STATUTORY RULES OF NORTHERN IRELAND

2006 No. 202

The Transmissible Spongiform Encephalopathies Regulations (Northern Ireland) 2006

PART I

GENERAL PROVISIONS

Citation and commencement

1. These Regulations may be cited as the Transmissible Spongiform Encephalopathies Regulations (Northern Ireland) 2006 and come into operation on 3rd May 2006.

Interpretation

2.—(1) In these Regulations—

"bovine animal" includes bison and buffalo (including water buffalo);

"BSE" means bovine spongiform encephalopathy;

"cattle passport" has the meaning as in the Cattle Passport Regulations (Northern Ireland) 1999(**1**);

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

"the Department" means the Department of Agriculture and Rural Development;

"inspector" means an inspector appointed under regulation 12, and includes a veterinary inspector;

"market value" means—

(a) in the case of a bovine animal, either—

(i) the price which might reasonably have been obtained for the animal at the time of valuation from a purchaser in the open market if the animal was not required to be killed under Schedule 3; or

(ii) the price which would have applied had the animal been slaughtered in accordance with Commission Regulation (EC) No. 716/96 adopting exceptional support measures for the beef market in the United Kingdom(**3**).

(**1**) S.R.1999 No. 324 as amended by S.R. 2001 No. 292 and S.R. 2004 No. 420
(**2**) O.J. No. L 147, 31.5.2001, p. 1
(**3**) O.J. No. L 99, 20.4.1996, p. 14, as last amended by Commission Regulation (EC) No. 2109/2005 (O.J. No. L 337, 22.12.2005, p.25)

(b) in the case of a sheep or goat the price which might reasonably have been obtained for it at the time of valuation by a buyer in the open market if the animal was not from a flock or herd affected by a TSE.

"official document" shall be construed in accordance with regulation 6(1);

"restriction" includes any prohibition under these Regulations;

"premises" includes any holding for the purposes of the Community TSE Regulations;

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

(c) approved or conditionally approved as such by the Food Standards Agency under Article 31(2) of Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules(**4**); or

(d) operating as such under Article 4(5) of Regulation (EC) No. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin(**5**) pending such approval;

"TSE" means transmissible spongiform encephalopathy; and

"veterinary inspector" means a person appointed by the Department as a veterinary inspector.

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

(3) The Interpretation Act (Northern Ireland) 1954(**6**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Appointment of competent authority

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

Exception for research

4.—(1) The provisions of Schedules 2 to 6 do not apply in relation to an animal, a carcase or a sample kept for the purposes of research in premises approved for that purpose under this regulation by the Department.

(2) If a bovine animal, sheep or goat kept in research premises approved under this regulation or its progeny dies or is killed, the occupier must dispose of it as a Category 1 animal by-product in accordance with Regulation (EC) No. 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption(**7**), and failure to do so is an offence.

(**4**) O.J. No. L 165, 30.4.2004, p.1. The revised text of Regulation (EC) No. 882/2004 is now set out in a Corrigendum (O.J. No. L191, 28.5.2004, p.1)

(**5**) O.J. No. L 139, 30.4.2004, p. 55. The revised text of Regulation (EC) No. 853/2004 is now set out in a Corrigendum (O.J. No. L226, 25.6.2004, p.22)

(**6**) 1954 c. 33 (N.I.)

(**7**) O.J. No. L273, 10.10.2002, p. 1 as last amended by Commission Regulation (EC) No. 208/2006, O.J. No. L36, 8.2.2006, p. 25

PART II

INTRODUCTION OF SCHEDULES

The Schedules

5. The following Schedules have effect—

(a) Schedule 2 (TSE monitoring);

(b) Schedule 3 (control and eradication of TSE in bovine animals);

(c) Schedule 4 (control and eradication of TSE in sheep and goats);

(d) Schedule 5 (feedingstuffs);

(e) Schedule 6 (specified risk material, mechanically recovered meat and slaughtering techniques); and

(f) Schedule 7 (restrictions on dispatch to member States and to third countries).

PART III

ADMINISTRATION AND ENFORCEMENT

Approvals, authorisations, licences and registrations

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

(2) An official document must be in writing, and must specify—

(a) the address of the premises to which it relates;

(b) the name of the occupier; and

(c) the purpose for which it is granted.

(3) An official document may be made subject to such conditions as are necessary to—

(a) ensure that the provisions of the Community TSE Regulation and these Regulations will be complied with; or

(b) protect public or animal health.

(4) If the Department refuses to grant an official document, or grants one subject to conditions, it must—

(a) give its reasons in writing; and

(b) explain the right of the applicant to make written representations to a person appointed by the Department.

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

Occupier's duty

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

(a) the premises are maintained and operated in accordance with—

(i) any condition of the approval, authorisation, licence or registration; and

(ii) the requirements of the Community TSE Regulation and these Regulations; and

(b) any person employed by him, and any person permitted to enter the premises, complies with those conditions and requirements.

Suspension and amendment

8.—(1) The Department may suspend or amend an official document if—

(a) any condition under which it was granted is not fulfilled; or

(b) it is satisfied that the provisions of the Community TSE Regulation or of these Regulations are not being complied with.

(2) A suspension or amendment under this regulation shall have immediate effect if the Department considers it necessary for the protection of public or animal health, otherwise it shall not have effect for at least 21 days.

(3) A suspension or amendment of an official document under this regulation shall be notified to the holder thereof and shall—

(a) be in writing;

(b) state its effective date;

(c) give the reasons for issue; and

(d) explain the right of the person who has been notified to make written representations to a person appointed by the Department.

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

(5) If a suspension or amendment under this regulation does not have immediate effect and representations are made under regulation 10, it shall not have effect until the final determination of the appeal is given by the Department unless it considers that it is necessary for the protection of public or animal health for the amendment or suspension to have effect before then.

Revocations of approvals, etc.

9.—(1) The Department may revoke an official document if it is satisfied that the premises to which it relates will not be operated in accordance with the Community TSE Regulation or these Regulations and if—

(a) the document is currently suspended and the period for appeal under regulation 10 has expired or the Department has upheld the suspension following such appeal;

(b) the Department has previously suspended it and there is further non-compliance with the Community TSE Regulation or these Regulations; or

(c) the Department is satisfied that the occupier no longer uses the premises for the purpose for which the document was granted.

(2) If the Department revokes an official document under paragraph (1)(b) or (1)(c) the appeals procedure in regulation 10 applies but the revocation remains in force during that appeals procedure.

Appeals procedure

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

(2) The appointed person shall report in writing to the Department which shall make a final determination in relation to the decision to which the report relates.

(3) That final determination may affirm, vary or revoke the decision to which the report relates.

(4) The Department shall give to the appellant written notification of its final determination and the reasons for it.

Valuations

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

(2) The value of anything for the purposes of these Regulations shall be initially assessed by the Department and notified, in writing, to the owner. Value shall be determined by agreement between the owner and the Department and that agreement shall be final and binding on both the owner and the Department.

(3) If the owner and the Department fail to agree the value, the owner shall select a valuer ("the nominated valuer") from a list of approved valuers provided by the Department and notify the Department of the name and address of the nominated valuer within 2 working days of receipt of the list.

(4) The owner shall, within 5 working days of notification to the Department under paragraph (3), arrange for the nominated valuer to determine the value of the thing in question and shall be liable for any fees or other expenses incurred by the valuer in carrying out the valuation.

(5) The nominated valuer shall carry out the valuation within 5 working days of appointment and give to the owner and the Department a statement in writing of that valuation.

(6) The valuation is binding on both the owner and the Department.

(7) Where the owner or the nominated valuer fails to comply with paragraph (3), (4) or (5) as the case may be, the Department shall determine the value of the thing in question.

Appointment of inspectors

12. The Department shall appoint inspectors for the purposes of the enforcement of these Regulations except as otherwise provided in Schedule 6.

Powers of entry

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

(2) An inspector may take with him—

(a) such other persons as he considers necessary; and

(b) any representative of the European Commission acting for the purpose of the enforcement of a Community obligation.

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

(4) In this regulation "premises" includes any vehicle, container or structure (moveable or otherwise).

Powers of inspectors

14.—(1) An inspector may—

(a) seize any—

(i) animal;

(ii) body of an animal and any parts of the body (including the blood and the hide) and any semen, embryo or ovum; or

(iii) animal protein or feedingstuffs that may contain animal protein,

and dispose of them as necessary;

(b) carry out any inquiries, investigations, examinations and tests;

(c) collect, pen and inspect any animal and for this purpose may require the keeper of any such animal to arrange for the collection and penning of the animal;

(d) inspect any body of an animal and any parts of the body (including the blood and the hide) and any semen, embryo or ovum;

(e) inspect any part of the premises, any equipment, facility, operation or procedure;

(f) take any samples;

(g) have access to, inspect and copy any records (in whatever form they are held) in order to determine if these Regulations are being complied with, including records kept under the Community TSE Regulation and these Regulations, or remove such records to enable them to be copied;

(h) have access to, inspect and check the operation of, any computer and any associated apparatus or material that is or has been in use in connection with any record; and for this purpose may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford him such assistance as he may reasonably require (including providing him with any necessary passwords) and, where a record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away;

(i) mark or tag 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, tag, seal or lock applied under paragraph (1) is guilty of an offence.

(3) An inspector is not personally liable for anything he does—

(a) in the execution or purported execution of these Regulations; and

(b) within the scope of his employment,

if he acted in the honest belief that his duty under these Regulations required or entitled him to do it; but this does not affect any liability of his employer.

Notices

15.—(1) If it is necessary for any reason connected with the enforcement of the Community TSE Regulation or these Regulations an inspector may serve a notice on—

(a) the owner or keeper of any animal;

(b) the person in possession of the body or any part of the body of an animal (including the blood and the hide) or any semen, embryo or ovum; or

(c) the person in possession of any animal protein or feedingstuffs that may contain animal protein.

(2) The notice must be in writing and give the reasons for it being served.

(3) The notice may—

(a) prohibit the movement of any animal onto or from the premises specified in the notice;

(b) specify those parts of premises to which an animal may or may not be allowed access;

(c) require the killing or slaughter of any animal;

(d) prohibit or require the movement onto or from premises, specified in the notice, of the body or any part of the body (including the blood and the hide) of any animal, any animal protein or feedingstuffs that may contain animal protein and any semen, embryo or ovum;

(e) require the disposal of the body or any part of the body (including the blood and the hide) of any animal, whether or not it is one that was required to be detained, and any semen, embryo or ovum as may be specified in the notice;

(f) require the disposal of any animal protein or feedingstuffs that may contain animal protein or specify how they are to be used; or

(g) require the recall of any animal protein or feedingstuffs that may contain animal protein.

(4) If an inspector suspects that any premises, vehicle or container to which the Community TSE Regulation or these Regulations apply constitutes a risk to animal or public health, he may serve a notice on the occupier or person in charge of the premises, vehicle or container requiring that person to cleanse and disinfect all or any part of the premises, vehicle or container and any associated equipment.

(5) A notice may specify how it must be complied with and the time limit for compliance.

(6) A notice must be complied with at the expense of the person on whom it is served, and if it is not complied with an inspector may arrange to have it complied with at that person's expense.

(7) A notice served may be amended, suspended, revoked or withdrawn by a further notice.

(8) Failure to comply with a notice is an offence.

Notices restricting movement

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

(2) A person moving anything under the authority of a licence must carry the licence with him during the movement and produce it on demand to an inspector or an officer of the Police Service for Northern Ireland and failure to do so is an offence.

Obstruction

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

(a) intentionally obstructs an inspector acting under these Regulations;

(b) without reasonable cause, fails to give to an inspector acting under these Regulations any assistance or information or to provide any facilities that the inspector may reasonably require him to give or provide for the performance of his functions under these Regulations;

(c) gives false or misleading information to an inspector acting under these Regulations; or

(d) fails to produce a record when required to do so by an inspector acting under these Regulations.

Penalties

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

(a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term of three months or both; or

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or both.

Enforcement

19.—(1) The Food Standards Agency enforces Schedule 6 in slaughterhouses and cutting plants.

(2) District Councils enforce Schedule 6 in butcher shops.

(3) Otherwise these Regulations are enforced by the Department.

Revocations

20. The provisions in Schedule 8 are revoked.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on

L.S.

Liam Mc Kibben
A senior officer of the
Department of Agriculture and Rural
Development