

## SCHEDULE

Article 4

### Calculation of compensation

## PART 1

### Method of calculation

#### Interpretation

**1.** In this Schedule—

“category” means a category of animal set out in the table in paragraph 6(5);

“non-pedigree animal” means an animal that is not a pedigree animal;

“non-pedigree category” means a category consisting of non-pedigree animals;

“pedigree animal” means a breeding animal for which a pedigree certificate has been issued by a breeder’s organisation or association that fulfils the conditions of Commission Decision [84/247/EEC](#)(1) 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; and

“pedigree category” means a category consisting of pedigree animals which meet the conditions set out in paragraph 6(3).

#### The average market price

**2.—**(1) Subject to paragraph 4, the compensation payable to the keeper of the animal is the average market price for the category into which the animal falls at the relevant date.

(2) The average market price for each category is as follows—

(a) in the case of non-pedigree animals it is calculated each month from sale price data of animals in that category in respect of sales occurring during the period ending on the 20th day of the preceding month and starting on the 21st day of the month before that; and

(b) in the case of pedigree animals it is calculated each month from sale price data of animals in that category in respect of sales occurring over a six-month rolling period covering the six months ending on the 20th day of the preceding month and starting on the 21st day of the month falling six months before that.

(3) The average market price for a category for which sale price data have been collected is the amount obtained by dividing the sum of those sale prices by the total number of animals in that category.

#### No data or inadequate data

**3.—**(1) Sub-paragraph (2) applies where there are either no available sale price data or the Secretary of State considers there to be inadequate sale price data for calculating the average market price for a relevant category of animal.

(2) Where this paragraph applies—

(a) the average market price is the most recently ascertained average market price for the relevant category of animal, where one has previously been calculated; or

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(1) OJNo. L125, 12.5.84, p.58.

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- (b) the Secretary of State may opt to pay compensation at the level of the market value of the animal in question, as ascertained under the Individual Ascertainment of Value (England) Order 2012.

### **Compensation payable following delays in testing for tuberculosis**

4.—(1) Where—

- (a) the keeper of an animal has been served with a notice under article 8(1) of the Tuberculosis (England) Order 2007(2);
- (b) the keeper has failed to carry out a test by the latest date specified in the notice;
- (c) a test has subsequently been carried out after the latest date specified in the notice; and
- (d) the animal has been slaughtered following that test,

compensation payable for that animal is to be calculated using the formula set out in paragraph (2).

(2) The formula referred to in paragraph (1) is—

$$A \times B$$

where—

A is the average market price for the category into which the animal falls at the relevant date (or the market value as determined in the circumstances identified in article 4(1)(b) or (c)); and

B is the figure specified in sub-paragraph (3).

(3) Where the test was carried out after the latest date specified in the notice and the interval between the date so specified and the test is—

- (a) not more than 60 days, “B” is 1;
- (b) more than 60 but not more than 90 days, “B” is 0.75;
- (c) more than 90 but not more than 180 days, “B” is 0.5; and
- (d) more than 180 days, “B” is 0.05.

(4) The Secretary of State must notify the keeper in writing of any decision to reduce compensation following delays of more than 60 days in testing for tuberculosis—

- (a) giving the reasons for the decision;
- (b) explaining that the keeper has the right to make written representations to a person appointed by the Secretary of State in accordance with paragraph 5; and
- (c) explaining that notwithstanding any written representations being made the Secretary of State may continue to take action under section 32(1) of the Act to have the animal removed for slaughter.

### **Review of decision to reduce compensation**

5.—(1) Within 21 days after receipt of the notification under paragraph 4(4) a keeper may make written representations to a person appointed by the Secretary of State for the purpose of having the decision to reduce the compensation payable to the keeper reviewed by such appointed person.

(2) The appointed person must consider those written representations together with any written representations that may be made by the Secretary of State, and must report in writing, with a recommended course of action resulting from the review, to the Secretary of State.

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(2) [S.I. 2007/740](#), amended by [S.I. 2009/2713](#).

(3) The Secretary of State must then reach a final decision and notify the keeper of that decision and the reasons for it.

(4) The Secretary of State may continue to take action under section 32(1) of the Act to remove the animal for slaughter before reaching a final decision in accordance with sub-paragraph (3).

## PART 2

### Categories

#### Determination of category

6.—(1) The Secretary of State must determine from the table in sub-paragraph (5) the category into which an animal falls at the relevant date and may appoint an agent for the purpose of that determination.

(2) For the purpose of the determination, the date of birth of the animal is as shown on the cattle passport and the age of the animal shall be calculated accordingly.

(3) For an animal to fall within a pedigree category—

(a) it must—

(i) be a pedigree animal which meets the requirements set out in Commission Decision 84/419/EEC<sup>(3)</sup> for entry in the main section of a herd-book for pure-bred breeding animals of the bovine species and be entered in the main section of such a herd-book before the relevant date; and

(ii) be entire; and

(b) the pedigree certificate in respect of that animal must be presented to the Secretary of State or an agent acting on behalf of the Secretary of State not later than 10 days after the relevant date.

(4) An animal which does not meet the conditions specified in sub-paragraph (3) is treated for the purposes of calculating compensation as falling into the relevant non-pedigree category.

(5) The categories of domestic cattle are as follows—

<i>Male</i>	<i>Female</i>
<b>Beef Sector – non-pedigree</b>	
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, breeding bulls	Over 20 months, calved
Over 20 months, non-breeding bulls	Over 20 months, not calved
<b>Dairy Sector – non-pedigree</b>	
Up to and including 3 months	Up to and including 3 months

(3) OJ No. L 237, 5.9.84, p.11.

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<i>Male</i>	<i>Female</i>
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
Over 20 months	Over 20 months up to and including 84 months, calved
	Over 20 months up to and including 84 months, not calved
	Over 84 months
<b>Beef Sector - pedigree</b>	
Up to and including 6 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 24 months	Over 12 months up to and including 24 months
Over 24 months	Over 24 months, not calved
	Over 24 months up to and including 36 months, calved
	Over 36 months, calved
<b>Dairy Sector - pedigree</b>	
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
	Over 18 months up to and including 36 months, calved
	Over 36 months up to and including 84 months, calved
	Over 84 months, calved

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**Changes and effects yet to be applied to :**

- Sch. para. 5 heading words inserted by [S.I. 2018/754 art. 2\(5\)\(c\)](#)
- Sch. para. 4(1)(a) words substituted by [S.I. 2015/1838 art. 2](#)
- Sch. para. 1 words substituted by [S.I. 2018/754 art. 2\(5\)\(a\)](#)
- Sch. para. 2(1) words substituted by [S.I. 2018/754 art. 2\(5\)\(b\)](#)
- Sch. para. 6(3)(a)(i) words substituted by [S.I. 2018/754 art. 2\(5\)\(e\)](#)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

- Order ceases to have effect by [S.I. 2012/1379 art. 1\(c\)](#)

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. para. 5A-5C inserted by [S.I. 2018/754 art. 2\(5\)\(d\)](#)
- art. 3A inserted by [S.I. 2018/754 art. 2\(3\)](#)