
STATUTORY INSTRUMENTS

2006 No. 1228

**The Transmissible Spongiform
Encephalopathies (No. 2) Regulations 2006**

PART 1

General provisions

Title, application and commencement

1. These Regulations—

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

Interpretation

2.—(1) In these Regulations—

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

“BSE” means bovine spongiform encephalopathy;

“cattle passport” has the same meaning as in the Cattle Identification Regulations 1998(1);

“Community TSE Regulation” means Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies(2), as amended by, and as read with the instruments set out in Schedule 1;

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

“local authority” means—

- (a) where there is, within the meaning of the Local Government Changes for England Regulations 1994(3), a unitary authority, that authority;
- (b) where there is not a unitary authority—
 - (i) in a metropolitan district, the council of that district;
 - (ii) in a non-metropolitan county, the council of that county or the council of a district within the county area;
 - (iii) in each London borough, the council of that borough; or
- (c) in the City of London, the Common Council;

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

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

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

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

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

“TSE” means transmissible spongiform encephalopathy.

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

Appointment of competent authority

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

Exception for research

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

(2) If a bovine animal, sheep or goat kept in approved research premises or its progeny dies or is killed, the occupier must dispose of it as a Category 1 animal by-product in accordance with Regulation (EC) No 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption⁽⁶⁾, and failure to do so is an offence.

PART 2

Introduction of Schedules

The Schedules

5. The following Schedules have effect—

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

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

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

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

PART 3

Administration and enforcement

Approvals, authorisations, licences and registrations

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

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

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

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

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

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

- (a) give her reasons in writing; and
- (b) explain the right of the applicant to make written representations to a person appointed by the Secretary of State.

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

Occupier's duty

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

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

Suspension and amendment

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

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

(2) A suspension or amendment—

- (a) shall have immediate effect if the Secretary of State considers it necessary for the protection of public or animal health; and
- (b) otherwise, shall not have effect for at least 21 days.

(3) Notification of the suspension or amendment shall—

- (a) be in writing;
 - (b) state when it comes into effect;
 - (c) give the reasons; and
 - (d) explain the right of the person who has been notified to make written representations to a person appointed by the Secretary of State.
- (4) The appeals procedure in regulation 10 then applies.
- (5) If the suspension or amendment does not have immediate effect and representations are made under regulation 10, it shall not have effect until the final determination of the appeal by the Secretary of State unless she considers that it is necessary for the protection of public or animal health for the amendment or suspension to have effect before then.

Revocations of approvals, etc.

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

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

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

Appeals procedure

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

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

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

Valuations

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

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

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

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

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

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

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

Appointment of inspectors

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

Powers of entry

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

(2) He may take with him—

- (a) such other persons as he considers necessary; and
- (b) any representative of the European Commission acting for the purpose of the enforcement of a Community obligation.

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

Powers of inspectors

14.—(1) An inspector may—

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

- (i) mark anything (including an animal) whether electronically or otherwise, for identification purposes; and
 - (j) lock or seal any container or store.
- (2) Any person who defaces, obliterates, or removes any mark or seal, or removes any lock, applied under paragraph (1) is guilty of an offence.
- (3) An inspector is not personally liable for anything he does—
- (a) in the execution or purported execution of these Regulations; and
 - (b) within the scope of his employment,
- if he acted in the honest belief that his duty under these Regulations required or entitled him to do it; but this does not affect any liability of his employer.

Notices

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

Notices restricting movement

16.—(1) If a notice is served restricting movements, an inspector may subsequently permit movement under the authority of a licence.

(2) The person transporting under the authority of a licence must carry the licence with him during movement, and produce it on demand to an inspector, and failure to do so is an offence.

Obstruction

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

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

Penalties

18. A person guilty of an offence under these Regulations is liable—

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

Offences by bodies corporate

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

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

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

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

Enforcement

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

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

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

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

Revocations

21. The following Regulations are revoked—

- (a) the Transmissible Spongiform Encephalopathies Regulations 2006(7);
- (b) the Production of Bovine Collagen Intended for Human Consumption in the United Kingdom (England) Regulations 2005(8); and
- (c) the Bovines and Bovine Products (Trade) Regulations 1999(9).

2nd May 2006

Bach
Parliamentary Under Secretary of State
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Affairs

(7) S.I. 2006/68.
(8) S.I. 2005/404.
(9) S.I. 1999/1103.