

2010 No. 406

ANIMAL HEALTH

**The Transmissible Spongiform Encephalopathies Regulations
(Northern Ireland) 2010**

Made - - - - - *6th December 2010*

Coming into operation - *31st December 2010*

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The Department of Agriculture and Rural Development under the powers conferred by section 2(2) of, as read with paragraph 1A of Schedule 2 to, the European Communities Act 1972^(a) makes the following Regulations.

It is designated^(b) for the purposes of that section in relation to measures in the veterinary and phytosanitary fields for the protection of public health.

It 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^(c).

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Department that it is expedient for references to EU instruments referred to in Schedule 1 to be construed as references to those instruments as amended from time to time.

(a) 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51)

(b) S.I. 1999/2027

(c) O.J. No. L 31, 1.2.2002, p.1, as last amended by Regulation (EC) No. 596/2009 (O.J. No. L 188, 18.7.2009, p.14)

PART I

GENERAL PROVISIONS

Citation and commencement

1. These Regulations may be cited as the Transmissible Spongiform Encephalopathies Regulations (Northern Ireland) 2010 and come into operation on 31st December 2010.

Interpretation

2.—(1) In these Regulations—

“approved TSE sampling site” has the meaning given to it in paragraph 12(2) of Part 1 of Schedule 2;

“approved testing laboratory” has the meaning given to it in paragraph 11(2) of Part I of Schedule 2;

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

“BSE” means bovine spongiform encephalopathy;

“cattle passport” has the same meaning as in the Cattle Passport Regulations (Northern Ireland) 1999(a);

“Commission Decision 2007/411/EC” means Commission Decision 2007/411/EC prohibiting the placing on the market of products derived from bovine animals born or reared within the United Kingdom before 1st August 1996 for any purpose and exempting such animals from certain control and eradication measures laid down in Regulation (EC) No. 999/2001 and repealing Decision 2005/598/EC (b);

“cutting plant” (except in Schedule 7, paragraph 9(3)(b)(iii)) has the meaning given to it in paragraph 1(17) of Annex I to Regulation (EC) No. 853/2004, and is an establishment which is—

(a) approved or conditionally approved as such by the Food Standards Agency(c) under Article 31(2) of Regulation (EC) No. 882/2004(d); or

(b) operating as such under Article 4(5) of Regulation (EC) No. 853/2004, pending such approval;

“the Department” means the Department of Agriculture and Rural Development;

“EU 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(e), as read with—

(a) Commission Decision 2007/411/EC;

(b) Commission Decision 2007/453/EC establishing the BSE status of member States or third countries or regions thereof according to their BSE risk(f);and

(c) Commission Decision 2009/719/EC authorising certain member States to revise their annual BSE monitoring programmes.(g);

(a) S.R. 1999 No. 324 as amended by S.R. 2004 No. 420

(b) O.J. No. L 155, 15.6.2007, p. 74

(c) Established by the Food Standards Act 1999 c. 28

(d) O.J. 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), which should be read with a further Corrigendum (OJ No L 204, 4.8.2007, p 29). Regulation (EC) No 882/2004 was last amended by Commission Regulation (EC) No 1029/2008 amending Regulation (EC) No 882/2004 of the European Parliament and of the Council to update a reference to certain European standards (OJ No L 278, 21.10.2008, p. 6)

(e) O.J. No. L 147, 31.5.2001, p.1, as last amended by Commission Regulation (EC) No. 220/2009 (O.J. No. L 87, 31.3.2009, p.155)

(f) O.J. No. L 172, 30.6.2007, p.84, as last amended by Commission Regulation (EC) No. 830/2009 (O.J. No. L 295, 12.11.2009, p.11)

(g) O.J. No. L 256, 29.9.2009, p. 35, as last amended by Commission Decision 2010/66/EU (O.J. No. L 35, 6.2.2010, p. 21)

“inspector” means an inspector appointed under regulation 12, and includes a veterinary inspector;

“market value” means—

- (a) in the case of a bovine animal, the price which might reasonably have been obtained for the animal at the time of valuation from a purchaser in the open market if the animal was not required to be killed under Schedule 3, and
- (b) in the case of a sheep or goat the price which might reasonably have been obtained for the animal at the time of valuation from a purchaser in the open market if the animal was not from a flock or herd affected by a TSE;

“official document” must be construed in accordance with regulation 6(1);

“offal” has the meaning given to it in point 1.11 of Annex I to Regulation (EC) No. 853/2004;

“premises” includes—

- (a) domestic premises if they are being used for any purpose in connection with the EU TSE Regulation or these Regulations;
- (b) land and outbuildings;
- (c) a slaughterhouse;
- (d) a place that is, for the purposes of point 4(1)(a) of Annex V to the EU TSE Regulation, another place of slaughter; and
- (e) any vehicle, container or structure (moveable or otherwise);

“Regulation (EC) No. 1774/2002” means 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(a), as read with—

- (a) Commission Regulation (EC) No. 811/2003 implementing Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the intra-species recycling ban for fish, the burial and burning of animal by-products and certain transitional measures(b);
- (b) Commission Regulation (EC) No. 878/2004 laying down transitional measures in accordance with Regulation (EC) No. 1774/2002 for certain animal by-products classified as Category 1 and 2 materials and intended for technical purposes(c); and
- (c) Commission Regulation (EC) No. 92/2005 implementing Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards means of disposal or uses of animal by-products and amending its Annex VI as regards biogas transformation and processing of rendered fats(d);

“Regulation (EC) No. 853/2004” means Regulation (EC) No. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin(e), as read with—

- (a) Directive 2004/41/EC of the European Parliament and of the Council repealing certain directives concerning food hygiene and health conditions for the production and placing on the market of certain products of animal origin intended for human consumption and amending Council Directives 89/662/EEC and 92/118/EEC and Council Decision 95/408/EC(f);

(a) O.J. No. L 273, 10.10.2002, p.1, as last amended by Commission Regulation (EC) No. 790/2010 (O.J. No. L 237, 8.9.2010, p.1)

(b) O.J. No. L 117, 13.5.2003, p.14

(c) O.J. No. L 162, 30.4.2004, p.62, as amended by Regulation (EC) No. 1877/2006 (O.J. No. L 360, 19.12.2006, p.133)

(d) O.J. No. L 19, 21.1.2005, p.27, as last amended by Regulation (EC) No. 1576/2007 (O.J. No. L 340, 22.12.07, p.89)

(e) O.J. No. L 139, 30.04.2004, p.55. The revised text of Regulation (EC) No. 853/2004 is now set out in a Corrigendum (O.J. No. L 226, 25.6.2004, p.22) which should be read with a further Corrigendum (O.J. No. L 204, 4.8.2007, p.26). Regulation (EC) No. 853/2004 is last amended by Commission Regulation (EC) No. 558/2010 (O.J. No. L 159, 25.6.2010, p. 18)

(f) O.J. No. L 157, 30.4.2004, p.33. The revised text of Directive 2004/41/EC is now set out in a Corrigendum (O.J. No. L 195, 2.6.2004, p.12)

- (b) Commission Regulation (EC) No. 1688/2005 implementing Regulation (EC) No. 853/2004 of the European Parliament and of the Council as regards special guarantees concerning salmonella for consignments to Finland and Sweden of certain meat and eggs(a);
- (c) Commission Regulation (EC) No. 2074/2005 laying down implementation measures for certain products under Regulation (EC) No. 853/2004 of the European Parliament and of the Council and for the organisation of official controls under Regulation (EC) No. 854/2004 of the European Parliament and of the Council and Regulation (EC) No. 882/2004 of the European Parliament and of the Council derogating from Regulation (EC) No. 852/2004 of the European Parliament and of the Council and amending Regulations (EC) No. 853/2004 and (EC) No. 854/2004(b); and
- (d) Commission Regulation (EC) No. 2076/2005 laying down transitional arrangements for the implementation of Regulations (EC) No. 853/2004, (EC) No. 854/2004 and (EC) No. 882/2004 of the European Parliament and of the Council and amending Regulations (EC) No. 853/2004 and (EC) No. 854/2004(c);

“Regulation (EC) No. 882/2004” means 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(d), as read with—

- (a) Commission Regulation (EC) No. 2074/2005; and
- (b) Commission Regulation (EC) No. 2076/2005;

“restriction” includes any prohibition under these Regulations;

“slaughterhouse” has the meaning given to it in paragraph 1(16) of Annex I to Regulation (EC) No. 853/2004, and is an establishment which is approved or conditionally approved as such by the Food Standards Agency under Article 31(2) of Regulation (EC) No. 882/2004;

“specified risk material” has the meaning given to it in Article 3.1(g) to the EU TSE Regulation;

“TSE” means transmissible spongiform encephalopathy; and

“veterinary inspector” means a person appointed by the Department as a veterinary inspector.

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

(3) References in these Regulations to the EU instruments identified in Schedule 1 are references to those instruments as amended from time to time.

(4) The Interpretation Act (Northern Ireland) 1954(e) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Appointment of competent authority

3. The Department is the competent authority for the purposes of the EU TSE Regulation except as otherwise specified in these Regulations.

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- (a) O.J. No. L 271, 15.10.2005, p.17
 - (b) O.J. No. L 338, 22.12.2005, p.27, as last amended by Commission Regulation (EC) No. 1250/2008 of 12 December 2008 amending Regulation (EC) No 2074/2005 as regards certification requirements for import of fishery products, live bivalve molluscs, echinoderms, tunicates and marine gastropods intended for human consumption (O.J. No. L 337, 16.12.2008, p.31)
 - (c) O.J. No. L 338, 22.12.2005, p.83, as last amended by Commission Regulation (EC) No. 1162/2009 of 30 November 2009 laying down transitional measures for the implementation of Regulations (EC) No. 853/2004, (EC) No. 854/2004 and (EC) No. 882/2004 of the European Parliament and of the Council (O.J. No. L 314, 1.12.2009, p.10)
 - (d) O.J. No. L 165, 30.4.2004, p.1. The revised text of Regulation (EC) No. 882/2004 is now set out in a Corrigendum (O.J. No. L 191, 28.5.2004, p.1), which should be read with a further Corrigendum (O.J. No. L 204, 4.8.2007, p.29). Regulation (EC) No. 882/2004 was last amended by Commission Regulation (EC) No. 1162/2009 of 30 November 2009 laying down transitional measures for the implementation of Regulations (EC) No. 853/2004, (EC) No. 854/2004 and (EC) No. 882/2004 of the European Parliament and of the Council (O.J. No. L 314, 1.12.2009, p.10)
 - (e) 1954 c.33 (N.I.)

Exception for research

4.—(1) The provisions of Schedules 2 to 8 do not apply in relation to an animal, a carcase or a sample kept for the purposes of research in premises approved for that purpose under this regulation by the Department.

(2) If a bovine animal, sheep or goat kept in approved research premises under this regulation 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 and failure to do so is an offence.

PART II

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 (control and eradication of TSE in animals other than bovine, ovine or caprine animals);
- (e) Schedule 6 (feedingstuffs);
- (f) Schedule 7 (specified risk material, mechanically separated meat and slaughtering techniques); and
- (g) Schedule 8 (restrictions on placing on the market and export).

PART III

ADMINISTRATION AND ENFORCEMENT

Approvals, authorisations, licences and registrations

6.—(1) The Department must grant an approval, authorisation, licence or registration under these Regulations (“an official document”) if it is satisfied that the provisions of the EU TSE Regulation and these Regulations will be complied with.

(2) An official document must be in writing, and must specify—

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

(3) An official document may be made subject to such conditions as are necessary to—

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

(4) If the Department refuses to grant an official document, or grants one subject to conditions, it must—

- (a) give its reasons in writing; and
- (b) explain that the applicant has the right to make written representations to a person appointed by the Department.

(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 they do not ensure that—

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

Suspension and amendment of official documents

8.—(1) The Department may suspend or amend an official document if—

- (a) any of the conditions under which it was granted are not fulfilled; or
- (b) it is satisfied that the provisions of the EU TSE Regulation or of these Regulations are not being complied with.

(2) The Department may amend an official document if the Department considers it necessary in the light of technical or scientific developments.

(3) A suspension or amendment under this regulation—

- (a) may have immediate effect if the Department considers it necessary for the protection of public or animal health;
- (b) otherwise it must not have effect for at least 21 days from notification.

(4) A suspension or amendment of an official document under this regulation must be notified to the holder thereof and must—

- (a) be in writing;
- (b) state when the suspension or amendment comes into effect;
- (c) give the reasons; and
- (d) explain that the person who has been notified has the right to make written representations to a person appointed by the Department.

(5) The appeals procedure in regulation 10 then applies.

(6) If the suspension or amendment under this regulation does not have immediate effect and representations are made under regulation 10, it must not have effect until the final determination of the appeal by the Department unless the Department 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 official documents

9.—(1) The Department may revoke an official document if it is satisfied that the premises to which it relates will not be operated in accordance with the EU TSE Regulation or these Regulations and if—

- (a) the document is currently suspended and the period for appeal under regulation 10 has expired or the Department has upheld the suspension following such appeal;
- (b) the Department has previously suspended the document and there is further non-compliance with the EU TSE Regulation or these Regulations; or
- (c) the Department is satisfied that the occupier no longer uses the premises for the purpose for which the document was granted.

(2) Notification of the revocation of an official document must—

- (a) be in writing;
- (b) state when the revocation comes into effect;
- (c) give the reasons; and

(d) explain that the person who has been notified has the right to make written representations to a person appointed by the Department.

(3) If the Department revokes an official document 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

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

(2) The Department may make written submissions to the appointed person concerning its decision.

(3) The appointed person must then report in writing to the Department which must make a final determination in relation to the decision to which the report relates.

(4) That final determination may affirm, vary or revoke the decision to which the report relates.

(5) The Department must give to the appellant written notification of its final determination and the reasons for it.

Valuations

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

(2) The value of anything for the purposes of these Regulations must be initially assessed by the Department and notified, in writing, to the owner. Value must be determined by agreement between the owner and the Department and that agreement must be final and binding on both the owner and the Department.

(3) If the owner and the Department fail to agree the value, the owner must select a valuer (“the nominated valuer”) from a list of approved valuers provided by the Department and notify the Department of the name and address of the nominated valuer within 2 working days of receipt of the list.

(4) The owner must, within 5 working days of notification to the Department under paragraph 13(3), arrange for the nominated valuer to determine the value of the thing in question and must be liable for any fees or other expenses incurred by the valuer in carrying out the valuation.

(5) The nominated valuer must carry out the valuation within 5 working days of appointment and give to the owner and the Department a statement in writing of that valuation.

(6) The valuation is binding on both the owner and the Department.

(7) Where the owner or the nominated valuer fails to comply with paragraph (3), (4) or (5) as the case may be, the Department must determine the value of the thing in question.

(8) In this regulation “owner” means the owner of the animal or product in question.

Appointment of inspectors

12.—(1) The Department must appoint inspectors for the purposes of the enforcement of these Regulations except as specified in paragraph (2).

(2) The Food Standards Agency must appoint inspectors for the purposes of enforcing Schedule 7 and paragraphs 1, 3 and 4 of Schedule 8 in relation to a slaughterhouse or cutting plant.

(3) The appointment of an inspector (whether under paragraph (1) or (2)) may be limited to the powers and duties specified in the appointment.

Powers of entry

13.—(1) Inspectors have a right to enter any premises for the purpose of ensuring that the EU TSE Regulation or these Regulations are being complied with.

(2) They must, if so required, produce some duly authenticated document showing their authority before exercising their right under paragraph (1).

(3) They may exercise their right under paragraph (1) at all reasonable hours.

(4) They may take with them—

- (a) such other persons as they consider necessary; and
- (b) any representative of the European Commission acting for the purpose of the enforcement of an EU obligation.

(5) If inspectors enter any unoccupied premises or (where the premises are occupied) the occupier of the premises is temporarily absent they must leave those premises (so far as reasonably practicable) as effectively secured against unauthorised entry as they found them.

(6) If a lay magistrate, on sworn complaint in writing, is satisfied that there are reasonable grounds for entry into any premises for the purposes of the enforcement of these Regulations, and—

- (a) admission has been refused, or a refusal is expected, and (in either case) notice to apply for a warrant has been given to the occupier;
- (b) asking for admission, or the giving of such a notice, would defeat the object of the entry;
- (c) the case is one of urgency; or
- (d) the premises are unoccupied or the occupier is temporarily absent,

the lay magistrate may by a signed warrant authorise inspectors to enter the premises, if need be by reasonable force.

(7) A warrant under this regulation is valid for one month.

Powers of inspectors

14.—(1) Inspectors 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;
 - (iii) animal protein or feedingstuffs that may contain animal protein; or
 - (iv) milk or milk product,

and dispose of them or arrange their disposal 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, 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 EU 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 the inspectors such assistance as they may reasonably require (including the provision of 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 or tag 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, tag, seal or lock applied under paragraph (1) is guilty of an offence.

(3) Inspectors are not personally liable for anything they do—

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

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

Notices

15.—(1) If it is necessary for any reason connected with the enforcement of the EU TSE Regulation or these Regulations inspectors 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;
- (c) the person in possession, or supplier, of any animal protein or feedingstuffs that may contain animal protein; or
- (d) the owner, or person in possession, of any milk or milk products.

(2) The notice must be in writing.

(3) The notice may—

- (a) prohibit or require the movement of any animal onto or from the premises specified in the notice;
- (b) prohibit the movement of any milk or milk products from the premises specified in the notice;
- (c) specify those parts of premises to which an animal may or may not be allowed access;
- (d) require the killing or slaughter of any animal;
- (e) 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;
- (f) 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, ovum, milk or milk product as may be specified in the notice;
- (g) require the disposal of any animal protein or feedingstuffs that may contain animal protein or specify how they are to be used; or
- (h) require the recall of any animal protein or feedingstuffs that may contain animal protein.

(4) If inspectors suspect that any premises, vehicle or container to which the EU TSE Regulation or these Regulations apply constitutes a risk to animal or public health, they 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 the time limit for compliance.

(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) A notice served may be amended, suspended, revoked or withdrawn by a further notice.
- (8) Failure to comply with a notice is an offence.

Notices restricting movement

16.—(1) If a notice is served restricting movement of any animal or product, inspectors may subsequently permit that movement under the authority of a licence.

(2) A person moving anything under the authority of a licence must carry the licence with them during the movement and produce it on demand to an inspector or an officer of the Police Service of Northern Ireland, and failure to do so is an offence.

Obstruction

17. A person is guilty of an offence if that person—

- (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 that person to give or provide for the performance of the inspector’s 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.

Enforcement

19.—(1) The Food Standards Agency enforces in slaughterhouses and cutting plants—

- (a) Schedule 7; and
- (b) paragraphs 1, 3 and 4 of Schedule 8.

(2) Otherwise these Regulations are enforced by the Department.

Amendment of the Animal By-Products (Identification) Regulations (Northern Ireland) 1999

20.—(1) The Animal By-Products (Identification) Regulations (Northern Ireland) 1999(a) are amended as follows.

(2) For paragraph (3) of regulation 3 (meaning of “animal by-product”) substitute—

“(3) In these Regulations the definition of “animal by-product” includes—

- (a) any product that, under paragraph 1 of Schedule 8 to the Transmissible Spongiform Encephalopathies Regulations (Northern Ireland) 2010, it is an offence for any person to place on the market or export (or offer to export) to third countries; and

(a) S.R. 1999 No. 418 as last amended by S.R. 2006 No. 3

- (b) where—
- (i) a bovine animal has been slaughtered for human consumption other than in accordance with a required method of operation approved pursuant to paragraph 13(3) of Part I of Schedule 2 to the Transmissible Spongiform Encephalopathies Regulations (Northern Ireland) 2010, and
 - (ii) the disposal of its body, or a part of its body, has in consequence been required under regulation 15(1), (2) and (3)(f) of those Regulations,

that body or part of a body.”.

Consequential amendments

21.—(1) In regulation 2 of the Feeding Stuffs Regulations (Northern Ireland) 2005(a), in paragraph (1), for “Transmissible Spongiform Encephalopathy Regulations (Northern Ireland) 2002”, wherever occurring, substitute “Transmissible Spongiform Encephalopathies Regulations (Northern Ireland) 2010”.

(2) In Schedule 3 of the Official Feed and Food Controls Regulations (Northern Ireland) 2009(b), in paragraph (a)(viii), for “Transmissible Spongiform Encephalopathies Regulations (Northern Ireland) 2008” substitute “Transmissible Spongiform Encephalopathies Regulations (Northern Ireland) 2010”.

Revocations

22. The following Regulations are revoked—

- (a) the Transmissible Spongiform Encephalopathies Regulations (Northern Ireland) 2008(c);
- (b) the Transmissible Spongiform Encephalopathies (Amendment) Regulations (Northern Ireland) 2009(d).

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 6th December 2010.



C. McMaster

A senior officer of the Department of Agriculture and Rural Development

(a) S.R. 2005 No.545 as last amended by S.R. 2009 No.348
(b) S.R. 2009 No.427.
(c) S.R. 2008 No.508 as amended by S.R. 2009 No. 347
(d) S.R. 2009 No.347

SCHEDULE 1

Regulation 2(3)

AMBULATORY REFERENCES

The EU instruments which must be construed as amended from time to time are—

- (a) The EU TSE Regulation;
- (b) Regulation (EC) No. 1774/2002;
- (c) Regulation (EC) No. 853/2004;
- (d) Regulation (EC) No. 882/2004;
- (e) Commission Decision 2007/411/EC;
- (f) Commission Decision 2007/453/EC; and
- (g) Commission Decision 2009/719/EC.

SCHEDULE 2

Regulation 5

TSE MONITORING

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PART I

MONITORING FOR TSE

Notification of the body of a goat for the purpose of monitoring under Article 6 of the EU TSE Regulation

1.—(1) For the purpose of monitoring under Article 6 of the EU TSE Regulation, a person who has in their possession, or under their control, the body of a goat aged 18 months or over at death, must—

- (a) within 24 hours from the time when the animal died or was killed or the body came into their possession or under their control notify the death of the animal to a person approved by the Department to receive the notification; and
- (b) detain it until it has been collected by that person approved by the Department in accordance with paragraph 1(1)(a),

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.

Arrangements in respect of the body of a bovine animal for the purpose of monitoring under Article 6 of the EU TSE Regulation

2.—(1) For the purpose of monitoring under Article 6 of the EU TSE Regulation, a person who has in their possession or under their control the body of a bovine animal that must be tested for BSE in accordance with point 3(1) of Part I of Chapter A of Annex III to that Regulation must within 24 hours, unless directed otherwise by the Department, identify an approved TSE sampling site that will carry out sampling for the test and either—

- (a) make arrangements with the operator of the sampling site to have it collected and detain the body of the bovine animal until it has been collected; or
- (b) agree with the operator of the sampling site that it can be taken to that site and ensure its arrival at the site within the timeframe stipulated by the operator in accordance with the official document relating to the site approved by the Department under paragraph 12,

and failure to do so is an offence.

(2) The period of 24 hours referred to in sub-paragraph (1) runs from the time when the animal died or was killed or came into the possession or under the control of the person to whom the requirements of sub-paragraph (1)(a) or (b) apply.

Persons collecting and delivering the body of a bovine animal

3. The operator of an approved TSE sampling site with whom arrangements have been made in accordance with paragraph 2(1)(a) must, unless otherwise directed by the Department, ensure that the body is collected and delivered to that site in accordance with the official document relating to the site approved by the Department under paragraph 12 and failure to do so is an offence.

Brain stem sampling of the body of a bovine animal (Approved TSE sampling sites)

4. The operator of an approved TSE sampling site to which the body of a bovine animal has been delivered must—

- (a) take a sample comprising the brain stem for testing in accordance with point 1 Chapter C of Annex X to the EU TSE Regulation;
- (b) ensure that the bovine animal from which the sample is taken can be identified; and
- (c) prepare the sample for delivery to an approved testing laboratory,

and failure to do so is an offence.

Destruction without sampling

5. Any person who destroys the body of a bovine animal to which paragraph 2(1) applies before it has undergone sampling at an approved TSE sampling site, except in accordance with a direction of the Department, commits an offence.

Retention and disposal of the body of a bovine animal pending test results

6. The operator of an approved TSE sampling site at which the body of a bovine animal has been sampled in accordance with this Part must comply with point 6(3) of Chapter A of Annex III to the EU TSE Regulation and failure to do so is an offence.

Remote Areas

7.—(1) The requirements of paragraph 1(1) and 2 do not apply in relation to an animal that has died or been killed on Rathlin Island or the Copeland Islands.

(2) The exemption in sub-paragraph (1) continues to apply even if the body of the animal has been removed from Rathlin Island or the Copeland Islands, as the case may be.

Consignment and slaughter of an over-age bovine animal

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

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

(2) For the purposes of sub-paragraph (1), a bovine animal is deemed to have been born or reared in the United Kingdom before 1st August 1996 unless records held by the Department or any cattle passport in relation to that animal shows either that—

- (a) it was born in the United Kingdom on or after 1st August 1996; or
- (b) it first entered the United Kingdom on or after 1st August 1996.

Brain stem sampling of bovine animals (slaughterhouses)

9.—(1) The occupier of a slaughterhouse in which a bovine animal specified in point 2 of Part I of Chapter A of Annex III to the EU TSE Regulation, is slaughtered or (if the animal has been slaughtered at a place other than the slaughterhouse) processed must—

- (a) take a sample comprising the brain stem for testing in accordance with point 1 of Chapter C of Annex X to the EU TSE Regulation;
- (b) ensure that the animal from which the sample has been taken can be identified; and
- (c) arrange for the sample to be delivered to an approved testing laboratory,

and failure to do so is an offence.

(2) The Department must, notify the occupier of a slaughterhouse if an animal comes into any of the categories specified in point 2(1) of Part I of Chapter A of Annex III to the EU 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 EU TSE Regulation, the Department may serve a notice on the occupier of a slaughterhouse requiring them to take a sample from any bovine animal slaughtered there and send the sample for testing in accordance with sub-paragraph (1).

Brain stem sampling of the body of a bovine animal (other places of slaughter)

10.—(1) The occupier of a place—

- (a) that, for the purposes of point 4 (1)(a) of Annex V to the EU TSE Regulation, is an other place of slaughter; and
- (b) in which a bovine animal covered by point 2 of Part I of Chapter A of Annex III to the EU TSE Regulation is slaughtered must—
 - (i) arrange for the identified head of the animal to be delivered, under licence, to an approved testing laboratory for sampling and testing in accordance with point 1 of Chapter C of Annex X to the EU TSE Regulation, and
 - (ii) ensure that the bovine animal from which the head is taken can be identified,

and failure to do so is an offence.

(2) In paragraph (1)(b)(i) “identified” means identified in a manner approved by the Department.

Approval of laboratories

11.—(1) The Department may approve laboratories to test samples taken in accordance with this Part if it is satisfied that the laboratory—

- (a) will carry out the testing in accordance with Chapter C of Annex X to the EU 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 and to the Department.

(2) For the purposes of this paragraph and paragraphs 4, 9 and 10 an “approved testing laboratory” means—

- (a) a laboratory approved by the Department under this paragraph; or
- (b) a laboratory approved, under corresponding legislation, elsewhere in the United Kingdom; or
- (c) an EU Reference Laboratory; or
- (d) a diagnostic laboratory approved in a member State in accordance with Annex X to the EU TSE Regulation.

Approved TSE sampling sites

12.—(1) The Department must, on written application, approve a sampling site to sample animals to which paragraph 2 applies if it is satisfied that the operator has adequate control procedures and facilities to carry out the sampling.

(2) An “approved TSE sampling site” in this Part means a sampling site approved by the Department under this paragraph to carry out TSE sampling.

Slaughter of bovine animals

13.—(1) It is an offence for the occupier to use a slaughterhouse to slaughter for human consumption a bovine animal that in accordance with point 2 of Part I of Chapter A of Annex III to the EU TSE Regulation requires to be sampled for BSE testing at slaughter unless the Department has approved the Required Method of Operation (“RMOP”) for that slaughterhouse and that occupier.

(2) The RMOP must, as a minimum, describe—

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

(3) The Department must approve the RMOP if it is satisfied that all the requirements of the EU 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 that are not required under point 2 of Part I of Chapter A of Annex III to the EU TSE Regulation to be tested for BSE).

(4) If a bovine animal described in sub-paragraph (1) 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

14.—(1) In relation to a bovine animal from which a sample is taken under paragraph 9 or 10 the occupier of a slaughterhouse, other place of slaughter (for the purposes of point 4(1)(a) of Annex V to the EU TSE Regulation), hide market or tannery must, for the purposes of point 6(3) of Part I of Chapter A of Annex III to the EU TSE Regulation and pending receipt of the test result, either—

- (a) retain the carcass and all parts of the body of that animal (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 Part I of Chapter A of Annex III to the EU TSE Regulation, if a positive result is received for a sampled bovine animal, the occupier 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 sub-paragraph (6), 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 a sample in respect of a bovine animal, required to be tested under this Schedule, has not been sent to or no sample has been received by an approved testing laboratory for testing in accordance with paragraph 9 or 10, or if a no-test result is received in respect of a sampled bovine animal, 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 sub-paragraph (6), 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 Part I of Chapter A of Annex III to the EU TSE Regulation.

(4) For the purposes of sub-paragraph (3) a no-test result means a certification by an approved testing laboratory that the sample sent to the laboratory was not of an adequate quality or was not of a sufficient quantity to obtain a test result or an inconclusive result to the test has been obtained.

(5) If a no-test result in respect of a bovine animal has been received and—

- (a) an approved testing laboratory certifies that subsequent multiple rapid testing of the material has been carried out; and
- (b) a negative result obtained,

the occupier may release 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.

(6) The Department may grant, in writing, a derogation under point 6(6) of Part I of Chapter A of Annex III to the EU TSE Regulation if it is satisfied that the slaughterhouse operates a system that prevents contamination between carcasses.

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

TSE sampling of sheep, goats and deer

15.—(1) In relation to a sheep or goat from which a sample is taken, 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 EU TSE Regulation, retain the carcass and all parts of the body (including the blood and the hide) pending receipt of the test result (except to the extent that point 7(3) permits direct disposal of animal by-products pending receipt of a negative rapid 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.

(2) Where—

- (a) a sheep, goat or deer has died, or has been killed, other than for human consumption; and
- (b) either—
 - (i) the death or killing occurred at premises approved, or required to be approved, under the Animal By-Products Regulations (Northern Ireland) 2003(a); or
 - (ii) the carcass of the sheep, goat or deer has been taken to those premises,

the occupier of the premises must comply with any direction given by the Department requiring the carcass to be sampled at the premises.

(3) In relation to any deer, selected for monitoring for TSE from which a sample is taken, the occupier of a slaughterhouse, hide market or tannery must—

- (a) 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 Part II of Chapter A of Annex III to the EU TSE Regulation.

(4) Any person who fails to comply with sub-paragraphs (1), (2) or (3) is guilty of an offence.

Compensation

16.—(1) If an animal slaughtered for human consumption and sampled for TSE tests positive, the Department must 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.

(a) S.R. 2003 No.495

(2) The compensation is the value of the carcase, established in accordance with the procedure in regulation 11 (reading the word “occupier” wherever “owner” is mentioned), with any nominated valuer’s fee paid by the occupier of the slaughterhouse, hide market or tannery.

PART II

CONTENTS OF A REQUIRED METHOD OF OPERATION (RMOP)

Animal identification and separation

- 1.—(1) The RMOP (as specified in paragraph 13 of Part I) 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 that, in accordance with point 2(1) of Part I of Chapter A of Annex III to the EU TSE Regulation, require to be sampled and tested for BSE, to be identified and ensures they are sampled in accordance with this Schedule; and
 - (c) enables bovine animals that, in accordance with point 2(2) of Part I of Chapter A of Annex III to the EU TSE Regulation, require BSE testing at slaughter to be identified and ensures that they are sampled in accordance with this Schedule.
- (2) The requirements of sub-paragraph (1)(b) and (c) apply only in relation to bovine animals born and reared in the United Kingdom on or after 1st August 1996.
- (3) The RMOP must also describe the system that ensures that the animals to which sub-paragraphs (1) (b) and (c) applies are—
- (a) batched together before slaughter separately from those not referred to in sub-paragraph (1)(b) and (c); and
 - (b) slaughtered in their batches separately from those not referred to in sub-paragraph (1)(b) and (c).
- (4) For the purposes of this paragraph, a bovine animal is deemed to have been born and reared in the United Kingdom before 1st August 1996 unless records held by the Department or any cattle passport in relation to that animal shows either that—
- (a) it was born in the United Kingdom on or after 1st August 1996; or
 - (b) it first entered the United Kingdom on or after 1st August 1996.

Brain stem sampling

- 2.—(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 TSE during brain stem sampling and packaging will be complied with.

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

3. The RMOP must describe the system linking the brain stem sample of each bovine animal to which paragraph 1 (1) (b) and (c) applies, to the carcase of that animal and all parts of the body of that animal (including the blood and the hide).

Retention of carcasses

4. The RMOP must describe—
- (a) the system that ensures that the chronological order in which the animals were slaughtered can be determined;
 - (b) the system that ensures that all carcasses retained in accordance with paragraph 14(1) of Part I are retained in slaughter order or as laid down in the RMOP either in a sealed or locked chiller or on a sealed or locked rail in an unsealed chiller pending the receipt of the BSE test result; and
 - (c) 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

5. 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 14(1) of Part I of this Schedule.

Disposal before receipt of the result

6. 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 the BSE test result but disposed of before the test result is received.

Other measures following brain stem sampling

7. 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 2009(a)) and delivered in a testable condition to an approved testing laboratory;
 - (b) BSE test results are received, either by fax or by other electronic means; and
 - (c) all carcasses or parts of carcasses 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 EU TSE Regulation or under paragraphs 14(2) and (3) of Part I of this Schedule are identified and disposed of accordingly.

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
- 4. Identification and restriction of offspring and cohorts
- 5. Action following confirmation of TSE
- 6. Action where TSE is not confirmed
- 7. Death while under restriction
- 8. Placing on the market of bovine progeny

(a) ISBN 978-92-1-139131-2

9. When compensation is payable
10. Compensation for a suspect animal
11. Compensation for a cohort animal
12. Compensation for an offspring animal
13. Compensation for Buffalo and Bison
14. Assessment of market value
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Control and eradication of TSE - notification

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

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

(3) Any person (other than the Department) who examines the body of any bovine animal, or any part of it, in a laboratory and who reasonably suspects the presence of a TSE must immediately notify the Department, and retain the body and any parts of it until a veterinary inspector has authorised disposal.

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

Restriction of a notified animal

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

(2) Movement of a restricted animal is only permitted in accordance with regulation 16.

Slaughter of a suspect animal

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

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

(2) The veterinary inspector must restrict the movement of other bovine animals from the premises in question in accordance with the second, third and fifth paragraphs of Article 12(1) of the EU TSE Regulation as read with Article 2(1)(a) of Commission Decision 2007/411/EC(a).

(3) The veterinary inspector may restrict the movement of bovine animals on other premises in accordance with the fourth paragraph of Article 12(1) of the EU TSE Regulation.

(4) If the animal is killed on any premises as provided for by this paragraph, it is an offence to remove the body from the premises except in accordance with a licence issued by an inspector.

(a) O.J. No. L 155, 15.6.2007, p.74

(5) The keeper must maintain the animal at their expense until it is slaughtered or the notice is withdrawn.

Identification and restriction of offspring and cohorts

4.—(1) In accordance with Article 13(2) of the EU TSE Regulation as read with Article 2(1)(b) and (2) of Commission Decision 2007/411/EC, if—

- (a) an animal is a suspected animal;
- (b) the monitoring of bovine carcasses under Schedule 2 Part I or under Annex III to the EU TSE Regulation, confirms that an animal is suspected of being affected with TSE; or
- (c) the competent authority of another part of the United Kingdom or a member State notifies the Department that a bovine animal is suspected of being affected with a TSE,

then sub-paragraph (2) applies.

(2) Where this paragraph applies, an inspector must identify—

- (a) (if the suspect animal is female) all its offspring born within two years prior to, or after, clinical onset of the disease; and
- (b) (in all cases) all its bovine cohorts born on or after 1st August 1996.

(3) An inspector must serve a notice prohibiting movement of those animals identified in accordance with sub-paragraph (2) from the premises on which they are kept or where that inspector suspects they are kept (whether or not this is the same premises as that of the suspect animal) and remove any cattle passports.

(4) If the animals in sub-paragraph (2) cannot immediately be identified an inspector may serve a notice prohibiting the movement of any bovine animal from the premises pending identification.

(5) Movements of animals restricted by notice under sub-paragraph (3) are only permitted in accordance with regulation 16.

Action following confirmation of TSE

5.—(1) In accordance with Article 13(1)(c), and point 2 of Annex VII to the EU TSE Regulation as read with Articles 2(1)(b) and 2(2) of Commission Decision 2007/411/EC, if it is confirmed that the suspected animal to which paragraph 4(1) applies was affected with a TSE 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 the inspector is satisfied that—
 - (i) (in all cases) the animal did not have access to the same feed as the affected animal; or
 - (ii) (where the animal is a bull) the animal is continuously kept at, and will not be removed from, a semen collection centre, in which case the killing may be deferred until the end of that animal's productive life.

(2) The appeals procedure in regulation 10 applies to a decision to kill under sub-paragraph (1)(b), and no animal may be killed until—

- (a) receipt of 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.

(3) Where sub-paragraph (1)(b)(ii) applies, it is an offence to remove the animal from the semen collection centre, except in accordance with a licence issued under regulation 16.

(4) If an animal is required to be killed under sub-paragraph (1) but is not to be killed on the premises on which it was kept, an inspector must issue a licence authorising the owner to consign it to other premises for killing as specified in the licence and must ensure that any cattle passport relating to it is stamped “Not for human consumption”.

(5) When an animal is killed under this paragraph, it is an offence to remove the carcase from the premises on which it was killed except in accordance with a movement licence issued by an inspector.

Action where TSE is not confirmed

6. If the results of all tests carried out to determine whether the suspect animal, to which paragraph 3 (1) applies, is affected with a TSE are negative an inspector must remove all the restrictions imposed because of the suspected animal and return any cattle passport which was removed.

Death while under restriction

7. If an animal dies or is killed for any reason while it is under restriction under this Schedule, the owner must immediately notify the Department and retain the body on the premises in question until they are directed, in writing, by an inspector to move or dispose of it 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

8. Any person who places on the market any first generation progeny of a bovine animal in contravention of Article 15(2) and Chapter B of Annex VIII of the EU TSE Regulation is guilty of an offence.

When compensation is payable

9. The Department must pay compensation—
- (a) when an animal is killed under this Schedule;
 - (b) where an animal to be killed under this Schedule has been valued for the purposes of compensation but dies, or is killed for other reasons, after valuation; or
 - (c) where an animal subject to a movement restriction under this Schedule 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 in which case compensation is the value of the body (including the blood and the hide).

Compensation for a suspect animal

10.—(1) If an animal is killed because it was suspected of being affected with a TSE the compensation is either—

- (a) the market value of the animal; or
- (b) the average market price in respect of the month of the year in which the market value of the animal was determined rounded down to the nearest £1,

whichever is the lesser.

(2) The average market price must be an amount obtained by dividing the total amount of the prices shown in returns, made in accordance with paragraph 16, for a four week period ending on the last Saturday of the month of the year (“the calculation month”) occurring two such months before the month for which the price is being calculated, as having been paid for animals by the total number of the animals stated in those returns to have been sold.

(3) The average market price must be calculated by the Department where returns have been obtained for sales totalling not less than 100 animals during the calculation month.

(4) Where in any calculation month the requirements of sub-paragraph (3) are not met the average market price must be the same amount as that for the most recent previous calculation month for which an average price was calculated in accordance with sub-paragraphs (2) and (3).

(5) For the purposes of sub-paragraphs (2) and (3) animals means commercial grade cows and in-calf heifers, both of which are intended for use in the production of milk.

Compensation for a cohort animal

11. If an animal has been killed because it is a cohort of an animal in which a TSE has been confirmed, the compensation is the market value of the animal.

Compensation for an offspring animal

12. If an animal is killed because it is the offspring of an animal in which a TSE has been confirmed, the compensation is the market value of the animal.

Compensation for Buffalo and Bison

13. For Buffalo or Bison compensation is the market value of the animal.

Assessment of market value

14.—(1) Market value must be assessed before slaughter of the animal in accordance with the procedure in regulation 11.

(2) Assessment of market value must not take account of any sum to which the owner might have become entitled in respect of the animal under any other statutory or any EU provision.

Definitions

15. The following definitions apply in relation to compensation payable for bovine animals killed under this Schedule—

“average market price” means a price calculated by the Department in accordance with paragraph 10(2), (3) and (4) of this Schedule.

“return” means a document furnished to the Department by a person operating a market at a place listed in paragraph 16 which shows for a week ending on a Saturday the number of commercial grade cows and in-calf heifers, both of which are intended for use in the production of milk, sold at that market and the total sale price for such animals in that week at that market.

“suspect animal” means a bovine animal which is suspected of being affected with a TSE.

Returns

16. A return must be furnished to the Department within 7 days from the end of the week to which that return relates, by a person operating a market in animals at any of the following places, that is to say—

Ballymena

Markethill

Omagh

Saintfield.

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
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7. Confirmation of TSE in goats
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9. Inability to exclude BSE in sheep or goats
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25. Compensation for animals killed or products destroyed following confirmation of TSE
26. Valuations
27. Compensation for milk or milk products compulsorily destroyed in accordance with paragraph 9

Notification of TSE

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

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

(3) Any person (other than the Department) who examines the body of any sheep or goat, or any part of it, in a laboratory and who reasonably suspects the presence of a TSE must immediately notify the Department, and retain the body and any parts of it until a veterinary inspector has authorised disposal.

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

Restriction of a notified animal

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

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

Slaughter of a suspect animal

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

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

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

Movement restrictions

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

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

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

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

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

Action where TSE is not confirmed

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

Confirmation of TSE in sheep

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

(2) The Department, after—

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

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

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

(4) The notice must specify—

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

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

Confirmation of TSE in goats

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

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

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

Use of milk or milk products following confirmation of classical scrapie

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

(2) Milk or milk products must not—

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

(3) Milk or milk products that are to be fed to non-ruminants in the United Kingdom must be—

- (a) accompanied by documentation that clearly states that it must not be fed to ruminants; and
- (b) contained in packaging that is clearly marked “must not be fed to ruminants”.

(4) Feedingstuffs containing milk or milk products must not be stored on premises where ruminants are kept.

(5) Bulk feedingstuffs containing milk or milk products must not be transported in vehicles that also transport feedingstuffs for ruminants.

(6) Vehicles that have transported bulk feedingstuffs containing milk or milk products must, before being used for the transport of any feedingstuffs intended for ruminants, be thoroughly cleaned so as to avoid cross-contamination, in accordance with a procedure approved by the Department.

(7) Failure to comply with any of sub-paragraphs (2) to (6) is an offence.

Inability to exclude BSE in sheep or goats

9.—(1) This paragraph applies if a TSE is confirmed in a suspected sheep or goat, or a body of a sheep or goat monitored under Annex III to the EU TSE Regulation, and BSE cannot be excluded by the results of a ring trial carried out in accordance with the procedure set out in Annex X, Chapter C, point 3(2)(c) of that Regulation.

(2) The Department, after carrying out the inquiry specified in Article 13(1)(b) and point 1(b) of Annex VII to the EU TSE Regulation, must serve a notice on the occupier of the premises informing them of its intention to kill and destroy the animals, destroy the embryos and ova and milk or milk products in accordance with Article 13(1)(c) and point 2(3)(a) of Annex VII of that Regulation.

(3) In sub-paragraph (2), “milk or milk products” means the milk or milk products that derived from the sheep or goats that were present on the relevant premises on and from the date on which notice was served under paragraph 4(1)(d).

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

Confirmation of atypical scrapie in sheep or goats

10.—(1) This paragraph applies if the TSE confirmed in a suspected sheep or goat, or a body of a sheep or goat monitored under Annex III to the EU TSE Regulation is atypical scrapie, and BSE is excluded in accordance with the procedure set out in Annex X, Chapter C, point 3(2)(c) of that Regulation.

(2) The Department may decide not to apply paragraph 6 in respect of sheep, or paragraph 7 in respect of goats.

(3) If the Department decides not to apply either paragraph 6 or 7, it must instead of complying with the requirements in that paragraph—

- (a) carry out the inquiry specified in Article 13(1)(b) and in point 1(b) of Annex VII of the EU TSE Regulation; and
- (b) decide which of the options set out in points 5(a) and 5(b) of Annex VII of that Regulation it intends to exercise.

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

(5) If the Department chooses the option set out in point 5(a) of Annex VII to the EU TSE Regulation, the notice must specify—

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

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

- (a) identify all sheep and goats on the premises by attaching a tag to the ear of each animal;

- (b) ensure that no tag is removed, other than as directed or permitted by the Department; and
- (c) subject the premises to the intensified TSE monitoring set out in point 5(b)(ii) of that Annex,

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

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

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

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

Derogation

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

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

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

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

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

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

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

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

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

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

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

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

Time for appeals

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

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

Killing and destruction following confirmation

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

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

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

Infected animals from other premises

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

Common grazing

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

Multiple flocks on any premises

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

Subsequent occupiers

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

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

Introduction of an animal onto any premises

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

Use of ovine germinal products

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

Movement of an animal from any premises

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

Time of movement restrictions

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

Death while under restriction

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

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

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

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

Compensation for a sheep or goat slaughtered as a suspect animal

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

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

(a) £30 in the case of an animal at the end of its productive life; and

(b) £90 in any other case.

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

(a) the amount that would have been payable under sub-paragraph (2) if it had been confirmed the animal was affected with a TSE; and

(b) such sum as appears to the Department, having regard to any information provided by the owner of the animal and any other relevant information, to reflect the market value of the animal, subject to a maximum sum of £400 for each animal.

Compensation for animals killed or products destroyed following confirmation of TSE

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

Compensation

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

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

Valuations

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

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

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

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

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

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

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

SCHEDULE 5

Regulation 5

CONTROL AND ERADICATION OF TSE IN ANIMALS OTHER THAN BOVINE, OVINE OR CAPRINE ANIMALS

CONTENTS

1. Notification
2. Restriction of a notified animal
3. Slaughter of a suspect animal
4. Compensation for an animal that is not bovine, ovine or caprine slaughtered as a suspect animal

Notification

1.—(1) For the purposes of Article 11 of the EU TSE Regulation, any person who has in their possession or under their charge any animal that is not bovine, ovine or caprine that is suspected of being affected by a TSE must immediately notify the Department and detain it on the premises until it has been examined by a veterinary inspector.

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

(3) Any person (other than the Department) who examines the body of any animal that is not bovine, ovine or caprine, or any part of it, in a laboratory and who reasonably suspects the presence of a TSE must immediately notify the Department, and retain the body and any parts of it until a veterinary inspector has authorised disposal.

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

Restriction of a notified animal

2.—(1) If notification of a suspected animal that is not bovine, ovine or caprine is given to the Department under paragraph 1, an inspector may serve a notice prohibiting the movement of that animal from the premises on which it was detained, pending determination by an inspector of whether or not it is suspected of being affected with a TSE.

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

Slaughter of a suspect animal

3.—(1) For the purposes of Article 12(1) and (2) of the EU TSE Regulation, if a veterinary inspector suspects that an animal that is not bovine, ovine or caprine is affected with a TSE, the veterinary inspector may—

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

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

Compensation for an animal that is not bovine, ovine or caprine slaughtered as a suspect animal

4.—(1) The Department may pay compensation where an animal that is not bovine, ovine or caprine is killed under paragraph 3.

(2) The compensation is the market value of the animal at the time it is killed.

(3) For the purposes of this regulation, the market value—

- (a) must be calculated in accordance with the procedure in regulation 11;
- (b) must be the price that would reasonably be expected to have been obtained for the animal—
 - (i) from a buyer in the open market;
 - (ii) at the time of the valuation; and
 - (iii) on the assumption that the animal was not affected by a TSE; and
- (c) represents the total amount of compensation payable for that animal.

SCHEDULE 6 FEEDINGSTUFFS

Regulation 5

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PART I

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- 3. Exceptions

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PART I 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 EU 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 to Annex IV to the EU TSE Regulation, and, if authorised by the Department following a risk assessment, in point A(d) of that Part.

(2) It is an offence to bring onto any premises where ruminant animals are kept anything prohibited by sub-paragraph (1), or to possess it on such premises unless—

- (a) it is food intended for human consumption or falls within paragraph 3; or
- (b) the premises are registered to use and store the relevant product under paragraph 1(6), 4(5) or 6(10) of Part II of this Schedule as appropriate; or
- (c) it is authorised by an inspector, and suitable measures are in place to ensure that ruminant animals do not have access to it.

(3) The prohibition in sub-paragraph (1) does not apply in relation to liquid milk replacers containing fishmeal provided that—

- (a) the fishmeal has been produced, labelled, transported and used in accordance with point BA of Part II of Annex IV to the EU TSE Regulation;
- (b) the liquid milk replacer is intended for, and fed only to, unweaned, ruminant farmed animals in accordance with point A(e) of that Part; and
- (c) the prohibition continues to apply in relation to all other ruminant animals.

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 EU 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;
- (f) petfood containing animal protein; and
- (g) raw petfood consisting of 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 EU 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) feed materials of plant origin (and feedingstuffs containing such products) in which bone spicules have been detected if authorised by the Department 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)(a) are kept anything prohibited by this paragraph, or to possess it on such premises unless—

- (a) it is food intended for human consumption or falls within paragraph 3; or
- (b) it is authorised by an inspector, and suitable measures are in place to ensure that animals specified in sub-paragraph (1)(a) do not have access to it.

Exceptions

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

- (a) raw petfood consisting of animal protein or anything incorporated into petfood for feeding to pets (including working dogs) on those premises; or
- (b) anything incorporated into organic fertiliser or soil improver produced and used in accordance with Regulation (EC) No. 1774/2002, the Animal By-Products Regulations (Northern Ireland) 2003^(a) and paragraph 12 of Part II of this Schedule,

provided that the conditions in sub-paragraph (2) are complied with.

(2) The conditions are—

- (a) it is not fed to any farmed animals;
- (b) it is not stored, handled, or fed to pets (including working dogs), in parts of the premises to which —
 - (i) farmed animals have access; or
 - (ii) feedingstuffs for farmed animals are stored or handled;
- (c) 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
- (d) farmed animals on the premises in question never have access to petfood; and
- (e) farmed animals do not have access to organic fertiliser or soil improver until it has been applied to the land in compliance with the Animal By-Products Regulations (Northern Ireland) 2003.

Movement prohibitions and restrictions of animals

4.—(1) 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
- (c) animal protein for which the inspector cannot establish the origin or the TSE infectivity risk,

the inspector may take the action specified in sub-paragraph (2).

(2) The inspector may—

- (a) serve a notice on the owner or person in charge of the animal in accordance with regulation 15 prohibiting or restricting the movement of the animal; and
- (b) if it is bovine seize any passport relating to it.

Slaughter of an animal

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, the inspector may, in accordance with regulation 15, serve a notice on the owner or person in charge of the animal.

(2) The notice may either—

- (a) require the owner or person in charge of the animal to have it killed and disposed of, 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 specified in the notice, in which case the inspector must ensure that any cattle passport is stamped with the words “Not for human consumption”.

(a) S.R. 2003 No. 495

(3) The inspector must ensure that all the animals specified for killing in the notice in subparagraph (2)(a) are killed and disposed of.

Compensation

6.—(1) Where an animal is killed under paragraph 5, the Department may pay compensation if it considers it appropriate in all the circumstances and must give its decision, in writing, on whether or not to pay compensation.

(2) The appeals procedure in regulation 10 applies in relation to any decision under subparagraph (1).

(3) The compensation for—

- (a) a bovine animal is the value established in accordance with paragraph 10 of Schedule 3;
- (b) an ovine or caprine animal is the value established in accordance with paragraph 24 of Schedule 4; and
- (c) an animal that is not bovine, ovine or caprine is the market value of the animal at the time it is killed, established in accordance with the procedure in regulation 11.

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 for which a notice served under paragraph 5 is in place.

PART II

PRODUCTION OF PROTEIN AND FEEDINGSTUFFS

Fishmeal for feeding to non-ruminant farmed animals

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

(3) Any person packaging the feedingstuffs must clearly mark the product 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 such 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 premises where ruminants are kept must comply with the first paragraph of point B(f) of that Part unless the Department is satisfied that the provisions of the second paragraph of that point are complied with and has registered the farm under that paragraph.

Fishmeal for feeding to unweaned, ruminant farmed animals

2.—(1) Any person producing raw fishmeal for use in feed for unweaned, ruminant farmed animals must do so in accordance with point BA(a) of Part II of Annex IV to the EU TSE Regulation.

(2) Any person producing feed for unweaned, ruminant farmed animals must, if the feed contains fishmeal, produce that feed only in premises authorised for that purpose by the Department in accordance with points BA(c) and BA(d) of Part II of that Part.

(3) Any person packaging milk replacers containing fishmeal intended for unweaned, ruminant farmed animals, must clearly mark the product in accordance with point BA(e) of that Part, and any documentation accompanying the product must be in accordance with that point.

(4) Any person transporting the milk replacers in bulk must do so in accordance with the first sentence of point BA(f) of that Part.

(5) Any person using a vehicle previously used to transport such milk replacers for the transport of other feedingstuffs for ruminants must comply with the second sentence of point BA(f) of that Part.

(6) The occupier of any premises where feedingstuffs containing fishmeal are to be used and ruminants are kept must ensure that—

- (a) measures are in place to prevent such feedingstuffs being fed to ruminants, other than as permitted by point A(e) of that Part; and
- (b) before the feedingstuffs are brought on to the relevant holding, the occupier of the holding has registered the holding with the Department in accordance with the second sentence of point BA(g) of that Part.

Offences relating to fishmeal and feedingstuffs containing fishmeal

3.—(1) Failure to comply with paragraph 1 or 2 is an offence.

(2) It is an offence for a home compounder registered under paragraph 1(2)(b) to—

- (a) keep ruminant animals;
- (b) consign feedingstuffs containing fishmeal (whether complete or partly complete) produced by them from their premises; 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 EU 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

4.—(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 EU TSE Regulation, in an establishment authorised by the Department for the purposes of that point;
- (b) in accordance with point C(a)(i) of that Part, for home compounders registered by the Department for the purposes of that point; or
- (c) in accordance with point C(a)(ii) of that Part in an establishment authorised by the Department for the purposes of that point.

(2) Any person packaging such 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 such 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 must comply with the first paragraph of point C(d) of that Part unless the Department 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

5.—(1) Failure to comply with paragraph 4 is an offence.

(2) It is an offence for a home compounder registered under paragraph 4(1)(b) to—

- (a) keep ruminants;
- (b) consign feedingstuffs containing dicalcium phosphate or tricalcium phosphate (whether complete or partly complete) from their premises; 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 EU 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

6.—(1) Any person who produces—

- (a) blood products intended for feeding to non-ruminant farmed animals; or
- (b) blood meal intended for feeding to fish,

must ensure that the blood comes from a slaughterhouse that is registered with the Department for the purposes of point D(a) of Part II of Annex IV to the EU TSE Regulation and meets the conditions set out in sub-paragraph (2).

(2) Those conditions are that the slaughterhouse—

- (a) is not used to slaughter ruminants; or
- (b) 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 Department.

(3) The occupier of the slaughterhouse must consign the blood in accordance with point D(a) of Part II of Annex IV to the EU TSE Regulation and any transporter must transport it in accordance with that point.

(4) 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 Part II of Annex IV to the EU TSE Regulation.

(5) Any person producing blood products or blood meal for the use described in the second paragraph of point D(b) of Part II of Annex IV to the EU TSE Regulation must—

- (a) have in place the control system specified in that second paragraph to ensure that products of ruminant origin are kept separate from products of non-ruminant origin; and
 - (b) be authorised for that purpose by the Department.
- (6) 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 Department for the purposes of that point;
 - (b) in accordance with point D(c)(i) of that Part, for home compounders registered by the Department for the purposes of that point; or
 - (c) in accordance with point D(c)(ii) of that Part, in an establishment authorised by the Department for the purposes of that point.
- (7) Any person packaging such 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.
- (8) Any person transporting such feedingstuffs in bulk must do so in accordance with point D(e) of that Part.
- (9) 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.
- (10) The occupier of any premises where ruminants are kept must comply with the first paragraph of point D(f) of that Part unless the Department is satisfied that the provisions of the second paragraph of that point are complied with and has registered the premises under that paragraph.

Offences relating to feedingstuffs containing blood products or blood meal

- 7.—(1) Failure to comply with paragraph 6 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 EU 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 EU TSE Regulation to fail to—
- (a) ensure that feedingstuffs are manufactured in accordance with the first indent of that point; or
 - (b) ensure that they are kept in separate facilities in accordance with the second indent; or
 - (c) make and keep a record in accordance with the third indent.
- (5) It is an offence for a home compounder registered under paragraph 6(6)(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 their premises; 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

8.—(1) It is an offence to use equipment, used to produce feedingstuffs for non-ruminant animals under paragraph 1, 4 or 6, for the production of feedingstuffs for ruminant animals unless authorised in writing by an inspector.

(2) It is an offence to use equipment, used to produce feedingstuffs for unweaned ruminant animals under paragraph 2, for the production of feedingstuffs for weaned 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

9.—(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 EU 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 EU 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 Department for that purpose.

Conditions applying to the manufacture and transport of feedingstuffs, including petfood

10.—(1) It is an offence to manufacture, store, transport or package feedingstuffs, including petfood, that contain 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 EU TSE Regulation.

(2) It is an offence to manufacture or transport feedingstuffs, including 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

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

(2) Sub-paragraph (1) does not apply to the export of processed petfood (including canned petfood) that contains processed animal protein derived from ruminants, provided that it has undergone treatment and is labelled in accordance with Regulation (EC) No 1774/2002.

(3) 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 Part III of Annex IV to the EU TSE Regulation and an agreement in writing between the Department and the competent authority of the third country.

Fertilisers

12.—(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

- 13.—(1) Any person who supplies, transports or receives any petfood containing animal protein that is not intended for use as petfood must record—
- (a) the name of the manufacturer;
 - (b) the date of supply and receipt;
 - (c) the premises of origin and destination;
 - (d) the quantity of petfood; and
 - (e) the nature of the animal protein contained in the petfood.
- (2) That person must keep those records for 2 years.
- (3) The consignor must ensure that the petfood is labelled with the information referred to in sub-paragraph (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

- 14.—(1) Any person who supplies—
- (a) an ingredient; or
 - (b) a feedingstuff product that is not identified for use as petfood but which contains an ingredient,
- must comply with sub-paragraph (2).
- (2) That person must ensure that—
- (a) either a label affixed to the package containing the ingredient or feedingstuff; or
 - (b) any documentation accompanying the ingredient or feedingstuff,

indicates that the ingredient was produced on premises where any processed animal protein (other than fishmeal) is used in any manufacturing process.

- (3) Any person who fails to comply with sub-paragraph (2) is guilty of an offence.
- (4) In this paragraph, “ingredient” means an ingredient for use in a feedingstuff that is manufactured on premises where any processed animal protein other than fishmeal is used in any manufacturing process.

**SPECIFIED RISK MATERIAL, MECHANICALLY SEPARATED
MEAT AND SLAUGHTERING TECHNIQUES****CONTENTS**

1. Appointment of the Food Standards Agency as the competent authority
2. Training
3. Mechanically separated meat
4. Pithing
5. Tongue harvesting
6. Head meat harvesting
7. Removal of specified risk material
8. Bovine animals in a slaughterhouse
9. Sheep and goats in a slaughterhouse
10. Bovine animals, sheep and goats in other places of slaughter
11. Young lamb and goat stamps
12. Removal of spinal cord from sheep and goats
13. Authorisation of cutting plants by the Food Standards Agency
14. Removal of specified risk material at a cutting plant authorised under paragraph 13(1)
15. Meat from a member State
16. Staining and disposal of specified risk material
17. Security of specified risk material
18. Prohibition on the sale, supply or possession for sale or supply of specified risk material for human consumption

Appointment of the Food Standards Agency as the competent authority

1.—(1) The Food Standards Agency must carry out the duties placed on the member State in point 11(1) and point 11(2) of Annex V to the EU TSE Regulation in relation to this Schedule and may grant authorisations for the purposes of point 4(3)(a) of that Annex.

Training

2. The occupier of any slaughterhouse or cutting plant where specified risk material is removed must—

- (a) ensure that staff receive any training necessary to ensure that the occupier complies with their duties under 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.

Mechanically separated meat

3.—(1) Any person who contravenes point 5 of Annex V to the EU TSE Regulation (measures concerning mechanically separated meat) is guilty of an offence.

(2) Any person who uses any mechanically separated 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.

Pithing

4. Any person who contravenes point 6 of Annex V to the EU TSE Regulation (measures concerning laceration of tissue) is guilty of an offence.

Tongue harvesting

5. Any person who contravenes point 7 of Annex V to the EU TSE Regulation (harvesting of tongues from bovine animals) is guilty of an offence.

Head meat harvesting

6. Any person who contravenes point 8(1) of Annex V to the EU TSE Regulation (harvesting of bovine head meat) is guilty of an offence.

Removal of specified risk material

7.—(1) Any person who removes specified risk material at any premises or place other than premises or a place where that specified risk material may be removed under point 4(1) or point 4(3)(a) of Annex V to the EU TSE Regulation is guilty of an offence.

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

- (a) any part of the vertebral column that is specified risk material from any bovine animal 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).

Bovine animals in a slaughterhouse

8.—(1) When a bovine animal is slaughtered in a slaughterhouse or the carcase of a bovine animal is transported to a slaughterhouse following emergency slaughter elsewhere, the occupier of the slaughterhouse must remove all specified risk material (other than those parts of the vertebral column that are specified risk material and specified risk material contained in or attached to offal) as soon as is reasonably practicable after slaughter and in any event before post-mortem inspection.

(2) The occupier must—

- (a) as soon as reasonably practicable after post mortem inspection, consign any offal that has been removed from the carcase and that contains or is attached to specified risk material to an appropriate area of the slaughterhouse; and
- (b) as soon as reasonably practicable after the offal is consigned there and in any event before the offal is removed from the slaughterhouse, remove the specified risk material.

(3) The occupier must as soon as is reasonably practicable after slaughter consign any meat containing those parts of the vertebral column that are specified risk material to—

- (a) a cutting plant authorised under paragraph 13(1)(a);
- (b) a cutting plant authorised under corresponding legislation elsewhere in the United Kingdom; or
- (c) a member State in accordance with point 10(2) of Annex V to the EU TSE Regulation.

(4) The occupier must identify meat containing vertebral column that is not specified risk material in accordance with point 11(3)(a) of Annex V to the EU TSE Regulation and provide information in accordance with point 11(3)(b) of that Annex.

(5) No person may 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(a), except in accordance with point 11(3)(a) of Annex V to the EU TSE Regulation.

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

Sheep and goats in a slaughterhouse

9.—(1) When a sheep or goat is slaughtered in a slaughterhouse or the carcass of a sheep or goat is transported to a slaughterhouse following emergency slaughter elsewhere, the occupier of the slaughterhouse must remove all specified risk material (other than the spinal cord and specified risk material contained in or attached to offal) as soon as is reasonably practicable after slaughter and in any event before post-mortem inspection.

(2) The occupier must—

- (a) as soon as reasonably practicable after post mortem inspection, consign any offal that has been removed from the carcass and that contains or is attached to specified risk material to an appropriate area of the slaughterhouse; and
- (b) as soon as reasonably practicable after the offal is consigned there and in any event before the offal is removed from the slaughterhouse, remove the specified risk material.

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

- (a) remove the spinal cord at the slaughterhouse before the post-mortem inspection; or
- (b) send the meat to—
 - (i) a cutting plant authorised under paragraph 13(1)(b);
 - (ii) a cutting plant authorised under corresponding legislation elsewhere in the United Kingdom; or
 - (iii) in accordance with point 10(1) of Annex V to the EU TSE Regulation, a cutting plant located in a 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.

(4) In sub-paragraph (3)(b)(iii), “cutting plant” means an establishment—

- (a) approved or conditionally approved as such under Article 31(2) of Regulation 882/2004; or
- (b) operating as such under Article 4(5) of Regulation 853/2004 pending such approval.

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

Bovine animals, sheep and goats in other places of slaughter

10.—(1) When a bovine animal, sheep or goat is slaughtered in a place that, for the purposes of point 4(1)(a) of Annex V to the EU TSE Regulation, is an other place of slaughter, the person carrying out the slaughter must remove all specified risk material as soon as is reasonably practicable after slaughter.

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

Young lamb and goat stamps

11.—(1) An inspector may stamp a sheep or goat carcass 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.

(a) OJ No L 204, 11.8.2000, p.1, last amended by Council Regulation (EC) No 1791/2006 (OJ No L363, 20.12.2006, p.1).

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

- (a) “VS”; and
- (b) in the case of—
 - (i) a sheep, “YL”; or
 - (ii) 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 the equipment for applying it.

(4) It is an offence to mark a sheep or goat carcass 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 sub-paragraph (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 may authorise a cutting plant to remove—

- (a) those parts of the vertebral column of bovine animals that are specified risk material; or
- (b) the 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 Annex V to the EU 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 Department must be construed as references to the Food Standards Agency.

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

14. The occupier of a cutting plant authorised under paragraph 13(1) commits an offence if that occupier fails to, as soon as is reasonably practicable after arrival of meat at the plant, and in any event before the meat is removed from the plant, remove from the meat all specified risk material of a kind to which the authorisation relates.

Meat from a member State

15. For the purposes of point 10(1) and point 10(2) of Annex V to the EU TSE Regulation, where meat containing those parts of the vertebral column of a bovine animal that are specified risk material is brought into Northern Ireland from a 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

16.—(1) The occupier of any premises where specified risk material is removed commits an offence if that occupier fails to comply with point 3 of Annex V to the EU TSE Regulation (marking and disposal).

(2) For the purposes of that point—

- (a) staining involves 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(a)); or
 - (ii) such other colouring agent as may be approved in writing by the Department 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 that is destined for use as provided for in Article 1(2)(b) and (c) of the EU TSE Regulation.

Security of specified risk material

17.—(1) Pending consignment or disposal from the premises or place where 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) The occupier of the premises or place must ensure that the container is thoroughly washed as soon as is 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 sale, supply or possession for sale or supply of specified risk material for human consumption

18. It is an offence to sell, supply or possess for sale 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 8

Regulation 5

RESTRICTIONS ON PLACING ON THE MARKET AND EXPORT

CONTENTS

1. Placing on the market or export to third countries of bovine products
2. Placing on the market or export to third countries of bovine animals
3. Export to a member State of heads and un-split carcasses
4. Export to third countries of products containing specified risk material
5. Further offences relating to placing on the market and export

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

Placing on the market or export to third countries of bovine products

1.—(1) It is an offence for any person to place on the market or to export (or offer to export) to third countries, any products consisting of or incorporating any material (other than milk) derived from a bovine animal born or reared within the United Kingdom before 1st August 1996.

(2) The prohibition in sub-paragraph (1) does not apply to the hides of bovine animals born or reared within the United Kingdom before 1st August 1996 (including hides from bovine animals referred to in the third indent of point 1(a) of Annex VII to the EU TSE Regulation) that have been used for leather production in accordance with Article 1(3) of Commission Decision 2007/411/EC(a).

(3) For the purposes of this paragraph, a bovine animal is deemed to have been born or reared in the United Kingdom before 1st August 1996 unless records held by the Department or any cattle passport in relation to that animal show either that—

- (a) it was born in the United Kingdom on or after 1st August 1996; or
- (b) it first entered the United Kingdom on or after 1st August 1996.

Placing on the market or export to third countries of bovine animals

2.—(1) It is an offence for any person to place on the market or to export (or offer to export) to third countries in accordance with Part II of Chapter A of Annex VIII to the EU TSE Regulation bovine animals born or reared in the United Kingdom before 1st August 1996.

(2) The prohibition in sub-paragraph (1) does not apply to the placing on the market of such animals within the United Kingdom.

(3) For the purposes of this paragraph, a bovine animal is deemed to have been born or reared in the United Kingdom before 1st August 1996 unless records held by the Department or any cattle passport in relation to that animal show either that—

- (a) it was born in the United Kingdom on or after 1st August 1996; or
- (b) it first entered the United Kingdom on or after 1st August 1996.

Export to a member State of heads and un-split carcasses

3. Subject to point 10(2) of Annex V to the EU TSE Regulation, it is an offence for any person to export (or offer to export) any head or un-split carcass containing specified risk material to a member State in the absence of an agreement of the kind specified in point 10(1) of that Annex.

Export to third countries of products containing specified risk material

4. In accordance with point 10(3) of Annex V to the EU TSE Regulation, it is an offence for any person to export (or offer to export) heads or fresh meat of bovine, ovine or caprine animals containing specified risk material to third countries.

Further offences relating to placing on the market and export

5. In addition to the offences specified in paragraphs 1 to 4, the following provisions of these Regulations specify offences relating to placing on the market and export—

- (a) paragraph 8 of Schedule 3;
- (b) paragraph 8(2)(b) and (7) of Schedule 4;
- (c) paragraph 10(7) of Schedule 4;
- (d) paragraph 23 of Schedule 4; and
- (e) paragraph 11(1) and (3) of Part II of Schedule 6.

(a) O.J. No. L155,15.6.2007, p.74

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and remake with amendments the Transmissible Spongiform Encephalopathies Regulations (Northern Ireland) 2008 as amended. These Regulations implement 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 (O.J. No. L 147, 31.5.2001, p.1) as amended (“the EU TSE Regulation”).

They also implement—

- (a) Commission Decision 2007/411 prohibiting the placing on the market of products derived from bovine animals born or reared within the United Kingdom before 1st August 1996 for any purpose and exempting such animals from certain control and eradication measures laid down in Regulation (EC) No. 999/2001 and repealing Decision 2005/598 (O.J. No. L 155, 15.6.2007, p.74);
- (b) Commission Decision 2009/719 authorising certain Member States to revise their annual BSE monitoring programme (O.J. No. L 256, 29.9.2009, p.35);
- (c) Commission Regulations (EC) No. 956/2008 (O.J. No. L 260, 03.9.2008, p.8) and No. 163/2009 (O.J. No. L 55, 27.2.2009, p.17) amending Annex IV to the EU TSE Regulation; and
- (d) Commission Regulation (EC) No. 103/2008 (O.J. No. L 34, 4.2.2009, p.11) amending Annexes VII and IX to the EU TSE Regulation.

The main Regulations

The Regulations provide that the Department of Agriculture and Rural Development (“the Department”) is the competent authority for the purposes of the EU TSE Regulation (except in Schedule 7 and paragraphs 1, 3, and 4 of Schedule 8, where the competent authority is the Food Standards Agency) (regulation 3) and provide an exception for research (regulation 4).

The provisions in Part II introduce Schedules 2 to 8.

Part III 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 Department and the Food Standards Agency 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 and 18 deal with obstruction of an inspector and penalties. 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 19 details who is responsible for enforcing these Regulations.

Regulation 20 amends the Animals By-Products (Identification) Regulations 1999 by substituting a new regulation 3(3).

Regulation 21 details consequential amendments to the Feeding Stuffs Regulations (Northern Ireland) 2005 and the Official Feed and Food Controls Regulations (Northern Ireland) 2009.

Regulation 22 revokes the Transmissible Spongiform Encephalopathies Regulations (Northern Ireland) 2008, and the Transmissible Spongiform Encephalopathies (Amendment) Regulations (Northern Ireland) 2009.

Schedule 1

Schedule 1 sets out those EU instruments to which any reference should be construed as to those instruments as amended from time to time.

Schedule 2

Schedule 2 Part I deals with monitoring for TSEs. Paragraph 1 provides for notification to the Department of the death of a goat aged 18 months or over for the purpose of monitoring under Article 6 of the EU TSE Regulation. Paragraph 2 deals with arrangements in respect of the body of a bovine animal for the purpose of monitoring under Article 6 of the EU TSE Regulation. Paragraphs 3 and 4 deal with the collection and delivery and sampling of bodies of bovine animals for the purposes of monitoring under Article 6 of the EU TSE Regulations. Paragraph 5 makes it an offence to destroy the body of a bovine animal to which paragraph 2 applies before it has been sampled. Paragraph 6 deals with the retention and disposal of the body of a bovine animal pending test results in accordance with the EU TSE Regulation. Paragraph 7 provides that paragraphs 1 and 2 do not apply to Rathlin Island or the Copeland Islands. Paragraph 8 makes it an offence to consign an over-age animal to a slaughterhouse that slaughters animals for human consumption or to slaughter such an animal for human consumption in a slaughterhouse. Paragraphs 9 and 10 provide for brain stem sampling of specified bovine animals at slaughterhouses and other places of slaughter. Paragraph 11 provides that the Department may approve laboratories to test samples for TSEs.

Paragraph 12 deals with the applications for approval as a TSE sampling site.

Paragraph 13 creates a requirement for the occupier of a slaughterhouse slaughtering bovine animals for human consumption, which are required to be tested for BSE to have a Required Method of Operation (RMOP).

Paragraph 14 provides for retention of products and their disposal, paragraph 15 provides for TSE sampling in sheep, goats and deer and paragraph 16 deals with compensation.

Schedule 2 Part II, paragraphs 1 to 7 specify the contents that must appear in a Required Method of Operation (RMOP).

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 Department. Paragraphs 2 and 3 provide for the restriction and slaughter of suspect animals. Paragraph 4 deals with the offspring and cohorts of the suspect. Paragraph 5 deals with action following confirmation of TSE. Paragraph 6 deals with action where TSE is not confirmed. Paragraph 7 provides for the notification and restriction of the carcasses of animals that die or are killed while under restriction, and paragraph 8 prohibits the placing on the market of offspring.

Paragraphs 9 to 16 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 Department. Paragraphs 2 and 3 provide for the restriction and slaughter of the suspect. Paragraphs 4 and 5 deal with movement restrictions. Paragraphs 6 to 10 provide for action following confirmation. Paragraph 11 deals with derogations from the usual requirement of paragraphs 6 to 10. Paragraph 12 provides for time for appeals, and paragraph 13 provides for killing and destruction. Paragraphs 14 to 16 deal with infected animals

from another premises, common grazing and multiple flocks on a premises. Paragraph 17 deals with subsequent occupiers of the land.

Paragraphs 18 to 20 set out the procedure to be followed after the killing or destruction. Paragraph 18 restricts the introduction of animals onto a premises. Paragraph 19 regulates the use of ovine germinal products, and paragraph 20 restricts the movement of animals from a premises.

Paragraph 21 specifies when the time relating to restrictions begins. Paragraph 22 provides for notification of animals that die while under restriction. Paragraph 23 deals with placing on the market of progeny, semen, embryo and ovum of animals that are either suspected or confirmed with a TSE. Paragraphs 24 to 26 deal with compensation.

Schedule 5

Schedule 5 deals with animals that are not bovine, ovine, or caprine. Paragraphs 1 to 3 concern notification, restriction and slaughter of suspect animals. Paragraph 4 provides for compensation.

Schedule 6

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

Paragraphs 1 to 3 of Part II regulate the production and use of fishmeal for feeding to non-ruminant farmed animals and unweaned ruminant farmed animals. Paragraphs 4 and 5 of Part II regulate feedingstuffs containing dicalcium phosphate or tricalcium phosphate. Paragraphs 6 and 7 of Part II regulate feedingstuffs containing blood products and blood meal.

Paragraph 8 of Part II makes provision for changes in use of equipment. Paragraphs 9 and 10 of Part II control the manufacture, storage and transport of processed animal protein and products containing it. Paragraph 11 of Part II controls exports, and paragraph 12 of Part II regulates fertilisers derived from animal protein. Paragraph 13 of Part II deals with records, and paragraph 14 of Part II deals with cross-contamination.

Schedule 7

Schedule 7 deals with specified risk material, mechanically separated meat and slaughtering techniques. Paragraph 1 appoints the Food Standards Agency as the competent authority for this Schedule. Paragraph 2 makes provision for training of staff in slaughterhouses and cutting plants where specified risk material is removed.

Paragraph 3 deals with mechanically separated meat, paragraph 4 with pithing, paragraph 5 with tongue harvesting and paragraph 6 with head meat harvesting.

Paragraph 7 controls the removal of specified risk material. Paragraph 8 deals with bovine animals in a slaughterhouse and paragraph 9 deals with sheep and goats in a slaughterhouse.

Paragraph 10 deals with bovine animals, sheep and goats at other places of slaughter.

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 to remove certain specified risk material and paragraph 14 controls the removal of specified risk material at a cutting plant authorised under paragraph 13(1).

Paragraph 15 deals with meat from a member State.

Paragraph 16 requires the staining and disposal of specified risk material, paragraph 17 provides for the security of specified risk material. Paragraph 18 prohibits the supply of specified risk material for human consumption.

Schedule 8

Schedule 8 deals with the restrictions on placing on the market or export of live bovine animals and products derived from them to a member State and to third countries. Paragraph 1 prohibits the placing on the market or export to third countries of certain bovine products derived from animals born or reared within the United Kingdom before 1st August 1996. Paragraph 2 prohibits the placing on the market or export to third countries of certain live animals. Paragraph 3 prohibits the export of heads and un-split carcasses containing specified risk material to a member State. Paragraph 4 prohibits the export of heads and meat of bovine, ovine or caprine animals containing specified risk material to third countries. Paragraph 5 provides cross references to other relevant offence provisions in these Regulations.

A regulatory impact assessment has been prepared and placed in the library of the Assembly. Copies can be obtained from the Department of Agriculture and Rural Development, TSE Branch, Room 722, Dundonald House, Stormont Estate, Upper Newtownards Road, Belfast, BT4 3SB. Tel 02890 525539.

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