

2018 No. 731

ANIMALS, ENGLAND

ANIMAL HEALTH

**The Transmissible Spongiform Encephalopathies (England)
Regulations 2018**

<i>Made</i> - - - -	<i>13th June 2018</i>
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<i>Coming into force</i> - -	<i>19th July 2018</i>

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The Secretary of State makes the following Regulations under the powers conferred by section 2(2) and Schedule 2 to the European Communities Act 1972(a).

The Secretary of State is designated(b) for the purposes of section 2(2) of that Act in relation to measures in the veterinary and phytosanitary fields for the protection of public health.

The Secretary of State has consulted as required by Article 9 of Regulation (EC) No 178/2002(c) 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.

PART 1

General provisions

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Transmissible Spongiform Encephalopathies (England) Regulations 2018 and come into force on 19th July 2018.

(2) They extend to England and Wales but apply in England only.

Interpretation

2. In these Regulations—

(a) 1972 c 68.

(b) S.I. 1999/2027.

(c) OJ No L 31, 1.2.2002, p 1, as last amended by Regulation (EU) No 652/2014 (OJ No L189, 27.6.2014, p. 1).

“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 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 the EU TSE Regulation(b);

“cutting plant” (except in paragraph 4(3)(b)(iii) of Schedule 7) has the meaning given to it in paragraph 1(17) of Annex 1 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 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies(f), as read with—

- (a) Commission Decision 2007/411/EC;
- (b) Commission Decision 2007/453/EC establishing the BSE status of Member States or third countries or regions thereof according to their BSE risk(g); and
- (c) Commission Decision 2009/719/EC authorising certain Member States to revise their annual BSE monitoring programme(h);

“holding” includes—

- (a) domestic premises if they are being used for any purpose in connection with these Regulations;
- (b) land and outbuildings;
- (c) a slaughterhouse;
- (d) a cutting plant;
- (e) a game-handling establishment;
- (f) a place that is, for the purposes of point 4(1)(a) of Annex 5, another place of slaughter;

“inspectors” and “veterinary inspectors” are appointed and authorised under regulation 13;

“local authority” means a county council, a district council, a London borough council, the Common Council of the City of London and the Council of the Isles of Scilly;

“offal” has the meaning given in point 1.11 of Annex 1 to Regulation (EC) No. 853/2004;

“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) Directive 2004/41/EC 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(i);

(a) S.I. 2007/529, amended by S.I. 2013/517; there are other amending instruments but none is relevant.

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

(c) OJ No L 139, 30.04.2004, p 55, as last amended by Commission Regulation (EU) No 633/2014 (OJ No L 175, 14.6.2014, p 6).

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

(e) OJ No L 165, 30.4.2004, p 1, as last amended by Regulation (EU) No 652/2014 of the European Parliament and of the Council (OJ No. L 189, 27.6.2014, p 1).

(f) OJ No L 147, 31.5.2001, p 1, as last amended by Commission Regulation (EU) No 2017/1972 (OJ No L 281, 31.10.2017, p 14).

(g) OJ No L 172, 30.6.2007, p 84 as last amended by Commission Implementing Decision 2017/1396/EU (OJ No L 197, 28.7.2017, p 9).

(h) OJ No L 256, 29.9.2009, p 35, as last amended by Commission Implementing Decision 2016/851/EU (OJ No L141, 28.5.2016, p 131).

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

- (b) Commission Regulation (EC) No 1688/2005 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(a); and
- (c) Commission Regulation (EC) No 2074/2005 laying down implementation measures for certain products under Regulation (EC) No 853/2004(b);

“slaughterhouse” has the meaning given in paragraph 1(16) of Annex 1 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;

“specified risk material” means the tissues specified in Annex 5 of the EU TSE Regulation, and unless otherwise indicated, it does not include products containing or derived from those tissues;

“TSE” means transmissible spongiform encephalopathy;

“the TSE requirements” means those requirements set out in regulation 5 and Schedule 1;

“third country” means any country that is not a member of the EU;

“trained person” means a person who—

- (a) has received training to take samples from dead bovine animals, and
- (b) the site operator is satisfied is competent to carry out such sampling.

(2) “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(c), as read with—

- (a) Commission Regulation (EC) No 2074/2005; and
- (b) Commission Regulation (EC) No 2076/2005;

(3) References in this instrument to Articles or Annexes are to Articles and Annexes in the EU TSE Regulation unless otherwise stated.

(4) 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.

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 paragraph 1 of Schedule 7.

Exception for research

4.—(1) The TSE requirements do not apply in relation to animals kept for the purposes of research in a holding approved for that purpose under this regulation by the Secretary of State.

(2) If a bovine, ovine or caprine animal which is kept in an approved research holding dies or is killed, it is a TSE requirement for the occupier to dispose of it as a Category 1 animal by-product in accordance with Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products not intended for human consumption(d), as implemented by Commission Regulation (EU) No. 142/2011(e).

(a) OJ No L 271, 15.10.2005, p 17, as last amended by Commission Implementing Regulation (EU) No 1223/2011 (OJ L 314, 29.11.2011, p. 12).

(b) OJ No L 338, 22.12.2005, p 27, as last amended by Commission Regulation (EU) No 2016/759 (OJ No L 126, 14.5.2016, p 13).

(c) OJ No L 191, 28.5.2004 p. 1 as last amended by Commission Regulation (EU) No 2018/192 (OJ No L 36, 9.2.2018 p. 15).

(d) OJ No L 300, 14.11.2009 p. 1, as last amended by Council Regulation (EU) No 1385/2013 (OJ No L 354, 28.12.2013, p. 86).

(e) OJ No L 54, 26.2.2011, as last amended by Commission Regulation (EU) No 592/2014 (OJ L 165, 4.6.2014, p.33).

PART 2

TSE controls

The TSE requirements

5.—(1) For the purposes of Article 11, where a person has in their possession or under their control any animal suspected of being infected with a TSE that person must immediately notify the Secretary of State and detain the animal on the holding until it has been examined by a veterinary inspector.

(2) Where a veterinary surgeon examines or inspects an animal and reasonably suspects the animal of being infected with a TSE, the veterinary surgeon must immediately notify the Secretary of State of that suspicion.

(3) Where a person examines the carcass of an animal in a laboratory and reasonably suspects the presence of a TSE, that person must immediately notify the Secretary of State, and retain the carcass until a veterinary inspector has authorised disposal.

(4) The TSE requirements in Schedule 1 apply.

(5) The occupier of a slaughterhouse must comply with the requirement to take samples or to facilitate the taking of samples by an inspector resulting from the Secretary of State's TSE monitoring requirements in Annex 3.

(6) In accordance with Article 12, a person with animals placed under an official movement restriction must comply with—

- (a) any instructions given by an inspector and co-operate with the Secretary of State in delivering the TSE monitoring requirements in Annex 3;
- (b) any instructions given by an inspector and co-operate with the Secretary of State in taking action to control and eradicate a TSE in Annex 7;
- (c) the requirements in Annex 4 for the production, use of equipment, packaging, storage and transport of animal feed;
- (d) the animal feeding requirements in Annex 4;
- (e) the prohibitions concerning animal feeding in Article 7, unless the animal feed products are produced using production and manufacturing processes approved by the EU Commission;
- (f) the requirements for dealing with specified risk material in Article 8 and Annex 5 and Schedule 7;
- (g) the restrictions in Annex 8 and Schedule 8 concerning the placement of animals or products on the market or for export.

Application of the Schedules

6.—(1) The following Schedules apply.

(2) Schedule 2 sets out the requirements for TSE monitoring, approval of laboratories and compensation payable to the occupier of the slaughterhouse.

(3) Schedule 3 provides for the control of TSE in bovines and the compensation payable to the owner for any bovine animal killed.

(4) Schedule 4 provides for the control of TSE in ovines and caprines and the compensation payable to the owner for any ovine or caprine animal killed and for any semen, embryos, ova milk and milk products destroyed.

(5) Schedule 5 provides for the control of TSE in animals other than bovines, ovines or caprines and the compensation payable to the owner for any such animal killed.

(6) Schedule 6 provides for the slaughter of animals that have had access to unlawful feedingstuffs, the payment of compensation and the restriction and disposal of such feedingstuffs.

(7) Schedule 7 sets out the requirements for dealing with specified risk material, mechanically separated meat and slaughtering techniques.

(8) Schedule 8 sets out certain restrictions on placing on the market and export.

PART 3

Administration and enforcement

Approvals, authorisations, licences and registrations

7.—(1) The Secretary of State must grant an approval, authorisation, licence or registration under these Regulations if satisfied that the relevant TSE requirements will be complied with.

(2) An approval, authorisation, licence or registration must be in writing and must specify—

- (a) the address of the holding;
- (b) the name of the occupier;
- (c) the purpose for which the approval, authorisation, licence or registration (as the case may be) is granted.

(3) An approval, authorisation, licence or registration may be made subject to such conditions as are necessary to—

- (a) ensure compliance with the TSE requirements;
- (b) protect public or animal health.

(4) The Secretary of State must give written reasons for any refusal to grant an approval, authorisation, licence or registration, and explain that the applicant has the right to make written representations to a person appointed by the Secretary of State in accordance with regulation 11.

Occupier's duty

8. The occupier of any holding approved, authorised, licensed or registered under these Regulations must ensure that—

- (a) the holding is maintained and operated in accordance with—
 - (i) any condition of the approval, authorisation, licence or registration (as the case may be),
 - (ii) the TSE requirements, and
- (b) any person employed by them, and any person permitted to enter the holding, complies with those conditions and requirements.

Suspension and amendment

9.—(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 TSE requirements 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 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;
- (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 reasons;
- (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 in accordance with regulation 11.

(5) The appeals procedure in regulation 11 applies.

(6) If the suspension or amendment does not have immediate effect and representations are made under regulation 11, it must not have effect until the final determination by the Secretary of State of the appeal 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 and registrations

10.—(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 holding will not be operated in accordance with the TSE requirements, and if—

- (a) it is currently suspended and the period for appeal under regulation 11 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 TSE requirements, or
- (c) the Secretary of State is satisfied that the occupier no longer uses the holding for the purpose for which the approval, authorisation, licence or registration (as the case may be) was granted.

(2) Notification of the revocation must—

- (a) be in writing;
- (b) state when the revocation comes into effect;
- (c) give reasons;
- (d) explain that the person who has been notified has the right to appeal by way of written representations to a person appointed by the Secretary of State in accordance with regulation 11.

(3) The appeals process in regulation 11 applies.

(4) If the Secretary of State revokes an approval, authorisation, licence or registration under paragraph (1)(b) or (c) and representations are made under regulation 11, the revocation remains in force during that appeals procedure.

Appeals

11.—(1) Where a person in receipt of a notification does not agree with any action taken under these Regulations and wishes to appeal on a matter appealable under this regulation, that appellant 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 following receipt of the notification of the decision.

(2) A person involved with the making of the decision may make written submissions to the appointed person concerning the decision within 21 days of receipt of the appellant's representations.

(3) A report of the findings of the appointed person must be submitted 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.

(5) Unless the Secretary of State determines that action under these Regulations must be taken immediately due to a risk to public health or animal health or welfare, no action may be taken by the Secretary of State to kill any animal or destroy any thing under these Regulations until—

- (a) the 21 day period has expired without any appeal being lodged;
- (b) if there is an appeal, that appeal is determined or withdrawn.

Valuations

12.—(1) This regulation applies when compensation is not fixed in accordance with a procedure laid down in these Regulations and where an individual valuation is required to establish the appropriate market value.

(2) The owner and the Secretary of State may agree on an individual 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 such a nomination, 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) Both the owner and a representative of the Secretary of State have the right to be present at a valuation meeting.

(6) The nominated 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.

(7) The submitted 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 that is disposed of under these Regulations.

Appointment and authorisation of inspectors

13.—(1) Except as specified in paragraph (2)—

- (a) a local authority may appoint inspectors,
- (b) the Secretary of State may appoint inspectors and veterinary inspectors,

for the purposes of enforcing the EU TSE Regulation and these Regulations.

(2) The Food Standards Agency may appoint inspectors and veterinary inspectors for the purposes of enforcing Schedules 7 and 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 notification of appointment.

(4) Inspectors may be authorised by the Secretary of State or the Food Standards Agency to carry out functions specified in a letter of authorisation.

Powers of entry

14.—(1) An inspector may, on giving reasonable notice, and on producing a duly authenticated authorisation, enter any holding (except if used wholly or mainly as a private dwelling), vehicle, container, vessel or trailer at any reasonable hour for the purpose of ensuring compliance with the EU TSE Regulation and enforcing these Regulations.

(2) The requirement to give notice does not apply where—

- (a) the requirement has been waived by the occupier;
- (b) reasonable efforts to identify the occupier have failed;
- (c) reasonable efforts to agree an appointment have failed;
- (d) an inspector has reasonable suspicion of a failure to comply with the TSE requirements.

(3) A justice of the peace may sign a warrant to permit an inspector to enter any holding, vehicle, container, vessel or trailer, if necessary by reasonable force, if satisfied on sworn information in writing—

- (a) that there are reasonable grounds to enter for the purpose of executing or enforcing the TSE requirements, and
- (b) that any of the following conditions are met—
 - (i) admission has been refused, or a refusal is expected, and (in either case) notification of an application for a warrant has been given to the occupier;
 - (ii) asking for admission, or the giving of such a notification to the occupier, would defeat the object of the entry;
 - (iii) entry is required urgently;
 - (iv) the holding, vehicle, container, vessel or trailer is unoccupied or the occupier is temporarily absent.

(4) A warrant under this regulation is valid for one month.

(5) An inspector may be accompanied by such other persons as are considered necessary for the visit.

(6) If an inspector enters any unoccupied holding, or where the occupier is temporarily absent, the inspector must leave the holding (so far as reasonably practicable) effectively secured against unauthorised entry as it was before entry.

Powers of inspectors

15.—(1) In carrying out any functions under these Regulations an inspector may—

- (a) seize any—
 - (i) animal,
 - (ii) body of an animal, and any parts of the body (including the blood and the hide) and any semen, embryo or ovum,
 - (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 carcase and any parts of the body (including the blood and the hide) and any semen, embryo or ovum;
- (e) inspect any part of the holding, any equipment, facility, operation or procedure;
- (f) take any samples, including any samples that the Secretary of State requires to be taken in compliance with the United Kingdom's obligations under Annex 3;
- (g) seize or detain any cattle passport;
- (h) 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, or remove such records to enable them to be copied;
- (i) 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 an inspector may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford 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 an accessible form;

- (j) mark anything (including an animal) whether electronically or otherwise, for identification purposes;
 - (k) lock or seal any container or store.
- (2) A person must not deface, obliterate, or remove any mark or seal, or remove any lock, applied under paragraph (1)(j) or (k).
- (3) An inspector is not personally liable for anything done—
- (a) in the execution or purported execution of these Regulations, and
 - (b) within the scope of their employment,
- if the inspector 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

16.—(1) If it is necessary for any reason connected with the enforcement of the TSE requirements, an inspector may serve a notice on—

- (a) the owner or keeper of any animal;
 - (b) the person in possession of the body or any part of the body of an animal (including the blood and the hide) or any semen, embryo or ovum;
 - (c) the person in possession, or supplier, of any animal protein or feedingstuffs that may contain animal protein;
 - (d) the owner, or person in possession, of any milk or milk products;
 - (e) the occupier or person in charge of any holding, vehicle or container to which the these Regulations apply;
 - (f) the occupier of a slaughterhouse.
- (2) A notice may—
- (a) require any action that an inspector reasonably believes is necessary for controlling the spread of disease;
 - (b) prohibit or require the movement of any animal onto or from the holding specified in the notice;
 - (c) prohibit the movement of any milk or milk products from the holding specified in the notice;
 - (d) specify those parts of the holding to which an animal may or may not be allowed access;
 - (e) require the killing of any animal;
 - (f) prohibit or require the movement onto or from the holding 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;
 - (g) 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;
 - (h) require the disposal of any animal protein or feedingstuffs that may contain animal protein, or specify how they are to be used;
 - (i) require that a person does not feed any animal protein or feedingstuffs that may contain animal protein to livestock, or may require that it is recalled;
 - (j) require that all or any part of the holding, vehicle, vessel or container (and any associated equipment) is cleansed and disinfected where the inspector suspects there is a risk to animal or human health
 - (k) require an occupier of a slaughterhouse—

- (i) to take a sample from bovine animals in accordance with paragraph 6 of Schedule 2, or
 - (ii) to permit an official veterinarian to take brain stem samples from an ovine animal in accordance with paragraph 6 of Schedule 2.
- (3) A notice must be in writing, and specify—
- (a) the reason for the service of the notice;
 - (b) the measures which that person must take;
 - (c) any time limit for taking particular measures.
- (4) Any notice or licence may be amended, suspended or revoked in writing at any time.
- (5) A person must comply with the terms of a notice at their own expense, and if there is non-compliance an inspector may arrange to have it complied with at that person's expense.

Notices restricting movement

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

(2) Any person transporting a restricted 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.

Offences and penalties

18.—(1) It is an offence—

- (a) to fail to comply with the TSE requirements;
- (b) to fail to comply with the requirements of any notice or licence served or issued under these Regulations;
- (c) to intentionally obstruct an inspector carrying out any functions (including the facilitation of samples taken by an inspector in accordance with paragraph 8 of Schedule 2) under the EU TSE Regulation or these Regulations;
- (d) without reasonable cause, fail to give to an inspector acting for the purpose of ensuring compliance with the EU TSE Regulation or these Regulations any assistance or information or provide any facilities that the inspector may reasonably require;
- (e) to give false or misleading information to an inspector for the purpose of ensuring compliance with the EU TSE Regulation or these Regulations;
- (f) to fail to produce a record when required to do so by an inspector acting under these Regulations.

(2) A person guilty of an offence is liable on summary conviction to a fine.

Corporate responsibility

19.—(1) If a breach of any TSE requirement is shown to be committed by a body corporate—

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

the officer as well as the body corporate is liable to prosecution.

(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 function of management as if they were a director of the body.

(3) If a breach of any TSE requirement is shown to be committed by a partnership—

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

the partner as well as the partnership is liable to prosecution.

(4) If a breach of any TSE requirement is shown to be committed by an unincorporated association—

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

that officer or member as well as the association is liable to prosecution.

(5) In this regulation—

“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;

“partner” includes a person purporting to act as a partner.

Enforcement

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

(2) The Food Standards Agency enforces Schedule 7 and paragraph 1 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 any particular case that an enforcement duty imposed on the local authority must be discharged by the Secretary of State and not by the local authority.

(5) Where the Secretary of State makes a direction under paragraph (4), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.

Consequential amendments

21.—(1) In Schedule 3 of the Official Feed and Food Controls (England) Regulations 2009^(a), in paragraph (a)(viii), for “Transmissible Spongiform Encephalopathies (England) Regulations 2010” substitute “Transmissible Spongiform Encephalopathies (England) Regulations 2018”.

(2) The Animal By-Products (Enforcement) (England) Regulations 2013^(b) are amended as follows—

(a) in paragraph (1) of regulation 23 (powers of entry and additional powers)—

(i) at the end of sub-paragraph (a) insert “, and where the premises are either unoccupied or the occupier is temporarily absent, the authorised person must leave them as effectively secured against unauthorised entry as they were before entry”;

(ii) omit sub-paragraphs (j) and (k);

(b) in regulation 29(1) (transitional provisions), omit the words “for the period ending on 31st December 2014,”;

(c) in Schedule 2, omit paragraph 10.

Revocations

22. The statutory instruments listed in Schedule 9 are revoked.

(a) S.I. 2009/3255 to which there are amendments not relevant to these Regulations.

(b) S.I. 2013/2952.

Transitional provisions

23. Any notice, licence, approval, authorisation, or registration issued, served, made or granted under the Transmissible Spongiform Encephalopathies (England) Regulations 2010^(a) and which has effect at the coming into force of these Regulations remains in force as if it were issued, served, made or granted under these Regulations.

Review

- 24.—(1) The Secretary of State must from time to time—
- (a) carry out a review of the regulatory provisions contained in these Regulations, and
 - (b) publish a report setting out the conclusions of the review.
- (2) The first report must be published before 19th July 2023.
- (3) Subsequent reports must be published at intervals not exceeding 5 years.
- (4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015^(b) requires that a report published under this regulation must in particular—
- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a),
 - (b) assess the extent to which those objectives are achieved,
 - (c) assess whether those objectives remain appropriate, and
 - (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.
- (5) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

13th June 2018

Gardiner of Kimble
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

^(a) S.I. 2010/801 as amended by S.I. 2011/2861, 2012/2897 and 2013/336.
^(b) 2015 c. 26.

SCHEDULE 1

Regulation 5(4)

The TSE requirements

<i>Subject-matter of requirement</i>	<i>Provisions of the EU TSE Regulation</i>
1. Prohibition concerning feeding ruminants protein derived from animals	Article 7
2. Removal of specified risk material from carcasses	Article 8 and Annex 5
3. Production of products of animal origin from or containing ruminant material	Article 9 and Annex 6
4. Training of persons working in roles relating to TSEs	Article 10
5. Notification requirement	Article 11
6. Restrictions on movement and measures to investigate suspect animals	Article 12
7. Measures following confirmation of the presence of a TSE	Article 13 and Annexes 3 and 4
8. Conditions for the placing on the market of live animals, semen, embryos and ova	Article 15 and Annexes 8 and 9
9. Conditions for the placing on the market of products of animal origin	Article 16 and Annexes 8 and 9
10. Supplementing health certificate information with category classifications	Articles 17 and 18 and Annex 4 read with Annex F to Directive 64/432/EEC (a) and Annex E to Directive 91/68/EEC (b).
11. Conditions for reference laboratories and their functions and duties	Article 19 and Annex 10
12. Conditions for sampling and laboratory methods	Article 20 and Annex 10

SCHEDULE 2

Regulation 6(2)

Monitoring for TSE

Delivery of the body of a bovine animal for the purpose of monitoring

1.—(1) For the purpose of monitoring under Article 6, a person who has in their possession or under their control the body of a bovine animal that is required to be tested for BSE in accordance with Part 1 of Chapter A of Annex 3 must (unless directed otherwise by the Secretary of State)—

- (a) within 24 hours of the death of the animal make arrangements with another person for that person to collect the body and deliver it to an approved sampling site, or
- (b) within 72 hours of the death of the animal deliver the body direct to an approved sampling site that has a trained person available to take a sample from the body.

(a) Council Directive of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine OJ No P121 29.7.1964, p. 1977 last amended by Commission Implementing Decision (EU) 2015/819, OJ No L129 27.5.2015 p. 28.

(b) Council Directive of 28 January 1991 on animal health conditions governing intra-Community trade in ovine and caprine animals OJ No L046 19.2.1991, p.19 last amended by Commission Implementing Decision (EU) 2016/2002, OJ. No L308 16.11.2016, p.29.

(2) The owner of the dead bovine animal is responsible for the expenses incurred by the sampling site operator in respect of the trained person taking a sample from the body for onward transmission to a testing laboratory approved in accordance with paragraph 9.

(3) If the owner of the dead bovine animal has any outstanding invoice payable to the sampling site operator, that operator may refuse to take delivery of any live or dead animals from that owner until the outstanding invoice has been paid.

(4) Where the owner of a dead bovine animal makes arrangements with another person under paragraph 1(a)—

- (a) the owner must inform that person of the time and date of the animal's death, and
- (b) that person must ensure that the body is delivered to the sampling site in time to enable a sample to be taken by a trained person at that site before the expiry of 72 hours from the death of the animal.

Approved sampling site

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

(2) An “approved sampling site” in this Schedule 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.

Destruction without sampling

3. A person must not destroy the body of a bovine animal to which paragraph 1(1) applies before the animal has undergone sampling by a trained person at an approved sampling site, except in accordance with a direction of the Secretary of State.

Retention of carcasses of bovine animals pending test results

4. An approved sampling site which receives the body of a bovine animal for sampling under this Schedule must retain the carcass in accordance with the requirements of Annex 3.

Remote Areas

5.—(1) The requirements of paragraph 1 do not apply in relation to a bovine animal that has died or been killed in the Isles of Scilly or on 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 or Lundy Island, as the case may be.

Brain stem sampling of bovine animals at slaughterhouse

6.—(1) The occupier of a slaughterhouse or other place of slaughter, in which a bovine animal covered by point 2 of Part 1 of Chapter A of Annex 3 is slaughtered for human consumption must—

- (a) take a sample comprising the brain stem for testing in accordance with of Annex 10,
- (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 in accordance with paragraph 9.

(2) The Secretary of State may serve a notice on the occupier requiring the occupier to take such a sample from a bovine animal which—

- (a) has originated from a country with indigenous BSE,
- (b) may have potentially consumed contaminated feedingstuffs, or
- (c) is progeny from a BSE infected female bovine animal.

Retention of products and disposal

7.—(1) In relation to any sampled bovine animal, the occupier of a slaughterhouse, other place of slaughter (for the purposes of Annex 5), hide market or tannery must, for the purposes of Annex 3 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 Annex 3.

(2) For the purposes of Annex 3, 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 Annex 3, 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 Annex 3.

(3) If no sample has been sent to, or no sample has been received by, an approved testing laboratory in accordance with paragraph 9, 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 Annex III, 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 Annex 3 and for the purposes of this sub-paragraph an “insufficient test result” means a certification by an approved 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 Annex 3; 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 Annex 3 if satisfied that the slaughterhouse operates a system that prevents contamination between carcasses.

Brain stem sampling of ovine animals

8.—(1) The Secretary of State must annually select slaughterhouses required to participate with the ovine survey requirement taking into account the factors set out in point 4 of Part 2 of Chapter A in Annex 3.

(2) The occupier of an ovine slaughterhouse that has been selected by the Secretary of State must comply with any notice requiring the occupier to—

- (a) facilitate the taking of samples by a veterinary inspector from the brain stem of dead ovine animals to be tested at an approved testing laboratory in accordance with paragraph 9;
- (b) ensure that an ovine carcass from which such sample has been taken remains identifiable and is retained separate from other ovine carcasses until a negative test result for TSE has been reported to the occupier.

(3) Where a positive laboratory test result for TSE is reported to the occupier of a slaughterhouse in relation to a retained ovine carcass, the occupier must immediately dispose of the carcass and all parts of the body (including the blood and the hide) in accordance with the requirements in point 7.4 of Part 2 of Chapter A in Annex 3.

Approval of TSE testing laboratories

9.—(1) The Secretary of State must approve laboratories to test samples taken under if satisfied that the laboratory—

- (a) will carry out the testing in accordance with Chapter C of Annex 10, and
- (b) has adequate quality control procedures in place, which include being able to accurately identify the correct identification of the samples and notification of test results.

(2) The following are also treated as an approved testing laboratory—

- (a) a laboratory approved under corresponding legislation elsewhere in the United Kingdom;
- (b) an EU National Reference Laboratory;
- (c) a diagnostic laboratory approved by a Member State in accordance with Annex 10.

Compensation payable to person responsible for slaughter

10.—(1) If an animal slaughtered for human consumption tests positive for a TSE under this Schedule, the Secretary of State must pay to the occupier of the slaughterhouse or other place of slaughter compensation for the carcase and all parts of the bovine or ovine body (including the blood and the hide).

(2) The compensation payable to the occupier for bovine and ovine carcasses is the market value, which 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.

(3) In the case of a bovine animal that is destroyed because of a post mortem positive result, the Secretary of State must additionally pay to the occupier market value compensation for the bovine carcase immediately preceding it on the slaughter line, and the two carcasses immediately following it if they need to be destroyed.

(4) If a market value cannot be agreed the valuation must be established in accordance with the procedure laid down in regulation 12(3) to (8) (reading the word “occupier” wherever “owner” is mentioned in those paragraphs).

(5) In the case of a valuation under sub-paragraph (4) the occupier must pay any valuation fee arising.

SCHEDULE 3

Regulation 6(3)

Control of TSE in bovine animals

Restriction on movements pending results of TSE testing

1.—(1) If a bovine animal is the subject of a notification under regulation 5 an inspector may serve a notice on the animal owner prohibiting its movement from the holding pending determination of whether or not it is suspected of being infected with a TSE.

(2) If test results confirm that no animal on a holding is infected with a TSE the inspector must remove all restrictions by notification to the animal owner and return any retained cattle passports.

Identification of cohorts and offspring

2.—(1) Article 13(2) of the EU TSE Regulation, as read with Article 2(1)(b) and (2) of Commission Decision 2007/411/EC, applies with regard to an inspector identifying relevant bovine offspring and cohorts.

(2) An inspector must serve a notice on the animal owner prohibiting movement of traced offspring and cohorts that have been identified from moving off the holding of residence, and remove the cattle passports.

(3) If the offspring or cohorts cannot be immediately identified an inspector may serve a notice on the animal owner to prohibit the movement of any bovine animal from a relevant holding pending identification.

(4) For the purpose of this paragraph the date of birth of a suspect bovine animal is the date shown on the cattle passport.

Action following confirmation of TSE

3.—(1) If it is confirmed that a suspect bovine animal is infected with a TSE an inspector must serve a regulation 16(2)(e) notice requiring the killing of any traced offspring identified in paragraph 2 where the infected animal is a breeding female.

(2) Where the infected bovine animal is not a breeding female an inspector must serve a regulation 16(2)(e) notice requiring the killing of any traced cohorts identified in paragraph 2.

(3) The killing requirement does not apply where the inspector is satisfied that—

- (a) the identified cohort animal did not have access to the same feed as the infected animal;
- (b) where the cohort animal is a bull providing semen and is kept permanently at a semen collection centre the killing may be deferred until the end of the bull's productive life.

(4) The appeals procedure in regulation 11 applies to a decision to kill under sub-paragraph 3(a).

(5) If an animal is required by notice to be killed in accordance with this paragraph, but is not to be killed on the holding where it has been traced—

- (a) the cattle passport must be stamped “Not for human consumption”; and
- (b) an inspector may require the animal owner in writing to consign it to another holding specified by the inspector for killing.

(6) If the test for TSE is negative the inspector must remove all restrictions imposed.

Death while under restriction

4. If any bovine animal dies or is killed while it is under restriction for any reason the owner must immediately notify the Secretary of State, and retain the body on the holding until directed to move or dispose of it by an inspector.

Prohibitions from placing on the market

5. A person must not place on the market the progeny of an infected female bovine animal that has been born during the preceding two-year period prior to, or the period that followed the first clinical signs, of the onset of the disease.

Consignment and slaughter of an over-age bovine animal

6.—(1) If a bovine animal was born or reared in the United Kingdom before 1st August 1996, a person must not—

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

Compensation

7.—(1) The Secretary of State must pay compensation to the owner of a bovine animal that is killed for reasons related to a TSE.

(2) Compensation payable for any domestic cattle (subject to the exceptions in paragraph 7) is the average market price for the category into which the animal falls at the date of the service of the regulation 16(2)(e) notice, as identified in the table setting down the relevant categories in sub-paragraph (7) calculated 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) To be eligible for compensation an animal must be identified by means of ear tags and there must be presented to the Secretary of State, or an agent on behalf of the Secretary of State, a cattle passport issued in accordance with the Cattle Identification Regulations 2007 in respect of that animal at or before the time of killing.

(4) The sale price data are data compiled in relation to domestic cattle from store markets, prime markets, rearing calf sales, breeding sales and dispersal sales in Great Britain.

(5) 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.

(6) For an animal to fall within the pedigree category—

- (a) it must be entire;
- (b) up to and including 31st October 2018, the animal at the time when the regulation 16(2)(e) notice is served is entered in the main section of a herd book for the breed in accordance with Commission Decision 84/247/EEC laying down the criteria for the recognition of breeders' organizations and associations which maintain or establish herd-books for pure-bred breeding animals of the bovine species(a), and there must be a pedigree certificate issued in respect of that animal;
- (c) from 1st November 2018, the animal at the time when the regulation 16(2)(e) notice is served is a purebred breeding animal which is entered or registered and eligible for entry in the main section of a breeding book, and for which a pedigree certificate has been issued by a breed society that has been recognised by the Secretary of State under Article 4 or Article 64(4) of Regulation (EU) 2016/1012 of the European Parliament and of the Council on zootechnical and genealogical conditions for the breeding, trade in and entry into the Union of purebred breeding animals(b).

(7) 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 an animal is the age shown for that animal by any cattle passport issued in accordance with the Cattle Identification Regulations 2007, at the date on which the notice of intention to kill was served—

Table - Categories

<i>Male</i>	<i>Female</i>
Beef Sector — non-pedigree animal	Beef Sector — non-pedigree animal

(a) OJ No L125, 12.5.84, p. 58 as amended by Commission Decision 2007/371/EC (OJ No L 140, 1.6.2007, p. 49).

(b) OJ No L171, 29.6.2016, p. 66.

Up to and including 3 months
Over 3 months up to and including 6 months
Over 6 months up to and including 9 months
Over 9 months up to and including 12 months
Over 12 months up to and including 16 months
Over 16 months up to and including 20 months
Over 20 months, breeding bulls
Over 20 months, non-breeding bulls

Dairy Sector — non-pedigree animal

Up to and including 3 months
Over 3 months up to and including 6 months
Over 6 months up to and including 12 months
Over 12 months up to and including 16 months
Over 16 months up to and including 20 months
Over 20 months

Beef Sector — pedigree animal

Up to and including 6 months
Over 6 months up to and including 12 months
Over 12 months up to and including 24 months
Over 24 months

Dairy Sector — pedigree animal

Up to and including 2 months
Over 2 months up to and including 12 months
Over 12 months up to and including 24 months
Over 24 months

Up to and including 3 months
Over 3 months up to and including 6 months
Over 6 months up to and including 9 months
Over 9 months up to and including 12 months
Over 12 months up to and including 16 months
Over 16 months up to and including 20 months
Over 20 months, calved
Over 20 months, not calved

Dairy Sector — non-pedigree animal

Up to and including 3 months
Over 3 months up to and including 6 months
Over 6 months up to and including 12 months
Over 12 months up to and including 16 months
Over 16 months up to and including 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

Beef Sector — pedigree animal

Up to and including 6 months
Over 6 months up to and including 12 months
Over 12 months up to and including 24 months
Over 24 months, not calved
Over 24 months up to and including 36 months, calved
Over 36 months, calved

Dairy Sector — pedigree animal

Up to and including 2 months
Over 2 months up to and including 10 months
Over 10 months up to and including 18 months
Over 18 months, not calved
Over 18 months up to and including 36 months, calved
Over 36 months, calved

Exceptions

8.—(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;
- (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 at the date of the regulation 16(2)(e) notice from a buyer on the open market, 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 12(3) to (7) with the owner paying any valuation fee arising.

SCHEDULE 4

Regulation 6(4)

Control of TSE in ovine or caprine animals

Restriction of a notified ovine or caprine animal

1. If an ovine or caprine animal is the subject of notification under regulation 5(1) or (2), a veterinary inspector may serve a notice prohibiting the movement of that animal from its holding, and the movement of any other ovine or caprine animal onto or from that holding, pending determination of whether or not the suspected animal is infected with a TSE.

Movement restrictions

2.—(1) Where the presence of a TSE cannot be discounted in a ovine or caprine animal, a veterinary inspector—

- (a) must serve a notice prohibiting the movement onto or from a holding of any or all ovine or caprine animal on the same holding as the suspect ovine or caprine animal if the veterinary inspector considers that the ovine or caprine animal was exposed to a TSE on that holding;
- (b) must serve a notice prohibiting the movement of ovine or caprine milk, or ovine or caprine milk products, derived from any ovine or caprine animal present on the holding;

(2) Subsequent movements of restricted animals or products are only permitted in accordance with a licence issued by a veterinary inspector.

(3) A notice served under sub-paragraph (1)(b) does not prohibit the use of milk or milk products within the holding.

(4) When laboratory test results confirm that no animal on a holding is infected with a TSE the inspector must remove all restrictions imposed on that holding.

Killing all ovines and caprines on a holding when BSE is suspected

3. If a TSE is confirmed in a suspect ovine or caprine animal, or a carcase of an ovine or caprine animal, and BSE cannot be excluded, the Secretary of State must serve a notice on the occupier of the holding to have the ovine and caprine animals killed and any embryos, ova, milk or milk products (as appropriate) destroyed in accordance with Annex 7.

Killing of a suspect ovine or caprine animal in other circumstances

4.—(1) If a veterinary inspector suspects that an ovine or caprine animal is infected with a TSE, they must—

- (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 another holding for killing and prohibiting movement other than in accordance with that direction.

(2) If the animal is killed on the holding, the body must not be removed from the holding except in accordance with a written direction from an inspector.

(3) If it is confirmed that a suspect ovine or caprine animal, or the carcase of an ovine or caprine animal is infected with a TSE, but where BSE and atypical scrapie is not suspected, the Secretary of State must act in accordance with one of the options in Annex 7.

(4) Any decision regarding appropriate restrictions or monitoring requirements must be in accordance with Annex 7.

(5) The Secretary of State must by notice inform the occupier of the holding of the decision and the notice must specify (as appropriate)—

- (a) the identity of the animals to be killed and destroyed or permitted to be slaughtered for human consumption;
- (b) the identity of any animals that may be retained;
- (c) the identity of any ovum or embryo to be destroyed;
- (d) the time limit for complying with the notice.

Confirmation of atypical scrapie in an ovine or caprine animal

5. If the TSE is confirmed as atypical scrapie, but BSE is excluded, the Secretary of State, after carrying out an inquiry must serve a notice informing the occupier that the holding will be subject to intensified TSE monitoring in accordance with Annex 7.

No action to kill or destroy until appeal determined or withdrawn

6. No action to kill any ovine or caprine animal, or destroy any ovum, embryo or products must be taken until any appeal under regulation 11 has been either determined or withdrawn.

Infected animals from another holding

7. 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

8. In the case of infected animals on common grazing, the Secretary of State may limit movement restrictions and killing to an individual flock or herd.

Multiple flocks or herds on a holding

9. Where more than one flock or herd is kept on a single holding, the Secretary of State may limit movement restrictions and killing to an individual flock or herd.

Change of occupier

10. If there is a change in occupation of the holding, the affected occupier must ensure that the new occupier is made aware of the existence and contents of any notice served under this Schedule.

Death while under restriction

11. If any ovine or caprine animal aged 18 months or over dies or is killed while it is under restriction for any reason, the owner must immediately notify the Secretary of State, and retain the body on the holding until directed to move or dispose of it by the Secretary of State.

Compensation for an ovine or caprine animal killed as a suspect animal or on confirmation of any TSE

12.—(1) The Secretary of State must pay compensation to the owner of the killed animal in accordance with this paragraph for an ovine or caprine animal killed as a suspect animal or killed following confirmation of a TSE.

(2) The Secretary of State must determine the category of caprine or ovine animal in accordance with the relevant category listed in column 1 of the table at sub-paragraph (4).

(3) The age of the animal is its age at the date on which the regulation 16(2)(e) notice is served.

(4) The compensation payable is the amount specified in column 2 of the following table—

Categories

<i>Animal category</i>	<i>Compensation (£)</i>
Goats (caprines)	
1 year old or younger	80
Non-breeding, over 1 year old	160
Breeding female, over 1 year old	250
Stud male, over 1 year old	350
Sheep (ovines)	
Lamb aged 1 year or younger	80
Breeding ewe over 1 year old	130
Breeding ram over 1 year old	350

Compensation for milk and milk products compulsorily destroyed

13.—(1) The Secretary of State must pay compensation in accordance with this paragraph for milk and milk products destroyed.

(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 12 (3) to (7) with the owner paying any valuation fee arising.

SCHEDULE 5

Regulation 6(5)

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

Restriction on a notified animal

1. If an animal, that is not a bovine, ovine or caprine animal is the subject of notification under regulation 5(1) or (2), a veterinary inspector may serve a notice prohibiting the movement of that animal from its holding, pending determination of whether or not the suspected animal is infected with a TSE.

Killing of a suspect animal

2.—(1) If an animal that is not bovine, ovine or caprine is subject to investigation and subsequently suspected by a veterinary inspector of being infected with a TSE, a veterinary inspector may by notice require—

- (a) the isolation of the suspect animal on a particular part of the holding;
- (b) the animal to be killed on the holding immediately;
- (c) the owner to consign the suspect animal to another holding for killing.

(2) A person must not remove from the holding, or dispose of, the body of such an animal that has been killed except as directed by an inspector.

Compensation

3.—(1) Where an animal is required to be killed under paragraph 2, the Secretary of State must pay compensation to the owner for that animal.

(2) The compensation is the market value of the animal at the time it is killed.

(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 at the date of the regulation 16(2)(e) notice from a buyer on the open market, 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 12(3) to (7) with the owner paying any valuation fee arising.

SCHEDULE 6

Regulation 6(6)

Unlawful feedingstuffs

Killing of animals that have had access to unlawful feedingstuffs

1.—(1) Where an inspector has reasonable grounds to believe that an animal has been fed or has had access to any material prohibited by Annex 4 (referred to in this Schedule as unlawful feedingstuffs), that inspector may serve a notice in accordance with sub-paragraph (2).

(2) The notice may require the owner or person in charge of the animal to—

- (a) kill the animal and dispose of it, as specified in the notice;
- (b) keep the animal on such holding and in such manner as the notice provides.

(3) When a bovine animal is required by notice to be killed an inspector must ensure that the relevant cattle passport is stamped “Not for human consumption”.

(4) No person may consign for slaughter for human consumption any bovine animal the passport for which has been stamped “Not for human consumption”.

Compensation

2.—(1) Where an animal is killed because the Secretary of State has reasonable grounds to believe that a TSE susceptible animal has been fed or has had access to unlawful feedingstuffs which consist of—

- (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 of the TSE infectivity risk,

the Secretary of State may pay compensation in accordance with sub-paragraph (3) if the Secretary of State considers it appropriate in all the circumstances to make such payment, and must give such decision in writing to the animal owner.

(2) The appeal procedure in regulation 11 applies in relation to such decision.

(3) The compensation for—

- (a) a bovine animal is the value established in accordance with Schedule 3;
- (b) an ovine or caprine animal is the value established in accordance with paragraph 13 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 in accordance with paragraph 3 of Schedule 5.

Restriction and disposal of unlawful feedingstuffs

3. Where unlawful feedingstuffs have been identified by an inspector as suspected of containing material prohibited by Annex 4, an inspector may serve a notice on the owner or person in possession of the feedingstuffs to—

- (a) restrict animal access to the area where the feedingstuffs are stored;
- (b) prevent the feedingstuffs being fed to animals generally, or prevent it being fed to those animals specified in the notice;
- (c) require disposal of the feedingstuffs by the owner or person in possession of the feedingstuffs in accordance with instructions contained in the notice, with the cost of such disposal being borne by the recipient of the notice.

SCHEDULE 7

Regulation 6(7)

Specified risk material, mechanically separated meat and slaughtering techniques

The Food Standards Agency as the competent authority

1.—(1) The Food Standards Agency (“the Agency”) must carry out the duties placed on the member State in point 11(1) and point 11(2) of Annex 5 in relation to this Schedule.

(2) The Agency may grant authorisations to a cutting plant in accordance with paragraph 8.

Removal of specified risk material

2.—(1) Removal specified risk material may only take place in accordance with Annex 5.

(2) In the case of a cutting plant authorised under paragraph 8, a person must not remove—

- (a) any part of the vertebral column that is specified risk material from any bovine animal unless the plant is authorised under paragraph 8(1)(a) of this Schedule, or
- (b) the spinal cord from any ovine or caprine animal 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 8(1)(b) of this Schedule.

Bovine animals in a slaughterhouse

3.—(1) When a bovine animal is slaughtered in a slaughterhouse, or the carcase of a bovine animal is transported to a slaughterhouse following emergency killing elsewhere, the occupier of the slaughterhouse must—

- (a) take the action in (b) as soon as is reasonably practicable after the kill, and in any event before post-mortem inspection;
- (b) that action is to remove all specified risk material from the carcase, other than those parts of the vertebral column that are specified risk material.

(2) The occupier of the slaughterhouse must—

- (a) as soon as is 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 is reasonably practicable after the offal is consigned to an appropriate area, and in any event before the offal is removed from the slaughterhouse, remove the specified risk material from the remaining offal.

(3) As soon as is reasonably practicable after slaughter the occupier of a slaughterhouse must consign any bovine carcase containing parts of the vertebral column that are specified risk material to—

- (a) a cutting plant authorised under paragraph 8(1)(a) of this Schedule;
- (b) a cutting plant located in another part of the United Kingdom and authorised under the corresponding provision applicable in that part;
- (c) a cutting plant authorised by a competent authority in an EU member State.

(4) The occupier must label bovine carcasses or wholesale cuts containing vertebral column with a clearly visible red stripe on the label.

Ovine and caprine animals in a slaughterhouse

4.—(1) When an ovine or caprine animal is slaughtered in a slaughterhouse, or the carcase of an ovine or caprine animal is transported to a slaughterhouse following emergency killing elsewhere, the occupier of the slaughterhouse must—

- (a) take the action in (b) as soon as is reasonably practicable after the kill, and in any event before post-mortem inspection;
- (b) that action is to remove all specified risk material from the carcase, other than those parts of the vertebral column that are specified risk material.

(2) The occupier of the slaughterhouse must—

- (a) as soon as is 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 is reasonably practicable after the offal is consigned to an appropriate area, and in any event before the offal is removed from the slaughterhouse, remove the specified risk material from the remaining offal.

(3) In the case of an ovine or caprine animal aged over 12 months at slaughter, or that has a permanent incisor erupted through the gum, the occupier of the slaughterhouse must—

- (a) remove the spinal cord as soon as is reasonably practicable after the post-mortem inspection, or
- (b) as soon as is reasonably practicable, send the whole carcase for removal of the spinal cord to—
 - (i) a cutting plant authorised under paragraph 8(1)(b) of this Schedule,
 - (ii) a cutting plant located in another part of the United Kingdom and authorised under the corresponding provision applicable in that part, or
 - (iii) a cutting plant located in an EU member State.

Bovine, ovine and caprine animals in other places of slaughter

5. When a bovine, ovine or caprine animal is slaughtered in a place authorised by the Agency other than in a slaughterhouse, the person carrying out the slaughter must as soon as is reasonably practicable remove all specified risk material.

Young ovine and caprine stamps

6.—(1) An inspector may stamp an ovine or caprine animal or carcase in a slaughterhouse with, respectively a young lamb stamp or a young goat stamp—

- (a) if the animal does not have a permanent incisor erupted through the gum, and
- (b) any documentation 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 containing the following in capital letters 1 centimetre high—

- (a) “MHS”, and
- (b) in the case of—
 - (i) an ovine animal , “YL”;
 - (ii) a caprine animal, “YG”.

(3) No person other than an inspector appointed under regulation 13(2) may apply the stamp or a mark resembling the stamp, or possess the equipment for applying it.

Removal of spinal cord from ovine and caprine animals

7.—(1) Other than for the purposes of veterinary or scientific examination, removal of the spinal cord, or any part of it, from an ovine or caprine animal—

- (a) aged over 12 months at slaughter, or
- (b) that has one or more permanent incisors erupted through the gum,

must take place in accordance with sub-paragraph (2).

(2) Acceptable methods of removal are—

- (a) longitudinally splitting the whole vertebral column;
- (b) removing a longitudinal section of the whole vertebral column including the spinal cord;
- (c) an alternative method approved in accordance with sub-paragraph (3).

(3) The Agency may approve an alternative method of removal at a specified holding provided that the occupier demonstrates to the satisfaction of the Agency that—

- (a) the method is appropriate to achieve the objectives of the EU TSE Regulation,
- (b) the equipment used to carry out the removal is fully effective, and
- (c) the persons using the equipment are properly trained and skilled in its use and maintenance.

Authorisation of cutting plants by the Agency

8.—(1) If the Agency is satisfied that the provisions of Annex 5 and this Schedule will be complied with, the Agency may authorise a cutting plant to—

- (a) remove those parts of the vertebral column of bovine animals that are specified risk material;
- (b) remove the spinal cord from ovine or caprine animals—
 - (i) aged over 12 months at slaughter, or
 - (ii) that have a permanent incisor erupted through the gum;
- (c) harvest the head meat from bovine animals in accordance with point 9 of Annex 5.

(2) Regulations 7, 9, 10 and 11 apply to any such authorisation, and all references to the Secretary of State in those regulations are to be read as references to the Agency.

Removal of specified risk material at a cutting plant authorised under paragraph 8(1)

9. The occupier of a cutting plant authorised under paragraph 8(1) must as soon as is reasonably practicable after arrival of meat at the plant, 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.

Carcases from an EU member State

10. Where a carcase containing those parts of the vertebral column of a bovine animal that are specified risk material is brought into England from an EU member State, the importer must send it directly to a cutting plant authorised under paragraph 8(1)(a).

Staining and disposal of specified risk material

11.—(1) For the purposes of point 3 of Annex 5—

- (a) indelible staining must involve treating the material (whether by immersion, spraying or other application) with a blue colouring agent using a solution of such a strength that the staining is clearly visible and remains visible after the specified risk material has been chilled or frozen; 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 an ovine or caprine animal; and
 - (ii) in the case of all other specified risk material, over the whole surface of the material.

Security of specified risk material

12.—(1) Pending consignment or disposal from the holding where it was removed, the occupier of the holding must ensure that specified risk material is adequately separated from any food, feedingstuffs, 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.

Prohibition on the sale, supply or possession for sale or supply of specified risk material for human consumption

13. A person must not 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 6(8)

Restrictions on placing on the market and export

1. A person must not place on the market or export (or offer to export) to third countries any product 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 paragraph 1 does not apply to the hides of bovine animals born or reared within the United Kingdom before 1st August 1996 that have been used for leather production in accordance with Article 1(3) of Commission Decision 2007/411/EC.

3. A person must not place on the market or export (or offer to export) to third countries bovine animals born or reared in the United Kingdom before 1st August 1996.

4. A bovine animal is deemed to have been born or reared in the United Kingdom before 1st August 1996 unless its cattle passport shows that either—

- (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.

SCHEDULE 9

Regulation 22

Revocations

<i>Instruments revoked</i>	<i>References</i>
The Transmissible Spongiform Encephalopathies (No 2) (Amendment) Regulations 2008	S.I. 2008/1180
The Transmissible Spongiform Encephalopathies (England) Regulations 2010	S.I. 2010/801
The Animal By-Products (Enforcement) and Transmissible Spongiform Encephalopathies (England) (Amendment) Regulations 2011	S.I. 2011/2681
The Transmissible Spongiform Encephalopathies (England) (Amendment) Regulations 2013	S.I. 2013/336

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 2010 (S.I. 2010/801).

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) (“the EU TSE Regulation”).

The provisions in Part 2 identify the TSE controls that are subject to enforcement under these Regulations and introduce Schedules 2 to 8.

Part 3 deals with administration and enforcement. These Regulations are enforced by local authorities as defined in regulation 2. A Unitary authority may act as the enforcement authority where it is the sole principal county or district council for its local government area.

Schedule 1 sets out the TSE requirements.

Schedule 2 sets out the requirements for monitoring for TSE and the approval of laboratories and provides for compensation.

Schedule 3 provides for TSE controls and compensation for bovine animals (cattle).

Schedule 4 provides for TSE controls and compensation for ovine and caprine animals (sheep and goats).

Schedule 5 provides for TSE controls and compensation for animals that are not bovine, ovine, or caprine animals.

Schedule 6 provides for restrictions to be placed on suspect feedingstuffs and for the slaughter of animals that have had access to unlawful feedingstuffs.

Schedule 7 sets out the controls for dealing with specified risk material and mechanically recovered meat. Slaughtering techniques are specified in the Schedule. The Food Standards Agency are appointed as the competent authority for granting authorisations and carrying out Annex 5 duties provided for in the EU TSE Regulation.

Schedule 8 deals with the export of live bovine animals and products derived from them to other member States and to third countries.

Schedule 9 contains a list of instruments that are revoked.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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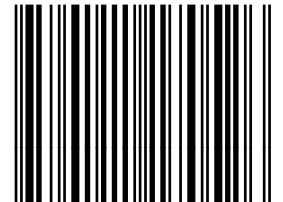
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