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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 177**

**The Transmissible Spongiform  
Encephalopathies (Scotland) Regulations 2010**

**PART 1**

General provisions

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010 and come into force on 28th May 2010.

(2) These Regulations extend to Scotland only.

**Interpretation**

2.—(1) In these Regulations—

“approved research premises” means premises approved for research purposes by the Scottish Ministers;

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

“BSE” means bovine spongiform encephalopathy;

“bulk” means not enclosed or wrapped in packaging;

“cattle passport” has the same meaning as in the Cattle Identification (Scotland) Regulations 2007<sup>M1</sup>;

“Commission Decision 2007/411/EC” means Commission Decision 2007/411/EC<sup>M2</sup> 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;

“cutting plant” (except in Schedule 7, paragraph 9(3)(b)(iii)) has the meaning given to it in paragraph 1(17) of Annex 1 to Regulation (EC) No. 853/2004<sup>M3</sup>, and is an establishment that is—

(a) approved or conditionally approved as such by the [F<sup>1</sup>Food Standards Scotland] under Article 31(2) of Regulation (EC) No. 882/2004<sup>M4</sup>; or

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

“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<sup>M5</sup>, as read with—

(a) Commission Decision 2007/411/EC;

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- (b) Commission Decision [2007/453/EC](#) establishing the BSE status of Member States or third countries or regions thereof according to their BSE risk <sup>M6</sup>; and
- (c) Commission Decision [2009/719/EC](#) authorising certain Member States to revise their annual BSE monitoring programmes <sup>M7</sup>;

“inspector” means an inspector appointed under regulation 12, and “veterinary inspector” means a veterinary surgeon appointed by the Scottish Ministers as an inspector;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 <sup>M8</sup>;

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

“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 cutting plant;
- (e) a place that is, for the purposes of point 4.1(a) of Annex V to the EU TSE Regulation (removal of specified risk material), an other place of slaughter; and
- (f) any vehicle, container or structure (moveable or otherwise);

<sup>F2</sup> ...

“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, as read with—

- (a) Directive [2004/41/EC](#) <sup>M9</sup> 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](#);
- (b) Commission Regulation (EC) No. 1688/2005 <sup>M10</sup> 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 [<sup>F3</sup>, as last amended by [Commission Implementing Regulation \(EU\) No 1223/2011](#)];
- (c) Commission Regulation (EC) No. 2074/2005 <sup>M11</sup> laying down implementing 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 [<sup>F4</sup>, as last amended by [Commission Regulation \(EU\) 2017/1980](#)];
- (d) <sup>F5</sup>...

“Regulation (EC) No. 882/2004” means Regulation (EC) No. 882/2004 <sup>M12</sup> 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, as read with—

- (a) Commission Regulation (EC) No. 2074/2005<sup>[F6]</sup>, as last amended by Commission Regulation (EU) 2017/1980; and]
- (b) <sup>F7</sup> ...
- (c) Commission Regulation (EC) No. 669/2009 <sup>M13</sup>[<sup>F8</sup>, as last amended by Commission Implementing Regulation (EU) 2019/35];

<sup>[F9]</sup>“Regulation (EC) No 1069/2009” means Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules concerning animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation) [<sup>F10</sup>, as last amended by Regulation (EU) No 2017/625];

“Regulation (EU) No 142/2011” means Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive <sup>F11</sup>...;]

“slaughterhouse” has the meaning given to it in point 1.16 of Annex I to Regulation (EC) No. 853/2004 (definitions), and is an establishment that is—

- (a) approved or conditionally approved as such by the [<sup>F1</sup>Food Standards Scotland] under Article 31(2) of Regulation (EC) No. 882/2004 (registration/approval of feed and food business establishments); or
- (b) operating as such under Article 4(5) of Regulation (EC) No. 853/2004 (registration and approval of establishments) pending such approval;

“suspect animal” means an animal suspected of having a TSE;

“TSE” means transmissible spongiform encephalopathy; and

“TSE susceptible” means capable of having a TSE.

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

(3) Any reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000 <sup>M14</sup>, which has been recorded and is consequently capable of being reproduced.

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

### Textual Amendments

- F1** Words in reg. 2(1) substituted (1.4.2015) by [The Food \(Scotland\) Act 2015 \(Consequential and Transitional Provisions\) Order 2015 \(S.S.I. 2015/100\)](#), arts. 1(2), 2, **sch. para. 26**
- F2** Words in reg. 2 omitted (4.3.2011) by virtue of [The Animal By-Products \(Enforcement\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/171\)](#), reg. 1(1), **sch. 2 para. 52(a)**
- F3** Words in reg. 2(1) inserted (23.5.2019) by [The Transmissible Spongiform Encephalopathies \(Scotland\) Amendment Regulations 2019 \(S.S.I. 2019/118\)](#), regs. 1, **3(2)(a)**
- F4** Words in reg. 2(1) substituted (23.5.2019) by [The Transmissible Spongiform Encephalopathies \(Scotland\) Amendment Regulations 2019 \(S.S.I. 2019/118\)](#), regs. 1, **3(2)(b)**
- F5** Words in reg. 2(1) omitted (23.5.2019) by virtue of [The Transmissible Spongiform Encephalopathies \(Scotland\) Amendment Regulations 2019 \(S.S.I. 2019/118\)](#), regs. 1, **3(2)(c)**
- F6** Words in reg. 2(1) inserted (23.5.2019) by [The Transmissible Spongiform Encephalopathies \(Scotland\) Amendment Regulations 2019 \(S.S.I. 2019/118\)](#), regs. 1, **3(3)(a)**

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- F7** Words in reg. 2(1) omitted (23.5.2019) by virtue of The Transmissible Spongiform Encephalopathies (Scotland) Amendment Regulations 2019 (S.S.I. 2019/118), regs. 1, **3(3)(b)**
- F8** Words in reg. 2(1) inserted (23.5.2019) by The Transmissible Spongiform Encephalopathies (Scotland) Amendment Regulations 2019 (S.S.I. 2019/118), regs. 1, **3(3)(c)**
- F9** Words in reg. 2 inserted (4.3.2011) by The Animal By-Products (Enforcement) (Scotland) Regulations 2011 (S.S.I. 2011/171), reg. 1(1), **sch. 2 para. 52(b)**
- F10** Words in reg. 2(1) inserted (23.5.2019) by The Transmissible Spongiform Encephalopathies (Scotland) Amendment Regulations 2019 (S.S.I. 2019/118), regs. 1, **3(4)**
- F11** Words in reg. 2(1) omitted (23.5.2019) by virtue of The Transmissible Spongiform Encephalopathies (Scotland) Amendment Regulations 2019 (S.S.I. 2019/118), regs. 1, **3(5)**

### Marginal Citations

- M1** [S.S.I. 2007/174](#), amended by [S.S.I. 2007/312](#).
- M2** O.J. No. L 155, 15.6.2007, p.74.
- M3** O.J. No. L 139, 30.4.2004, 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), as last amended by Commission Regulation (EC) No. 219/2009 (O.J. No. L 87, 31.3.2009, p.109).
- M4** 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. 596/2009 (O.J. No. L 188, 18.7.2009, p.14).
- M5** O.J. No. L 147, 31.5.2001, p.1, last amended by Commission Regulation (EC) No. 220/2009 (O.J. No. L 87, 31.3.2009, p.155).
- M6** O.J. No. L 172, 30.6.2007, p.84, last amended by Commission Decision (EC) No. 830/2009 (O.J. No. L 295, 12.11.2009, p.11).
- M7** O.J. No. L 256, 29.9.2009, p.35, amended by Commission Decision 2010/66/EU (O.J. No. L 35, 6.2.2010, p.21).
- M8** [1994 c.39](#), amended by the [Environment Act 1995 \(c.25\)](#), section 120(1) and Schedule 22, paragraph 232(1).
- M9** 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).
- M10** O.J. No. L 271, 15.10.2005, p.17.
- M11** O.J. No. L 338, 22.12.2005, p.27, last amended by Commission Regulation (EC) No. 1250/2008 (O.J. No. L 337, 16.12.2008, p.31).
- M12** 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. 596/2009 (O.J. No. L 188, 18.7.2009, p.14).
- M13** O.J. No. L 194, 24.7.2009, p.11.
- M14** [2000 c.7](#), amended by the [Communications Act 2003 \(c.21\)](#), sections 406 and 411(2) and (3) and Schedule 17, paragraph 158.

### Appointment of competent authority

**3.** The Scottish Ministers are the competent authority for the purposes of the EU TSE Regulation except in relation to [<sup>F12</sup>paragraphs 1 to 18 of] Schedule 7 and paragraphs 1, 3 and 4 of Schedule 8 where the [<sup>F13</sup>Food Standards Scotland] are the competent authority.

#### Textual Amendments

- F12** Words in [reg. 3](#) inserted (23.5.2019) by [The Transmissible Spongiform Encephalopathies \(Scotland\) Amendment Regulations 2019 \(S.S.I. 2019/118\)](#), regs. 1, [4](#)
- F13** Words in [reg. 3](#) substituted (1.4.2015) by [The Food \(Scotland\) Act 2015 \(Consequential and Transitional Provisions\) Order 2015 \(S.S.I. 2015/100\)](#), arts. 1(2), 2, [sch. para. 26](#)

#### Exception for research

4.—(1) The provisions of Schedules 2 to 8 do not apply in relation to animals kept for the purposes of research in approved research premises.

(2) If a bovine animal, sheep or goat kept in approved research premises or its progeny dies or is killed, the occupier must dispose of it as a Category 1 animal by-product in accordance with Regulation (EC) No. [<sup>F14</sup>1069/2009] and failure to do so is an offence.

#### Textual Amendments

- F14** Words in [reg. 4\(2\)](#) substituted (4.3.2011) by [The Animal By-Products \(Enforcement\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/171\)](#), [reg. 1\(1\)](#), [sch. 2 para. 53](#)

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the The Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010, PART 1.