

2005 No. 469

ANIMAL HEALTH

The TSE (Scotland) Amendment (No. 2) Regulations 2005

Made - - - - 28th September 2005

Laid before the Scottish Parliament 29th September 2005

Coming into force - - 7th November 2005

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and of all other powers enabling them in that behalf, after consultation as 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(b), hereby make the following Regulations:

Citation, commencement and extent

1. These Regulations may be cited as the TSE (Scotland) Amendment (No. 2) Regulations 2005 and shall come into force on 7th November 2005.

Amendment of the TSE (Scotland) Regulations 2002

2. The TSE (Scotland) Regulations 2002(c) are amended in accordance with regulations 3 to 14.

3. In regulation 3(1) (interpretation)–

(a) for the definition of “the Community Transitional Measures” substitute–

““the Community Transitional Measures” means–

(a) Commission Regulation (EC) No. 1248/2001 of 22nd June 2001 amending Annexes III, X and XI to Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards epidemio-surveillance and testing of transmissible spongiform encephalopathies(d);

(b) Commission Regulation (EC) No. 1326/2001 of 29th June 2001 laying down transitional measures to permit the changeover to the Regulation of the European Parliament and of the Council (EC) No. 999/2001 laying down rules for the

(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3). The functions conferred on the Minister of the Crown under section 2(2) of the 1972 Act, so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. In so far as not so transferred, and in so far as exercisable in relation to food (including drink) including the primary production of food, those functions were transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005 (S.I. 2005/849).

(b) O.J. No. L 31, 1.2.02, p.1, as last amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (O.J. No. L 245, 29.9.03, p.4).

(c) S.S.I. 2002/255 as amended by S.S.I. 2003/198 and 411, 2004/277 and 2005/173.

(d) O.J. No. L 173, 27.6.01, p.12.

prevention, control and eradication of certain transmissible spongiform encephalopathies, and amending Annexes VII and XI to that Regulation(a);

- (c) Commission Regulation (EC) No. 270/2002 of 14th February 2002 amending Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards specified risk material and epidemio-surveillance for transmissible spongiform encephalopathies and amending Regulation (EC) No. 1326/2001 as regards animal feeding and the placing on the market of ovine and caprine animals and products thereof(b);
- (d) Commission Regulation (EC) No. 1494/2002 of 21st August 2002 amending Annexes III, VII and XI to Regulation (EC) No. 999/2001 of the European Parliament and the Council as regards monitoring of bovine spongiform encephalopathy, eradication of transmissible spongiform encephalopathy, removal of specified risk materials and rules for importation of live animals and products of animal origin(c);
- (e) Commission Regulation (EC) No. 1139/2003 of 27th June 2003 amending Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards monitoring programmes and specified risk material(d);
- (f) Commission Regulation (EC) No. 1492/2004 of 23rd August 2004 amending Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards eradication measures for transmissible spongiform encephalopathies in bovine, ovine and caprine animals, the trade and importation of semen and embryos of ovine and caprine animals and specified risk material(e); and
- (g) Regulation (EC) No. 932/2005 of the European Parliament and of the Council of 8th June 2005 amending Regulation (EC) No. 999/2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies as regards the extension of the period for transitional measures(f);”;

(b) at the end of the definition of “inspector”, add–

“(d) a person appointed as such for the purposes of Article 6 of the Community TSE Regulation and regulation 10A in relation to a hide market or tannery by the Meat and Livestock Commission;”;

(c) for the definition of “young lamb stamp”, substitute–

““young goat stamp” means the stamp described as such in regulation 41(2); and

“young lamb stamp” means the stamp described as such in regulation 41(2).”.

4. After regulation 10 (notifications), insert–

“Slaughter of bovine animals over 30 months of age

10A.—(1) No person shall carry on the business of a slaughterhouse for the slaughter of a relevant bovine animal unless that person has agreed in writing with an OVS the Required Method of Operation in respect of the slaughter of relevant bovine animals at the slaughterhouse in question.

(2) Without prejudice to the inclusion in it of other provisions, a relevant agreement shall contain provisions stating how each requirement referred to in Schedule 1A is to apply in respect of the Required Method of Operation at the slaughterhouse in question.

(3) A relevant agreement (irrespective of its content) may be suspended or revoked by the OVS by notice in writing served on the occupier if the OVS is of the opinion that it is not

(a) O.J. No. L 177, 30.6.01, p.60.
(b) O.J. No. L 45, 15.2.02, p.4.
(c) O.J. No. L 225, 22.8.02, p.3.
(d) O.J. No. L 160, 28.6.03, p.22.
(e) O.J. No. L 274, 24.8.04, p.3.
(f) O.J. No. L 163, 23.6.05, p.1.

being complied with, or if a reasonable proposed alteration of the agreement suggested by the OVS in writing to the occupier has not been accepted by the occupier within 7 days; and if the OVS suspends or revokes the agreement—

- (a) the occupier may make representations on the suspension or revocation to a person appointed for the purpose by the Scottish Ministers;
- (b) the appointed person shall consider the representations and report in writing to the Scottish Ministers; and
- (c) the Scottish Ministers shall give written notification of their determination and the reasons for it.

(4) The occupier of the slaughterhouse shall ensure that the provisions contained in the relevant agreement relating to that slaughterhouse are complied with in relation to each relevant bovine animal slaughtered there.

(5) Where a relevant bovine animal is slaughtered otherwise than in accordance with the provisions contained in the relevant agreement relating to the slaughterhouse in question, an inspector may give to the occupier of that slaughterhouse a direction for the disposal of—

- (a) the carcase of that relevant bovine animal; and
- (b) all other parts of the body of that animal including the blood and the hide.

(6) Where an inspector gives a direction under paragraph (5), the owner of the carcase shall not be entitled to any compensation under these Regulations in respect of that carcase and the other parts of the body of the animal including the blood and the hide.

(7) If a person to whom a direction is given under paragraph (5) fails to comply with the direction, an inspector may arrange for it to be complied with—

- (a) without prejudice to any proceedings arising out of such default; and
- (b) at the expense of the person to whom the direction was given.

(8) Paragraphs (5) to (7) are without prejudice to paragraph (3) or to any proceedings arising out of a contravention of paragraph (1) or a failure to comply with paragraph (4).

(9) In this regulation—

- (a) “relevant agreement” means an agreement referred to in paragraph (1);
- (b) “relevant bovine animal” means a bovine animal over 30 months of age any part of which is intended for human consumption other than a bovine animal which belongs to a herd registered under the Beef Assurance Scheme pursuant to regulation 4 of the Fresh Meat (Beef Control) (No. 2) Regulations 1996^(a);
- (c) “Required Method of Operation”, in relation to a slaughterhouse, means the method of operation that would apply there.

Consignment of over-age animals to a slaughterhouse

10B.—(1) Subject to paragraph (2), no person shall consign to a slaughterhouse a live or dead bovine animal born or reared in the United Kingdom prior to 1st August 1996.

(a) S.I. 1996/2007; the relevant amending instrument is S.I. 2000/656.

(2) Paragraph (1) shall not prohibit a person from consigning a bovine animal to a slaughterhouse under the purchase scheme introduced under Commission Regulation (EC) No. 716/96(a) adopting exceptional support measures for the beef market in the United Kingdom, as amended by Commission Regulations (EC) No. 774/96(b), No. 1974/96(c), No. 2149/96(d), No. 1365/97(e) and No. 667/2003(f).”.

5. In regulation 23 (production of feedingstuffs containing fishmeal), for paragraphs (1), (2) and (3) substitute—

“(1) No person shall use any premises for the production of feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants other than in accordance with—

- (a) the condition contained in paragraph 2.I.B.(c) of Annex IV; or
- (b) the terms of sub-paragraphs (i) and (ii) of said paragraph 2.I.B.(c) which provide for derogation from the condition referred to in sub-paragraph (a) above.

(2) The Scottish Ministers shall authorise premises under this regulation if, following an inspection of the premises by a veterinary inspector, they are satisfied that the premises are capable of being operated in accordance with the relevant requirements of Annex IV.

(3) In paragraphs (1) and (2), “Annex IV” means Annex IV to the Community TSE Regulation.”.

6. For regulation 25 substitute—

“Use and storage of feedingstuffs containing dicalcium phosphate or hydrolysed protein

25.—(1) Subject to paragraph (2) below, no person shall use or store any feedingstuff, other than pet food referred to in chapter 4 of Annex I to Council Directive 92/118/EEC, containing any—

- (a) dicalcium phosphate derived from defatted bones; or
- (b) hydrolysed protein,

on a farm where ruminant animals are kept, fattened or bred for the production of food.

(2) Paragraph (1) shall not apply to the use or storage of any feedingstuff containing any dicalcium phosphate derived from defatted bones or hydrolysed protein on any farm where ruminant animals are kept if measures are implemented on the farm which are sufficient to prevent the feedingstuff being fed to those ruminant animals.”.

7. After regulation 25, insert—

“Use and storage of feedingstuffs containing fishmeal

25A.—(1) In accordance with the condition contained in paragraph 2.I.B.(f) of Annex IV to the Community TSE Regulation, no person shall use or store any feedingstuffs containing fishmeal on a farm where ruminant animals are kept, fattened or bred for the production of food.

(2) Paragraph (1) shall not apply where the Scottish Ministers register premises for the use or storage of feedingstuffs containing fishmeal in accordance with paragraph (3).

(3) The Scottish Ministers shall register premises under this regulation where the occupier declares that measures are implemented on the premises in question to prevent the feeding of feedingstuffs containing fishmeal to ruminant animals.

(a) O.J. L 99, 20.4.96, p.14.
(b) O.J. L 104, 27.4.96, p.21.
(c) O.J. L 262, 16.10.96, p.2.
(d) O.J. L 288, 9.11.96, p.14.
(e) O.J. L 188, 17.7.97, p.6.
(f) O.J. L 96, 12.4.03, p.13.

Samples sent to laboratories and reporting requirements

25B.—(1) Any occupier of premises producing feedingstuffs who sends a sample to a laboratory for testing for any purpose in connection with the requirements of Annex IV of the Community TSE Regulation before 1st January 2006 shall supply in writing with the sample—

- (a) the name and address of the premises at which the sample was taken;
- (b) the date on which the sample was taken; and
- (c) the description and identity of the sample.

(2) The occupier shall also supply in writing with the sample—

- (a) confirmation of whether or not the sample was taken from a feedingstuff or an ingredient for the feeding of farmed animals—
 - (i) which has been imported from a third country, or
 - (ii) which has been, or is intended to be, placed on the market, and, if so,
- (b) details of the species of animal for which the feedingstuff or ingredient is intended.

(3) Any—

- (a) person who submits a sample to a laboratory for analysis pursuant to paragraph (1); or
- (b) occupier of a laboratory, other than the Community reference laboratory, to which a sample for analysis pursuant to paragraph (1) is submitted,

shall inform the Scottish Ministers with all practicable speed if there is any evidence arising from that sample of a breach of these Regulations or of Annex IV to the Community TSE Regulation.”.

8. In regulation 33 (removal of specified risk material from carcasses in slaughterhouses)—

(a) for paragraph (1), substitute—

“(1) In the case of a bovine animal which is slaughtered in a slaughterhouse, or slaughtered elsewhere then brought to a slaughterhouse to be dressed for human consumption, the occupier of the slaughterhouse shall ensure that—

- (a) all specified risk material, excluding the vertebral column, is removed from the carcass as soon as is reasonably practicable after the animal has been slaughtered and before the carcass is presented for inspection pursuant to regulation 37(1);
- (b) where the carcass, or any part of the carcass, contains vertebral column which is not specified risk material, the carcass, or that part, is labelled in accordance with point 14(a) of Part A of Annex XI to the Community TSE Regulation; and
- (c) where the carcass, or any part of the carcass, is not labelled in accordance with sub-paragraph (b), the carcass, or that part is consigned to cutting premises licensed under regulation 55(1)(b)(ii) as soon as reasonably practicable for the removal of the vertebral column at those premises in accordance with regulation 36(1).

(1A) No person shall label the carcass, or any part of the carcass of a bovine animal containing vertebral column which is specified risk material in accordance with point 14(a) of Annex XI to the Community TSE Regulation as if it was a carcass, or part of a carcass, containing vertebral column which is not specified risk material.”; and

(b) omit paragraph (3).

9. In regulation 36 (removal of vertebral column of bovine animals) for paragraphs (1) and (2) substitute—

“(1) Where the carcass of a bovine animal containing vertebral column—

- (a) which is not labelled in accordance with regulation 33(1)(b) is consigned as referred to in regulation 33(1)(c) above to licensed cutting premises; or

(b) is imported and transported in accordance with the Community TSE Regulation or the Community Transitional Measures to licensed cutting premises, the occupier of that cutting premises shall ensure that the vertebral column is removed from the rest of the carcass at the premises as soon as is practicable after the arrival of the carcass there and before the carcass is presented for inspection pursuant to regulation 37(3) below.

(2) In this regulation, “carcass” means—

- (a) a carcass;
- (b) a half carcass;
- (c) a half carcass cut into no more than three wholesale cuts; and
- (d) quarters,

containing no specified risk material other than the vertebral column.”.

10. In regulation 39(1) (staining of specified risk material) for “7” substitute “11”.

11. For regulation 41 (young lamb stamp), substitute—

“Young lamb stamp and young goat stamp

41.—(1) Where a sheep or a goat is slaughtered in a slaughterhouse and at the time of slaughter—

- (a) it was not more than 12 months of age; or
- (b) it had no permanent incisor erupted through the gum,

the carcass of the animal shall be marked with the young lamb stamp or the young goat stamp as appropriate.

(2) The young lamb stamp and the young goat stamp shall consist of a circular mark 5 centimetres in diameter containing in legible form in capital letters 1 centimetre high—

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

(3) No person other than—

- (a) an OVS;
- (b) an inspector; or
- (c) a meat technician acting under the responsibility of an OVS,

shall apply the young lamb stamp or the young goat stamp or possess the equipment for applying such a stamp.

(4) No person shall use a stamp resembling the young lamb stamp or the young goat stamp in such a way as to be likely to suggest that the carcass of any animal other than an animal referred to in paragraph (1) is such a carcass.

(5) In relation to any slaughterhouse or cutting premises, the Agency may appoint as meat technicians such persons as are necessary to assist the OVS and inspectors in carrying out their functions under paragraph (3).”.

12.—(1) In regulation 42(1) and (2), after “young lamb stamp”, insert “, or young goat stamp, as the case may be,”.

(2) In regulations 43(1) and 44, after “young lamb stamp”, insert “, or young goat stamp, as the case may be”.

13. In regulation 97(1) (offences and penalties), after “Regulations” insert “, or a direction of an inspector under regulation 10A,”.

14. After Schedule 1 (compensation), insert Schedule 1A set out in the Schedule to these Regulations.

St Andrew's House,
Edinburgh
28th September 2005

ROSS FINNIE
A member of the Scottish Executive

SCHEDULE

Regulation 14

“SCHEDULE 1A

Regulation 10A

REQUIREMENTS TO BE COVERED BY AGREEMENTS RELATING TO THE SLAUGHTER OF BOVINE ANIMALS OVER 30 MONTHS OF AGE

Animal identification and separation

1. There must be a reliable system for identifying on arrival at the slaughterhouse—
 - (a) bovine animals born before 1st August 1996;
 - (b) bovine animals born on or after 1st August 1996;
 - (c) bovine animals referred to in (a) or (b) which are to be slaughtered by order of a veterinary surgeon following an accident or serious physiological or functional problems;
 - (d) bovine animals referred to in (a) or (b) which are, or are suspected of, suffering from—
 - (i) a disease which is communicable to humans or animals; or
 - (ii) a disease or disorder of their general condition which is likely to make their meat unfit for human consumption;
 - (e) bovine animals referred to in (a) or (b) which have, or are suspected of having—
 - (i) had administered to them substances with pharmacological effects, or
 - (ii) consumed substances,which may make their meat unfit for human consumption.
2. There must be a reliable system for ensuring that no bovine animal born or reared in the United Kingdom before 1st August 1996 is slaughtered for human consumption.
3. Bovine animals which are over 30 months of age but born on or after 1st August 1996 must be clearly identified.
4. Bovine animals which are over 30 months of age but born on or after 1st August 1996 and the bovine animals which are 30 months of age and under must be separated into batches for separate slaughter.

Brain stem sampling

5. There must be sufficient slaughterhouse staff trained and competent in the taking, labelling, packaging and despatch of brain stem samples. Health and Safety guidelines to minimise the risk of exposure to bovine spongiform encephalopathy must be followed and hygienic facilities must be provided. Sampling procedures must not jeopardise the hygienic production of meat intended for human consumption.

Correlation of sample to carcass and all other body parts

6. There must be a reliable system for linking the brain stem sample of each bovine animal over 30 months of age to the carcass of that animal and all other parts of the body of that animal including the blood and the hide.

Retention of carcasses and all other body parts

7. Unless there is a system in place at the slaughterhouse in question which prevents contamination between carcasses, there must be a reliable system (including the provision of suitable and sufficient chiller space) for ensuring that the carcass of a bovine animal tested for bovine spongiform encephalopathy (“the tested animal”) plus the carcasses of–

- (a) the bovine animal immediately preceding the tested animal, and
- (b) the two bovine animals immediately following the tested animal,

on the slaughter line are retained in slaughter order either in a sealed chiller or on a sealed rail in an unsealed chiller, pending the receipt of the results of the rapid test.

8. Where there is a system in place at the slaughterhouse in question which prevents contamination between carcasses, there must also be a reliable system (including the provision of suitable and sufficient chiller space) for ensuring that the carcass of a bovine animal tested for bovine spongiform encephalopathy is retained in either a sealed chiller or on a sealed rail in an unsealed chiller, pending receipt of the results of the rapid test.

9. There must be a reliable system (including the provision of suitable and sufficient chiller space) for ensuring that–

- (a) all parts of the body, including the blood and the hide, but excluding the carcass (“the body parts”) of a tested animal plus the body parts of–
 - (i) the bovine animal immediately preceding the tested animal on the slaughter line, and
 - (ii) the two bovine animals immediately following the tested animal on the slaughter line, and
- (b) mixed batches of the body parts of a tested animal and any other bovine animal,

are disposed of by incineration or, with the exception of the hides, retained at the slaughterhouse until rapid test results are available.

10. Hides not retained at the slaughterhouse must be retained at premises under official control until rapid test results are available.

Delivery of sample to testing laboratory

11. Brain stem samples for testing for bovine spongiform encephalopathy must be packaged and delivered to the approved testing laboratory in a testable condition. The samples shall be packaged and labelled in accordance with packaging instructions P650 of the European Agreement Concerning the International Carriage of Dangerous Goods by Road (version applicable as from 1st January 2005)(a).

Receipt of rapid test results by the slaughterhouse

12. There must be a system for the receipt of the correct test results from the laboratory, either by fax, or by other electronic means.

Action following a positive or ‘no test’ result

13. Unless there is a system in place at the slaughterhouse in question which prevents contamination between carcasses, there must be effective arrangements to ensure that the carcass and all other parts of the body, including the blood and the hide (“the whole body”) of any bovine animal which tested positive for bovine spongiform encephalopathy (“the BSE positive animal”), plus the whole body of the bovine animal immediately preceding the BSE positive animal and of the two bovine animals immediately following the BSE

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positive animal on the slaughter line (including any batched materials), are identified and disposed of by incineration.

14. Where there is a system in place at the slaughterhouse in question which prevents contamination between carcasses, effective arrangements must be in place to ensure that the whole body of any BSE positive animal is identified and disposed of by incineration.

15. Unless there is a system in place at the slaughterhouse in question which prevents contamination between carcasses, effective arrangements must be in place to ensure that the whole body of any bovine animal, samples of which cannot be tested for any reason (“the no test animal”), plus the whole body, excluding the hide if separately identified, of the bovine animal immediately preceding the no test animal and of the two bovine animals immediately following the no test animal on the slaughter line (including any batched materials) are identified and disposed of by incineration.

16. Where there is a system in place at the slaughterhouse in question which prevents contamination between carcasses, effective arrangements must be in place to ensure that the whole body of any bovine animal, samples of which cannot be tested for any reason, is identified and disposed of by incineration.

Removal of vertebral column in cutting premises licensed under regulation 56(1)

17. Effective arrangements must be in place to ensure that the vertebral column is not removed from the carcase of a bovine animal over 30 months of age which has tested negative for bovine spongiform encephalopathy in the slaughterhouse but that it is removed from the carcase in cutting premises licensed under regulation 56(1).

Testing of the effectiveness of the controls put in place

18. Before the first occasion on which the occupier of a slaughterhouse slaughters a bovine animal over 30 months of age any part of which is intended for human consumption, there must be a test of all the control procedures referred to in the requirements set out in paragraphs 1 to 10 of this Schedule by means of a trial using bovine animals under 30 months old, which demonstrates that all of the control procedures are effective.”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the TSE (Scotland) Regulations 2002 (S.I. 2002/255) (“the principal Regulations”) which give effect in Scotland to the enforcement and administration of 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 (“TSE”) (O.J. No. L 147, 31.5.01, p.1).

In part they amend the principal Regulations in order to implement the requirements contained in Regulation (EC) No. 999/2001 for TSE testing of bovine animals aged over 30 months slaughtered for human consumption. These requirements apply in Scotland upon the revocation of the Fresh Meat (Beef Controls) (No. 2) Regulations 1996 (S.I. 1996/2097) by the Bovine Products (Restriction on Placing on the Market) (Scotland) Regulations 2005 (S.S.I. 2005/) which prohibit the placing on the market for human consumption of products (other than milk and hides) from bovine animals born or reared in the United Kingdom before 1st August 1996 (“pre-1996 animals”) with effect from 7th November 2005.

They amend the principal Regulations by bringing up to date the definition of “the Community Transitional Measures” and adding to the definition of “inspector” to cover the inspection of hides (regulation 3).

They introduce a new regulation 10A and Schedule 1A into the principal Regulations to provide for written agreements setting out the operating methods to be used in slaughterhouses for the slaughter and testing for TSE of bovine animals over the age of 30 months and intended for human consumption. They also introduce a new regulation 10B which prohibits consigning pre-1996 animals to slaughterhouses (regulations 4 and 14).

They amend regulations 23 and 25 of the principal Regulations and introduce a new regulation 25A to strengthen the controls on the use of premises for the production, use and storage of animal feedingstuffs containing fishmeal (regulations 5 to 7).

They introduce a new regulation 25B into the principal Regulations to provide for the labelling of samples of animal feedingstuffs to be sent to laboratories and for the reporting of results (regulation 7).

They amend regulations 33 and 36 of the principal Regulations to provide for the enforcement of measures contained in Regulation (EC) No. 999/2001 concerning the labelling of bovine carcasses containing vertebral column and the removal of vertebral column from such carcasses (regulations 8 and 9).

They make a consequential amendment to regulation 39 of the principal Regulations which relates to staining of specified risk material (regulation 10).

They introduce and make provision for the use of a young goat stamp so as to provide a means of differentiating between the carcasses of young goats and young lambs (regulations 11 and 12).

They also make a consequential amendment to the provision on offences to make failure to comply with a direction of an inspector under regulation 10A an offence (regulation 13).

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