

2010 No. 801

ANIMALS, ENGLAND

ANIMAL HEALTH

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

Made - - - - - *11th March 2010*
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The Secretary of State has been designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to measures in the veterinary and phytosanitary fields for the protection of public health.

The Secretary of State makes the following Regulations under the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972 and by section 56(1) and (2) of the Finance Act 1973^(c).

The Secretary of State has carried out the consultation required by Article 9 of Regulation (EC) No 178/2002^(d) 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.

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

^(a) S.I. 1999/2027.

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

^(c) 1973 c. 51.

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

In accordance with section 56(1) of the Finance Act 1973, the Treasury consents to the making of these Regulations.

PART 1

General Provisions

Title, application and commencement

1. These Regulations—

- (a) may be cited as the Transmissible Spongiform Encephalopathies (England) Regulations 2010;
- (b) apply in England; and
- (c) come into force on 6th April 2010.

Interpretation

2.—(1) In these Regulations—

- “approved sampling site” has the meaning given to it in paragraph 11(2) of Schedule 2;
- “approved testing laboratory” has the meaning given to it in paragraph 10(3) 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 Identification Regulations 2007(a);
- “Commission Decision 2007/411/EC” means Commission Decision 2007/411/EC(b) 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;
- “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(c), and is an establishment that is approved or conditionally approved as such by the Food Standards Agency(d) under Article 31(2) of Regulation (EC) No 882/2004(e), or 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(f) of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies, as read with—

- (a) Commission Decision 2007/411/EC; and

(a) S.I. 2007/529.

(b) OJ No L 155, 15.6.2007, p 74.

(c) OJ No L 139, 30.04.2004, p 55. The revised text of Regulation (EC) No 853/2004 is now set out in a Corrigendum (OJ No L 226, 25.6.2004, p 22), which should be read with a further Corrigendum (OJ No L 204, 4.8.2007, p 26), as last amended by Commission Regulation (EC) No 1020/2008 amending Annexes II and III to Regulation (EC) No 853/2004 of the European Parliament and the Council laying down specific hygiene rules for food of animal origin and Regulation (EC) No 2076/2005 as regards identification marking, raw milk and dairy products, eggs and egg products and certain fishery products (OJ No L 277, 18.10.2008, p 8).

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

(e) 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), 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).

(f) OJ No L 147, 31.5.2001, p 1, as last amended by Commission Regulation (EC) No 571/2008 (OJ No L 161, 20.6.2008, p 4).

- (b) Commission Decision 2007/453/EC(a) establishing the BSE status of Member States or third countries or regions thereof according to their BSE risk;
- (c) Commission Decision 2009/719/EC(b) authorising certain Member States to revise their annual BSE monitoring programme;

“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(c), 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;

“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(d) of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption, as read with—

- (a) Commission Regulation (EC) No 811/2003(e) 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) Commission Regulation (EC) No 878/2004(f) 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; and
- (c) Commission Regulation (EC) No 92/2005(g) 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;

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

(a) OJ No L 172, 30.6.2007, p 84 as last amended by Commission Decision 2009/830/EC (OJ No L 295, 12.11.2009, p 11).
 (b) OJ No L 256, 29.9.2009, p 35, as last amended by Commission Decision 2010/66/EU (OJ No L 35, 6.2.2010, p 21).
 (c) S.I. 1994/867 to which there are amendments not relevant to these Regulations.
 (d) OJ No L 273, 10.10.2002, p 1, as last amended by Commission Regulation (EC) No 523/2008 (OJ No L 153, 12.6.2008, p 23). Commission Regulation (EC) No 1069/2009 (OJ No L 300, 14.11.2009 p. 1) will repeal and replace Regulation (No) 1774/2002 on 4 March 2011.
 (e) OJ No L 117, 13.5.2003, p 14.
 (f) OJ No L 162, 30.4.2004, p 62, as amended by Regulation (EC) No 1877/2006 (OJ No L 360, 19.12.2006, p 133).
 (g) OJ No L 19, 21.1.2005, p 27, as last amended by Regulation (EC) No 1576/2007 (OJ No L 340, 22.12.07, p 89).

- (a) Directive 2004/41/EC(a) 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(b) 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;
- (c) Commission Regulation (EC) No 2074/2005(c) 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(d) of the European Parliament and of the Council and amending Regulations (EC) No 853/2004 and (EC) No 854/2004; and
- (d) Commission Regulation (EC) No 2076/2005(e) 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;

“Regulation (EC) No 882/2004” means the Regulation 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; and
- (b) Commission Regulation (EC) No 2076/2005;

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

“TSE” means transmissible spongiform encephalopathy.

(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.

Appointment of competent authority

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

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 premises approved for that purpose under this regulation by the Secretary of State.

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

(b) OJ No L 271, 15.10.2005, p 17.

(c) OJ No L 338, 22.12.2005, p 27, as last amended by Commission Regulation (EC) No 1022/2008 amending Regulation (EC) No 2074/2005 as regards the total volatile basic nitrogen (TVB-N) limits (OJ No L 277, 18.10.2008, p 18).

(d) OJ No L139 30.4.2004 p 1).

(e) OJ No L 338, 22.12.2005, p 83, as last amended by Commission Regulation (EC) No 1023/2008 amending Regulation (EC) No 2076/2005 as regards the extension of the transitional period granted to food business operators importing fish oil for human consumption (OJ No L 277, 18.10.2008, p 21).

(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, 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 (control and eradication of TSE in animals that are not bovine, ovine or caprine);
 - (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 3

Administration and Enforcement

Approvals, authorisations, licences or registrations

6.—(1) The Secretary of State must grant an approval, authorisation, licence or registration under these Regulations if the Secretary of State is satisfied that the provisions of the EU 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 EU TSE Regulation and these Regulations will be complied with; or
- (b) protect public or animal health.

(4) Where refusing to grant an approval, authorisation, licence or registration, or granting one subject to conditions, the Secretary of State must—

- (a) give reasons in writing; and
- (b) explain that the applicant has the right 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 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

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) the Secretary of State is satisfied that the provisions of the EU TSE Regulation or of these Regulations are not being complied with.

(2) The Secretary of State may amend an approval, authorisation, licence or registration granted under these Regulations if the Secretary of State considers it necessary in the light of technical or scientific developments.

(3) A suspension or amendment—

- (a) may have immediate effect if the Secretary of State considers it necessary for the protection of public or animal health; and
- (b) otherwise, may have effect after the expiration of at least 21 days.

(4) Notification of the suspension or amendment 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 Secretary of State.

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

(6) If the suspension or amendment 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 Secretary of State unless the Secretary of State 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, authorisations, licences or registrations

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

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

(2) Notification of the revocation 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 Secretary of State.

(3) 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

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

(2) The Secretary of State may also make written submissions to the appointed person concerning the decision.

(3) The appointed person must then report in writing to the Secretary of State.

(4) The Secretary of State must give to the appellant written notification of the Secretary of State's 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 on a valuation.

(3) If the owner and the Secretary of State cannot agree on a valuation, they may jointly nominate a valuer to carry out a valuation.

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

(5) The valuer must carry out the valuation and submit it and any other relevant information and documentation to the Secretary of State, and provide 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.

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

Appointment of inspectors

12.—(1) Except as specified in paragraph (2), the Secretary of State and the local authority may appoint inspectors for the purposes of enforcing these Regulations.

(2) The Food Standards Agency may 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 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 the 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 the inspectors found them.

(6) If a justice of the peace, on sworn information 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 justice 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 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 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 them such assistance as the inspector may reasonably require (including providing them 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) 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 constitute, or 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 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 inspectors 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 of any animal or product, inspectors may subsequently permit movement under the authority of a licence.

(2) The person transporting the animal or product under the authority of a licence must carry the licence with them during any 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 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.

Corporate offences

19.—(1) If an offence under these Regulations committed by a body corporate is shown—

- (a) to have been committed with the consent or connivance of an officer; or
- (b) to be attributable to any neglect on their part,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with their functions of management as if they were a director of the body.

(3) If an offence under these Regulations committed by a partnership is shown—

- (a) to have been committed with the consent or connivance of a partner; or
- (b) to be attributable to any neglect on their part,

the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(4) If any offence under these Regulations committed by an unincorporated association, other than a partnership, is shown—

- (a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body; or
- (b) to be attributable to any neglect on the part of such an officer or member,

that officer or member as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) In this regulation—

- (a) “officer”, in relation to a body corporate or unincorporated association, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity; and
- (b) “partner” includes a person purporting to act as a partner.

Enforcement

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

(2) The Food Standards Agency enforces Schedule 7 and paragraphs 1, 3 and 4 of Schedule 8 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 must be discharged by the Secretary of State and not by the local authority.

Amendment of the Animal By-Products (Identification) Regulations 1995

21.—(1) The Animal By-Products (Identification) Regulations 1995(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 (England) Regulations 2010, it is an offence for any person to place on the market or export (or offer to export) to third countries; and
- (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 12(3) of Schedule 2 to the Transmissible Spongiform Encephalopathies (England) Regulations 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 amendment

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

Revocations

23. The following Regulations are revoked—

- (a) The Transmissible Spongiform Encephalopathies (England) Regulations 2008(c);
- (b) The Transmissible Spongiform Encephalopathies (Fees) (England) Regulations 2008(d); and
- (c) The Transmissible Spongiform Encephalopathies (England) (Amendment) Regulations 2008(e).

8th March 2010

Jim Fitzpatrick
Minister of State
Department for Environment, Food and Rural Affairs

(a) S.I. 1995/614, as last amended by S.I. 2009/1119.
(b) S.I. 2009/3255.
(c) S. I. 2008/1881.
(d) S. I. 2008/2269.
(e) S. I. 2008/3295.

11th March 2010

Tony Cunningham
Frank Roy
Two of the Lord Commissioners of
Her Majesty's Treasury

SCHEDULES

SCHEDULE 1

Regulation 2(3)

Ambulatory References

The EU instruments that 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(a)

TSE Monitoring

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PART 1
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) notify the Secretary of State within 24 hours from the time when the animal died or was killed or the body came into their possession or under their control; and
- (b) where the Secretary of State directs, detain it until it has been collected by or on behalf of the Secretary of State,

and failure to do so is an offence.

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

Delivery 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, unless directed otherwise by the Secretary of State, within 24 hours either—

- (a) make arrangements with another person for that person to collect it and to deliver it to an approved sampling site within 72 hours; or
- (b) identify an approved sampling site that will carry out the sampling and deliver the animal to that site so as to arrive at the site within 72 hours,

and failure to do so is an offence.

(2) The periods of 24 and 72 hours referred to in sub-paragraph (1) run 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 that sub-paragraph apply.

Persons collecting and delivering

3. A person with whom arrangements are made under paragraph 2 for the delivery of a body to an approved sampling site must, unless directed otherwise by the Secretary of State, within 48 hours of the time when the body comes into their possession or under their control—

- (a) identify an approved sampling site that will carry out the sampling; and
- (b) ensure it is delivered to that site,

and failure to do so is an offence.

Destruction without sampling

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

Retention of bodies of bovine animals pending test results

5. An approved sampling site to which the body of a bovine animal has been sent for sampling in accordance with this Part must retain it in accordance 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

6.—(1) The requirements of paragraphs 1(1) and 2 do not apply in relation to an animal that has died or been killed in the Isles of Scilly, the Isle of Wight or Lundy Island.

(2) The exemption in sub-paragraph (1) continues to apply even if the body of the animal has been removed from the Isles of Scilly, the Isle of Wight or Lundy Island, as the case may be.

Consignment and slaughter of an over-age bovine animal

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

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

(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 its cattle passport 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)

8.—(1) The occupier of a slaughterhouse, 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 or (if the animal is slaughtered at a place other than a 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 Secretary of State must, by means of a notice, 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 Secretary of State may serve a notice on the occupier of a slaughterhouse requiring them to take a sample from any bovine animal slaughtered there and send it for testing in accordance with subparagraph (1).

Brain stem sampling of bovine animals (other places of slaughter)

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

and failure to do so is an offence.

Approval of laboratories

10.—(1) The Secretary of State must approve laboratories to test samples taken under paragraph 8 if the Secretary of State 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 Secretary of State.

(2) The Secretary of State may charge the fees set out in the following table for the initial approval and ongoing quality assessment of a laboratory—

Fees

<i>Laboratory approvals and quality assessments</i>	<i>Fee (£)</i>
Initial approval	29,770
Annual proficiency testing and follow-up inspection for the first year after approval	8,834
Annual proficiency testing from the second year after approval	4,135
Single proficiency test (in the event of a failure in the annual proficiency testing)	1,385
Hourly rate of an inspector (for any additional inspections that are necessary to check for compliance with the matters set out at subparagraphs (1)(a) to (c))	87.24

(3) For the purposes of this paragraph and paragraphs 8 and 9, an “approved testing laboratory” means—

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

Approved sampling sites

11.—(1) The Secretary of State must on application approve a sampling site to sample animals to which paragraph 2 applies if satisfied that the sampling site has adequate control procedures to carry out the sampling.

(2) An “approved sampling site” in this Part means a sampling site approved under this paragraph or a sampling site in another part of the United Kingdom approved by the competent authority in that part of the United Kingdom to carry out sampling for the same purpose.

Slaughter of bovine animals

12.—(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 BSE testing at slaughter, unless the Secretary of State has approved the Required Method of Operation (“RMOP”) for that slaughterhouse and that occupier.

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

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

(3) The Secretary of State must approve the RMOP if 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 during 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 referred to in 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

13.—(1) In relation to any sampled bovine animal, 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 all carcasses and all parts of the body (including the blood and the hide) that will have to be disposed of in the event of a positive result; or
- (b) dispose of them in accordance with sub-paragraph (2).

(2) For the purposes of points 6(4) and 6(5) of that Part, if a positive result is received for a sampled animal, 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 (5), the carcass and all parts of the body (including the blood and the hide) of the animal immediately preceding that animal on the slaughter line and the two animals immediately following it,

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

(3) If no sample has been sent to, or no sample has been received by, an approved testing laboratory for testing in accordance with paragraph 8 and 9 of this Schedule, or if an insufficient test result is received, in respect of an animal required to be tested under this Schedule, the occupier must immediately dispose of—

- (a) the carcass and all parts of the body (including the blood and the hide) of that animal; and
- (b) unless a derogation has been granted under sub-paragraph (5), the carcass and all parts of the body (including the blood but not the hide) of the animal immediately preceding that animal on the slaughter line and the two animals immediately following it,

in accordance with point 6(4) of that Part; and for the purposes of this sub-paragraph an “insufficient 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.

(4) If a no-test result is received, in respect of an animal required to be tested under this Schedule, the occupier must immediately dispose of the carcass and all parts of the body (including the blood and the hide) of that animal in accordance with point 6(4) of that Part; and for the purposes of this sub-paragraph a “no-test result” means a negative result from a sample following multiple rapid testing where such testing was certified as necessary by an approved testing laboratory.

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

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

TSE sampling of sheep, goats and deer

14.—(1) In relation to any sheep or goat selected for sampling, 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 2005; 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 Secretary of State requiring the carcass to be sampled at the premises.

(3) In relation to any deer selected for monitoring for TSE in accordance with Part III of Chapter A of Annex III to the EU TSE Regulations, 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

15.—(1) If an animal slaughtered for human consumption tests positive, the Secretary of State must pay to the occupier of the slaughterhouse or other place of slaughter compensation for the carcass and all parts of the body (including the blood and the hide) of—

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

(2) The compensation is the market value, and if a market value cannot be agreed the valuation must be established in accordance with the procedure laid down in regulation 11(3) to (8) (reading

the word “occupier” wherever “owner” is mentioned in those paragraphs), with the occupier paying any valuation fee arising.

(3) For the purposes of sub-paragraph (2), the market value is the price that would reasonably be expected to have been obtained for the animal from a buyer in the open market at the time of the valuation, and on the assumption that the animal was not affected by a TSE.

PART 2

Contents of an RMOP

Animal identification and separation

16.—(1) The RMOP (as specified in paragraph 12) 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 BSE testing, to be identified and ensures that 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 or reared in the United Kingdom on or after 1st August 1996.

(3) The RMOP must also describe the system that ensures that animals to which sub-paragraphs (1)(b) and (c) applies are—

- (a) batched together before slaughter separately from those not referred to in sub-paragraphs (1)(b) and (c); and
- (b) slaughtered in 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 or reared in the United Kingdom before 1st August 1996 unless its cattle passport 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

17.—(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 a TSE during brain stem sampling and packaging will be complied with.

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

18. The RMOP must describe the system linking the brain stem sample of each bovine animal to which paragraph 16(1)(b) and (c) of this Schedule 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

19. The RMOP must describe—
- (a) the system that ensures that all carcasses retained in accordance with paragraph 13(1) of this Schedule are retained 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;
 - (b) the system that ensures that the chronological order in which the animals were slaughtered can be determined; 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

20. 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 13(1) of this Schedule.

Disposal before receipt of the result

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

Other measures following sampling

22. 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 on and after 1st January 2005)(a);
 - (b) BSE test results are received, either by fax or by other electronic means; and
 - (c) everything required to be disposed of in accordance with point 6(4) or 6(5) of Part I of Chapter A of Annex III to the EU TSE Regulation or under paragraph 13(2), (3) or (4) of this Schedule is identified and disposed of accordingly.

SCHEDULE 3

Regulation 5(b)

Control and eradication of TSE in bovine animals

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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 control any bovine animal suspected of being affected by a TSE must immediately notify the Secretary of State and detain it on the premises until it has been examined by a veterinary inspector.

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

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

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

Restriction of a notified animal

2.—(1) If an animal is the subject of a notification under paragraph 1 a veterinary inspector may serve a notice prohibiting its movement from the premises pending determination of whether or not it is suspected of being infected with a TSE.

(2) Movements of restricted animals 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 bovine animal is infected with a TSE, the veterinary inspector must either—

- (a) kill it on the holding immediately;
- (b) remove its cattle passport and serve a notice prohibiting the animal from being moved from the holding until it has been killed; or
- (c) ensure that its cattle passport is stamped “Not for human consumption” and serve a notice directing the occupier to consign it to other premises for killing and prohibiting movement other than in accordance with that direction.

(2) The veterinary inspector must restrict the movement of other bovine animals on the holding 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.

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

(4) If the animal is killed on the holding, it is an offence to remove the body from that holding except in accordance with a written direction from an inspector.

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) a veterinary inspector suspects that a bovine animal is infected with a TSE;
- (b) the monitoring of carcasses under Part 1 of Schedule 2 of these Regulations, or under Annex III to the EU TSE Regulation, confirms that an animal is suspected of being infected with a TSE; or
- (c) the competent authority of another part of the United Kingdom or another member State notifies the Secretary of State that a bovine animal is suspected of being infected with a TSE,

an inspector must identify—

(d) (if the suspect animal is female) all its offspring born within two years prior to, or after, clinical onset of the disease; and

(e) (in all cases) all its bovine cohorts born on or after 1st August 1996,

and for these purposes the animal's date of birth is the one shown on its cattle passport.

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

(3) If the animals in sub-paragraph (1) cannot be immediately identified an inspector may prohibit the movement of any bovine animal from the holding pending identification.

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

Action following confirmation

5.—(1) In accordance with Article 13(1)(c) of, and point 2 of Annex VII to, the 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 suspect animal was infected 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 to be killed in accordance with this paragraph, but is not to be killed on the holding, an inspector must ensure that its passport is stamped "Not for human consumption" and must direct the owner in writing to consign it to other premises for killing as specified in the direction.

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

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

Death while under restriction

6. If any animal dies or is killed while it is under restriction for any reason under this Schedule, the owner must immediately notify the Secretary of State, and retain the body on the premises until directed to move or dispose of it by an inspector, and it is an offence not to comply with this paragraph or to fail to comply with a direction under it.

Placing on the market of bovine progeny

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

When compensation is payable

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

Amount of compensation payable

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

- (a) for a pedigree animal, in the twenty-four weeks before the date of its valuation; and
- (b) for any other bovine animal, in the four weeks before the date of its valuation.

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

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

Categories

<i>Male</i>	<i>Female</i>
Beef Sector — non-pedigree animal	
Up to and including 3 months	Up to and including 3 months
Over 3 months up to and including 6 months	Over 3 months up to and including 6 months
Over 6 months up to and including 9 months	Over 6 months up to and including 9 months
Over 9 months up to and including 12 months	Over 9 months up to and including 12 months
Over 12 months up to and including 16 months	Over 12 months up to and including 16 months
Over 16 months up to and including 20 months	Over 16 months up to and including 20 months
Over 20 months	Over 20 months
Breeding bulls	Calved
Other	Not calved
Dairy Sector — non-pedigree animal	
Up to and including 3 months	Up to and including 3 months
Over 3 months up to and including 6 months	Over 3 months up to and including 6 months
Over 6 months up to and including 12 months	Over 6 months up to and including 12 months
Over 12 months up to and including 16 months	Over 12 months up to and including 16 months
Over 16 months up to and including 20 months	Over 16 months up to and including 20 months

(a) OJ No L 125, 12.5.1984, p 58.

Over 20 months	Over 20 months	Calved	Not Calved
Beef Sector — pedigree animal			
6 months up to and including 12 months	6 months up to and including 12 months		
Over 12 months up to and including 24 months	Over 12 months up to and including 24 months		
Over 24 months	Over 24 months (not calved)		
	Calved under 36 months		
	Calved 36 months and over		
Dairy Sector — pedigree animal			
Up to and including 2 months	Up to and including 2 months		
Over 2 months up to and including 12 months	Over 2 months up to and including 10 months		
Over 12 months up to and including 24 months	Over 10 months up to and including 18 months		
Over 24 months	Over 18 months (not calved)		
	Calved under 36 months		
	Calved 36 months and over		

Exceptions

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

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

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

(3) For the purposes of this paragraph, the market value is the price that would reasonably be expected to have been obtained for the animal from a buyer in the open market at the time of the valuation, and on the assumption that the animal was not affected by a TSE.

(4) Where the owner and the Secretary of State cannot agree on a market value the 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 4

Regulation 5(c)

Control and eradication of TSE in sheep and goats

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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 control any sheep or goat suspected of being infected with a TSE must immediately notify the Secretary of State and detain it on the premises until it has been examined by a veterinary inspector.

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

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

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

Restriction of a notified animal

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

(2) Movements of restricted animals 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 infected with a TSE, they must either—

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

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

Movement restrictions

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

- (a) must serve a notice prohibiting the movement onto or from its holding of any sheep or goat on the same holding as the suspect sheep or goat if the inspector considers that the sheep or goat was exposed to a TSE on that holding;
- (b) may serve a notice prohibiting the movement onto or from any holding of any sheep or goat if there is evidence that the suspect animal was exposed to a TSE on that holding;
- (c) may serve a notice prohibiting movement onto or from a holding 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 sheep or goat milk, or sheep or goat milk products, derived from any sheep or goat present on any holding referred to in subparagraphs (a) to (c).

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

(3) To avoid doubt, a notice served under paragraph (1)(d) does not prohibit the use of milk or milk products within the holding.

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

Action where TSE is not confirmed

5. If it is confirmed that the sheep or goat was not infected with a TSE, the inspector must, as soon as reasonably possible, remove all restrictions imposed because the sheep or goat was suspected of being infected with a TSE.

Confirmation of TSE in sheep

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

(2) The Secretary of State, after—

- (a) carrying out the inquiry specified in Article 13(1)(b) of, 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 to that Regulation the Secretary of State intends to exercise.

(3) The Secretary of State must then serve a notice on the occupier of the holding informing the occupier of which of those options the Secretary of State 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.

Confirmation of TSE in goats

7.—(1) This paragraph applies if it is confirmed that a suspect goat, or a body of a goat monitored under Annex III to the EU TSE Regulation, is infected with a TSE, and BSE is

excluded in accordance with the procedure set out in Chapter C, point 3(2)(c) of Annex X to that Regulation, except where the Secretary of State decides to exercise the power in paragraph 10(3).

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

(3) The appeals procedure in regulation 10 applies.

Use of milk and 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 and milk products must not—

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

(3) Milk and 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 farms 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 transporting any feedingstuffs intended for ruminants, be thoroughly cleaned so as to avoid cross-contamination, in accordance with a procedure approved by the Secretary of State.

(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 suspect 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 Chapter C, point 3(2)(c) of Annex X to that Regulation.

(2) The Secretary of State, after carrying out the inquiry specified in Article 13(1)(b) of, and point 1(b) of Annex VII to, the EU TSE Regulation, must serve a notice on the occupier of the holding informing them of the Secretary of State’s intention to have the animals killed and destroyed, and the embryos and ova destroyed and the milk and milk products destroyed, in accordance with Article 13(1)(c), and point 2(3)(a) of Annex VII to that Regulation.

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

(4) The appeals procedure in regulation 10 applies.

Confirmation of atypical scrapie in sheep or goats

10.—(1) This paragraph applies if the TSE confirmed in a suspect 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 Chapter C, Point 3(2)(c) of Annex X, to that Regulation.

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

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

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

(4) The Secretary of State must then serve a notice on the occupier of the holding informing them of which option the Secretary of State intends to exercise.

(5) If the Secretary of State 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 (if any) 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 Secretary of State chooses the option set out in point 5(b) of Annex VII to 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 holding 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 Secretary of State; and
- (c) subject the holding 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) No person may export any live sheep or goat identified under sub-paragraph (6) or embryos or ova from such animals to another member State or third country, and failure to comply with this sub-paragraph is an offence.

(8) The appeals procedure in regulation 10 applies.

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

Derogation

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

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

(2) The Secretary of State 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 Secretary of State may decide upon, or consent to, a delay of up to five breeding years.

(4) The Secretary of State 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 Secretary of State must provide the applicant with a decision in writing, stating that the Secretary of State—

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

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

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

Time for appeals

12. The Secretary of State must not have killed any sheep or goat, or have destroyed any ovum or embryo, under this Schedule 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.

Killing and destruction following confirmation

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

(2) If an animal is not killed on the holding, 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 under this paragraph, it is an offence to remove the body from the premises on which it was killed except in accordance with a written direction from an inspector.

Infected animals from another holding

14. For the purposes of point 2(4) of Annex VII to the EU TSE Regulation, if the infected animal was introduced from another holding, the Secretary of State may act in accordance with this Schedule in relation to the holding of origin in addition to, or instead of, the holding on which infection was confirmed.

Common grazing

15. In the case of infected animals on common grazing, the Secretary of State may limit a notice under paragraph 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 a holding

16. Where more than one flock is kept on a single holding, the Secretary of State may limit a notice under paragraph 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 the holding, the previous occupier must ensure that the subsequent occupier is made aware of the existence and contents of any notice served under this Schedule, and failure to do so is an offence.

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

Introduction of animals onto a holding

18. Any person who introduces an animal onto a holding 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 animals from a holding

20. Any person who moves an animal from a holding 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 Secretary of State giving written notification of those dates to the occupier of the holding.

Death while under restriction

22. If any animal aged 18 months or over dies or is killed while it is under restriction for any reason under this Schedule or Annex VII to the EU TSE Regulation, the owner must immediately notify the Secretary of State, and retain the body on the premises until they are directed to move or dispose of it by the Secretary of State, and it is an offence not to comply with this paragraph or to fail to comply with a direction under it.

Placing on the market of progeny of BSE-affected sheep and goats

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, a TSE in contravention of Article 15(2) of, 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 Secretary of State must pay compensation in accordance with this paragraph for a sheep or goat killed as a suspect animal.

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

- (a) £30 in the case of an animal at the end of its productive life; and
- (b) £90 in any other case.

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

- (a) the amount that would have been payable under this paragraph if it had been confirmed the animal was affected with a TSE; and
- (b) such sum as appears to the Secretary of State, having regard to any information provided by the owner of the animal and any other relevant information, to reflect the market value of the animal, subject to a maximum sum of £400 for each animal.

Compensation for animals killed or products destroyed following confirmation of TSE

25. The Secretary of State must pay compensation to the owner of animals killed and products (other than those 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>
Male sheep or goat	90
Female sheep or goat	65
Lamb (under 12 months old) or kid (under 12 months old)	40
Embryo	150
Ovum	5

Valuations

26.—(1) If the owner of an animal or product 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.

(2) When carrying out a valuation under regulation 11(5) the valuer must value the animal or product at the price that might reasonably have been obtained for it at the time of valuation from a buyer in the open market as if the animal, or product was not from a flock or herd affected by TSE.

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

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

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

(3) If the owner of 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(d)

Control and eradication of TSE in animals that are not bovine, ovine or caprine

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Notification

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

(2) Any veterinary surgeon who examines or inspects any such animal must, with all practical speed, notify the Secretary of State of that examination or inspection.

(3) Any person (other than the Secretary of State) who examines the body of an 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 Secretary of State, and retain the body and any parts of it until a veterinary inspector has authorised disposal.

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

Restriction of a notified animal

2.—(1) If an animal is the subject of notification under paragraph 1, a veterinary inspector may serve a notice prohibiting the movement of that animal from its holding, pending determination of whether or not it is suspected of being infected with a TSE.

(2) Movements of restricted animals 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 infected with a TSE, they may either—

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

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

Compensation

4.—(1) Where an animal is killed under paragraph 3, the Secretary of State must pay compensation.

(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 must be the price that would reasonably be expected to have been obtained for the animal from a buyer in the open market at the time of the valuation and on the assumption that the animal was not affected by a TSE.

(4) Where the owner and the Secretary of State cannot agree on a market value the 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 6

Regulation 5(e)

Feedingstuffs

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PART 1

Restrictions on feeding proteins to animals

Prohibition on feeding animal protein to ruminants

1.—(1) For the purposes of Article 7(1) and point (b) of Part I of Annex IV to the 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) and, if authorised by the Secretary of State following a risk assessment, point A(d) of Part II of Annex IV to that Regulation.

(2) It is an offence to bring onto any premises where ruminant animals are kept, or to possess on such premises, anything (other than food intended for human consumption) prohibited by sub-paragraph (1) except—

- (a) in accordance with paragraph 3; or
- (b) where authorised by an inspector and where suitable measures are in place to ensure that ruminant animals do not have access to the animal protein specified in the authorisation.

(3) Sub-paragraph (2) does not apply where the premises are registered to use and store the relevant animal protein under paragraph 8(6), 9(6)(b), 11(5) or 13(9).

(4) 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 the prohibition in 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 Secretary of State following a risk assessment in accordance with point A(d) of that Part.

(4) In this paragraph “protein” includes any feedingstuffs containing animal protein.

(5) It is an offence to bring onto any premises where any animals specified in sub-paragraph (1)(a) are kept anything, other than food intended for human consumption, prohibited by this paragraph, or to possess it on such premises, except—

- (a) in accordance with paragraph 3; or
- (b) where 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 and the Animal By-Products Regulations 2005(a) and paragraph 19,

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

(2) The conditions are that—

- (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 never have access to petfood, and 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 2005.

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 that 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,

they 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 its passport.

(a) S. I. 2005/2347.

Slaughter of animals

5.—(1) Where an inspector appointed by the Secretary of State 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, they may serve a notice on the owner or person in charge of the animal in accordance with regulation 15.

(2) The notice may either—

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

(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 Secretary of State may pay compensation if the Secretary of State considers it appropriate in all the circumstances and must give the decision on whether or not to pay compensation in writing.

(2) The appeals procedure in regulation 10 applies in relation to the decision.

(3) The compensation for—

- (a) a bovine animal is the value established in accordance with paragraphs 9 and 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, with the owner paying any fee arising from nominating and employing a valuer.

Slaughter or sale for human consumption

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

PART 2

Production of protein and feedingstuffs

Fishmeal for feeding to non-ruminant farmed animals

8.—(1) Any person producing fishmeal intended for feeding to non-ruminant farmed animals must do so in accordance with point B(a) of Part II of Annex IV to the 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 Secretary of State for the purposes of that point;
- (b) in accordance with point B(c)(i) of that Part, for home compounders registered by the Secretary of State for the purposes of that point; or
- (c) in accordance with point B(c)(ii) of that Part, in premises authorised by the Secretary of State for the purposes of that point.

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

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

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

Fishmeal for feeding to unweaned, ruminant farmed animals

9.—(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 Secretary of State 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 farm 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 Secretary of State in accordance with the second sentence of point BA(g) of that Part.

Offences relating to fishmeal and feedingstuffs containing fishmeal

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

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

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

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

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

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

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

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

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

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

12.—(1) Failure to comply with paragraph 11 is an offence.

(2) It is an offence for a home compounder registered under paragraph 11(1)(b) to—

- (a) keep ruminants;
- (b) consign feedingstuffs containing dicalcium phosphate or tricalcium phosphate (whether complete or partly complete) from their holding; or
- (c) use feedingstuffs containing dicalcium phosphate or tricalcium phosphate with a phosphorus content of 10% or more in the production of complete feedingstuffs.

(3) It is an offence for any person producing feedingstuffs in accordance with point C(a)(ii) of Part II of Annex IV to the 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

13.—(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 Secretary of State for the purposes of point D(a) of Part II of Annex IV to the EU TSE Regulation and that the slaughterhouse either—

- (i) is not used to slaughter ruminants; or
- (ii) has in place a control system in accordance with the second paragraph of point D(a) of that Part to ensure that ruminant blood is kept separate from non-ruminant blood and has been authorised for the purpose by the Secretary of State.

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

(3) Any person producing blood products or blood meal must do so in accordance with either the first or the second paragraph of point D(b) of that Part.

(4) Any person producing 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 paragraph to ensure that products of ruminant origin are kept separate from products of non-ruminant origin; and
- (b) be authorised by the Secretary of State for the purpose.

(5) Any person producing feedingstuffs containing blood products or blood meal must do so—

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

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

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

(8) 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.

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

Offences relating to feedingstuffs containing blood products or blood meal

14.—(1) Failure to comply with paragraph 13 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—

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

- (5) It is an offence for a home compounder registered under paragraph 13(5)(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 holding; or
 - (d) use feedingstuffs containing blood products or blood meal with a total protein content of 50% or more in the production of complete feedingstuffs.

Change in use of equipment

15.—(1) It is an offence to use equipment used to produce feedingstuffs for non-ruminant animals under paragraph 8, 11 or 13, 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 9, 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

16.—(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 Secretary of State for that purpose.

Conditions applying to the manufacture and transport of petfood or feedingstuffs

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

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

Export of processed animal protein to third countries

18.—(1) In accordance with point E(1) of Part III of Annex IV to the EU TSE Regulation it is an offence to export 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 proteins 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 that Part and an agreement in writing between the Secretary of State and the competent authority of the third country.

Fertilisers

19.—(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 being used 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 or osier land, and 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

20.—(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

21.—(1) Any person who supplies—

- (a) an ingredient, or
- (b) a feedingstuff product that is not identified for use as petfood but that 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

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Appointment of the Food Standards Agency as the competent authority

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 the occupier's 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 fails to comply with 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 feedingstuffs is guilty of an offence.

Pithing

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

Tongue harvesting

5. Any person who fails to comply with 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 fails to comply with 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 that 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 located in another part of the United Kingdom and authorised under the corresponding provision applicable in that part; or
- (c) another 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 located in another part of the United Kingdom and authorised under the corresponding provision applicable in that part; or
 - (iii) in accordance with point 10(1) of Annex V to the EU TSE Regulation, a cutting plant located in another member State, provided that the Food Standards Agency has entered into a written agreement with the competent authority of the receiving member State and the dispatch is in accordance with that agreement.

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

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

(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).

- (a) “MHS”; 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 with a stamp that is or resembles a young lamb stamp or a young goat stamp unless it is an animal permitted to be marked in accordance with subparagraph (1).

Removal of spinal cord from sheep and goats

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

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

Authorisation of cutting plants by the Food Standards Agency

13.—(1) The Food Standards Agency 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 that 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 Secretary of State must be construed as references to the 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 at the plant of meat, 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 another 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 England from another member State, the importer must send it directly to a cutting plant authorised under paragraph 13(1)(a), and failure to do so is an offence.

Staining and disposal of specified risk material

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) 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 Secretary of State or the Food Standards Agency; and
- (b) the stain must be applied in such a way that the colouring is and remains clearly visible—
- (i) over the whole of the cut surface and the majority of the head in the case of the head of a sheep or goat; and
 - (ii) in the case of all other specified risk material, over the whole surface of the material.
- (3) This paragraph does not apply in relation to any specified risk material 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 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(g)

Restrictions on placing on the market and export

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(a) Colour Index is published online by the Society of Dyers and Colourists at Perkin House, 82 Grattan Road, Bradford, West Yorkshire BD1 2JB. See www.colour-index.org.

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 its cattle passport 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.

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 for sale or supply to any person in 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 its cattle passport 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.

Export to member States 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) a head or un-split carcass containing specified risk material to another 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 7 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 18(1) and (3) of Schedule 6.

(a) OJ No L 155, 15.6.2007, p74.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in England, revoke and remake with amendments the Transmissible Spongiform Encephalopathies (England) Regulations 2008 (SI 2008/1881).

These Regulations enforce Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ No L 147, 31.5.2001, p 1) as amended (“the EU TSE Regulation”). They also enforce—

- (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 (OJ No L 155, 15.6.2007, p 74);
- (b) Commission Decision 2009/719 authorising certain Member States to revise their annual BSE monitoring programme (OJ No L 256, 29.9.2009, p 35);
- (c) Commission Regulations (EC) No 956/2008 (OJ No L 260, 03.9.2008, p 8) and No 163/2009 (OJ No L 55, 27.2.2009, p 17) amending Annex IV to the EU TSE Regulation; and
- (d) Commission Regulation (EC) No 103/2008 (OJ 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 Secretary of State is the competent authority for the purposes of the EU TSE Regulation (except in Schedule 7, where the competent authority is the Food Standards Agency) (regulation 3) and provide an exception for research (regulation 4).

The provisions in Part 2 introduce Schedules 2 to 8.

Part 3 deals with administration and enforcement.

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

Regulation 11 deals with valuations.

Regulations 12 to 14 give powers to the Secretary of State, the local authority 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 to 19 deal with obstruction of an inspector, penalties, and offences by a body corporate. A person guilty of an offence under these Regulations is liable—

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

Regulation 20 details who is responsible for enforcing these Regulations.

Regulation 21 and 22 amend other Regulations.

Regulation 23 deals with revocations.

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 deals with monitoring for TSEs. Paragraph 1 provides for notification to the Secretary of State of fallen stock that must be tested for TSEs under the EU TSE Regulation. Paragraphs 2 to 5 deal with the delivery, testing and retention of bodies of bovine animals for the purposes of monitoring under Article 6 of the EU TSE Regulation. Paragraph 4 makes it an offence to destroy the body of a bovine animal to which paragraph 1 applies before it has been tested. Paragraph 6 provides that paragraphs 1 and 2 do not apply in the Isles of Scilly, the Isle of Wight or Lundy Island. Paragraph 7 makes it an offence to consign a bovine animal born or reared in the United Kingdom before 1 August 1996 to a slaughterhouse for human consumption or to slaughter such an animal for human consumption. Paragraphs 8 and 9 provide for brain stem sampling of specified bovine animals. Paragraph 10 provides for the approval of laboratories that test such brain stem samples and includes the following fees—

- (a) £29,770 for the initial approval of a laboratory;
- (b) £8,834 for annual proficiency testing and a follow-up inspection for the first year after approval;
- (c) £4,135 for annual proficiency testing from the second year after approval;
- (d) £1,385 for single proficiency test (in the event of a failure in the annual proficiency testing); and
- (e) £87.24 per hour for an inspector (for any additional inspections that are necessary to check for compliance with the terms of the approval).

Paragraph 11 deals with applications for approval as a sampling site.

Paragraph 12 creates a requirement for the occupier of a slaughterhouse (in which bovine animals that require BSE testing are slaughtered for human consumption) to have a Required Method of Operation (“RMOP”).

Paragraph 13 provides for retention of products and their disposal, paragraph 14 provides for TSE sampling in sheep, goats and deer and paragraph 15 deals with compensation.

Paragraphs 16 to 22 specify the minimum requirements that must appear in a 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 Secretary of State. Paragraphs 2 and 3 provide for the restriction and slaughter of notified and suspect animals. Paragraphs 4 and 5 deal with the offspring and cohorts of the suspect. Paragraph 6 provides for the notification and restriction of the carcasses of animals that die or are killed while under restriction, and paragraph 7 prohibits the placing on the market of offspring.

Paragraphs 8 to 10 deal with compensation.

Schedule 4

Schedule 4 deals with control and eradication of TSEs in sheep and goats. Paragraph 1 provides for notification of a suspect animal to the Secretary of State. Paragraphs 2 and 3 provide for the restriction and slaughter of the suspect. Paragraphs 4 and 5 deal with movement restrictions. Paragraphs 6 to 10 provide for action following confirmation. Paragraph 11 deals with derogations from the usual requirements 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 holding, common grazing and multiple flocks on a holding. 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 holding. Paragraph 19 regulates the use of ovine germinal products, and paragraph 20 restricts the movement of animals from a holding.

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 first generation progeny, semen, embryo, and ovum of animals that are either suspected of, or confirmed with, a TSE. Paragraph 24 deals with compensation for a sheep or goat slaughtered as a suspect animal. Paragraph 25 sets out a table of compensation for animals killed or products destroyed following confirmation of TSE. Paragraph 26 provides a process for dealing with disputed valuations. Paragraph 27 provides for compensation for milk and milk products destroyed as a result of inability to exclude BSE from sheep or goats.

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

Paragraphs 8 to 10 regulate the production and use of fishmeal for feeding to non-ruminant animals and unweaned, ruminant farmed animals. Paragraphs 11 and 12 regulate feedingstuffs containing dicalcium phosphate or tricalcium phosphate. Paragraphs 13 and 14 regulate feedingstuffs containing blood products and blood meal.

Paragraph 15 makes provision for changes in use of equipment. Paragraphs 16 and 17 control the manufacture, storage and transport of processed animal protein and products containing it. Paragraph 18 controls exports, and paragraph 19 regulates fertilisers derived from animal protein. Paragraph 20 deals with records, and paragraph 21 deals with cross-contamination.

Schedule 7

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

Paragraph 3 deals with mechanically recovered 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 at 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 12(1).

Paragraph 15 deals with meat from other member States.

Paragraph 16 requires the staining and disposal of specified risk material and 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 export of live bovine animals and products derived from them to other member States and to third countries. Paragraphs 1 and 2 prohibit the dispatch of bovine animals and products to other member States and to third countries, paragraph 3 restricts the dispatch of heads and un-split carcasses containing specified risk material to other member States, and paragraph 4 prohibits the dispatch of bovine heads and meat containing specified risk material to third countries. Paragraph 5 provides cross-references to other relevant offence provisions in these Regulations.

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the TSE Testing Section of the Department for Environment, Food and Rural Affairs, Area 5A, 9 Millbank c/o 17 Smith Square, London SW1P 3JR.

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