accordance with this Schedule in relation to those other premises in addition to, or instead of, the premises on which infection was confirmed.

### **Common grazing**

15. In the case of an infected animal on common grazing, the Department may limit a notice under paragraphs 6(3), 7(2), 9(2) or 10(5) to an individual flock or herd in accordance with point 2(4) of Annex VII to the EU TSE Regulation.

### **Multiple flocks on any premises**

16. Where more than one flock is kept on a premises, the Department may limit a notice under paragraphs 6(3), 7(2), 9(2) or 10(5) to an individual flock or herd in accordance with point 2(4) of Annex VII to the EU TSE Regulation.

### **Subsequent occupiers**

17.—(1) If there is a change in occupation of any premises, the previous occupier must ensure that the subsequent occupier is made aware of the existence and contents of any notice served under this Schedule in relation to those premises, and failure to do so is an offence.

(2) The subsequent occupier must comply with the notice as if that notice was served on that occupier, and failure to do so is an offence.

### **Introduction of an animal onto any premises**

18. Any person who introduces an animal onto any premises in contravention of point 3(1) of Annex VII to the EU TSE Regulation is guilty of an offence.

### **Use of ovine germinal products**

19. Any person who uses ovine germinal products in contravention of point 3(2) of Annex VII to the EU TSE Regulation is guilty of an offence.

### **Movement of an animal from any premises**

20. Any person who moves an animal from any premises in contravention of point 3(3) of Annex VII to the EU TSE Regulation is guilty of an offence.

### **Time of movement restrictions**

21. For the purposes of point 3(4) of Annex VII to the EU TSE Regulation the relevant dates must be established by the Department giving written notification of those dates to the occupier of the premises in question.

### **Death while under restriction**

22.—(1) If any animal of 18 months of age or over dies or is killed while it is under restriction for any reason under this Schedule or Annex VII to the EU TSE Regulation, the owner must immediately notify the Department, and retain the body on the premises where it was kept until they are directed in writing to move or dispose of it by the Department.

(2) It is an offence not to comply with this paragraph or to fail to comply with a direction under it.

### **Placing on the market of progeny of a BSE affected sheep or goat**

23. Any person who places on the market any first generation progeny, semen, embryo or ovum of a sheep or goat suspected of, or confirmed with, BSE in contravention of Article 15(2) and Chapter B of Annex VIII to the EU TSE Regulation is guilty of an offence.

### **Compensation for a sheep or goat slaughtered as a suspect animal**

24.—(1) The Department must pay compensation in accordance with this paragraph for a sheep or goat killed as a suspected animal.

(2) Where it is confirmed that it was affected with a TSE, the compensation is—

- (a) £30 in the case of an animal at the end of its productive life; and
- (b) £90 in any other case.

(3) Where it is not confirmed that it was affected with a TSE, the compensation is the higher of—

- (a) the amount that would have been payable under sub-paragraph (2) if it had been confirmed the animal was affected with a TSE; and
- (b) such sum as appears to the Department, having regard to any information provided by the owner of the animal and any other relevant information, to reflect the market value of the animal, subject to a maximum sum of £400 for each animal.

### **Compensation for animals killed or products destroyed following confirmation of TSE**

25. The Department must pay compensation to the owner of animals killed and products (other than products destroyed in accordance with paragraph 9) destroyed under this Schedule following confirmation of a TSE in accordance with the following provisions of this paragraph—

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### Compensation

<i>Animal or product</i>	<i>Compensation (£)</i>
Pure bred sheep or goats	Market value of animal
Ordinary male adult sheep or goats	90
Ordinary female adult sheep or goat	65
Ordinary sheep in lamb and ordinary goat in kid	115
Ordinary lamb (under 12 months old) or ordinary kid (under 12 months old)	50
Embryo	150
Ovum	5

In this paragraph “ordinary” in relation to an animal is defined as meaning that it is not pure bred.

### Valuations

26.—(1) If the owner of an animal considers the compensation in the preceding paragraph to be unreasonable the owner may notify the Department and where the owner does so the compensation must be the market value of the animal determined in accordance with the procedure in regulation 11.

(2) If in relation to any animal the Department considers the compensation in the preceding paragraph to be excessive it may notify the owner and where it does so the compensation must be the market value of the animal determined in accordance with the procedure in regulation 11, but in this case it must pay any fee arising for nominating and employing the valuer.

(3) The nominated valuer must value the animal, milk and milk product at the price that might reasonably have been obtained for it at the time of valuation from a purchaser in the open market if the animal was not from a flock or herd affected by a TSE.

### Compensation for milk or milk products compulsorily destroyed in accordance with paragraph 9

27.—(1) The Department must pay compensation in accordance with this paragraph for milk or milk products destroyed pursuant to paragraph 9 of this Schedule.

(2) The compensation payable is that which the Department believes might reasonably have been obtained for the milk or milk products on the open market had it not been compulsorily destroyed and had not been milk derived from a flock or herd affected by TSE.

(3) If the owner of the milk or milk products considers the compensation in the preceding paragraph to be unreasonable a valuation must be carried out in accordance with the procedure laid down in regulation 11(3) to (8) with the owner paying any valuation fee arising.