
STATUTORY INSTRUMENTS

1996 No. 3184

ANIMALS

ANIMAL HEALTH

**The Bovine Spongiform Encephalopathy
Compensation Order 1996**

<i>Made</i>	- - - -	<i>18th December 1996</i>
<i>Laid before Parliament</i>		<i>18th December 1996</i>
<i>Coming into force</i>	- -	<i>24th January 1997</i>

The Minister of Agriculture, Fisheries and Food in exercise of the powers conferred on him by section 32(3) of the Animal Health Act 1981(1), and of all other powers enabling him in that behalf, with the approval of the Treasury in accordance with the said section 32(3), and the Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for Wales, acting jointly, in exercise of the powers conferred by section 34(7) of the said Act, and of all other powers enabling them in that behalf, hereby make the following Order:—

Title and commencement

1. This Order may be cited as the Bovine Spongiform Encephalopathy Compensation Order 1996 and shall come into force on 24th January 1997.

Interpretation

2. In this Order—

“affected animal” means a bovine animal which is affected with bovine spongiform encephalopathy;

“barrener cattle” means adult female bovine animals which have had one or more calves and which are being sold for either immediate slaughter or further fattening before slaughter;

“bovine animal” means a bull, cow, steer, heifer or calf;

“exposed animal” means a bovine animal which has been exposed to the infection of bovine spongiform encephalopathy;

“indicative market price” means a price calculated in accordance with Schedule 1 to this Order;

(1) 1981 c. 22; see section 86(1) for definitions of “the Minister” and “the Ministers”. Section 32 was applied to bovine spongiform encephalopathy by S.I.1991/2246.

“market value” means—

- (a) in the case of a bovine animal aged 30 months or over, either—
 - (i) the price which might reasonably have been obtained for it at the time of valuation from a purchaser in the open market if the animal were not an affected, suspected or exposed animal; or
 - (ii) the purchase price which would have applied had the animal been slaughtered at the time of valuation in accordance with Commission Regulation (EC) No. 716/96⁽²⁾ adopting exceptional support measures for the beef market in the United Kingdom, as amended⁽³⁾,whichever is the higher; and
- (b) in the case of a bovine animal aged under 30 months, the price which might reasonably have been obtained for it at the time of valuation from a purchaser in the open market if the animal were not an affected, suspected or exposed animal; and

“suspected animal” means a bovine animal which is suspected of being affected with bovine spongiform encephalopathy.

Compensation for affected and suspected animals slaughtered for bovine spongiform encephalopathy

3.—(1) Where the Minister causes an affected animal to be slaughtered under the powers conferred on him by section 32(1) of the Animal Health Act 1981 in its application to bovine spongiform encephalopathy, the compensation payable by him shall be an amount equal to either—

- (a) the market value of the animal; or
- (b) the indicative market price for the month in which the market value of the animal was determined,

whichever is the less.

(2) Where the Minister causes a suspected animal to be slaughtered under the powers conferred on him by section 32(1) of the Animal Health Act 1981 in its application to bovine spongiform encephalopathy, and an examination at a veterinary laboratory of the Ministry of tissues taken from the carcase of the animal does not confirm that it was an affected animal, the compensation payable by the Minister shall be an amount equal to either—

- (a) the market value of the animal; or
- (b) 125 per cent of the indicative market price for the month in which the market value of the animal was determined,

whichever is the less.

(3) The market value of a bovine animal which the Minister proposes to cause to be slaughtered shall, for the purposes of payment of compensation under this Order, be determined—

- (a) by agreement between the Minister and the owner of the animal;
- (b) by one valuer appointed jointly by the Minister and the said owner; or
- (c) failing such agreement or appointment, by a valuer nominated by the President of the Royal Institution of Chartered Surveyors.

(4) A valuer appointed or nominated under paragraph (3)(b) or (c) above shall be paid by the Minister and shall give to the Minister and the owner a certificate in writing of the said value.

(2) O.J. No. L99, 19.4.96, p. 14.

(3) Commission Regulations (EC) Nos. 774/96 (O.J. No. L104, 27.4.96, p. 21), 835/96 (O.J. No. L112, 7.5.96, p. 17), 1512/96 (O.J. No. L189, 30.7.96, p. 93), 1846/96 (O.J. No. L245, 26.9.96, p. 9), 1974/96 (O.J. No. L262, 16.10.96, p. 2) and 2149/96 (O.J. No. L288, 9.11.96, p. 14).

(5) The Minister shall take such steps as he considers appropriate for the purpose of bringing to the notice of persons concerned the indicative market price in respect of each month and the total number of animals and the total sale price on which the calculation of such indicative market price was based.

Compensation for exposed animals slaughtered for bovine spongiform encephalopathy

4.—(1) Where the Minister causes an exposed animal to be slaughtered under the powers conferred on him by section 32(1) of the Animal Health Act 1981 in its application to bovine spongiform encephalopathy, the compensation payable by him shall be an amount equal to—

- (a) in the case of a female animal, 90 per cent of the replacement value of the animal calculated in accordance with paragraph (2) below, or, if higher, the market value of the animal; and
- (b) in the case of a male animal, the market value of the animal,

enhanced, where the Minister causes 10 per cent or more of a herd to be slaughtered as exposed animals, by a percentage calculated in accordance with Schedule 2 to this Order.

(2) For the purposes of paragraph (1)(a) above the replacement value of a bovine animal is the value, at the time of valuation, of an animal in its first lactation of the same breed and quality as that animal.

(3) For the purposes of paragraph (1) above and Schedule 2 to this Order, “herd” means the bovine animals kept on a holding which—

- (a) in the case of female animals, are in milk or in calf; and
- (b) in the case of male animals, have been used for breeding purposes,

and are managed as a separate production unit at the time of service of a notice in Form D under article 7(1) of the Bovine Spongiform Encephalopathy (No. 2) Order 1996(4).

(4) In ascertaining the percentage of a herd slaughtered for the purpose of calculating any enhancement under paragraph (1) above, animals slaughtered under any voluntary slaughter scheme introduced in relation to exposed animals shall be included in the calculation as if they were animals caused to be slaughtered by the Minister.

(5) The replacement value or market value, as the case may be, of a bovine animal which the Minister causes to be slaughtered shall, for the purposes of payment of compensation under this Order, be determined—

- (a) by agreement between the Minister and the owner of the animal;
- (b) by a valuer appointed by the Minister; or
- (c) by agreement between two valuers, one appointed by the Minister and one by the owner of the animal.

(6) In the absence of agreement under paragraph (5)(a) or (c) above, or where the owner of the animal does not accept the valuation under paragraph (5)(b) above, the replacement value or market value, as the case may be, of the animal shall be determined by a valuer, acting as an independent expert, nominated by the President of the Royal Institution of Chartered Surveyors.

(7) A valuer appointed under paragraph (5) above or nominated under paragraph (6) above shall be paid by the Minister and shall give to the Minister and the owner a certificate in writing of the said value.

Revocation and saving

5.—(1) Subject to paragraph (2) below, the Bovine Spongiform Encephalopathy Compensation Order 1994⁽⁵⁾ and the Bovine Spongiform Encephalopathy Compensation (Amendment) Order 1996⁽⁶⁾ are hereby revoked.

(2) The compensation payable for any bovine animal slaughtered before the commencement of this Order pursuant to the exercise by the Minister of his powers under section 32(1) of the Animal Health Act 1981 shall be calculated in accordance with the provisions of the Bovine Spongiform Encephalopathy Compensation Order 1994.

16th December 1996

Angela Browning
Parliamentary Secretary, Ministry of Agriculture,
Fisheries and Food

16th December 1996

Lindsay
Parliamentary Under Secretary of State, Scottish
Office

Signed by authority of the Secretary of State for Wales

7th December 1996

Jonathan Evans
Parliamentary Under Secretary of State, Welsh
Office

We approve,

18th December 1996

Rowen Wells
Richard Ottaway
Two of the Lords Commissioners of Her
Majesty's Treasury

(5) S.I. 1994/673, amended by S.I. 1996/1351.

(6) S.I. 1996/1351.

SCHEDULE 1

Article 2

CALCULATION OF INDICATIVE MARKET PRICE

The indicative market price for each month shall be calculated using data collected in Great Britain relating to the month occurring two months before the date on which the market value was determined under article 3(3) of this Order and in accordance with the following formula:

$$\frac{(A \times B) + (C \times D)}{(A + C)}$$

where—

A equals the number of cattle aged less than 7 years when valued which were slaughtered as BSE suspects;

B equals the average price for Friesian and Holstein cows in milk and in calf, first calving cows in milk and down calving heifers, in each case of first and second quality;

C equals the number of cattle aged 7 years or more when valued which were slaughtered as BSE suspects; and

D equals the average purchase price paid in the case of barren cattle of dairy breeds slaughtered in accordance with Commission Regulation (EC) No. 716/96 adopting exceptional measures for the support of the beef market in the United Kingdom, as amended,

the final figure being rounded down to the nearest multiple of £1.

SCHEDULE 2

Article 4(1)

CALCULATION OF ENHANCEMENT OF COMPENSATION

1.—(1) For bovine animals not in a closed herd, where the Minister causes 10 per cent or more of the herd to be slaughtered as exposed animals, the amount of compensation payable under article 4(1) (a) or (b) of this Order shall, subject to sub-paragraphs (2) and (3) below, be enhanced by (10+E) per cent, where E equals half the percentage by which the percentage of the herd caused to be slaughtered exceeds 10 per cent.

(2) Where the amount of compensation payable for a bovine animal under article 4(1)(a) or (b) of this Order exceeds £1,000, that amount shall be treated as £1,000 for the purpose of calculating under sub-paragraph (1) above the amount by which the amount of compensation payable should be enhanced.

(3) Where the calculation in sub-paragraph (1) above produces an enhancement percentage in excess of 25 per cent, the amount of compensation payable shall be enhanced by 25 per cent.

2. For bovine animals in a closed herd, where the Minister causes 10 per cent or more of the herd to be slaughtered as exposed animals, the amount of compensation payable under article 4(1)(a) or (b) of this Order shall be enhanced by a percentage that is 1½ times the enhancement percentage produced by the calculation in paragraph 1 above.

3. In this Schedule “closed herd” means a herd into which no female bovine animal has been introduced since 15th October 1990.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes and re-makes with amendments the Bovine Spongiform Encephalo pathy Compensation Order 1994.

The Order prescribes the amount of compensation payable for bovine animals caused to be slaughtered by the Minister of Agriculture, Fisheries and Food under section 32 of the Animal Health Act 1981 because they—

- (a) are affected with;
- (b) are suspected of being affected with; or
- (c) have been exposed to the infection of,

bovine spongiform encephalopathy.

The amount of compensation payable in the case of animals falling into categories (a) and (b) is set out in Article 3. The “indicative market price” of a bovine animal for the purpose of such compensation is to be calculated in accordance with Schedule 1 to the Order.

The amount of compensation payable in the case of animals falling into category (c) is set out in Article 4 and is subject to enhancement in accordance with Schedule 2 to the Order. These provisions are new.

A Compliance Cost Assessment has been prepared and placed in the library of each House of Parliament. Copies can be obtained from Animal Health (BSE) Division, Ministry of Agriculture, Fisheries and Food, Government Buildings (Toby Jug), Hook Rise South, Tolworth, Surbiton, Surrey KT6 7DX.