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WELSH STATUTORY INSTRUMENTS

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**2008 No. 3266 (W.288)**

**ANIMALS, WALES**

**The Transmissible Spongiform Encephalopathies  
(Wales) (Amendment) (No.2) Regulations 2008**

<i>Made</i>	- - - -	<i>19 December 2008</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>19 December 2008</i>
<i>Coming into force</i>	- -	<i>12 January 2009</i>

The Welsh Ministers have been designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to measures in the veterinary and phytosanitary fields for the protection of public health.

The Welsh Ministers make the following Regulations under the powers conferred by section 2(2) of the European Communities Act 1972.

The Welsh Ministers have carried out the consultation required by Article 9 of Regulation (EC) No 178/2002 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<sup>(3)</sup>.

**Citation and commencement**

1. The title of these Regulations is The Transmissible Spongiform Encephalopathies (Wales) (Amendment) (No.2) Regulations 2008; they apply in relation to Wales and come into force on 12 January 2009.

**Amendment of the Transmissible Spongiform Encephalopathies (Wales) Regulations 2008**

2. The Transmissible Spongiform Encephalopathies (Wales) Regulations 2008<sup>(4)</sup> are amended in accordance with regulations 3 to 8.

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(1) S.I. 2008/1792.

(2) 1972 c. 68.

(3) OJ No L 31, 1.2.2002, p.1, as last amended by Regulation (EC) No 202/2008 (OJ No L 60, 5.3.2008, p.17).

(4) S.I. 2008/3154 (W.282).

### **Amendment of regulation 2 (interpretation)**

3. In regulation 2(1) in the definition of “Community TSE Regulation”, after sub-paragraph (b), insert—

- “(c) Commission Decision [2008/908/EC](#) authorising certain Member States to review their annual BSE monitoring programme(5);”.

### **Amendment of regulation 20 (enforcement)**

4. In regulation 20 for paragraph (2) substitute—

- “(2) The Food Standards Agency enforces in slaughterhouses and cutting plants:—
- (a) Schedule 7; and
  - (b) paragraph 1A, paragraph 2 and paragraph 3 of Schedule 8.”.

### **Amendment of Schedule 2**

5. In schedule 2—

- (a) for paragraph 1 substitute—

### **“Notification of the body of a goat for the purposes of monitoring under Article 6 of the Community TSE Regulation**

1.—(1) For the purpose of monitoring under Article 6 of the Community TSE Regulation, a person who has in their possession, or under their control, the body of a goat aged 18 months or over at death, must—

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

and failure to do so is an offence.

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

### **Delivery of the body of a bovine animal for the purposes of monitoring under Article 6 of the Community TSE Regulation**

1A.—(1) For the purpose of monitoring under Article 6 of the Community TSE Regulation, a person who has in their possession or under their control the body of a bovine animal that must be tested in accordance with point 3(1) of Part I of Chapter A of Annex III to that Regulation must, unless directed otherwise by the Welsh Ministers, within 24 hours either—

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

and failure to do so is an offence.

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(5) OJ No L 327, 5.12.2008, p.24.

(2) The periods of 24 and 72 hours referred to in sub-paragraph (1) run from the time when the animal died or was killed or came into the possession or under the control of the person to whom the requirements of that sub-paragraph apply.

### **Persons collecting and delivering**

**1B.** A person with whom arrangements are made under paragraph 1A for the delivery of a body to an approved sampling site must, unless directed otherwise by the Welsh Ministers, within 48 hours of the time when the body comes into their possession or under their control—

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

and failure to do so is an offence.

### **Destruction without sampling**

**1C.** Any person who destroys the body of a bovine animal to which paragraph 1A applies before it has undergone sampling at an approved sampling site, except in accordance with a direction of the Welsh Ministers, commits an offence.

### **Retention of bodies of bovine animals pending test results**

**1D.** An approved sampling site to which the body of a bovine animal has been sent for sampling in accordance with this Part must retain it in accordance with point 6(3) of Annex III to the Community TSE Regulation, and failure to do so is an offence; and

- (b) after paragraph 4 insert—

#### **“Approved sampling sites**

**4A.—(1)** The Welsh Ministers must on application approve a sampling site to sample animals to which paragraph 1A applies if satisfied that the sampling site has adequate control procedures to carry out the sampling.

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

### **Amendment of Schedule 3**

**6.** In Schedule 3 paragraph 5, sub-paragraph (3) for “sub-paragraph 2(b)(ii)” substitute “sub-paragraph 1(b)(ii)”.

### **Substitution of Schedule 8**

**7.** For Schedule 8 substitute the replacement schedule set out in the Schedule to these Regulations.

### **Amendment to regulation 12 (appointment of inspectors)**

**8.** In regulation 12 replace “Schedule 7” with “Schedules 7 and 8”.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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19 December 2008

*Elin Jones*  
Minister for Rural Affairs, one of the Welsh  
Ministers

SCHEDULE

Regulation 7

Replacement Schedule 8

“SCHEDULE 8

Regulation 5

Restrictions on placing on the market and export

**Placing on the market or export to third countries of bovine products**

**1.A.**—(1) It is an offence for any person to place on the market or to export (or offer to export) to third countries any products consisting of or incorporating any material (other than milk) derived from a bovine animal born or reared within the United Kingdom before 1 August 1996.

(2) The prohibition in sub-paragraph (1) does not apply to the hides of bovine animals born or reared within the United Kingdom before 1 August 1996 (including hides from bovine animals referred to in the third indent of point 1(a) of Annex VII to the Community TSE Regulation) that have been used for leather production in accordance with Article 1(3) of Commission Decision [2007/411/EC](#)(6).

(3) For the purpose of enforcing the provisions of this paragraph the powers of an inspector may also be exercised by a person appointed as such in relation to a hide market or tannery by the Agriculture and Horticulture Development Board.

**Placing on the market or export to third countries of bovine animals**

**1B.**—(1) It is an offence for any person to place on the market or to export (or offer to export) to third countries in accordance with Part II of Chapter A of Annex VIII to the Community TSE Regulation bovine animals born or reared in the United Kingdom before 1 August 1996.

(2) The prohibition in sub-paragraph (1) does not apply to the placing on the market of such animals for sale or supply to any person in the United Kingdom.

**Export to member States of heads and un-split carcasses**

**2.** Subject to point 10(2) of Annex V to the Community TSE Regulation, it is an offence for any person to export (or offer to export) a head or un-split carcass containing specified risk material to another

member State in the absence of an agreement of the kind specified in point 10(1) of that Annex.

**Export to third countries of products containing specified risk material**

**3.** In accordance with point 10(3) of Annex V to the Community TSE Regulation, it is an offence for any person to export (or offer to export) heads or fresh meat of bovine, ovine or caprine animals containing specified risk material to third countries.

**Appointment of Food Standards Agency inspectors**

**4.** For the purposes of paragraphs 1A, 2 and 3 of this Schedule, within a slaughterhouse or cutting plant an inspector is any person appointed for the purpose by the Food Standards Agency.”

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

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

*(This note is not part of these Regulations)*

These Regulations amend the Transmissible Spongiform Encephalopathies (Wales) Regulations 2008 (S.I.2008/3154 (W.282)) which enforce Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ No L 147, 31.5.2001, p.1) as amended.

Regulation 2 (interpretation) is amended to include a reference to Commission Decision 2008/908/EC authorising certain Member States to review their annual B.S.E monitoring programme (OJ No L 327, 5.12.2008, p.24) in the definition of “Community TSE Regulation” (regulation 3).

Regulation 20 (enforcement) is amended to make the Food Standards Agency the enforcement authority in respect of offences of placing products on the market (regulation 4).

Schedule 2 (TSE monitoring) is amended to place a duty on those in possession of fallen bovine stock to deliver or arrange for the delivery of carcasses to an approved sampling site for brain stem sampling. Those collecting and delivering the carcasses of the fallen stock are required to ensure that they are delivered to an approved sampling site. Failure to comply with these provisions is an offence.

Schedule 2 is also amended to create new offences of destroying a carcass to which these provisions apply before it has been sampled and of failing to retain carcasses prior to obtaining a negative test result and to make provision for the approval of sampling sites by the Welsh Ministers (regulation 5).

A substituted Schedule 8 (restrictions on placing on the market and export) makes it an offence to place on the market and export live bovine animals born or reared in the United Kingdom before 1 August 1996 and products derived from them (other than milk or hides) to other Member States and to third countries (regulation 7).

Offences are punishable in accordance with regulation 18 of the 2008 Regulations by—

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

A regulatory impact assessment on the effect of this instrument on the costs of business has been prepared and is available from the Welsh Assembly Government, Cathays Park, Cardiff CF10 3NQ.