
STATUTORY INSTRUMENTS

2006 No. 1228

ANIMALS, ENGLAND

ANIMAL HEALTH

The Transmissible Spongiform
Encephalopathies (No. 2) Regulations 2006

<i>Made</i>	- - - -	<i>2nd May 2006</i>
<i>Laid before Parliament</i>		<i>2nd May 2006</i>
<i>Coming into force</i>	- -	<i>3rd May 2006</i>

The Secretary of State for Environment, Food and Rural Affairs makes the following Regulations under the powers conferred by section 2(2) of the European Communities Act 1972⁽¹⁾.

She has been designated⁽²⁾ for the purposes of that section in relation to measures in the veterinary and phytosanitary fields for the protection of public health.

She has carried out the consultation required by Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety⁽³⁾.

PART 1

General provisions

Title, application and commencement

1. These Regulations—
 - (a) may be cited as the Transmissible Spongiform Encephalopathies (No. 2) Regulations 2006;
 - (b) apply in England only; and
 - (c) come into force on 3rd May 2006.

(1) 1972 c. 68.

(2) S.I. 1999/2027.

(3) OJ No. L 31, 1.2.2002, p.1, as last amended by Regulation (EC) No. 1642/2003 (OJ No. L 245, 29.9.2003, p. 4).

Interpretation**2.—(1)** In these Regulations—

“bovine animal” includes bison and buffalo (including water buffalo);

“BSE” means bovine spongiform encephalopathy;

“cattle passport” has the same meaning as in the Cattle Identification Regulations 1998(4);

“Community TSE Regulation” means Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies(5), as amended by, and as read with the instruments set out in Schedule 1;

“inspector” means an inspector appointed under regulation 12, and “veterinary inspector” means a veterinary surgeon appointed by the Secretary of State as an inspector;

“local authority” means—

- (a) where there is, within the meaning of the Local Government Changes for England Regulations 1994(6), a unitary authority, that authority;
- (b) where there is not a unitary authority—
 - (i) in a metropolitan district, the council of that district;
 - (ii) in a non-metropolitan county, the council of that county or the council of a district within the county area;
 - (iii) in each London borough, the council of that borough; or
- (c) in the City of London, the Common Council;

“slaughterhouse” and (except in Schedule 6, paragraph 10(2)(c)) “cutting plant” mean premises—

- (a) approved or conditionally approved as such by the Food Standards Agency under Article 31(2) of Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules(7); or
- (b) operating as such under Article 4(5) of Regulation (EC) No 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin(8) pending such approval; and

“TSE” means transmissible spongiform encephalopathy.

(2) Expressions that are not defined in these Regulations and occur in the Community TSE Regulation have the same meaning in these Regulations as they have for the purposes of the Community TSE Regulation.

Appointment of competent authority

3. The Secretary of State is the competent authority for the purposes of the Community TSE Regulation except as otherwise specified in these Regulations.

(4) S.I. 1998/871, as amended by S.I. 1998/2969 and S.I. 1999/1339.

(5) OJ No. L 147, 31.5.2001, p. 1.

(6) S.I. 1994/867 to which there are amendments not relevant to these Regulations.

(7) (OJ No. L 165, 30.4.2004, p.1. The revised text of Regulation (EC) No. 882/2004 is now set out in a Corrigendum (OJ No. L 191, 28.5.2004, p. 1).

(8) (OJ No. L 139, 30.4.2004, p. 55. The revised text of Regulation (EC) No. 853/2004 is now set out in a Corrigendum (OJ No. L 226, 25.6.2004, p. 22).

Exception for research

4.—(1) The provisions of Schedules 2 to 6 do not apply in relation to animals kept for the purposes of research in premises approved for that purpose under this regulation by the Secretary of State.

(2) If a bovine animal, sheep or goat kept in approved research premises or its progeny dies or is killed, the occupier must dispose of it as a Category 1 animal by-product in accordance with Regulation (EC) No 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption⁽⁹⁾, and failure to do so is an offence.

PART 2

Introduction of Schedules

The Schedules

5. The following Schedules have effect—

- (a) Schedule 2 (TSE monitoring);
- (b) Schedule 3 (control and eradication of TSE in bovine animals);
- (c) Schedule 4 (control and eradication of TSE in sheep and goats);
- (d) Schedule 5 (feedingstuffs);
- (e) Schedule 6 (specified risk material, mechanically recovered meat and slaughtering techniques); and
- (f) Schedule 7 (restrictions on dispatch to other member States and to third countries).

PART 3

Administration and enforcement

Approvals, authorisations, licences and registrations

6.—(1) The Secretary of State shall grant an approval, authorisation, licence or registration under these Regulations if she is satisfied that the provisions of the Community TSE Regulation and these Regulations will be complied with.

(2) It must be in writing, and must specify—

- (a) the address of the premises;
- (b) the name of the occupier; and
- (c) the purpose for which it is granted.

(3) It may be made subject to such conditions as are necessary to—

- (a) ensure that the provisions of the Community TSE Regulation and these Regulations will be complied with; or
- (b) protect public or animal health.

(4) If the Secretary of State refuses to grant an approval, authorisation, licence or registration, or grants one subject to conditions, she must—

⁽⁹⁾ OJ No. L 273, 10.2.2002, p. 1 as last amended by Commission Regulation (EC) No. 93/2005, OJ No. L19, 21.1.2005, p. 34.

- (a) give her reasons in writing; and
 - (b) explain the right of the applicant to make written representations to a person appointed by the Secretary of State.
- (5) The appeals procedure in regulation 10 then applies.

Occupier's duty

7. The occupier of any premises approved, authorised, licensed or registered under these Regulations commits an offence if he does not ensure that—

- (a) the premises are maintained and operated in accordance with—
 - (i) any condition of the approval, authorisation, licence or registration; and
 - (ii) the requirements of the Community TSE Regulation and these Regulations; and
- (b) any person employed by him, and any person permitted to enter the premises, complies with those conditions and requirements.

Suspension and amendment

8.—(1) The Secretary of State may suspend or amend an approval, authorisation, licence or registration granted under these Regulations if—

- (a) any of the conditions under which it was granted is not fulfilled; or
 - (b) she is satisfied that the provisions of the Community TSE Regulation or of these Regulations are not being complied with.
- (2) A suspension or amendment—
- (a) shall have immediate effect if the Secretary of State considers it necessary for the protection of public or animal health; and
 - (b) otherwise, shall not have effect for at least 21 days.
- (3) Notification of the suspension or amendment shall—
- (a) be in writing;
 - (b) state when it comes into effect;
 - (c) give the reasons; and
 - (d) explain the right of the person who has been notified to make written representations to a person appointed by the Secretary of State.
- (4) The appeals procedure in regulation 10 then applies.
- (5) If the suspension or amendment does not have immediate effect and representations are made under regulation 10, it shall not have effect until the final determination of the appeal by the Secretary of State unless she considers that it is necessary for the protection of public or animal health for the amendment or suspension to have effect before then.

Revocations of approvals, etc.

9.—(1) The Secretary of State may revoke an approval, authorisation, licence or registration granted under these Regulations if she is satisfied that the premises will not be operated in accordance with the Community TSE Regulation or these Regulations and if—

- (a) it is currently suspended and the period for appeal under regulation 10 has expired or she has upheld the suspension following such appeal;
- (b) she has previously suspended it and there is further non-compliance with the Community TSE Regulation or these Regulations; or

(c) she is satisfied that the occupier no longer uses the premises for the purpose for which it was granted.

(2) If the Secretary of State revokes under paragraph (1)(b) or (1)(c) the appeals procedure in regulation 10 applies but the revocation remains in force during that appeals procedure.

Appeals procedure

10.—(1) Where this regulation applies, a person may make written representations concerning a decision within 21 days of notification of the decision to a person appointed for the purpose by the Secretary of State.

(2) The appointed person shall report in writing to the Secretary of State.

(3) The Secretary of State shall give to the appellant written notification of her final determination and the reasons for it.

Valuations

11.—(1) This regulation applies when a valuation is necessary under these Regulations.

(2) The owner and the Secretary of State may agree such valuation.

(3) If the owner and the Secretary of State cannot agree on such valuation, they may jointly appoint a valuer.

(4) If the owner and the Secretary of State cannot agree on who the valuer shall be, the President of the Royal Institution of Chartered Surveyors shall nominate the valuer, and both the owner and the Secretary of State must accept the nomination.

(5) The valuer shall carry out the valuation and submit it and any other relevant information and documentation to the Secretary of State, and a copy to the owner.

(6) Both the owner and a representative of the Secretary of State have the right to be present at a valuation.

(7) The valuation is binding on both the owner and the Secretary of State.

Appointment of inspectors

12. The Secretary of State and the local authority shall appoint inspectors for the purposes of the enforcement of these Regulations except as specified in Schedule 6.

Powers of entry

13.—(1) An inspector shall, on producing, if so required, some duly authenticated document showing his authority, have a right at all reasonable hours, to enter any premises (including any domestic premises if they are being used for any purpose in connection with the Community TSE Regulation and these Regulations) for the purpose of ensuring that the Community TSE Regulation and these Regulations are being complied with; and in this regulation “premises” includes any vehicle, container or structure (moveable or otherwise).

(2) He may take with him—

(a) such other persons as he considers necessary; and

(b) any representative of the European Commission acting for the purpose of the enforcement of a Community obligation.

(3) If an inspector enters any unoccupied premises he shall leave them as effectively secured against unauthorised entry as he found them.

Powers of inspectors

14.—(1) An inspector may—

- (a) seize any—
 - (i) animal;
 - (ii) body of an animal, and any parts of the body (including the blood and the hide) and any semen, embryo or ovum; or
 - (iii) animal protein or feedingstuffs that may contain animal protein, and dispose of them as necessary;
- (b) carry out any inquiries, investigations, examinations and tests;
- (c) collect, pen and inspect any animal and for this purpose may require the keeper of any such animal to arrange for the collection and penning of the animal;
- (d) inspect any body of an animal and any parts of the body (including the blood and the hide) and any semen, embryo or ovum;
- (e) inspect any part of the premises, any equipment, facility, operation or procedure;
- (f) take any samples;
- (g) have access to, and inspect and copy any records (in whatever form they are held) in order to determine if these Regulations are being complied with, including records kept under the Community TSE Regulation and these Regulations, or remove such records to enable them to be copied;
- (h) have access to, inspect and check the operation of, any computer and any associated apparatus or material that is or has been in use in connection with any record; and for this purpose may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford him such assistance as he may reasonably require (including providing him with any necessary passwords) and, where a record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away;
- (i) mark anything (including an animal) whether electronically or otherwise, for identification purposes; and
- (j) lock or seal any container or store.

(2) Any person who defaces, obliterates, or removes any mark or seal, or removes any lock, applied under paragraph (1) is guilty of an offence.

(3) An inspector is not personally liable for anything he does—

- (a) in the execution or purported execution of these Regulations; and
- (b) within the scope of his employment,

if he acted in the honest belief that his duty under these Regulations required or entitled him to do it; but this does not affect any liability of his employer.

Notices

15.—(1) If it is necessary for any reason connected with the enforcement of the Community TSE Regulation or these Regulations an inspector may serve a notice on—

- (a) the owner or keeper of any animal;
- (b) the person in possession of the body or any part of the body of an animal (including the blood and the hide) or any semen, embryo or ovum; or

- (c) the person in possession of any animal protein or feedingstuffs that may contain animal protein.
- (2) The notice must be in writing, and must give the reasons for it being served.
- (3) The notice may—
 - (a) prohibit the movement of any animal onto or from the premises specified in the notice;
 - (b) specify those parts of premises to which an animal may or may not be allowed access;
 - (c) require the killing or slaughter of any animal;
 - (d) prohibit or require the movement onto or from premises specified in the notice of the body or any part of the body (including the blood and the hide) of any animal, any animal protein or feedingstuffs that may contain animal protein, and any animal semen, embryo or ovum;
 - (e) require the disposal of the body or any part of the body (including the blood and the hide) of any animal (whether or not it is one that was required to be detained), and any semen, embryo or ovum as may be specified in the notice;
 - (f) require the disposal of any animal protein or feedingstuffs that may contain animal protein or specify how they are to be used; or
 - (g) require the recall of any animal protein or feedingstuffs that may contain animal protein.
- (4) If an inspector suspects that any premises, vehicle or container to which the Community TSE Regulation or these Regulations apply constitutes a risk to animal or public health, he may serve a notice on the occupier or person in charge of the premises, vehicle or container requiring that person to cleanse and disinfect all or any part of the premises, vehicle or container and any associated equipment.
- (5) A notice may specify how it must be complied with, and specify time limits.
- (6) A notice must be complied with at the expense of the person on whom it is served, and if it is not complied with an inspector may arrange to have it complied with at that person's expense.
- (7) Failure to comply with a notice is an offence.

Notices restricting movement

- 16.**—(1) If a notice is served restricting movements, an inspector may subsequently permit movement under the authority of a licence.
- (2) The person transporting under the authority of a licence must carry the licence with him during movement, and produce it on demand to an inspector, and failure to do so is an offence.

Obstruction

- 17.** A person is guilty of an offence if he—
- (a) intentionally obstructs an inspector acting under these Regulations;
 - (b) without reasonable cause, fails to give to an inspector acting under these Regulations any assistance or information or to provide any facilities that the inspector may reasonably require him to give or provide for the performance of his functions under these Regulations;
 - (c) gives false or misleading information to an inspector acting under these Regulations; or
 - (d) fails to produce a record when required to do so by an inspector acting under these Regulations.

Penalties

18. A person guilty of an offence under these Regulations is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term of three months or both; or
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or both.

Offences by bodies corporate

19.—(1) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar person of the body corporate; or
- (b) any person who was purporting to act in any such capacity,

he, as well as the body corporate, is guilty of the offence.

(2) For the purposes of paragraph (1), “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

Enforcement

20.—(1) The Secretary of State enforces Schedule 2 in slaughterhouses and cutting plants.

(2) The Food Standards Agency enforces Schedule 6 in slaughterhouses and cutting plants.

(3) Otherwise these Regulations are enforced by the local authority.

(4) The Secretary of State may direct, in relation to cases of a particular description or any particular case, that an enforcement duty imposed on the local authority under this regulation shall be discharged by the Secretary of State and not by the local authority.

Revocations

21. The following Regulations are revoked—

- (a) the Transmissible Spongiform Encephalopathies Regulations 2006⁽¹⁰⁾;
- (b) the Production of Bovine Collagen Intended for Human Consumption in the United Kingdom (England) Regulations 2005⁽¹¹⁾; and
- (c) the Bovines and Bovine Products (Trade) Regulations 1999⁽¹²⁾.

2nd May 2006

Bach
Parliamentary Under Secretary of State
Department for Environment, Food and Rural
Affairs

⁽¹⁰⁾ S.I. 2006/68.

⁽¹¹⁾ S.I. 2005/404.

⁽¹²⁾ S.I. 1999/1103.

SCHEDULE 1

Regulation 2

Instruments relevant to Community TSE Regulation

The Community TSE Regulation has been amended by, and must be read with—

- (a) Commission Regulation (EC) No 1248/2001 amending Annexes III, X and XI to Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards epidemio-surveillance and testing of transmissible spongiform encephalopathies(13);
- (b) Commission Regulation (EC) No 1326/2001 laying down transitional measures to permit the changeover to Regulation (EC) No 999/2001 of the European Parliament and of the Council for the prevention, control and eradication of certain transmissible spongiform encephalopathies, and amending Annexes VII and XI to that Regulation(14);
- (c) Commission Regulation (EC) No 270/2002 amending Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards specified risk material and epidemio-surveillance for transmissible spongiform encephalopathies and amending Regulation (EC) No 1326/2001 as regards animal feeding and placing on the market of ovine and caprine animals and products thereof(15);
- (d) Commission Regulation (EC) No 1494/2002 amending Annexes III, VII and XI to Regulation (EC) No 999/2001 of the European Parliament and the Council as regards monitoring of bovine spongiform encephalopathy, eradication of transmissible spongiform encephalopathy, removal of specified risk materials and rules for importation of live animals and products of animal origin(16);
- (e) Commission Regulation (EC) No 260/2003 amending Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards the eradication of transmissible spongiform encephalopathies in ovine and caprine animals and rules for the trade in live ovine and caprine animals and bovine embryos(17);
- (f) Commission Regulation (EC) No 650/2003 amending Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards the import of live ovine and caprine animals(18);
- (g) Commission Regulation (EC) No 1053/2003 amending Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards rapid tests(19);
- (h) Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded(20);
- (i) Regulation (EC) No 1128/2003 of the European Parliament and of the Council amending Regulation (EC) No 999/2001 as regards the extension of the period for transitional measures(21);

(13) OJ No. L 173, 27.6.2001, p. 12.

(14) OJ No. L 177, 30.6.2001, p. 60.

(15) OJ No. L 45, 15.2.2002, p. 4.

(16) OJ No. L 225, 22.8.2002, p. 3.

(17) OJ No. L 37, 13.2.2003, p. 7.

(18) OJ No. L 95, 11.4.2003, p. 15.

(19) OJ No. L 152, 20.6.2003, p. 8.

(20) OJ No. L 236, 23.9.2003, p. 33.

(21) OJ No. L 160, 28.6.2003, p. 1.

Status: This is the original version (as it was originally made).

- (j) Commission Regulation (EC) No 1139/2003 amending Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards monitoring programmes and specified risk material(22);
- (k) Commission Regulation (EC) No 1234/2003 amending Annexes I, IV and XI to Regulation (EC) No 999/2001 of the European Parliament and of the Council and Regulation (EC) No 1326/2001 as regards transmissible spongiform encephalopathies and animal feeding(23);
- (l) Commission Regulation (EC) No 1809/2003 amending Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards rules for importation of live bovine animals and products of bovine, ovine and caprine origin from Costa Rica and New Caledonia(24);
- (m) Commission Regulation (EC) No 1915/2003 amending Annexes VII, VIII and IX to Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards the trade and import of ovine and caprine animals and the measures following the confirmation of transmissible spongiform encephalopathies in bovine, ovine and caprine animals(25);
- (n) Commission Regulation (EC) No 2245/2003 amending Annex III to Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards monitoring of transmissible spongiform encephalopathies in ovine and caprine animals(26);
- (o) Commission Regulation (EC) No 876/2004 amending Annex VIII to Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards trade in ovine and caprine animals for breeding(27);
- (p) Commission Regulation (EC) No 1471/2004 amending Annex XI to Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards the import of cervid products from Canada and the United States(28);
- (q) Commission Regulation (EC) No 1492/2004 amending Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards eradication measures for transmissible spongiform encephalopathies in bovine, ovine and caprine animals, the trade and importation of semen and embryos of ovine and caprine animals and specified risk material(29);
- (r) Commission Regulation (EC) No 1993/2004 amending Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards Portugal(30);
- (s) Commission Regulation (EC) No 36/2005 amending Annexes III and X to Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards epidemio-surveillance for transmissible spongiform encephalopathies in bovine, ovine and caprine animals(31);
- (t) Commission Regulation (EC) No 214/2005 amending Annex III to Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards monitoring of transmissible spongiform encephalopathies in caprine animals(32);

(22) OJ No. L 160, 28.6.2003, p. 22.

(23) OJ No. L 173, 11.7. 2003, p. 6.

(24) OJ No. L 265, 16.10.2003, p. 10.

(25) OJ No. L 283, 31.10.2003, p. 29.

(26) OJ No. L 333, 20.12.2003, p. 28.

(27) OJ No. L 162, 30.4.2004, p. 52.

(28) OJ No. L 271, 19.8.2004, p. 24.

(29) (OJ No. L 274, 24.8.2004, p. 3.

(30) (OJ No. L 344, 20.11.2004, p. 12.

(31) OJ No. L 10, 13.1.2005, p. 9.

(32) OJ No. L 37, 10.2.2005, p. 9.

- (u) Commission Regulation (EC) No 260/2005 amending Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards rapid tests(33);
- (v) Regulation (EC) No 932/2005 of the European Parliament and of the Council amending Regulation (EC) No 999/2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies as regards the extension of the period for transitional measures(34);
- (w) Commission Decision 2005/598/EC prohibiting the placing on the market of products derived from bovine animals born or reared within the United Kingdom before 1 August 1996 for any purpose and exempting such animals from certain control and eradication measures laid down in Regulation (EC) No 999/2001(35);
- (x) Commission Regulation (EC) No 1292/2005 amending Annex IV to Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards animal nutrition(36);
- (y) Commission Regulation (EC) No 1974/2005 amending Annexes X and XI to Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards national reference laboratories and specified risk material(37);
- (z) Commission Regulation (EC) No 253/2006 amending Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards rapid tests and measures for the eradication of TSEs in ovine and caprine animals(38);
- (aa) Commission Regulation (EC) No 339/2006 amending Annex XI to Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards the rules for importation of live bovine animals and products of bovine, ovine and caprine origin(39); and
- (bb) Commission Regulation (EC) No 657/2006 amending Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards the United Kingdom and repealing Council Decision 98/256/EC and Decisions 98/351/EC and 1999/514/EC(40).

SCHEDULE 2

Regulation 5

TSE monitoring

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1. Notifications for the purposes of monitoring under Article 6 of the Community TSE Regulation

(33) OJ No. L 46, 17.2.2005, p. 31.

(34) OJ No. L 163, 23.6.2005, p. 1.

(35) OJ No. L 204, 5.8.2005, p. 22.

(36) OJ No. L 205, 6.8.2005, p. 3.

(37) OJ No. L 317, 3.12.2005, p. 4.

(38) OJ No. L 44, 15.2.2006, p. 9.

(39) OJ No. L 55, 25.2.2006, p. 5.

(40) OJ No. L 116, 29.4.2006, p. 9.

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2. Consignment and slaughter of an over-age bovine animal
3. Brain stem sampling of bovine animals
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5. Retention of products and disposal
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PART 2

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Explanatory Note

PART 1

Monitoring for TSE

Notifications for the purposes of monitoring under Article 6 of the Community TSE Regulation

1.—(1) For the purposes of monitoring under Article 6 of the Community TSE Regulation, a person who has in his possession or under his control the body of a bovine animal that must be tested in accordance with point 3(1) of Part I of Chapter A of Annex III to that Regulation, or the body of any goat aged 18 months or over at death, must—

- (a) within 24 hours from the time when the animal dies or was killed or the body comes into his possession or charge notify the Secretary of State; and
- (b) detain it until it has been collected by or on behalf of the Secretary of State,

and failure to do so is an offence.

(2) This paragraph does not apply in relation to goats slaughtered for human consumption or killed in accordance with Schedule 4.

Consignment and slaughter of an over-age bovine animal

2. If a bovine animal was born or reared in the United Kingdom before 1st August 1996, it is an offence—

- (a) to consign it to a slaughterhouse for human consumption (whether the animal is alive or dead); or
- (b) to slaughter it for human consumption in a slaughterhouse.

Brain stem sampling of bovine animals

3.—(1) The occupier of a slaughterhouse in which a bovine animal specified in point 2(1) or 2(2) of Part I of Chapter A of Annex III to the Community TSE Regulation is slaughtered must—

- (a) take a sample of brain stem in accordance with point 1 of Chapter C of Annex X to the Community TSE Regulation; and
 - (b) arrange for it to be delivered to an approved testing laboratory,
- and failure to do so is an offence.

(2) The Secretary of State shall, by means of a notice, notify the occupier of a slaughterhouse if an animal comes into the categories specified in point 2(1) of Part I of Chapter A to Annex III to the Community TSE Regulation (except in the case of a dead animal consigned to a slaughterhouse with a written declaration from a veterinary surgeon that it falls into one of those categories).

(3) In accordance with point 5 of Part I of Chapter A of Annex III to the Community TSE Regulation, the Secretary of State may serve a notice on the occupier of a slaughterhouse requiring him to sample and send for testing in accordance with sub-paragraph (1) any bovine animal slaughtered there.

(4) The Secretary of State shall approve laboratories to test samples taken under this paragraph if she is satisfied that the laboratory—

- (a) will carry out the testing in accordance with Chapter C of Annex X to the Community TSE Regulation;
- (b) has adequate quality control procedures; and
- (c) has adequate procedures to ensure the correct identification of the samples and notification of the test results to the consigning slaughterhouse.

(5) In this paragraph “approved testing laboratory” means a laboratory approved under this paragraph or a laboratory in another part of the United Kingdom approved by the competent authority to carry out the test.

Slaughter of bovine animals over 30 months of age

4.—(1) It is an offence for the occupier to use a slaughterhouse to slaughter for human consumption a bovine animal aged over 30 months unless the Secretary of State has approved the Required Method of Operation (“RMOP”) for that slaughterhouse and that occupier.

(2) The RMOP must, as a minimum—

- (a) describe the procedures that will be followed to comply with Part 1 of this Schedule; and
- (b) describe all the systems and procedures specified in Part 2 of this Schedule.

(3) The Secretary of State shall approve the RMOP if she is satisfied that all the requirements of the Community TSE Regulation and these Regulations will be complied with, and the occupier must demonstrate this by means of an assessment of two days duration in which animals are slaughtered (using bovine animals under 30 months old unless the slaughterhouse is operating for the purposes of Commission Regulation (EC) No 716/96 adopting exceptional support measures for the beef market in the United Kingdom(41)).

(4) If a bovine animal aged over 30 months is slaughtered for human consumption other than in accordance with the RMOP, the occupier of the slaughterhouse is guilty of an offence.

Retention of products and disposal

5.—(1) In relation to any sampled bovine animal, the occupier of a slaughterhouse, hide market or tannery must, for the purposes of point 6(3) of Part I of Chapter A of Annex III to the Community TSE Regulation and pending receipt of the test result, either—

(41) OJ No. L 99, 20.4.96, p. 14, as last amended by Commission Regulation (EC) No. 2109/2005 (OJ No. L 337, 22.12.2005, p. 25).

Status: This is the original version (as it was originally made).

- (a) retain all carcasses and all parts of the body (including the blood and the hide) that will have to be disposed of in the event of a positive result; or
- (b) dispose of them in accordance with sub-paragraph (2).

(2) For the purposes of points 6(4) and 6(5) of that Part, if a positive result is received for a sampled animal, he must immediately dispose of—

- (a) the carcass and all parts of the body of that animal (including the blood and the hide); and
- (b) unless a derogation has been granted under point 6(6) of that Part, the carcass and all parts of the body (including the blood and the hide) of the animal immediately preceding that animal on the slaughter line and the two animals immediately following it,

in accordance with point 6(4) of that Part.

(3) If no sample has been sent to an approved testing laboratory for testing in accordance with paragraph 3 of this Schedule, or if a no-test result is received, in respect of an animal required to be tested under this Schedule, the occupier must immediately dispose of—

- (a) the carcass and all parts of the body (including the blood and the hide) of that animal; and
- (b) unless a derogation has been granted under point 6(6) of Part I of Chapter A of Annex III to the Community TSE Regulation, the carcass and all parts of the body (including the blood but not the hide) of the animal immediately preceding that animal on the slaughter line and the two animals immediately following it,

in accordance with point 6(4) of that Part; and for the purposes of this sub-paragraph “no-test result” means a sample that an approved testing laboratory has certified cannot be tested for any reason.

(4) The Secretary of State may grant in writing a derogation under point 6(6) of Part I of Chapter A of Annex III to the Community TSE Regulation if she is satisfied that there is a system in place that prevents contamination between carcasses.

(5) In relation to any sampled sheep or goat, the occupier of a slaughterhouse, hide market or tannery must—

- (a) for the purposes of point 7(3) of Part II of Chapter A of Annex III to the Community TSE Regulation, retain the carcass and all parts of the body (including the blood and the hide) pending receipt of the test result; and
- (b) in the event of a positive result, immediately dispose of the carcass and all parts of the body (including the blood and the hide) in accordance with point 7(4) of that Part.

(6) In this paragraph the powers of an inspector may also be exercised by a person appointed as such in relation to a hide market or tannery by the Meat and Livestock Commission.

(7) Any person who fails to comply with sub-paragraphs (1) to (3) or (5) is guilty of an offence.

Compensation

6.—(1) If an animal slaughtered for human consumption tests positive, the Secretary of State shall pay compensation for the carcass and all parts of the body (including the blood and the hide) of—

- (a) that animal; and,
- (b) if they are destroyed because of that positive result, the animal immediately preceding it on the slaughter line and the two animals immediately following it.

(2) In the case of an animal for which a no-test result (as described in paragraph 5(3)) is received the Secretary of State shall inform the owner in writing whether she intends to pay compensation for—

- (a) the carcass and all parts of the body (including the blood and the hide) of that animal; and

- (b) if they are destroyed because of that no-test result, the carcase and all parts of the body (including the blood but not the hide) of the animal immediately preceding it on the slaughter line and the two animals immediately following it, giving the reasons, and the appeals procedure in regulation 10 applies.
- (3) The compensation is the market value, established under the procedure in regulation 11, with the occupier paying any fee arising for nominating and employing a valuer.
- (4) Compensation is not payable in any other case.

PART 2

Contents of an RMOP

Animal identification and separation

- 7.—(1) The RMOP must describe the system that—
 - (a) enables bovine animals born or reared in the United Kingdom before 1st August 1996 to be identified and ensures that they are not slaughtered for human consumption;
 - (b) enables bovine animals over 30 months of age but born on or after 1st August 1996 to be identified and ensures that they are sampled in accordance with this Schedule; and
 - (c) enables bovine animals specified in point 2(1) of Part I of Chapter A of Annex III to the Community TSE Regulation to be identified and ensures that they are sampled in accordance with this Schedule.
- (2) It must also describe the system that ensures that animals over 30 months of age are—
 - (a) batched together before slaughter separately from those aged 30 months or under; and
 - (b) slaughtered in batches separately from those aged 30 months or under.

Brain stem sampling

- 8.—(1) The RMOP must show that there are —
 - (a) sufficient staff trained and competent in the taking, labelling, packaging and dispatch of brain stem samples;
 - (b) hygienic facilities for sampling; and
 - (c) sampling procedures that do not jeopardise the hygienic production of meat intended for human consumption.
- (2) It must describe how health and safety guidelines designed to minimise the risk of exposure of staff to BSE during brain stem sampling and packaging will be complied with.

Correlation of sample to carcase and all other parts of the body

- 9. The RMOP must describe the system linking the brain stem sample of each bovine animal over 30 months of age to the carcase of that animal and all parts of the body of that animal (including the blood and the hide).

Retention of carcasses

- 10.—(1) The RMOP must describe the system that ensures that all carcasses retained in accordance with paragraph 5(1) of this Schedule are retained in slaughter order either in a sealed or locked chiller or on a sealed or locked rail in an unsealed chiller pending the receipt of the test result.

Status: This is the original version (as it was originally made).

(2) It must describe how the occupier will ensure that there is suitable and sufficient chiller space for retaining carcasses for the purposes of this Schedule.

Retention of parts of the body

11. The RMOP must describe the system that ensures that all parts of the body (including the blood and the hide) are retained in accordance with paragraph 5(1) of this Schedule.

Disposal before receipt of the result

12. The RMOP must describe the disposal route for all carcasses and all parts of the body (including the blood and the hide) retained pending receipt of a test result but disposed of before the test result is received.

Other measures following sampling

13. The RMOP must describe the systems in place that ensure that—

- (a) brain stem samples are packaged in accordance with packaging instructions P650 of the European Agreement Concerning the International Carriage of Dangerous Goods by Road (version applicable as from 1st January 2005)**(42)**;
- (b) test results are received, either by fax or by other electronic means; and
- (c) following a positive or a no-test result (as described in paragraph 5(3)), everything required to be disposed of in accordance with point 6(4) or 6(5) of Part I of Chapter A of Annex III to the Community TSE Regulation or under this Schedule is identified and disposed of accordingly.

Removal of vertebral column

14. The RMOP must describe the system that ensures that, in the case of a bovine animal for which a negative test result has been received—

- (a) those parts of the vertebral column that are specified risk material are not removed in the slaughterhouse; and
- (b) the meat containing that specified risk material is consigned to a cutting plant authorised under paragraph 13 of Schedule 6 to remove it.

SCHEDULE 3

Regulation 5

Control and eradication of TSE in bovine animals

CONTENTS

1. Control and eradication of TSE - notification
2. Restriction of a notified animal
3. Slaughter of a suspect animal

(42) ISBN 92-1-139097-4.

4. Identification and restriction of offspring and cohorts
 5. Action following confirmation
 6. Death while under restriction
 7. Placing on the market of bovine progeny
 8. When compensation is payable
 9. Amount of compensation payable
 10. Exceptions
- Signature
Explanatory Note

Control and eradication of TSE - notification

1.—(1) For the purposes of Article 11 of the Community TSE Regulation, any person who has in his possession or under his control any bovine animal suspected of being affected by a TSE shall immediately notify the Secretary of State 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 shall, with all practical speed, notify the Secretary of State.

(3) Any person (other than the Secretary of State) who examines the body of any bovine animal, or any part of it, in a laboratory and who reasonably suspects the presence of a TSE shall immediately notify the Secretary of State, 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. If an animal is notified under paragraph 1 an inspector may serve a notice prohibiting its movement from the premises pending determination of whether or not it is suspected of being affected with BSE.

Slaughter of a suspect animal

3.—(1) For the purposes of paragraphs (1) and (2) of Article 12 of the Community TSE Regulation, if a veterinary inspector suspects that a bovine animal is affected with BSE, he must either —

- (a) kill it on the holding immediately;
- (b) remove its cattle passport and serve a notice prohibiting the animal from being moved from the holding until it has been killed; or
- (c) ensure that its cattle passport is stamped “Not for human consumption” and 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) He must restrict the movement of other bovine animals from the holding in accordance with the second and fourth paragraphs of Article 12(1) of the Community TSE Regulation and Article 2(1)(a) of Commission Decision [2005/598/EC](#).

(3) In accordance with Article 12(3) of the Community TSE Regulation, if the animal is killed on the holding, it is an offence to remove the body from that holding except in accordance with a written direction from an inspector.

(4) If the animal is not killed immediately, its keeper must dispose of its milk in such a way that it cannot be consumed by humans or animals except its own calf or animals kept for research purposes, and failure to comply with this sub-paragraph is an offence.

Identification and restriction of offspring and cohorts

- 4.—(1) In accordance with Articles 12(1) and 13(2) of the Community TSE Regulation, if—
- (a) a veterinary inspector suspects that a bovine animal is affected with BSE;
 - (b) the monitoring of carcasses under Schedule 2 or under Annex III to the Community TSE Regulation confirms that an animal is suspected of being affected with BSE; or
 - (c) the competent authority of another part of the United Kingdom or another member State notifies the Secretary of State that a bovine animal is suspected of being affected with BSE,
- an inspector must identify—
- (d) (if the suspect animal is female) all its offspring born within two years prior to, or after, clinical onset of the disease; and
 - (e) all its bovine cohorts born on or after 1st August 1996,
- and for these purposes the animal's date of birth is the one shown on its cattle passport.

(2) An inspector must serve notices prohibiting movement of those animals from the holding on which they are kept or where he suspects they may be kept (whether or not this is the same holding as that of the suspect animal) and remove their cattle passports.

(3) If he cannot immediately identify the animals in sub-paragraph (1) an inspector must prohibit the movement of all bovine animals from the holding pending identification.

(4) Movements of restricted animals are only permitted in accordance with regulation 16.

Action following confirmation

5.—(1) In accordance with Article 13(1)(c) of, and point 2 of Annex VII to, the Community TSE Regulation, if it is confirmed that the suspect animal was affected with BSE an inspector must—

- (a) if the animal is female, kill all its offspring born within two years prior to, or after, clinical onset of the disease; and
- (b) in all cases, kill all the bovine animals in its cohort born on or after 1st August 1996 except where—
 - (i) he is satisfied that the animal did not have access to the same feed as the affected animal; or
 - (ii) the animal is a bull that is kept at, and will not be removed from, a semen collection centre, but it is an offence to remove the animal from the centre except to be killed, and when it is killed the owner commits an offence unless he ensures that the carcase is completely destroyed.

(2) If the animal is not killed on the holding, an inspector must ensure that its passport is stamped "Not for human consumption" and must direct the owner in writing to consign it to other premises for killing as specified in the direction.

(3) If the test is negative he must remove all restrictions imposed because of the suspect animal and return the cattle passports.

(4) When an animal is killed under this regulation, it is an offence to remove the carcase from the premises on which it was killed except in accordance with a written direction from an inspector.

Death while under restriction

6. If any animal dies or is killed while it is under restriction for any reason under this Schedule, the owner must immediately notify the Secretary of State, and retain the body on the premises until he is directed in writing to move or dispose of it by an inspector, and 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 bovine progeny

7. Any person who places on the market any bovine animal in contravention of Article 15(2) of the Community TSE Regulation and Chapter B of Annex VIII to that Regulation is guilty of an offence.

When compensation is payable

8. The Secretary of State shall pay compensation—
- (a) when an animal is killed under this Schedule;
 - (b) where an animal is to be killed under this Schedule, and has been valued for the purposes of compensation, but dies (or is killed for other reasons) after valuation; or
 - (c) where an animal is subject to a movement restriction under this Schedule and has to be killed as an emergency and a veterinary surgeon has declared in writing that the animal would otherwise have been fit for human consumption in accordance with Chapter VI of Section I of Annex III to Regulation (EC) No 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin(43) in which case compensation is the value of the body (including the blood and the hide).

Amount of compensation payable

9.—(1) The compensation is the average price paid in Great Britain for that age and category of animal—

- (a) for a pedigree animal, in the previous six months; and
- (b) for any other bovine animal, in the previous month.

(2) A pedigree animal is one for which a pedigree certificate has been issued by a breeders' organisation or association that fulfils the conditions of Commission Decision 84/247/EEC laying down the criteria for the recognition of breeders' organisations and associations which maintain or establish herd-books for pure-bred breeding animals of the bovine species(44).

(3) The Secretary of State shall categorise animals as follows, and for the purposes of determining which category the animal falls into, the age of the animal is the age, as shown by its cattle passport, at the date on which the notice of intention to kill was served—

Categories

<i>Male</i>	<i>Female</i>
Beef Sector – non-pedigree animal	
Up to and including 3 months	Up to and including 3 months
Over 3 months up to and including 6 months	Over 3 months up to and including 6 months
Over 6 months up to and including 9 months	Over 6 months up to and including 9 months
Over 9 months up to and including 12 months	Over 9 months up to and including 12 months
Over 12 months up to and including 16 months	Over 12 months up to and including 16 months
Over 16 months up to and including 20 months	Over 16 months up to and including 20 months
Over 20 months	Over 20 months

(43) OJ No. L 139 , 30.04.2004, p. 55. The revised text of Regulation (EC) No. 853/2004 is now set out in a Corrigendum (OJ No. L 226, 25.6.2004, p. 22).

(44) OJ No. L 125, 12.05.1984, p. 58.

Status: This is the original version (as it was originally made).

<i>Male</i>	<i>Female</i>
Breeding bulls	Calved
Other	Not calved
Dairy Sector – non-pedigree animal	
Up to and including 3 months	Up to and including 3 months
Over 3 months up to and including 6 months	Over 3 months up to and including 6 months
Over 6 months up to and including 12 months	Over 6 months up to and including 12 months
Over 12 months up to and including 16 months	Over 12 months up to and including 16 months
Over 16 months up to and including 20 months	Over 16 months up to and including 20 months
Over 20 months	Over 20 months
	Calved
	Not calved
Beef Sector – pedigree animal	
6 months up to and including 12 months	6 months up to and including 12 months
Over 12 months up to and including 24 months	Over 12 months up to and including 24 months
Over 24 months	Over 24 months (not calved)
	Calved under 36 months
	Calved 36 months and over
Dairy Sector – pedigree animal	
Up to and including 2 months	Up to and including 2 months
Over 2 months up to and including 12 months	Over 2 months up to and including 10 months
Over 12 months up to and including 24 months	Over 10 months up to and including 18 months
Over 24 months	Over 18 months (not calved)
	Calved under 36 months
	Calved 36 months and over

Exceptions

10.—(1) Where the Secretary of State considers that the data to calculate the average price are inadequate, she may pay compensation at—

- (a) for animals in that category, the most recent previously calculated average price for which there was sufficient data to calculate the average price; or
- (b) for the individual animal, the market price.

(2) For buffalo or bison, compensation is the market price.

(3) The market price is the price that might reasonably have been obtained for the individual animal from a purchaser in the open market at the time of valuation if the animal was not required to be killed under this Schedule, calculated under regulation 11, with the Secretary of State paying any fee arising for nominating and employing a valuer.

SCHEDULE 4

Regulation 5

Control and eradication of TSE in sheep and goats

CONTENTS

1. Notification of TSE
 2. Restriction of a notified animal
 3. Slaughter of a suspect animal
 4. Movement restrictions
 5. Action where TSE is not confirmed
 6. Confirmation of TSE in sheep
 7. Confirmation of TSE in goats
 8. Confirmation of BSE in sheep or goats
 9. Time for appeals
 10. Killing and destruction following confirmation
 11. Infected animals from another holding
 12. Common grazing
 13. Multiple flocks on a holding
 14. Subsequent occupiers
 15. Introduction of animals onto a holding
 16. Use of ovine germinal products
 17. Movement of animals from a holding
 18. Time of movement restrictions
 19. Death while under restriction
 20. Placing on the market of progeny of BSE affected sheep and goats
 21. Notification while the holding is under restriction
 22. Derogations
 23. Compensation for a sheep or goat slaughtered as a suspect animal
 24. Compensation for animals killed or products destroyed following confirmation of TSE
 25. Valuations
- Signature
Explanatory Note

Notification of TSE

1.—(1) For the purposes of Article 11 of the Community TSE Regulation, any person who has in his possession or under his control any sheep or goat suspected of being affected with a TSE shall immediately notify the Secretary of State 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 shall, with all practical speed, notify the Secretary of State.

(3) Any person (other than the Secretary of State) 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 shall immediately notify the Secretary of State, 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.

Status: This is the original version (as it was originally made).

Restriction of a notified animal

2.—(1) If an animal is notified under paragraph 1, pending determination of whether or not it is suspected of being affected with a TSE, a veterinary inspector may serve a notice prohibiting the movement of that animal from its holding, and the movement of any other sheep or goat onto or from that holding.

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

Slaughter of a suspect animal

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

- (a) kill it on the holding immediately;
- (b) serve a notice prohibiting the animal from being moved from the holding 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) In accordance with Article 12(3) of the Community TSE Regulation, if the animal is killed on the holding, it is an offence to remove the body from the holding except in accordance with a written direction from an inspector.

Movement restrictions

4.—(1) For the purposes of point 3 of Annex VII to the Community TSE Regulation, and Article 12(1) of that Regulation, following suspicion of a TSE (whether in a live animal or through the monitoring under Annex III to the Community TSE Regulation), an inspector—

- (a) must serve a notice—
 - (i) prohibiting the movement onto or from its holding of any sheep or goat on the same holding as the suspect animal if he considers that the animal was exposed to a TSE on that holding; or
 - (ii) if the animal came from another holding, and he considers that the animal may have been exposed to a TSE on that holding, may serve such a notice either on that holding and on the same holding as the suspect animal, or only the holding of exposure; and
- (b) must serve a notice prohibiting movement onto or from a holding where an animal specified in point 1(b) of Annex VII to the Community TSE Regulation is kept or where he suspects such an animal is kept.

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

Action where TSE is not confirmed

5. If it is confirmed that the animal was not affected with a TSE, the inspector must remove all restrictions imposed because of the suspect animal.

Confirmation of TSE in sheep

6.—(1) If it is confirmed that a suspect sheep, or a body of a sheep monitored under Annex III to the Community TSE Regulation, is affected with a TSE, the Secretary of State, after—

- (a) carrying out the inquiry specified in Article 13(1)(b) of the Community TSE Regulation and in point 1(b) of Annex VII to that Regulation; and

(b) sampling the animals to establish their genotype (if this is necessary), shall decide which of the options set out in points 2(b)(i) and (ii) of Annex VII to the Community TSE Regulation she intends to exercise.

(2) She shall then serve a notice on the occupier of the holding informing him of which of the options in those paragraphs she intends to exercise.

(3) The notice shall 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;
- (e) the time limit for complying with the notice; and
- (f) the right to apply for a derogation in accordance with paragraph 22(2).

(4) The appeals procedure in regulation 10 applies.

Confirmation of TSE in goats

7.—(1) If it is confirmed that a suspect goat, or a body of a goat monitored under Annex III to the Community TSE Regulation, is affected with TSE, the Secretary of State, after carrying out the inquiry specified in Article 13(1)(b) of that Regulation and in point 1(b) of Annex VII to that Regulation, shall serve a notice on the occupier of the holding informing him that she intends to kill and destroy all the goats on the holding and all embryos and ova from those animals in accordance with Article 13(1)(c) of, and point 2(b)(i) of Annex VII, to that Regulation.

(2) The appeals procedure in regulation 10 applies.

Confirmation of BSE in sheep or goats

8.—(1) If BSE is confirmed in a sheep or goat on a holding, the Secretary of State, after carrying out the inquiry specified in Article 13(1)(b) of the Community TSE Regulation and point 1 of Annex VII to that Regulation, shall serve a notice on the occupier of the holding informing him of her intention to kill and destroy the animals, embryos and ova in accordance with Article 13(1)(c) of, and point 2(c) of Annex VII to that Regulation.

(2) The appeals procedure in regulation 10 applies.

Time for appeals

9. The Secretary of State shall not kill any sheep or goat, or destroy any ovum or embryo, under this Schedule until—

- (a) she has received written notification from the person on whom the notice is served that that person has no intention to proceed with an appeal;
- (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

10.—(1) An inspector shall ensure that all the animals specified for killing in the notice in paragraphs 6(2), 7(1) or 8(1) are killed and that all the ova and embryos specified for destruction in the notice are destroyed.

Status: This is the original version (as it was originally made).

(2) If an animal is not killed on the holding, an inspector shall 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 under 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 another holding

11. For the purposes of point 2(b)(iii) of Annex VII to the Community TSE Regulation, if the infected animal was introduced from another holding, the Secretary of State may act in accordance with this Schedule in relation to the holding of origin in addition to, or instead of, the holding on which infection was confirmed.

Common grazing

12. In the case of infected animals on common grazing, the Secretary of State may limit a notice under paragraphs 6(2) or 7(1) to an individual flock in accordance with point 2(b)(iii) of Annex VII to the Community TSE Regulation.

Multiple flocks on a holding

13. Where more than one flock is kept on a single holding, the Secretary of State may limit a notice under paragraphs 6(2) or 7(1) to an individual flock in accordance with point 2(b)(iii) of Annex VII to the Community TSE Regulation.

Subsequent occupiers

14. If there is a change in occupation of the holding, the previous occupier shall ensure that the subsequent occupier is made aware of the existence and contents of any notice served under this Schedule, and failure to do so shall be an offence.

Introduction of animals onto a holding

15. Any person who introduces an animal onto a holding in contravention of point 4 of Annex VII to the Community TSE Regulation is guilty of an offence.

Use of ovine germinal products

16. Any person who uses ovine germinal products in contravention of point 5 of Annex VII to the Community TSE Regulation is guilty of an offence.

Movement of animals from a holding

17. Any person who moves an animal from a holding in contravention of point 7 of Annex VII to the Community TSE Regulation is guilty of an offence.

Time of movement restrictions

18. For the purposes of point 8 of Annex VII to the Community TSE Regulation the relevant dates shall be established by the Secretary of State giving written notification of those dates to the occupier of the holding.

Death while under restriction

19. If any animal aged 18 months or over dies or is killed while it is under restriction for any reason under this Schedule or Annex VII to the Community TSE Regulation, the owner must immediately notify the Secretary of State, and retain the body on the premises until he is directed in writing to move or dispose of it by the Secretary of State, and 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 BSE affected sheep and goats

20. Any person who places on the market any BSE affected sheep or goat in contravention of Article 15(2) of the Community TSE Regulation and Chapter B of Annex VIII to that Regulation is guilty of an offence.

Notification while the holding is under restriction

21.—(1) For the purposes of point 8(d) of Annex VII to the Community TSE Regulation, for the period that the holding is under restriction in accordance with point 8 of that Annex, if the owner intends to consign a sheep aged 18 months or more for slaughter for human consumption, he must notify the Secretary of State at least four weeks before consignment.

(2) He must not consign a sheep aged 18 months or more for killing or slaughter for human consumption except under a written direction from the Secretary of State, and must do so in accordance with that direction.

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

Derogations

22.—(1) The Secretary of State shall not exercise the option permitted under point 7(c) of Annex VII to the Community TSE Regulation.

(2) The occupier of a holding may apply to the Secretary of State asking her to exercise one or both of the options permitted under point 9 of that Annex.

(3) An application under this paragraph shall be in writing and shall set out in full the reasons for the application.

(4) The Secretary of State shall give the applicant her decision in writing, which shall state that she either—

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

(5) Unless the Secretary of State consents to the application in full, the appeals procedure in regulation 10 applies.

Compensation for a sheep or goat slaughtered as a suspect animal

23.—(1) The Secretary of State shall pay compensation in accordance with this paragraph for a sheep or goat killed as a suspect 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—

Status: This is the original version (as it was originally made).

- (a) the amount that would have been payable under this paragraph if it had been confirmed the animal was affected with a TSE; and
- (b) such sum as appears to the Secretary of State, 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

24. The Secretary of State shall pay compensation to the owner of animals killed and products destroyed under this Schedule following confirmation of a TSE in accordance with the following provisions of this paragraph—

Compensation

Note on the rates

The rate in Column A is payable in all cases until 10th March 2006.

On or after 10th March 2006—

- (a) the rate in Column A is payable if—
 - (i) the owner notifies an animal under paragraph 1 before 10th March 2006, and the presence of a TSE is confirmed (whether before or after that date); and
 - (ii) the animal for which compensation is being paid was in the flock or herd before 10th March 2006; and
- (b) the rate in Column B is payable in all other cases.

<i>Animal or product</i>	<i>Compensation (£)</i>	<i>Compensation (£)</i>
	<i>A</i>	<i>B</i>
Male sheep or goat	90	90
Female sheep ^(a) or goat	90	65
Lamb (under 12 months old) ^(b) or kid (under 12 months old)	50	40
Embryo	150	150
Ovum	5	5

(a) Where the Secretary of State has granted a derogation under point 9 of Annex VII to the Community TSE Regulation the compensation for a female sheep is £30 if it is killed after the first year of the derogation period.

(b) Where the Secretary of State has granted a derogation in accordance with that point in respect of any ram in a flock, the compensation for any lamb in that flock killed after the first year of the period of derogation is £25.

Valuations

25.—(1) If the owner of an animal considers the compensation in the preceding paragraph to be unreasonable he may notify the Secretary of State, and the procedure in regulation 11 applies, with the owner paying any fee arising for nominating and employing a valuer.

(2) If the Secretary of State considers the compensation in the preceding paragraph to be excessive in all the circumstances she may obtain a valuation of the animal in accordance with the procedure in regulation 11, but in this case she must pay any fee arising for nominating and employing a valuer.

(3) The valuer shall value the animal at the price that might reasonably have been obtained for it at the time of valuation from a buyer in the open market if the animal was not from a flock affected by TSE.

SCHEDULE 5

Regulation 5

Feedingstuffs

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Explanatory Note

PART 1

Restrictions on feeding proteins to animals

Prohibition on feeding animal protein to ruminants

1.—(1) For the purposes of Article 7(1) and point (b) of Part I of Annex IV to the Community TSE Regulation it is an offence to —

- (a) feed to any ruminant animal;
- (b) supply for feeding to any ruminant animal; or
- (c) permit any ruminant animal to have access to,

any animal protein (or anything containing animal protein) other than the proteins specified in point A(a) of Part II of Annex IV to that Regulation.

(2) It is an offence to bring onto any premises where ruminant animals are kept anything prohibited by this paragraph, or to possess it on such premises other than—

- (a) food intended for human consumption;
- (b) in accordance with paragraph 3;
- (c) premises registered under paragraph 8(6), 10(5) or 12(8); or
- (d) where authorised by an inspector and suitable measures are in place to ensure that ruminant animals do not have access to it.

Prohibition on feeding animal protein to non-ruminants

2.—(1) For the purposes of Article 7(2) of, and point (a) of Part I of Annex IV to, the Community TSE Regulation it is an offence to—

- (a) feed to any pig, poultry, horse or any farmed non-ruminant animal;
- (b) supply for feeding to any such animal; or
- (c) allow any such animal to have access to,

anything in relation to which this paragraph applies.

(2) Subject to sub-paragraph (3), the prohibition in sub-paragraph (1) applies in relation to—

- (a) processed animal protein;
- (b) gelatine of ruminant origin;
- (c) blood products;
- (d) hydrolysed protein;
- (e) dicalcium phosphate and tricalcium phosphate of animal origin; and
- (f) petfood containing animal protein.

(3) The prohibition in sub-paragraph (1) does not apply in relation to—

- (a) the protein specified in point A(a) of Part II of Annex IV to the Community TSE Regulation;
- (b) fishmeal (and feedingstuffs containing it) that has been produced, labelled, transported and stored in accordance with point B of that Part;
- (c) dicalcium phosphate and tricalcium phosphate (and feedingstuffs containing them) that have been produced, labelled, transported and stored in accordance with point C of that Part;

- (d) blood products derived from non-ruminants (and feedingstuffs containing them) that have been produced, labelled, transported and stored in accordance with point D of that Part;
 - (e) in the case of feeding to fish, blood meal derived from non-ruminants (and feedingstuffs containing it) that has been produced, labelled, transported and stored in accordance with point D of that Part; and
 - (f) tuber and root crops (and feedingstuffs containing such products) in which bone spicules have been detected if authorised by the Secretary of State following a risk assessment in accordance with point A(d) of that Part.
- (4) In this paragraph “protein” includes any feedingstuffs containing animal protein.
- (5) It is an offence to bring onto any premises where any animals specified in sub-paragraph (1) are kept anything prohibited by this paragraph, or to possess it on such premises other than—
- (a) food intended for human consumption;
 - (b) in accordance with paragraph 3; or
 - (c) where authorised by an inspector and suitable measures are in place to ensure that animals specified in sub-paragraph (1) do not have access to it.

Exceptions

3. Paragraphs 1(2) and 2(5) do not apply in relation to anything incorporated into—

- (a) petfood for feeding to pets (including working dogs) on those premises;
- (b) organic fertiliser or soil improver produced and used in accordance with Regulation (EC) No 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption⁽⁴⁵⁾ and the Animal By-Products Regulations 2005⁽⁴⁶⁾ and paragraph 18,

provided that—

- (c) it is not fed to any farmed animals;
- (d) it is not stored or handled in parts of the premises to which —
 - (i) farmed animals have access; or
 - (ii) feedingstuffs for farmed animals are stored or handled;
- (e) it does not come into contact with—
 - (i) feedingstuffs permitted to be fed to farmed animals; or
 - (ii) handling equipment used in connection with any such feedingstuffs; and
- (f) farmed animals never have access to petfood, and do not have access to organic fertiliser or soil improver until it has been applied to the land and the no-grazing period specified in regulation 12(2) of the Animal By-Products Regulations 2005 has expired.

Movement prohibitions and restrictions of animals

4. Where an inspector has reasonable grounds to believe that a TSE susceptible animal has been fed or has had access to—

- (a) specified risk material;
- (b) any material which the inspector has reasonable grounds to believe carries the risk of TSE infectivity; or

⁽⁴⁵⁾ OJ No. L 273, 10.10.2002, p. 1 as last amended by Commission Regulation (EC) No 209/2006 (OJ No. L 36, 8.2.2006, p. 25).

⁽⁴⁶⁾ S. I. 2005/2347.

Status: This is the original version (as it was originally made).

(c) animal protein for which he cannot establish the origin or the TSE infectivity risk, he may serve a notice on the owner or person in charge of the animal prohibiting or restricting the movement of the animal from the premises described in the notice.

Slaughter of animals

5.—(1) Where an inspector has reasonable grounds to believe that a TSE susceptible animal has been fed or has had access to any material referred to in paragraph 4, he may serve a notice on the owner or person in charge of the animal in accordance with this paragraph.

(2) The notice may either—

- (a) require the owner or person in charge of the animal to kill it and dispose of it as specified in the notice; or
- (b) require the owner or person in charge of the animal to keep it on such premises and in such manner as the notice provides, in which case the inspector must ensure that the cattle passport is stamped with the words “Not for human consumption”.

Compensation

6.—(1) Where an animal is killed under paragraph 5, the Secretary of State may pay compensation if she considers it appropriate in all the circumstances and shall give her decision on whether or not to pay compensation in writing.

(2) The compensation is the market value of the animal at the time it is killed, established in accordance with the procedure in regulation 11, with the owner paying any fee arising for nominating and employing a valuer.

(3) The appeals procedure in regulation 10 applies in relation to her decision.

Slaughter or sale for human consumption

7. It is an offence to consign for slaughter for human consumption or to slaughter for human consumption any TSE susceptible animal the passport for which has been stamped under paragraph 5.

PART 2

Production of protein and feedingstuffs

Fishmeal for feeding to non-ruminant farmed animals

8.—(1) Any person producing fishmeal intended for feeding to non-ruminant farmed animals must do so in accordance with point B(a) of Part II of Annex IV to the Community TSE Regulation.

(2) Any person producing feedingstuffs containing fishmeal intended for feeding to non-ruminant farmed animals must do so—

- (a) in accordance with point B(c) of that Part, in premises authorised by the Secretary of State for the purposes of that point;
- (b) in accordance with point B(c)(i) of that Part, for home compounders registered by the Secretary of State for the purposes of that point; or
- (c) in accordance with point B(c) (ii) of that Part, in premises authorised by the Secretary of State for the purposes of that point.

(3) Any person packaging the feedingstuffs must label them in accordance with point B(d) of that Part, and any documentation accompanying the feedingstuffs must be in accordance with that point.

(4) Any person transporting the feedingstuffs in bulk must do so in accordance with the first sentence of point B(e) of that Part.

(5) Any person using a vehicle previously used to transport such feedingstuffs to transport feedingstuffs for ruminants must comply with the second sentence of point B(e) of that Part.

(6) The occupier of any farm where ruminants are kept shall comply with the first paragraph of point B(f) of that Part unless the Secretary of State is satisfied that the provisions of the second paragraph of that point are complied with and has registered the farm under that paragraph.

Offences relating to fishmeal and feedingstuffs containing fishmeal

9.—(1) Failure to comply with paragraph 8 is an offence.

(2) It is an offence for a home compounder registered under paragraph 8(2)(b) to—

- (a) keep ruminant animals;
- (b) consign feedingstuffs containing fishmeal (whether complete or partly complete) produced by him from his holding; or
- (c) use feedingstuffs containing fishmeal with a crude protein content of 50% or more in the production of complete feedingstuffs.

(3) It is an offence for any person producing feedingstuffs in accordance with point B(c)(ii) of Part II of Annex IV to the Community TSE Regulation to—

- (a) fail to ensure that feedingstuffs destined for ruminants are kept in separate facilities in accordance with the first indent of that point;
- (b) fail to ensure that feedingstuffs destined for ruminants are manufactured in accordance with the second indent; or
- (c) fail to make and keep a record in accordance with the third indent.

Feedingstuffs containing dicalcium phosphate or tricalcium phosphate for feeding to non-ruminant animals

10.—(1) Any person producing feedingstuffs containing dicalcium phosphate or tricalcium phosphate for feeding to non-ruminant farmed animals must do so—

- (a) in accordance with point C(a) of Part II of Annex IV to the Community TSE Regulation, in an establishment authorised by the Secretary of State for the purposes of that point;
- (b) in accordance with point C(a)(i) of that Part, for home compounders registered by the Secretary of State for the purposes of that point; or
- (c) in accordance with point C(a)(ii) of that Part in an establishment authorised by the Secretary of State for the purposes of that point.

(2) Any person packaging the feedingstuffs must label them in accordance with point C(b) of that Part, and any documentation accompanying the feedingstuffs must be in accordance with that point.

(3) Any person transporting those feedingstuffs in bulk must do so in accordance with point C(c) of that Part.

(4) Any person using a vehicle previously used to transport such feedingstuffs to transport feedingstuffs for ruminants must comply with the second sentence of point C(c) of that Part.

(5) The occupier of any farm where ruminants are kept shall comply with the first paragraph of point C(d) of that Part unless the Secretary of State is satisfied that the provisions of the second paragraph of that point are complied with and has registered the farm under that paragraph.

Offences relating to feedingstuffs containing dicalcium phosphate or tricalcium phosphate for feeding to non-ruminant animals

- 11.—(1) Failure to comply with paragraph 10 is an offence.
- (2) It is an offence for a home compounder registered under paragraph 10(1)(b) to—
- (a) keep ruminants;
 - (b) consign feedingstuffs containing dicalcium phosphate or tricalcium phosphate (whether complete or partly complete) from his holding; or
 - (c) use feedingstuffs containing dicalcium phosphate or tricalcium phosphate with a phosphorus content of 10% or more in the production of complete feedingstuffs.
- (3) It is an offence for any person producing feedingstuffs in accordance with point C(a)(ii) of Part II of Annex IV to the Community TSE Regulation to—
- (a) fail to ensure that feedingstuffs destined for ruminants are manufactured in accordance with the first indent of that point;
 - (b) fail to ensure that they are kept in separate facilities in accordance with the second indent; or
 - (c) fail to make and keep a record in accordance with the third indent.

Blood products and blood meal

- 12.—(1) Any person who produces—
- (a) blood products, or feedingstuffs containing blood products, intended for feeding to non-ruminant farmed animals; or
 - (b) blood meal, or feedingstuffs containing blood meal, intended for feeding to fish,
- must ensure that the blood comes from a slaughterhouse that is registered with the Secretary of State for the purposes of point D(a) of Part II of Annex IV to the Community TSE Regulation and that either—
- (c) is not used to slaughter ruminants; or
 - (d) has in place a control system in accordance with the second paragraph of point D(a) of that Part to ensure that ruminant blood is kept separate from non-ruminant blood and has been authorised for the purpose by the Secretary of State.
- (2) The occupier of the slaughterhouse must consign the blood in accordance with point D(a) of Part II of Annex IV to the Community TSE Regulation, and any transporter must transport it in accordance with that point.
- (3) Any person producing blood products or blood meal must do so in accordance with either the first or the second paragraph of point D(b) of that Part.
- (4) Any person producing feedingstuffs containing blood products or blood meal must do so—
- (a) in accordance with point D(c) of that Part, in an establishment authorised by the Secretary of State for the purposes of that point;
 - (b) in accordance with point D(c)(i) of that Part, as a home compounder registered by the Secretary of State for the purposes of that point; or
 - (c) in accordance with point D(c)(ii) of that Part, in an establishment authorised by the Secretary of State for the purposes of that point.
- (5) Any person packaging the feedingstuffs must label them in accordance with point D(d) of that Part, and any documentation accompanying the feedingstuffs must be in accordance with that point.

(6) Any person transporting the feedingstuffs in bulk must do so in accordance with point D(e) of that Part.

(7) Any person using a vehicle previously used to transport such feedingstuffs to transport feedingstuffs for ruminants must comply with the second sentence of point D(e) of that Part.

(8) The occupier of any farm where ruminants are kept shall comply with the first paragraph of point D(f) of that Part unless the Secretary of State is satisfied that the provisions of the second paragraph of that point are complied with and has registered the farm under that paragraph.

Offences relating to feedingstuffs containing blood products or blood meal

13.—(1) Failure to comply with paragraph 12 is an offence.

(2) It is an offence for any person collecting blood in accordance with the second paragraph of point D(a) of Part II of Annex IV to the Community TSE Regulation to fail to—

- (a) slaughter animals in accordance with the first indent of that paragraph;
- (b) collect, store, transport or package blood in accordance with the second indent of that paragraph; or
- (c) regularly sample and analyse blood in accordance with the third indent of that paragraph.

(3) It is an offence for any person producing blood products or blood meal in accordance with the second paragraph of point D(b) of that Part to fail to—

- (a) ensure that the blood is processed in accordance with the first indent of that paragraph;
- (b) keep raw material and finished product in accordance with the second indent of that paragraph; or
- (c) sample in accordance with the third indent of that paragraph.

(4) It is an offence for any person producing feedingstuffs in accordance with point D(c)(ii) of Part II of Annex IV to the Community TSE Regulation to—

- (a) fail to ensure that feedingstuffs are manufactured in accordance with the first indent of that point;
- (b) fail to ensure that they are kept in separate facilities in accordance with the second indent; or
- (c) fail to make and keep a record in accordance with the third indent.

(5) It is an offence for a home compounder registered under paragraph 12(4)(b) to—

- (a) keep ruminant animals where blood products are used;
- (b) keep animals other than fish where blood meal is used;
- (c) consign feedingstuffs containing blood products or blood meal (whether complete or partly complete) from his holding; or
- (d) use feedingstuffs containing blood products or blood meal with a total protein content of 50% or more in the production of complete feedingstuffs.

Change in use of equipment

14. It is an offence to use equipment used to produce feedingstuffs for non-ruminant animals under paragraph 8, 10 or 12, for the production of feedingstuffs for ruminant animals, unless authorised in writing by an inspector.

Conditions applying to the storage and transport of bulk quantities of protein products and feedingstuffs containing such proteins

15.—(1) It is an offence to store or transport—

- (a) bulk processed animal protein (other than fishmeal); or
- (b) bulk products, including feedingstuffs, organic fertilisers, and soil improvers containing such proteins,

except in accordance with point C(a) of Part III of Annex IV to the Community TSE Regulation.

(2) It is an offence to store or transport bulk fishmeal, dicalcium phosphate, tricalcium phosphate, blood products of non-ruminant origin or blood meal of non-ruminant origin, except in accordance with point C(b) and C(c) of Part III of Annex IV to the Community TSE Regulation.

(3) In addition to the requirements of sub-paragraphs (1) and (2), it is an offence to transport bulk processed animal protein or any of the materials specified in sub-paragraph (2) unless the transporter is registered with the Secretary of State for that purpose.

Conditions applying to the manufacture and transport of petfood or feedingstuffs

16.—(1) It is an offence to manufacture, store, transport or package petfood that contains blood products of ruminant origin or processed animal protein, other than fishmeal, except in accordance with point D of Part III of Annex IV to the Community TSE Regulation.

(2) It is an offence to manufacture or transport petfood containing dicalcium or tricalcium phosphate or blood products of non-ruminant origin except in accordance with point D of that Part.

Export of processed animal protein to third countries

17.—(1) In accordance with point E(1) of Part III of Annex IV to the Community TSE Regulation it is an offence to export processed animal protein derived from ruminants, and anything containing it.

(2) It is an offence to export processed animal protein derived from non-ruminants (and anything containing it) except in accordance with point E(2) of that Part and an agreement in writing between the Secretary of State and the competent authority of the third country.

Fertilisers

18.—(1) It is an offence to sell or supply for use as a fertiliser on agricultural land, or to possess with the intention of such sale or supply, any—

- (a) mammalian protein (other than ash) derived from animal by-products classified as Category 2 material in Regulation (EC) No 1774/2002; or
- (b) ash derived from the incineration of animal by-products classified as Category 1 material in that Regulation.

(2) It is an offence to use anything prohibited in sub-paragraph (1) on agricultural land as a fertiliser.

(3) In this paragraph—

- (a) “agricultural land” means land used or capable of use for the purposes of a trade or business in connection with agriculture; and
- (b) “agriculture” includes fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, the use of land for woodland, and horticulture (except the propagation of plants and the growing of plants within greenhouses, glass structures or plastic structures).

Record keeping for transport etc. of reject petfood

19.—(1) Any person who supplies, transports or receives any petfood containing animal protein that is not intended for use as petfood shall record—

- (i) the name of the manufacturer;
- (ii) the date of supply and receipt;
- (iii) the premises of origin and destination;
- (iv) the quantity of petfood; and
- (v) the nature of the animal protein contained in the petfood.

(2) He must keep those records for 2 years.

(3) The consignor must ensure that the petfood is labelled with the information referred to in subparagraph (1) or is accompanied by documentation that contains that information.

(4) Any person who fails to comply with this paragraph is guilty of an offence.

Cross-contamination of materials originating from premises where processed animal proteins (except fishmeal) are in use

20. It is an offence to supply an ingredient of a feedingstuff if that ingredient is produced on premises where any processed animal protein (except fishmeal) is used in any manufacturing process unless the label or accompanying documentation indicates this.

SCHEDULE 6

Regulation 5

Specified risk material, mechanically recovered meat and slaughtering techniques

CONTENTS

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2. Local authorities' duties with regard to butcher shops
3. Training
4. Mechanically recovered meat
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- Signature
Explanatory Note

Appointment of the Food Standards Agency as the competent authority

1.—(1) Except in butcher shops, the Food Standards Agency shall carry out the duties on the member State in point 12 of Part A of Annex XI to the Community TSE Regulation in relation to this Schedule, and shall grant authorisations for the purposes of point 10(a) of that Part.

(2) For the purposes of this Schedule, within a slaughterhouse or cutting plant an inspector is—

- (a) an official veterinarian who is qualified in accordance with Regulation (EC) No. 854/2004 of the European Parliament and of the Council laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption⁽⁴⁷⁾ to act in such a capacity and is appointed by the Food Standards Agency;
- (b) an official auxiliary who is qualified in accordance with Regulation (EC) No. 854/2004 to act in such a capacity, is appointed by the Food Standards Agency and works under the authority and responsibility of an official veterinarian; or
- (c) any other person appointed for the purpose by the Food Standards Agency.

(3) An appointment as an inspector may be limited to powers and duties specified in the appointment.

(4) Any person exercising the powers of an inspector under this Schedule has the protection specified in regulation 14(3).

Local authorities' duties with regards to butcher shops

2. Local authorities shall carry out the duties on the member State in point 12 of Part A of Annex XI to the Community TSE Regulation in relation to this Schedule in so far as it relates to the removal in butcher shops of those parts of the vertebral column of bovine animals that are specified risk material and shall grant authorisations and effect registrations for the purposes of point 10(b) of that Part.

Training

3. The occupier of any slaughterhouse, cutting plant or butcher shop where specified risk material is removed must—

- (a) ensure that staff receive any training necessary to ensure that the occupier complies with his duties in this Schedule; and
- (b) keep records of each person's training for as long as that person works there,

and failure to do so is an offence.

⁽⁴⁷⁾ OJ No. L 139 , 30.4.2004, p. 206. The revised text of Regulation (EC) No.854/2004 is now set out in a Corrigendum (OJ No. L 226, 25.6.2004, p. 83).

Mechanically recovered meat

4.—(1) Any person who fails to comply with point 3 of Part A of Annex XI to the Community TSE Regulation (use of bovine, ovine and caprine bones for the production of mechanically recovered meat) is guilty of an offence.

(2) Any person who uses any mechanically recovered meat produced in contravention of that point in the preparation of any food for sale for human consumption or of any feedingstuff is guilty of an offence.

(3) In this paragraph, “mechanically recovered meat” means the product derived from residual meat on animal bones by mechanical means (other than meat produced using hand held powered knives that do not use powered pressure or suction).

Pithing

5. Any person who fails to comply with point 4 of Part A of Annex XI to the Community TSE Regulation (pithing) is guilty of an offence.

Tongue harvesting

6. Any person who fails to comply with point 6 of Part A of Annex XI to the Community TSE Regulation (tongue harvesting) is guilty of an offence.

Head meat harvesting

7. Any person who fails to comply with point 7 of Part A of Annex XI to the Community TSE Regulation (head meat harvesting) is guilty of an offence.

Removal of specified risk material

8.—(1) Any person who removes specified risk material in any premises other than premises in which that specified risk material may be removed under point 5, point 10(a) or point 10(b) of Part A of Annex XI to the Community TSE Regulation is guilty of an offence.

(2) In the case of a cutting plant, it is an offence to remove—

- (a) (i) any part of the vertebral column that is specified risk material from any bovine animal aged over 30 months at slaughter; or
- (ii) in circumstances where the meat containing the specified risk material has been brought into England from another member State, any part of the vertebral column that is specified risk material from any bovine animal aged 30 months or less at slaughter,

unless the plant is authorised under paragraph 13(1)(a); or

- (b) the spinal cord from any sheep or goat aged over 12 months at slaughter or which has a permanent incisor erupted through the gum, unless the plant is authorised for the purpose of such removal under paragraph 13(1)(b).

(3) In the case of a butcher shop, it is an offence to remove any part of the vertebral column that is specified risk material from a bovine animal, if the shop is not authorised and registered for that purpose under paragraph 14, or the meat containing the specified risk material has been brought into England from another member State.

Bovine animals in a slaughterhouse

9.—(1) When a bovine animal is slaughtered, the occupier of the slaughterhouse must remove all specified risk material (other than those parts of the vertebral column that are specified risk material) as soon as is reasonably practicable after slaughter and in any event before post-mortem inspection.

(2) He must consign any meat containing those parts of the vertebral column that are specified risk material as soon as is reasonably practicable—

- (a) in the case of any animal that is aged over 30 months at slaughter, to a cutting plant authorised under paragraph 13(1)(a) or to another member State in accordance with the second paragraph of point 13 of Part A of Annex XI to the Community TSE Regulation; and
- (b) in the case of any animal that is aged 30 months or less at slaughter, to a cutting plant, to a butcher shop authorised and registered under paragraph 14 or to another member State in accordance with the second paragraph of point 13 of Part A of Annex XI to the Community TSE Regulation.

(3) He must identify meat containing vertebral column that is not specified risk material in accordance with point 14(a) of Part A of Annex XI to the Community TSE Regulation and provide information in accordance with point 14(b) of that Part.

(4) No person shall include a blue stripe in the label referred to in Article 13 of Regulation (EC) No. 1760/2000 of the European Parliament and of the Council establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No. 820/97(48) except in accordance with point 14(a) of Part A of Annex XI to the Community TSE Regulation.

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

Sheep and goats in a slaughterhouse

10.—(1) When a sheep or goat is slaughtered, the occupier of a slaughterhouse must remove all specified risk material (other than the spinal cord) as soon as is reasonably practicable after slaughter and in any event before post-mortem inspection.

(2) In the case of a sheep or goat aged over 12 months at slaughter, or which has a permanent incisor erupted through the gum, he must as soon as is reasonably practicable after slaughter—

- (a) remove the spinal cord at the slaughterhouse before the post-mortem inspection;
- (b) send the meat to a cutting plant authorised under paragraph 13(1)(b); or
- (c) in accordance with the first paragraph of point 13 of Part A of Annex XI to the Community TSE Regulation, send the meat to a cutting plant in another member State provided that the Food Standards Agency has entered into a written agreement with the competent authority of the receiving member State, and the dispatch is in accordance with that agreement.

(3) In sub-paragraph (2)(c), “cutting plant” means premises—

- (a) approved or conditionally approved as such under Article 31(2) of Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules(49); or

(48) OJ No. L 204, 11.8.2000, p. 1, as last amended by the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ No. L 236, 23.9.2003, p. 33).

(49) (OJ No. L 165, 30.4.2004, p.1. The revised text of Regulation (EC) No. 882/2004 is now set out in Corrigendum (OJ No. L 191, 28.5.2004, p.1).

- (b) operating as such under Article 4(5) of Regulation (EC) No. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin⁽⁵⁰⁾ pending such approval.
- (4) Failure to comply with this paragraph is an offence.

Young lamb and goat stamps

11.—(1) An inspector may stamp a sheep or goat in a slaughterhouse with a young lamb stamp or a young goat stamp if the animal does not have a permanent incisor erupted through the gum and the documentation, if any, relating to the animal does not indicate that it is aged over 12 months at slaughter.

(2) The stamp shall mark the meat with a circular mark 5 centimetres in diameter with the following in capital letters 1 centimetre high—

- (a) “MHS”; and
- (b) in the case of a sheep, “YL”; or
- (c) in the case of a goat, “YG”.

(3) It is an offence for any person other than an inspector to apply the stamp or a mark resembling the stamp, or to possess equipment for applying it.

(4) It is an offence to mark a sheep or goat with a stamp that is or resembles a young lamb stamp or a young goat stamp unless it is an animal permitted to be marked in accordance with subparagraph (1).

Removal of spinal cord from sheep and goats

12. It is an offence to remove the spinal cord or any part of it from a sheep or goat aged over 12 months at slaughter or that had one or more permanent incisors erupted through the gum (other than for the purposes of veterinary or scientific examination) except by—

- (a) longitudinally splitting the whole vertebral column; or
- (b) removing a longitudinal section of the whole vertebral column including the spinal cord.

Authorisation of cutting plants by the Food Standards Agency

13.—(1) The Food Standards Agency shall authorise a cutting plant to remove—

- (a) those parts of the vertebral column that are specified risk material from bovine animals aged over 30 months at slaughter; or
- (b) spinal cord from sheep and goats aged over 12 months at slaughter or which have a permanent incisor erupted through the gum,

if the Agency is satisfied that the provisions of Part A of Annex XI to the Community TSE Regulation and this Schedule will be complied with.

(2) The procedures in regulations 6, 8, 9, and 10 apply, but all references to the Secretary of State shall be construed as references to the Agency.

Authorisation and registration of butcher shops by local authorities

14.—(1) A local authority shall authorise a butcher shop to remove those parts of the vertebral column that are specified risk material from bovine animals aged 30 months or less at slaughter and

⁽⁵⁰⁾ (OJ No. L 139, 30.4.2004, p. 55. The revised text of Regulation (EC) No. 853/2004 is now set out in a Corrigendum (OJ No. L226, 25.6.2004, p.22).

Status: This is the original version (as it was originally made).

register the shop for that purpose, if the authority is satisfied that the provisions of Part A of Annex XI to the Community TSE Regulation and this Schedule will be complied with.

(2) The procedures in regulations 6, 8, 9, and 10 apply, but all references to the Secretary of State shall be construed as references to the local authority concerned.

Removal of specified risk material at a cutting plant authorised under paragraph 13(1)

15. The occupier of a cutting plant authorised under paragraph 13(1) commits an offence unless, as soon as reasonably practicable after arrival at the plant of meat, and in any event before the meat is removed from the plant, he removes from the meat —

- (a) all specified risk material of a kind to which the authorisation relates; and
- (b) where the meat is derived from a bovine animal aged 30 months or less at slaughter, those parts of the vertebral column that are specified risk material.

Removal of bovine vertebral column that is specified risk material at a cutting plant not authorised under paragraph 13(1)(a)

16. In the case of meat derived from a bovine animal aged 30 months or less at slaughter that has not been brought into England from another member State, the occupier of a cutting plant not authorised under paragraph 13(1)(a) commits an offence unless he removes from the meat those parts of the vertebral column that are specified risk material as soon as reasonably practicable, and in any event before the meat is removed from the premises.

Removal of bovine vertebral column that is specified risk material at a butcher shop authorised and registered under paragraph 14

17. In the case of meat derived from a bovine animal aged 30 months or less at slaughter that has not been brought into England from another member State, the occupier of a butcher shop authorised and registered under paragraph 14 commits an offence unless he removes from the meat those parts of the vertebral column that are specified risk material before the meat is removed from the premises.

Meat from another member State

18. For the purposes of point 13 of Part A of Annex XI to the Community TSE Regulation, where meat containing those parts of the vertebral column of a bovine animal that are specified risk material is brought into England from another member State, the importer must send it directly to a cutting plant authorised under paragraph 13(1)(a), and failure to do so is an offence.

Staining and disposal of specified risk material

19.—(1) The occupier of any premises where specified risk material is removed who fails to comply with point 11 of Part A of Annex XI to the Community TSE Regulation (staining and disposal of specified risk material) is guilty of an offence.

(2) For the purposes of that point—

- (a) staining means treating the material (whether by immersion, spraying or other application) with—
 - (i) a 0.5% weight/volume solution of the colouring agent Patent Blue V (E131, 1971 Colour Index No 42051(51)); or

(51) Colour Index is published by the Society of Dyers and Colourists at Perkin House, 82 Grattan Road, Bradford, West Yorkshire BD1 2JB.

- (ii) such other colouring agent as may be approved in writing by the Secretary of State or the Food Standards Agency; and
- (b) the stain must be applied in such a way that the colouring is and remains clearly visible—
 - (i) over the whole of the cut surface and the majority of the head in the case of the head of a sheep or goat; and
 - (ii) in the case of all other specified risk material, over the whole surface of the material.
- (3) This paragraph does not apply in relation to any specified risk material which is destined for use as provided in Article 1(2)(b) and (c) of the Community TSE Regulation.

Scheme animals

20.—(1) After the specified risk material has been removed from a bovine animal slaughtered for the purposes of Commission Regulation (EC) No. 716/96 adopting exceptional support measures for the beef market in the United Kingdom⁽⁵²⁾, the remainder (excluding the hide) must immediately be stained in accordance with paragraph 19 in such a way that the colouring is and remains clearly visible over the whole surface of the material.

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

Security of specified risk material

21.—(1) Pending consignment or disposal from the premises on which it was removed, the occupier of the premises must ensure that specified risk material is adequately separated from any food, feedingstuff or cosmetic, pharmaceutical or medical product and held in an impervious covered container that is labelled as either—

- (a) containing specified risk material; or
- (b) Category 1 animal by-products and including the words “For disposal only”.

(2) He must ensure that the container is thoroughly washed as soon as reasonably practicable each time that it is emptied, and disinfected before use for any other purpose.

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

Prohibition on the supply of specified risk material for human consumption

22. It is an offence to sell or supply—

- (a) any specified risk material, or any food containing specified risk material, for human consumption; or
- (b) any specified risk material for use in the preparation of any food for human consumption.

SCHEDULE 7

Regulation 5

Restrictions on dispatch to other member States and to third countries

Restrictions on dispatch to other member States and to third countries

1. It is an offence for any person to dispatch, or offer to dispatch, to other member States or to third countries—

⁽⁵²⁾ OJ No. L 99, 20.4.1996, p.14, as last amended by Commission Regulation (EC) No. 2109/2005 (OJ No. L 337, 22.12.2005, p.25).

Status: This is the original version (as it was originally made).

- (a) bovine animals born or reared in the United Kingdom before 1st August 1996;
- (b) meat or products derived from bovine animals born or reared in the United Kingdom after 31st July 1996 and slaughtered before 15th June 2005; or
- (c) vertebral column from bovine animals born or reared in the United Kingdom after 31st July 1996 and slaughtered before 2nd May 2006 and products derived from such vertebral column.

Exports to third countries

2. In accordance with the last paragraph of point 13 of Part A of Annex XI to the Community TSE Regulation, it is an offence to export heads or fresh meat of bovine, ovine or caprine animals containing specified risk material to a third country.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in England, revoke and remake with amendments the Transmissible Spongiform Encephalopathies Regulations 2006 (S.I.2006/68), which enforced Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ No. L 147, 31.5.2001, p. 1) as amended by and as read with the provisions in Schedule 1 (“the Community TSE Regulation”).

The main Regulations

The Regulations provide that the Secretary of State is the competent authority for the purposes of the Community TSE Regulation (except in Schedule 6, where the competent authority is the Food Standards Agency) (regulation 3) and provide an exception for research (regulation 4).

The provisions in Part 2 introduce the Schedules.

Part 3 deals with administration and enforcement.

Regulations 6 to 10 deal with approvals, authorisations, licences and registrations, occupier’s duties, suspension, amendment and revocations of approvals, etc., and an appeals procedure. Regulation 11 deals with valuations.

Regulations 12 to 14 give powers to the Secretary of State and the local authority to appoint inspectors, and deal with powers of entry and powers of inspectors. Regulation 15 provides for a notice procedure, and regulation 16 provides for licences permitting movement during a movement restriction.

Regulations 17 to 19 deal with obstruction of an inspector, penalties, and offences by a body corporate. A person guilty of an offence under these Regulations is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term of three months or both, or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or both.

Regulation 20 details who is responsible for enforcing these Regulations.

Regulation 21 revokes the Transmissible Spongiform Encephalopathies Regulations 2006 and the Bovines and Bovine Products (Trade) Regulations 1999, which amongst other things prevented trade in British beef with other member States and third countries.

Schedule 1

Schedule 1 lists provisions that amend Regulation (EC) No 999/2001 and with which it must be read.

Schedule 2

Schedule 2 deals with monitoring for TSEs. Paragraph 1 provides for notification to the Secretary of State of fallen stock that must be tested for TSE under the Community TSE Regulation. Paragraph 2 makes it an offence to consign an over-age animal to a slaughterhouse for human consumption or to slaughter such an animal for human consumption. Paragraph 3 provides for brain stem sampling of specified bovine animals.

Paragraph 4 creates a requirement for anyone slaughtering animals over 30 months old for human consumption to have a Required Method of Operation.

Paragraph 5 provides for retention of products and their disposal, and paragraph 6 deals with compensation.

Paragraphs 7 to 14 specify the minimum requirements that must appear in a Required Method of Operation.

Schedule 3

Schedule 3 deals with control and eradication of TSEs in bovine animals. Paragraph 1 provides for notification of a suspect animal to the Secretary of State. Paragraphs 2 and 3 provide for the restriction and slaughter of the suspect. Paragraphs 4 and 5 deal with the offspring and cohorts of the suspect. Paragraph 6 deals with compensation for an animal that dies under restriction, and paragraph 7 deals with placing on the market.

Paragraphs 8 to 10 deal with compensation.

Schedule 4

Schedule 4 deals with control and eradication of TSEs in sheep and goats. Paragraph 1 provides for notification of a suspect animal to the Secretary of State. Paragraphs 2 and 3 provide for the restriction and slaughter of the suspect. Paragraphs 4 and 5 deal with movement restrictions. Paragraphs 6 to 8 provide for action following confirmation. Paragraph 9 provides for time for appeals, and paragraph 10 provides for killing and destruction. Paragraphs 11 to 13 deal with infected animals from another holding, common grazing and multiple flocks on a holding. Paragraph 14 deals with subsequent occupiers of the land.

Paragraphs 15 to 21 set out the procedure to be followed after the killing or destruction. Paragraph 15 restricts the introduction of animals onto a holding. Paragraph 16 regulates the use of ovine germinal products, and paragraph 17 restricts the movement of animals from a holding.

Paragraph 18 specifies when the time relating to restrictions begins. Paragraph 19 provides for notification of animals that die while under restriction. Paragraph 20 deals with placing on the market of progeny, and paragraph 21 requires notification to the Secretary of State before the owner may consign sheep aged over 18 months for slaughter.

Paragraph 22 deals with derogations from the requirement for the killing and destruction of sheep and goats.

Paragraphs 23 to 25 deal with compensation.

Schedule 5

Schedule 5 deals with feedingstuffs. Paragraphs 1 to 3 prohibit feeding specified feedingstuffs to ruminant and non-ruminant animals, and provide for exceptions. Paragraphs 4 and 5 provide for movement restrictions and slaughter of animals suspected of having been fed prohibited feedingstuffs, and paragraph 6 provides for compensation. Paragraph 7 prohibits the slaughter for human consumption of restricted animals.

Paragraphs 8 and 9 regulate the production and use of fishmeal for feeding to non-ruminant animals. Paragraphs 10 and 11 regulate feedingstuffs containing dicalcium phosphate or tricalcium phosphate. Paragraphs 12 and 13 regulate feedingstuffs containing blood products and blood meal.

Paragraph 14 makes provision for changes in use of equipment. Paragraphs 15 and 16 control the manufacture, storage and transport of processed animal protein and products containing it. Paragraph 17 controls exports, and paragraph 18 regulates fertilisers derived from animal protein. Paragraph 19 deals with records, and paragraph 20 deals with cross-contamination.

Schedule 6

Schedule 6 deals with specified risk material, mechanically recovered meat and slaughtering techniques. Paragraph 1 appoints the Food Standards Agency as the competent authority for this Schedule. Paragraph 2 imposes certain duties on local authorities in relation to butcher shops. Paragraph 3 makes provision for training of slaughterhouse, cutting plant and butcher shop staff.

Paragraph 4 deals with mechanically recovered meat, paragraph 5 with pithing, paragraph 6 with tongue harvesting and paragraph 7 with head meat harvesting.

Paragraph 8 controls the removal of specified risk material, and paragraphs 9 and 10 deal with bovine animals and sheep and goats at a slaughterhouse.

Paragraph 11 deals with young lamb and goat stamps.

Paragraph 12 deals with the removal of spinal cord from sheep and goats.

Paragraph 13 provides for the authorisation of cutting plants, and paragraph 15 controls the removal of specified risk material at a cutting plant.

Paragraph 16 provides for removal of vertebral column that is specified risk material at cutting plants not authorised under paragraph 13.

Paragraph 14 provides for the authorisation and registration of butcher shops, and paragraph 17 controls the removal of specified risk material at such shops.

Paragraph 18 deals with meat from other member States.

Paragraphs 19 and 20 require the staining of specified risk material, and paragraph 21 provides for the security of specified risk material.

Paragraph 22 prohibits the supply of specified risk material for human consumption.

Schedule 7

Schedule 7 deals with dispatch of live bovine animals and products derived from them to other member States and to third countries. Paragraph 1 prohibits the dispatch of certain live animals, meat and certain specified risk material to other member States and to third countries. Paragraph 2 prohibits the dispatch of bovine heads and meat containing specified risk material to third countries.

A regulatory impact assessment has been prepared and placed in the library of each House of Parliament. Copies can be obtained from the BSE and Animal By-Products Division, Department for Environment, Food and Rural Affairs, Area 301, 1a Page Street, London SW1P 4PQ.

