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WELSH STATUTORY INSTRUMENTS

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**2018 No. 968 (W. 195)**

**ANIMALS, WALES**

**ANIMAL HEALTH**

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

<i>Made</i>	- - - -	<i>4 September 2018</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>6 September 2018</i>
<i>Coming into force</i>	- -	<i>1 October 2018</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 these Regulations under the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972<sup>(3)</sup>.

The Welsh Ministers have consulted as required by Article 9 of Regulation (EC) No 178/2002<sup>(4)</sup> 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**

**Title, application and commencement**

1.—(1) The title of these Regulations is the Transmissible Spongiform Encephalopathies (Wales) Regulations 2018.

(2) These Regulations apply in relation to Wales.

(3) These Regulations come into force on 1 October 2018.

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(1) S.I. 2008/1792.

(2) 1972 c. 68.

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

(4) OJ No L 31, 1.2.2002, p. 1.

## Interpretation

### 2.—(1) In these Regulations—

“bovine animal” (“*anifail buchof*”) includes bison and buffalo (including water buffalo);

“BSE” (“*BSE*”) means bovine spongiform encephalopathy;

“cattle passport” (“*pasbort gwartheg*”) has the same meaning as in the Cattle Identification (Wales) Regulations 2007(5);

“Commission Decision 2007/411/EC” (“*Penderfyniad y Comisiwn 2007/411/EC*”) means Commission Decision 2007/411/EC(6) prohibiting the placing on the market of products derived from bovine animals born or reared within the United Kingdom before 1 August 1996 for any purpose and exempting such animals from certain control and eradication measures laid down in the EUTSE Regulation;

“compound feed” (“*bwyd anifeiliaid cyfansawdd*”) means a mixture of at least two feed materials, whether or not containing feed additives, for oral animal-feeding in the form of complete or complementary feed;

“cutting plant” (“*safle torri*”) has the meaning given to it in paragraph 1.17 of Annex I to Regulation (EC) No 853/2004(7), and is an establishment that is approved or conditionally approved as such by the Food Standards Agency(8) under Article 31(2) of Regulation (EC) No 882/2004(9), or operating as such under Article 4(5) of Regulation (EC) No 853/2004, pending such approval;

“the EU TSE Regulation” (“*Rheoliad TSE yr UE*”) means Regulation (EC) No 999/2001(10) of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies, as read with—

- (a) Commission Decision 2007/411/EC;
- (b) Commission Decision 2007/453/EC(11) establishing the BSE status of Member States or third countries or regions thereof according to their BSE risk; and
- (c) Commission Decision 2009/719/EC(12) authorising certain Member States to revise their annual BSE monitoring programme;

“inspector” (“*arolygydd*”) means an inspector appointed under regulation 13, and “veterinary inspector” (“*arolygydd milfeddygol*”) means a veterinary surgeon appointed by the Welsh Ministers as an inspector;

“local authority” (“*awdurdod lleol*”) means in relation to an area the county council or county borough council for that area;

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

“premises” (“*mangre*”) includes—

- (a) domestic premises if they are being used for any purpose in connection with the EU TSE Regulation or these Regulations;

(5) S.I. 2007/842 (W. 74), as amended by S.I. 2007/3004 (W. 260), S.I. 2013/821 (W. 97) and S.I. 2014/517 (W. 60).

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

(7) OJ No L 139, 30.04.2004, p. 55, as last amended by Commission Regulation (EU) No 1981/2017 (OJ No L 285, 1.11.2017, p. 10).

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

(9) OJ No L 165, 30.4.2004, p. 1, as last amended by Commission Regulation (EU) No 2018/455 (OJ No L 77, 20.3.2018, p. 4).

(10) OJ No L 147, 31.5.2001, p. 1, as last amended by Commission Regulation (EU) No 2018/969 (OJ No L 174, 10.7.2018, p. 12).

(11) 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).

(12) OJ No L 256, 29.9.2009, p. 35, as last amended by Commission Implementing Decision 2016/851/EU (OJ No L 141, 28.5.2016, p. 131).

- (b) land and outbuildings;
- (c) a slaughterhouse;
- (d) a cutting plant;
- (e) a place that is, for the purposes of point 4.1(a) of Annex V, another place of slaughter; and
- (f) any vehicle, container or structure (moveable or otherwise);

“Regulation (EC) No 853/2004” (“*Rheoliad (EC) Rhif 853/2004*”) means Regulation (EC) No 853/2004 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(13) 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;
- (b) Commission Regulation (EC) No 1688/2005(14) 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; and
- (c) Commission Regulation (EC) No 2074/2005(15) laying down implementing measures for certain products under Regulation (EC) No 853/2004 of the European Parliament and of the Council and for the organisation of official controls under Regulation (EC) No 854/2004 of the European Parliament and of the Council and Regulation (EC) No 882/2004 of the European Parliament and of the Council derogating from Regulation (EC) No 852/2004(16) of the European Parliament and of the Council and amending Regulations (EC) No 853/2004 and (EC) No 854/2004;

“Regulation (EC) No 882/2004” (“*Rheoliad (EC) Rhif 882/2004*”) means 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, as read with Commission Regulation (EC) No 2074/2005 and Commission Regulation (EC) No 2076/2005;

“Regulation (EC) No 1069/2009” (“*Rheoliad (EC) Rhif 1069/2009*”) means Regulation (EC) No 1069/2009(17) of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption, as implemented by Commission Regulation (EU) No 142/2011(18);

“slaughterhouse” (“*lladd-dy*”) has the meaning given to it in paragraph 1.16 of Annex I to Regulation (EC) No 853/2004, and is an establishment that is approved or conditionally approved as such by the Food Standards Agency under Article 31(2) of Regulation (EC) No 882/2004;

“specified risk material” (“*deunydd risg penodedig*”) means the tissues specified in Annex V of the EU TSE Regulation, and unless otherwise indicated, it does not include products containing or derived from those tissues;

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(13) 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).

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

(15) OJ No L 338, 22.12.2005, p. 27, as last amended by Commission Regulation (EU) No 2017/1973 (OJ No L 281, 31.10.2017, p. 21).

(16) OJ No L 139, 30.4.2004, p. 1, as last amended by Regulation (EC) No 219/2009 of the European Parliament and of the Council (OJ No L 87 31.3.2009, p. 109).

(17) 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).

(18) OJ L 54, 26.2.2011, p. 1, as last amended by Commission Regulation (EU) No 1262/2017 (OJ No L 182, 13.7.2017, p. 34).

“third country” (“*trydedd wlad*”) means any country which is not a member of the European Union;

“trained person” (“*person wedi ei hyfforddi*”) means any 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;

“TSE” (“*TSE*”) means transmissible spongiform encephalopathy;

“the TSE requirements” (“*y gofynion TSE*”) means those requirements of the EU TSE Regulation set out in regulation 5 and Schedule 1.

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

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

### **Appointment of competent authority**

3. The Welsh Ministers are the competent authority for the purposes of the EU TSE Regulation except as otherwise specified in these Regulations.

### **Animals intended for research**

4.—(1) The provisions of Schedules 2 to 8 do not apply in relation to animals kept for the purposes of research in premises approved for that purpose under this regulation by the Welsh Ministers.

(2) If a bovine, ovine or caprine animal kept in research premises or its progeny dies or is killed, the occupier must dispose of it as a Category 1 animal by-product in accordance with Regulation (EC) No 1069/2009, and failure to do so is an offence.

## **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 Welsh Ministers 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 TSE, the veterinary surgeon must immediately notify the Welsh Ministers of that suspicion.

(3) Where a person examines the carcase of an animal in a laboratory and reasonably suspects the presence of a TSE, that person must immediately notify the Welsh Ministers, and retain the carcase 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 samples by an inspector resulting from the Welsh Minister’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 Welsh Ministers in delivering the TSE monitoring requirements in Annex III;
- (b) any instructions given by an inspector and co-operate with the Welsh Ministers in taking action to control and eradicate a TSE in Annex VII;
- (c) the requirements in Annex IV for the production, use of equipment, packaging, storage and transport of animal feed;
- (d) the animal feeding requirements in Annex IV;
- (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 V and Schedule 7;
- (g) the restrictions in Annex VIII and Schedule 8 concerning the placement of animals or products on the market or for export.

### **Application of the Schedules**

6. The following Schedules have effect—
- (a) Schedule 2 (TSE monitoring and approval of laboratories);
  - (b) Schedule 3 (Control and eradication of TSE in bovine animals);
  - (c) Schedule 4 (Control and eradication of TSE in ovine and caprine animals);
  - (d) Schedule 5 (Control and eradication of TSE in animals that are not bovine, ovine or caprine);
  - (e) Schedule 6 (Feedingstuffs);
  - (f) Schedule 7 (Specified risk material, mechanically separated meat and slaughtering techniques); and
  - (g) Schedule 8 (Restrictions on placing on the market and export).

## **PART 3**

### **Administration and Enforcement**

#### **Approvals, authorisations, licences or registrations**

7.—(1) The Welsh Ministers must grant an approval, authorisation, licence or registration under these Regulations if they are satisfied that the provisions of the EU TSE Regulation and these Regulations will be complied with.

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

- (a) the address of the premises;
- (b) the name of the occupier; and
- (c) the purpose for which it is granted.

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

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

(b) protect public or animal health.

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

(a) give reasons in writing; and

(b) explain that the applicant has the right to make written representations to a person appointed by the Welsh Ministers.

(5) The appeals procedure in regulation 11 then applies.

### **Occupier's duty**

**8.** The occupier of any premises approved, authorised, licensed or registered under these Regulations commits an offence if they do not ensure that—

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

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

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

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

### **Suspension and amendment**

**9.—(1)** The Welsh Ministers 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 Welsh Ministers are satisfied that the provisions of the EU TSE Regulation or of these Regulations are not being complied with.

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

(3) A suspension or amendment—

(a) may have immediate effect if the Welsh Ministers consider it necessary for the protection of public or animal health; and

(b) otherwise, may have effect after the expiration of at least 21 days.

(4) Notification of the suspension or amendment must—

(a) be in writing;

(b) state when the suspension or amendment comes into effect;

(c) give the reasons; and

(d) explain that the person who has been notified has the right to make written representations to a person appointed by the Welsh Ministers.

(5) The appeals procedure in regulation 11 then 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 of the appeal by the Welsh Ministers unless the Welsh Ministers consider that it is necessary for the protection of public or animal health for the amendment or suspension to have effect before then.

### **Revocations of approvals, authorisations, licences or registrations**

**10.**—(1) The Welsh Ministers may revoke an approval, authorisation, licence or registration granted under these Regulations if the Welsh Ministers are satisfied that the premises will not be operated in accordance with the EU TSE Regulation or these Regulations and if—

- (a) it is currently suspended and the period for appeal under regulation 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 EU TSE Regulation or these Regulations; or
  - (c) the Welsh Ministers are satisfied that the occupier no longer uses the premises for the purpose for which it was granted.
- (2) Notification of the revocation must—
- (a) be in writing;
  - (b) state when the revocation comes into effect;
  - (c) give the reasons; and
  - (d) explain that the person who has been notified has the right to make written representations to a person appointed by the Welsh Ministers.

(3) If the Welsh Ministers revoke an approval, authorisation, licence or registration under paragraph (1)(b) or (1)(c) the appeals procedure in regulation 11 applies, but the revocation remains in force during that appeals procedure.

### **Appeals procedure**

**11.**—(1) Where the appeals procedure in this regulation applies, a person may make written representations to a person appointed for the purpose by the Welsh Ministers concerning any decision of the Welsh Ministers within 21 days of notification of the decision to that person.

(2) The Welsh Ministers may also make written submissions to the appointed person concerning the decision within 21 days of receipt of the appellant's representations.

(3) The appointed person must then report in writing to the Welsh Ministers.

(4) The Welsh Ministers must give to the appellant written notification of the Welsh Ministers' final determination and the reasons for it.

(5) Unless the Welsh Ministers consider that immediate action is necessary for the protection of public health or animal health or welfare, they may not kill any animal or destroy any thing under these Regulations until—

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

### **Valuations**

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

(2) The owner and the Welsh Ministers may agree on a valuation.

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

(4) If the owner and the Welsh Ministers cannot agree on who the valuer should be, the valuation must be carried out by a valuer named on a list maintained by the Welsh Ministers, nominated by the President of the Royal Institution of Chartered Surveyors or the President of the Central Association of Agricultural Valuers as the Welsh Ministers may decide.

(5) The valuer must carry out the valuation and submit it and any other relevant information and documentation to the Welsh Ministers, and provide a copy to the owner.

(6) Both the owner and a representative of the Welsh Ministers have the right to be present at a valuation.

(7) The valuation is binding on both the owner and the Welsh Ministers.

(8) In this regulation, “owner” (“*perchennog*”) means the owner of the animal or product in question.

### **Appointment of inspectors**

**13.**—(1) Except as specified in paragraph (2), the Welsh Ministers and the local authority may appoint inspectors for the purposes of enforcing these Regulations.

(2) The Food Standards Agency may appoint inspectors for the purposes of enforcing 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 appointment.

### **Powers of entry**

**14.**—(1) An inspector may, on giving reasonable notice, enter any premises (except if used wholly or mainly as a private dwelling) at any reasonable hour for the purpose of executing or enforcing the EU TSE Regulation or these Regulations.

(2) The inspector must, if so required, produce some duly authenticated document showing their authority before exercising their right under paragraph (1).

(3) The requirement to give notice under paragraph (1) 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; or
- (d) an inspector has reasonable suspicion of a failure to comply with the EU TSE Regulation or these Regulations.

(4) An inspector may take with them such other persons as the inspector considers necessary.

(5) If an inspector enters any unoccupied premises or (where the premises are occupied) the occupier of the premises is temporarily absent the inspector must leave those premises (so far as reasonably practicable) as effectively secured against unauthorised entry as the inspector found them.

(6) If a justice of the peace, on sworn information in writing, is satisfied that there are reasonable grounds for entry into any premises (including a dwellinghouse) for the purposes of the enforcement of the EU TSE Regulation and these Regulations, and—

- (a) 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;
- (b) asking for admission, or the giving of such a notification, would defeat the object of the entry;
- (c) the case is one of urgency; or
- (d) the premises are unoccupied or the occupier is temporarily absent,

the justice may by a signed warrant authorise an inspector to enter the premises, if need be by reasonable force.

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



## **Powers of inspectors**

**15.**—(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;
  - (iii) animal protein or feedingstuffs that may contain animal protein; or
  - (iv) milk or milk product,and dispose of them as necessary;
- (b) carry out any inquiries, investigations, examinations and tests;
- (c) collect, pen and inspect any animal and for this purpose may require the keeper of any such animal to arrange for the collection and penning of the animal;
- (d) inspect any body of an animal and any parts of the body (including the blood and the hide) and any semen, embryo or ovum;
- (e) inspect any part of the premises, any equipment, facility, operation or procedure;
- (f) take any samples;
- (g) 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, including records kept under the EU TSE Regulation and these Regulations, 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 may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford them such assistance as the inspector may reasonably require (including providing the inspector 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;
- (j) mark anything (including an animal) whether electronically or otherwise, for identification purposes; and
- (k) lock or seal any container or store.

(2) Any person who defaces, obliterates, or removes any mark or seal, or removes any lock, applied under paragraph (1) commits an offence.

(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 the inspector's duty under these Regulations required or entitled them to do it; but this does not affect any liability of the inspector's employer.

## **Notices**

**16.**—(1) If it is necessary for any reason connected with the enforcement of the EU 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;
  - (c) the person in possession, or supplier, of any animal protein or feedingstuffs that may contain animal protein; or
  - (d) the owner, or person in possession, of any milk or milk products.
- (2) The notice must be in writing.
- (3) The notice may—
- (a) prohibit or require the movement of any animal onto or from the premises specified in the notice;
  - (b) prohibit the movement of any milk or milk products from the premises specified in the notice;
  - (c) specify those parts of premises to which an animal may or may not be allowed access;
  - (d) require the killing or slaughter of any animal;
  - (e) prohibit or require the movement onto or from premises specified in the notice of the body or any part of the body (including the blood and the hide) of any animal, any animal protein or feedingstuffs that may contain animal protein, and any animal semen, embryo or ovum;
  - (f) require the disposal of the body or any part of the body (including the blood and the hide) of any animal (whether or not it is one that was required to be detained), and any semen, embryo, ovum, milk or milk product as may be specified in the notice;
  - (g) require the disposal of any animal protein or feedingstuffs that may contain animal protein or specify how they are to be used;
  - (h) require the recall of any animal protein or feedingstuffs that may contain animal protein;
  - (i) require an occupier of a slaughterhouse—
    - (i) to take a sample from animals in accordance with paragraph 4 of Schedule 2, or
    - (ii) to permit an official veterinarian to take a sample from animals in accordance with paragraph 4 of Schedule 2;
  - (j) require that all or any part of the premises (and any associated equipment) is cleansed and disinfected where an inspector suspects there is a risk to public or animal health; or
  - (k) require any action that an inspector reasonably believes is necessary for controlling the spread of disease.
- (4) A notice may specify how it must be complied with, and specify time limits.
- (5) 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.
- (6) Failure to comply with a notice is an offence.

### **Service of notices**

- 17.—(1) Any notice served under these Regulations must be in writing and may be amended, suspended or revoked at any time.
- (2) Any such notice may be served by—
- (a) delivering it to the person;
  - (b) leaving it at the person's proper address; or
  - (c) sending it by post or by electronic means to the person at that address.
- (3) Any such notice may be served on—

- (a) in the case of a body corporate, an officer of the body;
  - (b) in the case of a partnership, a partner or a person having the control or management of the partnership business; and
  - (c) in the case of an unincorporated association, an officer of the association.
- (4) For the purposes of this regulation, “proper address” (“*priod gyfeiriad*”) means—
- (a) in the case of a body corporate or an officer of that body—
    - (i) the address of the registered or principal office of that body, or
    - (ii) the email address of the officer;
  - (b) in the case of a partnership, a partner or a person having the control or management of the partnership business—
    - (i) the address of the principal office of the partnership, or
    - (ii) the email address of the partner or person having that control or management;
  - (c) in the case of an unincorporated association or an officer of the association—
    - (i) the address of the principal office of the association, or
    - (ii) the email address of the officer; and
  - (d) in any other case, a person’s last known address, which includes an email address.
- (5) For the purpose of paragraph (4), the principal office of a body corporate registered outside the United Kingdom or of a partnership or Scottish partnership established outside the United Kingdom is its principal office in the United Kingdom.
- (6) If the name or address of any occupier of premises on whom a notice is to be served under these Regulations cannot, after reasonable inquiry, be ascertained, the notice may be served by leaving it conspicuously affixed to a building or object on the premises.
- (7) A notice may specify that a person in receipt of it must immediately inform an inspector of its safe receipt.
- (8) A person must comply with the terms of any notice served, given or displayed under these Regulations.
- (9) In this regulation—
- “body corporate” (“*corff corfforaethol*”) includes a limited liability partnership,
  - “director” (“*cyfarwyddwr*”), in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate,
  - “officer” (“*swyddog*”), in relation to a body corporate, means any director, manager, secretary or other similar officer of the body corporate,
  - “partnership” (“*partneriaeth*”) does not include a limited liability partnership.

### **Notices restricting movement**

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

(2) The person transporting the animal or product under the authority of a licence must carry the licence with them during any movement, and produce it on demand to an inspector, and failure to do so is an offence.

### **Other offences**

**19.** A person commits an offence if that person—

- (a) intentionally obstructs an inspector acting under these Regulations;
- (b) without reasonable cause, fails to give to an inspector acting under these Regulations any assistance or information or to provide any facilities that the inspector may reasonably require that person to give or provide for the performance of the inspector's functions under these Regulations;
- (c) gives false or misleading information to an inspector acting under these Regulations;
- (d) fails to produce a record when required to do so by an inspector acting under these Regulations;
- (e) fails to comply with the requirements of any notice or licence served or issued under these Regulations; or
- (f) fails to comply with the TSE requirements.

### **Penalties**

**20.** A person guilty of an offence under these Regulations is liable on summary conviction to a fine.

### **Corporate offences**

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

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

the officer as well as the body corporate is 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 functions of management as if they were a director of the body.

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

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

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

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

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

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

(5) In this regulation—

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

“partner” (“*partner*”) includes a person purporting to act as a partner.

### **Enforcement**

**22.—(1)** The Welsh Ministers enforce Schedule 2 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 Welsh Ministers may direct, in relation to cases of a particular description or any particular case that an enforcement duty imposed on the local authority under this regulation must be discharged by the Welsh Ministers and not by the local authority.

### **Consequential amendments**

**23.**—(1) In Schedule 3 to the Official Feed and Food Controls (Wales) Regulations 2009(**19**), for “Transmissible Spongiform Encephalopathies (Wales) Regulations 2008” substitute “Transmissible Spongiform Encephalopathies (Wales) Regulations 2018”.

(2) The Animal By-Products (Enforcement) (Wales) Regulations 2014(**20**) are amended as follows—

- (a) in regulation 20(a) (penalties), omit “not exceeding the statutory maximum”;
- (b) in regulation 29(1) (transitional provision), omit “for the period ending on 31 December 2014.”;
- (c) in Schedule 2, omit paragraph 7.

### **Revocations**

**24.** The following Regulations are revoked—

- (a) the Transmissible Spongiform Encephalopathies (Wales) Regulations 2008(**21**);
- (b) the Transmissible Spongiform Encephalopathies (Wales) (Amendment) (No. 2) Regulations 2008(**22**);
- (c) the Transmissible Spongiform Encephalopathies (Wales) (Amendment) Regulations 2009(**23**);
- (d) the Transmissible Spongiform Encephalopathies (Wales) (Amendment) Regulations 2010(**24**);
- (e) the Older Cattle (Disposal) (Wales) Regulations 2006(**25**);
- (f) the Bovine Hides Regulations 1997(**26**); and
- (g) the Selective Cull (Enforcement of Community Compensation Conditions) Regulations 1996(**27**).

### **Transitional provisions**

**25.** Any notice, approval, authorisation, licence or registration issued, served, made or granted under the Transmissible Spongiform Encephalopathies (Wales) Regulations 2008 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.

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(19) [S.I. 2009/3376 \(W. 298\)](#) to which there are amendments not relevant to these Regulations.

(20) [S.I. 2014/517 \(W. 60\)](#).

(21) [S.I. 2008/3154 \(W. 282\)](#).

(22) [S.I. 2008/3266 \(W. 288\)](#).

(23) [S.I. 2009/192 \(W. 24\)](#).

(24) [S.I. 2010/1822 \(W. 179\)](#).

(25) [S.I. 2006/62 \(W. 11\)](#).

(26) [S.I. 1997/813](#).

(27) [S.I. 1996/3186](#).

4 September 2018

*Lesley Griffiths*  
Cabinet Secretary for Energy, Planning and  
Rural Affairs, one of the Welsh Ministers

## SCHEDULES

### 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 <a href="#">Directive 64/432/EEC(28)</a> and Annex E to <a href="#">Directive 91/68/EEC(29)</a>
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

(28) Council Directive of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine OJ No P 121, 29.7.1964, p. 1977 last amended by Commission Implementing Decision (EU) 2015/819, OJ No L 129, 27.5.2015, p. 28.

(29) Council Directive of 28 January 1991 on animal health conditions governing intra-Community trade in ovine and caprine animals OJ No L 46, 19.2.1991, p. 19 last amended by Commission Implementing Decision (EU) 2016/2002, OJ No L 308, 16.11.2016, p. 29.

## SCHEDULE 2

Regulation 6(a)

## TSE monitoring and approval of laboratories

**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 must be tested for BSE in accordance with point 3.1 of Part I of Chapter A of Annex III (read with Article 2 of Commission [Decision 2009/719/EC](#)) must, unless directed otherwise by the Welsh Ministers—

- (a) within 24 hours of the death of the animal make arrangements with another person for that person to collect the body and to deliver it to an approved sampling site or to an Animal and Plant Health Agency (APHA) veterinary investigation centre; or
- (b) within 72 hours of the death of the animal deliver the body direct to an approved sampling site or an APHA veterinary investigation centre that has a trained person available to take a sample from the body,

and failure to do so is an offence.

(2) A person with whom arrangements are made for the delivery of a body for the purposes of sub-paragraph (1) must, unless directed otherwise by the Welsh Ministers—

- (a) identify the site or centre that will carry out the sampling; and
- (b) ensure it is delivered to that site or centre so as to arrive there within 72 hours,

and failure to do so is an offence.

(3) The periods of 24 and 72 hours referred to in this paragraph run from the time when the animal was discovered to have died or was killed.

(4) The owner of the dead bovine animal is responsible for the expense incurred by the sampling site operator for carrying out the sampling.

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

**Destruction without sampling**

2. Any person who destroys the body of a bovine animal to which paragraph 1 applies before it has been delivered for sampling for the purposes of that paragraph, except in accordance with a direction of the Welsh Ministers, commits an offence.

**Brain stem sampling of bovine animals (approved sampling sites)**

3. The occupier of an approved sampling site to which an animal that must be tested for BSE has been sent in accordance with paragraph 1 must—

- (a) take a sample comprising the brain stem for testing in accordance with Chapter C of Annex X;
- (b) ensure that the animal (or all parts of it) from which the sample has been taken can be identified;
- (c) arrange for the sample to be delivered to an approved testing laboratory; and
- (d) retain the body of the animal pending test results and dispose of it in accordance with Part I of Chapter A of Annex III,

and failure to do so is an offence.



### **Brain stem sampling of bovine animals (slaughterhouses)**

4.—(1) The occupier of a slaughterhouse or other place of slaughter in which a bovine animal to which sub-paragraph (2) applies is slaughtered or processed must—

- (a) take, or make arrangements for a sample to be taken, comprising the brain stem for testing in accordance with Chapter C of Annex X;
- (b) ensure that the animal (or all parts of it) from which the sample has been taken can be identified; and
- (c) arrange for the sample to be delivered to an approved testing laboratory,

and failure to do so is an offence.

(2) This sub-paragraph applies to a bovine animal that—

- (a) was born in a country that is not listed in the Annex to Commission [Decision 2009/719/EC](#) and is covered by point 2 of Chapter A of Annex III; or
- (b) is covered by point (b) of paragraph 1 of Article 2 of Commission [Decision 2009/719/EC](#).

(3) The Welsh Ministers may serve a notice on the occupier of a slaughterhouse or other place of slaughter requiring them to take a sample and send it for testing as required by sub-paragraph (1) from any bovine animal slaughtered there.

### **Approval of testing laboratories**

5.—(1) The Welsh Ministers must on application approve laboratories to test samples for the purposes of Chapter C of Annex X if satisfied that the laboratory—

- (a) will carry out the testing in accordance with Chapter C of that Annex;
- (b) has adequate quality control procedures; and
- (c) has adequate procedures to ensure the correct identification of the samples and notification of the test results to the consigning slaughterhouse and to the Welsh Ministers.

(2) For the purposes of this Schedule, an “approved testing laboratory” (*“labordy profi a gymeradwywyd”*) means—

- (a) a laboratory approved under this paragraph;
- (b) a laboratory approved under corresponding legislation elsewhere in the United Kingdom;
- (c) any national reference laboratory referred to in Annex X or the EU reference laboratory referred to in that Annex; or
- (d) a diagnostic laboratory approved by a Member State in accordance with Annex X.

### **Approved sampling sites**

6.—(1) The Welsh Ministers must on application approve a sampling site to sample animals pursuant to these Regulations if satisfied that the sampling site has adequate control procedures, including a trained person who is available to carry out the sampling.

(2) An “approved sampling site” (*“safle samplu a gymeradwywyd”*) 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.

**Retention of products and disposal**

7.—(1) Where any bovine animal is required to be sampled for the purposes of paragraph 4, the occupier of the slaughterhouse or other place of slaughter, must in accordance with Part I of Chapter A of Annex III and pending receipt of a negative test result, either—

- (a) retain the carcase and all parts of the body of the sampled animal (except the hide where sub-paragraph (2) applies) for disposal in accordance with that Part in the event of a positive or inconclusive result; or
- (b) dispose of the carcase and of all parts of the body of the sampled animal (including the blood and the hide) in accordance with that Part.

(2) Where a hide or a batch of hides has been marked so as to identify it with a sampled animal, the hide or batch of hides may be consigned to a hide market or tannery and the occupier of the hide market or tannery must pending receipt of a negative test result either—

- (a) retain the hide or the batch of hides for disposal in accordance with Part 1 of Chapter A of Annex III in the event of a positive or inconclusive result; or
- (b) dispose of the hide or the batch of hides in accordance with that Part.

(3) Where a positive or inconclusive result is received for a sampled animal, the occupier of a slaughterhouse or other place of slaughter must immediately dispose of—

- (a) the carcase and all parts of the body of that animal (including the blood and the hide), and
- (b) unless a derogation has been granted under sub-paragraph (6), the carcase 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 Part I of Chapter A of Annex III.

(4) If no sample has been sent to, or no sample has been received by, an approved testing laboratory in accordance with paragraph 5, 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 carcase and all parts of the body (including the blood and the hide) of that animal, and
- (b) unless a derogation has been granted under sub-paragraph (6), the carcase 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 Part 1 of Chapter A of Annex III and for the purposes of this sub-paragraph an “insufficient test result” (“*canlyniad prawf annigonol*”) 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.

(5) 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 carcase and all parts of the body (including the blood and the hide) of that animal in accordance with Part 1 of Chapter A of Annex III; and for the purposes of this sub-paragraph a “no-test result” (“*canlyniad dim prawf*”) means a negative result from a sample following multiple rapid testing where such testing was certified as necessary by an approved testing laboratory.

(6) The Welsh Ministers may grant in writing a derogation from the requirement to destroy other carcasses on the slaughter line where they are satisfied that the slaughterhouse operates a system that prevents contamination between carcasses.

(7) Any person who fails to comply with this paragraph commits an offence.

### **TSE sampling of ovine, caprine and cervid animals**

8.—(1) Where any ovine or caprine animal has been selected for sampling for the purposes of Part II of Chapter A of Annex III, the occupier of a slaughterhouse or other place of slaughter must in accordance with that Part and pending receipt of a negative test result either—

- (a) retain the carcase and all parts of the body (except the hide where sub-paragraph (2) applies) for disposal in accordance with that Part in the event of a positive or inconclusive result; or
- (b) dispose of the carcase and all parts of the body (including the blood and the hide) in accordance with that Part.

(2) Where a hide or a batch of hides has been marked so as to identify it with a sampled animal, the hide or batch of hides may be consigned to a hide market or tannery and the occupier of the hide market or tannery must pending receipt of a negative test result either—

- (a) retain the hide or the batch of hides for disposal in accordance with Part II of Chapter A of Annex III in the event of a positive or inconclusive result; or
- (b) dispose of the hide or the batch of hides in accordance with that Part.

(3) Where—

- (a) an ovine, caprine or cervid animal has died, or has been killed, other than for human consumption; and
- (b) either—
  - (i) the death or killing occurred at premises approved, or required to be approved, under Regulation (EC) No 1069/2009; or
  - (ii) the carcase of the ovine, caprine or cervid animal has been taken to those premises,

the occupier of the premises must comply with any direction given by the Welsh Ministers requiring the carcase to be sampled at the premises.

(4) Where any cervid animal has been selected for monitoring for TSE in accordance with Part III of Chapter A of Annex III, the occupier of a slaughterhouse, hide market or tannery must—

- (a) retain the carcase and all parts of the body of the sampled animal (including the blood and the hide) pending receipt of the test result; and
- (b) in the event of a positive result, immediately dispose of the carcase and all parts of the body (including the blood and the hide) in accordance with Part II of Chapter A of Annex III.

(5) Any person who fails to comply with this paragraph commits an offence.

### **Compensation**

9.—(1) If an animal slaughtered for human consumption tests positive for a TSE, the Welsh Ministers must pay to the occupier of the slaughterhouse or other place of slaughter compensation for the carcase and all parts of the body (including the blood and the hide) of—

- (a) that animal; and
- (b) in the case of a bovine animal which is destroyed because of that positive result, the animal immediately preceding it on the slaughter line and the two animals immediately following it unless a derogation has been granted by the Welsh Ministers under paragraph 7(6).

(2) The compensation is the market value, and if a market value cannot be agreed the valuation must be established in accordance with the procedure laid down in regulation 12(3) to (7) (reading the word “occupier” wherever “owner” is mentioned in those paragraphs), with the occupier paying any valuation fee arising.

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

### SCHEDULE 3

Regulation 6(b)

#### Control and eradication of TSE in bovine animals

##### **Notification**

1.—(1) For the purposes of Article 11, any person who has in their possession or under their control any bovine animal suspected of being affected by a TSE must immediately notify the Welsh Ministers and detain it on the holding until it has been examined by a veterinary inspector.

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

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

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

##### **Restriction on movements pending investigation**

2.—(1) If a bovine animal is the subject of a notification under paragraph 1 or is otherwise suspected of being infected by a TSE for the purposes of Article 12, a veterinary inspector must serve a notice prohibiting the movement of that animal from its holding.

(2) Movements of restricted animals are only permitted in accordance with regulation 18.

(3) If, following investigation, the veterinary inspector determines that no animal on the holding is suspected of being infected with a TSE, the inspector must remove all restrictions on that holding and return any retained cattle passports.

##### **Killing of a suspect animal**

3.—(1) For the purposes of Article 12(1) and (2) if a veterinary inspector suspects that a bovine animal is infected with a TSE, the veterinary inspector must either—

- (a) kill it on the holding immediately;
- (b) remove its cattle passport; or
- (c) ensure that its cattle passport is stamped “Not for human consumption”.

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

##### **Identification and restriction of other bovines, cohorts and offspring**

4.—(1) For the purposes of Article 12(1), following suspicion of a TSE (whether in a live animal or through monitoring), an inspector—

- (a) must serve a notice prohibiting the movement from its holding of any bovine animal on the same holding as the suspect animal if the inspector considers that the suspect animal was exposed to a TSE on that holding;

- (b) may serve a notice prohibiting the movement onto or from any holding of any bovine animal if there is evidence that the suspect animal was exposed to a TSE on that holding.
- (2) The inspector must identify—
  - (a) (if the suspect animal is female) all its offspring born within two years prior to, or after—
    - (i) clinical onset of the disease, or
    - (ii) where the animal did not present with clinical disease, the date of its death; and
  - (b) (in all cases) all its bovine cohorts born on or after 1 August 1996,and for these purposes an animal's date of birth is the one shown on its cattle passport.
- (3) An inspector must serve notices prohibiting movement of those animals from the holding on which they are kept or where that inspector suspects they may be kept (whether or not this is the same holding as that of the suspect animal) and remove their cattle passports.
- (4) If the animals in sub-paragraph (2) cannot be immediately identified an inspector may prohibit the movement of any bovine animal from the holding pending identification.
- (5) Movements of restricted animals are only permitted in accordance with regulation 18.

#### **Action following confirmation**

- 5.—(1) If it is confirmed that an animal was infected with a TSE an inspector must—
  - (a) (if the animal is female) kill all its offspring born within two years prior to, or after—
    - (i) clinical onset of the disease or,
    - (ii) where the animal did not present with clinical disease, the date of its death; and
  - (b) (in all cases) kill all the bovine animals in its cohort born on or after 1 August 1996 except where the inspector is satisfied that—
    - (i) (in all cases) the animal did not have access to the same feed as the affected animal; or
    - (ii) (where the animal is a bull) the animal is continuously kept at, and will not be removed from, a semen collection centre, in which case the killing may be deferred until the end of that animal's productive life.
- (2) For the purposes of sub-paragraph (1), an animal's date of birth is the one shown on its cattle passport.
- (3) The appeals procedure in regulation 11 applies to a decision to kill under sub-paragraph (1)(b).
- (4) Where sub-paragraph (1)(b)(ii) applies, it is an offence to remove the animal from the semen collection centre, except in accordance with a licence issued under regulation 18.
- (5) If an animal is to be killed in accordance with this paragraph, but is not to be killed on the holding, an inspector must ensure that its cattle passport is stamped "Not for human consumption".
- (6) If the test is negative the inspector must remove all restrictions imposed because of the suspect animal and return the cattle passports.
- (7) When an animal is killed under this paragraph, it is an offence to remove the carcase from the premises on which it was killed except in accordance with a written direction from an inspector.

#### **Death while under restriction**

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

### **Placing on the market of bovine progeny**

7. Any person who places on the market an animal which that person knows to be the last-born progeny to which a female bovine animal infected with a TSE gave birth during the preceding two-year period or during the period that follows—

- (a) the first clinical signs of the onset of the disease, or
- (b) where the animal did not present with clinical disease, the date of its death,

commits an offence.

### **Consignment and slaughter of an over-age bovine animal**

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

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

(2) For the purposes of sub-paragraph (1), a bovine animal is deemed to have been born or reared in the United Kingdom before 1 August 1996 unless its cattle passport shows either that—

- (a) it was born in the United Kingdom on or after 1 August 1996; or
- (b) it first entered the United Kingdom on or after 1 August 1996.

### **When compensation is payable**

9. The Welsh Ministers must pay compensation—

- (a) when an animal is killed under this Schedule; and
- (b) where an animal is subject to a movement restriction under this Schedule and has to be killed as an emergency and a veterinary surgeon has declared in writing that the animal would otherwise have been fit for human consumption in accordance with Chapter VI of Section I of Annex III to Regulation (EC) No 853/2004, in which case compensation is the value of the body (including the blood and the hide).

### **Compensation based on average market price**

10.—(1) Subject to paragraph 11, the compensation payable for any domestic cattle is the average market price for the category into which the animal falls at the date of the service of the notice of intention to kill as identified in the table at sub-paragraph (6) and—

- (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;
- (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.

(2) To be eligible for compensation an animal must be identified by means of ear tags and there must be presented, at or before the time of slaughter, to the Welsh Ministers or an agent acting on their behalf, a cattle passport in respect of that animal.

(3) 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.

(4) 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.

(5) An animal is a pedigree for the purposes of this paragraph if at the time when the notice of intention to kill has been served—

- (a) it is entire; and
- (b) the animal at the time when the regulation 16(3)(d) 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 Welsh Ministers 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<sup>(30)</sup>.

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

#### Categories

<i>Male</i>	<i>Female</i>
<b>Beef Sector — non-pedigree animal</b>	<b>Beef Sector — non-pedigree animal</b>
Up to and including 3 months	Up to and including 3 months
Over 3 months up to and including 6 months	Over 3 months up to and including 6 months
Over 6 months up to and including 9 months	Over 6 months up to and including 9 months
Over 9 months up to and including 12 months	Over 9 months up to and including 12 months
Over 12 months up to and including 16 months	Over 12 months up to and including 16 months
Over 16 months up to and including 20 months	Over 16 months up to and including 20 months
Over 20 months, breeding bulls	Over 20 months, calved
Over 20 months, non-breeding bulls	Over 20 months, non-calved
<b>Dairy Sector — non-pedigree animal</b>	<b>Dairy Sector — non-pedigree animal</b>
Up to and including 3 months	Up to and including 3 months
Over 3 months up to and including 6 months	Over 3 months up to and including 6 months
Over 6 months up to and including 12 months	Over 6 months up to and including 12 months
Over 12 months up to and including 16 months	Over 12 months up to and including 16 months
Over 16 months up to and including 20 months	Over 16 months up to and including 20 months
Over 20 months	Over 20 months up to and including 84 months, calved

<sup>(30)</sup> OJ No L 171, 29.06.2016, p. 66.

*Status: This is the original version (as it was originally made).*

<i>Male</i>	<i>Female</i>
	Over 20 months up to and including 84 months, non-calved
	Over 84 months
<b>Beef Sector — pedigree animal</b>	<b>Beef Sector — pedigree animal</b>
Up to and including 6 months	Up to and including 6 months
Over 6 months up to and including 12 months	Over 6 months up to and including 12 months
Over 12 months up to and including 24 months	Over 12 months up to and including 24 months
Over 24 months	Over 24 months, not calved
	Over 24 months up to and including 36 months, calved
	Over 36 months, calved
<b>Dairy Sector — pedigree animal</b>	<b>Dairy Sector — pedigree animal</b>
Up to and including 2 months	Up to and including 2 months
Over 2 months up to and including 12 months	Over 2 months up to and including 10 months
Over 12 months up to and including 24 months	Over 10 months up to and including 18 months
Over 24 months	Over 18 months, not calved
	Over 18 months up to and including 36 months, calved
	Over 36 months up to and including 84 months, calved
	Over 84 months, calved

**Exceptions: compensation based on market value**

11.—(1) Where the Welsh Ministers consider that the data to calculate the average market price in accordance with paragraph 10 are inadequate, the Welsh Ministers may pay compensation—

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

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

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

(4) Where the owner and the Welsh Ministers cannot agree on a market value for the purposes of this paragraph, 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(c)

### Control and eradication of TSE in ovine and caprine animals

#### **Notification**

1.—(1) For the purposes of Article 11, any person who has in their possession or under their control any ovine or caprine animal suspected of being affected by a TSE must immediately notify the Welsh Ministers and detain it on the holding until it has been examined by a veterinary inspector.

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

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

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

#### **Restriction on movements pending investigation**

2.—(1) If an animal is the subject of notification under paragraph 1 or is otherwise suspected of being infected by a TSE for the purpose of Article 12, a veterinary inspector must serve a notice prohibiting the movement of that animal from its holding.

(2) Movements of restricted animals are only permitted in accordance with regulation 18.

(3) If, following the receipt of test results, the veterinary inspector determines that no animal on the holding is suspected of being infected with a TSE, the inspector must remove all restrictions on that holding.

#### **Killing of a suspect animal**

3.—(1) For the purposes of Article 12(1) and (2), if a veterinary inspector suspects that an ovine or caprine animal is infected with a TSE, the veterinary inspector must either—

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

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

#### **Movement restrictions**

4.—(1) For the purposes of Article 12(1), following suspicion of a TSE (whether in a live animal or through monitoring), a veterinary inspector—

- (a) must serve a notice prohibiting the movement onto or from its holding of any ovine or caprine animal on the same holding as the suspect ovine or caprine animal if the inspector considers that the suspect animal was exposed to a TSE on that holding;
- (b) may serve a notice prohibiting the movement onto or from any holding of any ovine or caprine animal if there is evidence that the suspect animal was exposed to a TSE on that holding;

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- (c) may serve a notice prohibiting movement onto or from a holding where an animal specified in point 1(b) of Chapter B of Annex VII is kept or where the inspector suspects such an animal is kept; and
  - (d) must serve a notice prohibiting the movement of sheep or goat milk, or sheep or goat milk products, derived from any ovine or caprine animal present on any holding in relation to which a restriction operates for the purposes of paragraphs (a) to (c).
- (2) Movements of restricted animals or products are only permitted in accordance with regulation 18.
- (3) A notice served under sub-paragraph (1)(d) does not prohibit the use of milk or milk products within the holding.
- (4) If, following the receipt of test results, the veterinary inspector determines that no animal on a holding is infected with a TSE, the inspector must remove all restrictions imposed on that holding.

#### **Confirmation of TSE (excluding BSE and atypical scrapie) in ovine or caprine animals**

- 5.—(1) If it is confirmed that a suspect ovine or caprine animal, or the body of an ovine or caprine animal is infected with a TSE, and BSE and atypical scrapie is excluded, the Welsh Ministers must decide in accordance with Chapter B of Annex VII whether—
- (a) to kill all ruminants on the holding;
  - (b) to kill all susceptible ovine and caprine animals on the holding; or
  - (c) to kill none of the animals on the holding.
- (2) The Welsh Ministers must serve a notice informing the occupier of the holding of their decision.
- (3) The notice must specify—
- (a) the identity or category of the animals (if any) to be killed and destroyed;
  - (b) the identity or category of the animals (if any) to be slaughtered for human consumption;
  - (c) the identity of any ovum or embryo to be destroyed;
  - (d) the identity of the animals (if any) that may be retained; and
  - (e) the time limit for complying with the notice.
- (4) The notice may impose further conditions, restrictions or monitoring requirements which apply in connection with the decision in accordance with Chapter B of Annex VII.
- (5) Milk and milk products derived from sheep and goats to which point 2.2.2 of Chapter B of Annex VII applies may only be used and transported in accordance with that point and failure to comply is an offence.
- (6) The appeals procedure in regulation 11 applies.

#### **Inability to exclude BSE in ovine or caprine animals**

- 6.—(1) This paragraph applies if a TSE is confirmed in a suspect ovine or caprine animal, or a body of an ovine or caprine animal, and BSE cannot be excluded.
- (2) The Welsh Ministers must serve a notice on the occupier of the holding informing them of the Welsh Ministers' intention to have the animals killed and destroyed, and the embryos and ova destroyed and the milk and milk products destroyed, in accordance with point 2.2.1 of Chapter B of Annex VII.
- (3) The notice may impose further conditions, restrictions or monitoring requirements which apply in connection with the decision in accordance with Chapter B of Annex VII.

(4) The appeals procedure in regulation 11 applies.

#### **Confirmation of atypical scrapie in ovine or caprine animals (BSE and classical scrapie excluded)**

7.—(1) If the TSE confirmed in a suspect ovine or caprine animal, or a body of an ovine or caprine animal, is only atypical scrapie and BSE is excluded, the Welsh Ministers must, after carrying out an inquiry, serve a notice informing the occupier of the relevant holding that it will be subject to an intensified TSE monitoring protocol in accordance with point 2.2.3 of Chapter B of Annex VII.

(2) The appeal procedure in regulation 11 applies.

#### **Killing and destruction following confirmation**

8.—(1) Where any ovine or caprine animal which is required to be killed by a notice served under paragraph 5 or 6 is not killed on its own holding, an inspector may direct the owner in writing to consign it to other premises for killing as specified in the direction.

(2) It is an offence to remove the body of an animal from the premises on which it was killed except in accordance with a written direction from an inspector.

#### **Infected animals from another holding**

9. For the purposes of point 2.3 of Chapter B of Annex VII, if an animal infected with a TSE was introduced from another holding, the Welsh Ministers may serve a notice in accordance with paragraph 5 or 6 in relation to the holding of origin in addition to, or instead of, the holding on which infection was confirmed.

#### **Common grazing**

10. In the case of an animal infected with a TSE on common grazing, the Welsh Ministers may limit movement restrictions and killing to an individual flock or herd.

#### **Multiple flocks or herds on a holding**

11. Where more than one flock or herd is kept on a single holding, the Welsh Ministers may limit movement restrictions and killing to an individual flock or herd.

#### **Subsequent occupiers**

12.—(1) If there is a change in occupation of the holding, an occupier on whom a notice has been served under this Schedule must ensure that the subsequent occupier is made aware of the existence and contents of that notice, and failure to do so is an offence.

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

#### **Death while under restriction**

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

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**Placing on the market of progeny of ovine and caprine animals**

14. Any person who places on the market an animal which that person knows to be the last-born progeny to which a female ovine or caprine animal infected with a BSE gave birth during the preceding two-year period or during the period that follows—

- (a) the first clinical signs of the onset of the disease; or
- (b) where the animal did not present with clinical disease, the date of its death,

commits an offence.

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

15.—(1) The Welsh Ministers 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 Welsh Ministers must determine the category of ovine or caprine 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(3)(d) notice is served.

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

**Compensation**

<i>Animal category</i>	<i>Compensation (£)</i>
<b>Goats (caprines)</b>	
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
<b>Sheep (ovines)</b>	
Lamb aged 1 year or younger	80
Breeding ewe over 1 year old	130
Breeding ram over 1 year old	350

**Valuations**

16.—(1) If the owner of an animal or product considers the compensation in the preceding paragraph to be unreasonable, a valuation must be carried out in accordance with the procedure laid down in regulation 12(3) to (7) with the owner paying any valuation fee arising.

(2) When carrying out a valuation under regulation 12 the valuer must value the animal or product at the price that might reasonably have been obtained for it at the time of valuation from a buyer in the open market as if the animal or product was not from a flock or herd affected by TSE.

**Compensation for milk and milk products compulsorily destroyed**

17.—(1) The Welsh Ministers must pay compensation in accordance with this paragraph for milk and milk products destroyed.

(2) The compensation payable is that which the Welsh Ministers believe 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 subparagraph 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(d)

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

#### **Notification**

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

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

(3) Any person (other than the Welsh Ministers) who examines the body of an animal that is not bovine, ovine or caprine, or any part of it, in a laboratory and who reasonably suspects the presence of a TSE must immediately notify the Welsh Ministers, and retain the body and any parts of it until a veterinary inspector has authorised disposal.

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

#### **Restriction of a notified animal**

**2.—**(1) If an animal is the subject of notification under paragraph 1, or is otherwise suspected of being infected by a TSE for the purposes of Article 12, a veterinary inspector must serve a notice prohibiting the movement of that animal from its holding.

(2) Movements of restricted animals are only permitted in accordance with regulation 18.

(3) If, following investigation, the veterinary inspector determines that no animal on the holding is suspected of being infected with a TSE, the inspector must remove all restrictions on that holding.

#### **Killing of a suspect animal**

**3.—**(1) For the purposes of Article 12(1) and (2), if a veterinary inspector suspects that an animal that is not bovine, ovine or caprine is infected with a TSE, the veterinary inspector must either—

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

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

## **Compensation**

4.—(1) Where an animal is killed under paragraph 3, the Welsh Ministers must pay compensation to the owner of 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 from a buyer in the open market at the time of the valuation and on the assumption that the animal was not affected by a TSE.

(4) Where the owner and the Welsh Ministers 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(e)

### Feedingstuffs

## PART 1

### Restrictions on feeding proteins to animals

#### **Prohibition on feeding animal protein**

1.—(1) It is an offence to feed to any ruminant animal or non-ruminant farmed animal any animal protein (or anything containing animal protein) which is prohibited by Article 7 and Chapter I of Annex IV in relation to that animal.

(2) The prohibition in sub-paragraph (1) does not apply to the feeding of any animal in accordance with Chapter II of Annex IV.

#### **Movement prohibitions and restrictions**

2.—(1) Where an inspector has reasonable grounds to believe that a ruminant or non-ruminant farmed animal has been fed or has had access to any animal protein (or anything containing animal protein)—

- (a) which is prohibited by Article 7 and Annex IV in relation to that animal; or
- (b) for which the inspector cannot establish the origin,

the inspector may take the action specified in sub-paragraph (2).

(2) The inspector may serve a notice on the owner or person in charge of the animal in accordance with regulation 16 prohibiting or restricting the movement of the animal and requiring it to be kept in such manner as the notice provides.

(3) Where the notice is served in respect of a bovine animal, the inspector must—

- (a) ensure that its cattle passport is stamped “Not for human consumption”; or
- (b) seize or detain its cattle passport, in which case the cattle passport may be so stamped before being returned.

(4) It is an offence to consign for slaughter for human consumption or to slaughter for human consumption any animal whose cattle passport has been stamped in accordance with sub-paragraph (3).

### **Killing of animals**

3. Where an inspector has reasonable grounds to believe that a ruminant or non-ruminant farmed animal has been fed or has had access to any material referred to in paragraph 2, the inspector may serve a notice on the owner or person in charge of the animal in accordance with regulation 16 requiring the owner or person in charge of the animal to kill the animal and dispose of it, as specified in the notice.

### **Compensation**

4.—(1) Where an animal is killed under paragraph 3, the Welsh Ministers may pay compensation if the Welsh Ministers consider it appropriate in all the circumstances and must give the decision on whether or not to pay compensation in writing.

(2) The appeals procedure in regulation 11 applies in relation to the decision.

(3) The compensation for—

- (a) a bovine animal is the value established in accordance with paragraphs 10 and 11 of Schedule 3;
- (b) an ovine or caprine animal is the value established in accordance with paragraph 15 and 16 of Schedule 4; and
- (c) an animal that is not bovine, ovine or caprine is the market value of the animal at the time it is killed, established in accordance with the procedure laid down in regulation 12(3) to (7), with the owner paying any valuation fee arising.

### **Restriction and disposal of unlawful feedingstuffs**

5. Where unlawful feedingstuffs have been identified by an inspector as suspected of containing material prohibited by Annex IV, 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.

## **PART 2**

### **Production of protein and feedingstuffs**

#### **Premises producing compound feed intended for non-ruminant farmed animals**

6.—(1) This paragraph applies to compound feed which contains—

- (a) fishmeal;
- (b) dicalcium and tricalcium phosphate of animal origin; or
- (c) blood products derived from non-ruminants.

(2) Any person producing compound feed, or complete feed from compound feed, intended for feeding to non-ruminant farmed animals must do so in accordance with Section B of Chapter III of Annex IV and—

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- (a) in premises authorised by the Welsh Ministers for the purposes of that Section; or
  - (b) in the case of home compounders producing complete feed from compound feed, only where they are registered for that purpose by the Welsh Ministers.
- (3) Failure to comply with this paragraph is an offence.

**Fishmeal intended for non-ruminant farmed animals**

- 7.—(1) Any person producing, packaging or using—
- (a) fishmeal; or
  - (b) compound feed containing fishmeal,

for feeding to non-ruminant farmed animals must do so in accordance with Section A of Chapter IV of Annex IV.

(2) The documentation and label accompanying the fishmeal must be in accordance with that Section.

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

**Dicalcium and tricalcium phosphates intended for non-ruminant farmed animals**

- 8.—(1) Any person packaging or using—
- (a) dicalcium phosphate or tricalcium phosphate of animal origin; or
  - (b) compound feed containing such phosphates,

for feeding to non-ruminant farmed animals must do so in accordance with Section B of Chapter IV of Annex IV.

(2) The documentation and label accompanying the phosphates must be in accordance with that Section.

(3) Any person who transports or stores the phosphates (or compound feed containing the phosphates) in bulk for feeding to non-ruminant farmed animals must do so in accordance with Section A of Chapter III of Annex IV—

- (a) in compliance with any procedure which has been authorised by the Welsh Ministers for the purposes of that Section; and
- (b) (in the case of storage plants to which point 2 of that Section applies), in storage plants which have been authorised for that purpose by the Welsh Ministers.

(4) Any occupier of premises who keeps farmed animals for which the phosphates are not intended must not use or store the phosphates or any compound feed containing them on the premises except in the case of compound feed—

- (a) where measures approved by the Welsh Ministers have been implemented in accordance with Section D of Chapter III of Annex IV; and
- (b) in compliance with the conditions of any authorisation which may be issued to the occupier for that purpose.

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

**Blood products intended for non-ruminant farmed animals**

9.—(1) Any person collecting or transporting blood intended to be used for the production of blood products derived from non-ruminants must do so—

- (a) in accordance with Section C of Chapter IV of Annex IV; and



- (b) (where blood is being collected) from a slaughterhouse which has been registered or authorised by the Welsh Ministers for that purpose.
- (2) Any person producing, storing, transporting, packaging or using—
  - (a) blood products derived from non-ruminants; or
  - (b) compound feed containing such products,for feeding to non-ruminant farmed animals must do so in accordance with Section C of Chapter IV of Annex IV and in compliance with any authorisation issued by the Welsh Ministers for the purposes of that Section.
- (3) Any person producing such blood products or compound feed containing such products must do so in premises registered for the purposes of that Section by the Welsh Ministers, unless otherwise authorised by the Welsh Ministers in accordance with that Section.
- (4) The documentation and label accompanying the blood or blood products must be in accordance with that Section.
- (5) Any person who transports or stores the blood products (or compound feed containing such products) in bulk for feeding to non-ruminant farmed animals must do so in accordance with Section A of Chapter III of Annex IV—
  - (a) in compliance with any procedure which has been authorised by the Welsh Ministers for the purposes of that Section; and
  - (b) (in the case of storage plants to which point 2 of that Section applies), in storage plants which have been authorised for that purpose by the Welsh Ministers.
- (6) Any person importing a consignment of the blood products (or compound feed containing them) from a third country for feeding to non-ruminant farmed animals must ensure the products are analysed in accordance with Section C of Chapter III of Annex IV in order to verify the absence of unauthorised constituents of animal origin.
- (7) Any occupier of premises who keeps farmed animals for which the products are not intended must not use or store the products or any compound feed containing them on the premises except in the case of compound feed—
  - (a) where measures approved by the Welsh Ministers have been implemented in accordance with Section D of Chapter III of Annex IV; and
  - (b) in compliance with the conditions of any authorisation which may be issued to the occupier for that purpose.
- (8) Failure to comply with this paragraph is an offence.

**Processed animal protein other than fishmeal and processed animal protein derived from farmed insects for feeding to aquaculture animals**

- 10.—(1) Any person producing, collecting, storing, transporting, packaging or using—
- (a) processed animal protein derived from non-ruminants other than—
    - (i) fishmeal; and
    - (ii) processed animal protein derived from farmed insects; or
  - (b) compound feed containing such protein,
- for feeding to aquaculture animals must do so in accordance with Section D of Chapter IV of Annex IV and must comply with the conditions of any authorisation issued by the Welsh Ministers for the purposes of that Section.
- (2) Any person producing the compound feed containing such protein, or complete feed from the compound feed, must do so—

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- (a) in premises authorised for that purpose by the Welsh Ministers; or
  - (b) in the case of home compounders producing complete feed from compound feed, only where they are registered for that purpose by the Welsh Ministers.
- (3) The documentation and label accompanying the processed animal protein (or compound feed containing it) must be in accordance with that Section.
- (4) Any person supplying or transporting by-products for the production of the processed animal protein must do so—
- (a) in accordance with Section D of Chapter IV of Annex IV; and
  - (b) where by-products are supplied, from a slaughterhouse, cutting plant or other establishment which is registered for that purpose by the Welsh Ministers.
- (5) Failure to comply with this paragraph is an offence.

#### **Processed animal protein derived from farmed insects for feeding to aquaculture animals**

- 11.**—(1) Any person producing, storing, transporting, packaging or using—
- (a) processed animal protein derived from farmed insects; and
  - (b) compound feed containing such protein,
- for feeding to aquaculture animals must do so in accordance with Section F of Chapter IV of Annex IV and must comply with the conditions of any authorisation issued by the Welsh Ministers for the purposes of that Section.
- (2) Any person producing the compound feed containing such protein, or complete feed from the compound feed, must do so—
- (a) in premises authorised for that purpose by the Welsh Ministers; or
  - (b) in the case of home compounders producing complete feed from compound feed, only where they are registered for that purpose by the Welsh Ministers.
- (3) The documentation and label accompanying the processed animal protein (or compound feed containing it) must be in accordance with that Section.
- (4) Failure to comply with this paragraph is an offence.

#### **Milk replacers containing fishmeal for feeding to unweaned ruminants**

- 12.**—(1) Any person—
- (a) producing fishmeal for use in milk replacers for feeding to unweaned ruminant farmed animals, or
  - (b) producing, storing, transporting, packaging or using milk replacers containing fishmeal for feeding to unweaned ruminant farmed animals,
- must do so in accordance with Section E of Chapter IV of Annex IV and in compliance with any procedure which has been authorised by the Welsh Ministers for the purposes of that Section.
- (2) Any person producing the milk replacers must do so in premises authorised for that purpose by the Welsh Ministers.
- (3) The documentation and label accompanying the milk replacers must be in accordance with Section E of Chapter IV of Annex IV.
- (4) Any person importing from a third country a consignment of the milk replacers must ensure each consignment is analysed in compliance with that Section in order to verify the absence of unauthorised constituents of animal origin.

(5) Any occupier of premises who uses milk replacers for feeding to unweaned ruminants and who keeps on the premises other ruminant animals must be registered with the Welsh Ministers for the purposes of that Section.

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

### **Processed animal protein, including fishmeal, derived from non-ruminants**

**13.**—(1) This paragraph applies to—

- (a) processed animal protein derived from non-ruminant animals, including fishmeal and processed animal protein derived from farmed insects, and
- (b) compound feed containing such protein.

(2) Any person who transports or stores the protein in bulk for feeding to non-ruminant farmed animals must do so in accordance with Section A of Chapter III of Annex IV—

- (a) in compliance with any procedure which has been authorised by the Welsh Ministers for the purposes of that Section; and
- (b) (in the case of storage plants to which point 2 of that Section applies), in storage plants which have been authorised for that purpose by the Welsh Ministers.

(3) Any person importing from a third country a consignment of the protein for feeding to non-ruminant farmed animals must ensure it is analysed in accordance with Section C of Chapter III of Annex IV in order to verify the absence of unauthorised constituents of animal origin.

(4) Any occupier of premises who keeps farmed animals for which the protein is not intended must not use or store it or any compound feed containing it on the premises except in the case of compound feed—

- (a) where measures approved by the Welsh Ministers have been implemented in accordance with Section D of Chapter III of Annex IV; and
- (b) in compliance with the conditions of any authorisation which may be issued to the occupier for that purpose.

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

### **Feed materials and compound feed**

**14.**—(1) Any person who transports and stores bulk feed materials and bulk compound feed containing products derived from ruminants must do so in accordance with Section B of Chapter V of Annex IV and in compliance with any procedure which has been authorised by the Welsh Ministers for the purposes of that Section.

(2) Any person producing compound feed intended for fur animals or for pet animals which contains products derived from ruminants or from non-ruminants must do so in accordance with Section C of Chapter V of Annex IV.

(3) Any occupier of premises who keeps farmed animals must not use or store any feed materials or compound feed for farmed animals containing products derived from ruminants except in accordance with Section D of Chapter V of Annex IV.

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

### **Export of processed animal protein to third countries**

**15.**—(1) It is an offence to export to a third country processed animal protein derived from ruminants, or processed animal protein derived from both ruminants and non-ruminants, except in accordance with the conditions in point 1 of Section E of Chapter V of Annex IV.

(2) It is an offence to export to a third country products containing processed animal protein derived from ruminants, except in accordance with the conditions in point 2 of Section E of Chapter V of Annex IV.

(3) It is an offence to export to a third country processed animal protein derived from non-ruminants, or compound feed containing such protein, except in accordance with the conditions in point 3 of Section E of Chapter V of Annex IV and in compliance with the conditions of any authorisation issued by the Welsh Ministers for that purpose.

## SCHEDULE 7

Regulation 6(f)

Specified risk material, mechanically separated meat and slaughtering techniques

### **Appointment of the Food Standards Agency as the competent authority**

1. The Food Standards Agency must carry out the duties placed on the Member State in point 11.1 and point 11.2 of Annex V in relation to this Schedule and may grant authorisations to a cutting plant for the removal of spinal cord of ovine and caprine animals.

### **Training**

2. The occupier of any slaughterhouse or cutting plant where specified risk material is removed must—

- (a) ensure that staff receive any training necessary to ensure that the occupier complies with the occupier's duties under this Schedule; and
- (b) keep records of each person's training for as long as that person works there,

and failure to do so is an offence.

### **Mechanically separated meat**

3.—(1) Any person who fails to comply with point 5 of Annex V (measures concerning mechanically separated meat) commits an offence.

(2) Any person who uses any mechanically separated meat produced in contravention of that point in the preparation of any food for sale for human consumption or of any feedingstuffs commits an offence.

### **Pithing**

4. Any person who fails to comply with point 6 of Annex V (measures concerning laceration of tissues) commits an offence.

### **Tongue harvesting**

5. Any person who fails to comply with point 7 of Annex V (harvesting of tongues from bovine animals) commits an offence.

### **Head meat harvesting**

6. Any person who fails to comply with point 8 of Annex V (harvesting of bovine head meat) commits an offence.

### **Removal of specified risk material**

7.—(1) Any person who removes specified risk material at any premises or place other than premises or a place where that specified risk material may be removed in accordance with Annex V commits an offence.

- (2) In the case of a cutting plant, it is an offence to remove—
- (a) any part of the vertebral column that is specified risk material from any bovine animal unless the plant is authorised under paragraph 13(1)(a); or
  - (b) the spinal cord from any 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 13(1)(b).

### **Bovine animals in a slaughterhouse**

8.—(1) When a bovine animal is slaughtered in a slaughterhouse or the carcass of a bovine animal is transported to a slaughterhouse following emergency slaughter elsewhere, the occupier of the slaughterhouse must remove all specified risk material from the carcass (other than those parts of the vertebral column that are specified risk material) as soon as is reasonably practicable after slaughter and in any event before post-mortem inspection.

- (2) The occupier must—
- (a) as soon as reasonably practicable after post-mortem inspection, consign any offal that has been removed from the carcass and that contains or is attached to specified risk material to an appropriate area of the slaughterhouse; and
  - (b) as soon as reasonably practicable after the offal is consigned there and in any event before the offal is removed from the slaughterhouse, remove the specified risk material.
- (3) The occupier must as soon as is reasonably practicable after slaughter, consign any meat containing those parts of the vertebral column that are specified risk material to—
- (a) a cutting plant authorised under paragraph 13(1)(a);
  - (b) a cutting plant located in another part of the United Kingdom and authorised under the corresponding provision applicable in that part; or
  - (c) another Member State in accordance with point 10.2 of Annex V.
- (4) The occupier must identify meat containing vertebral column that is not specified risk material in accordance with point 11.3(a) of Annex V and provide information in accordance with point 11.3(b) of that Annex.
- (5) The occupier must label carcasses or wholesale cuts containing vertebral column in accordance with point 11.3(a) of Annex V.
- (6) Failure to comply with this paragraph is an offence.

### **Ovine and caprine animals in a slaughterhouse**

9.—(1) When an ovine or caprine animal is slaughtered in a slaughterhouse or the carcass of an ovine or caprine animal is transported to a slaughterhouse following emergency slaughter elsewhere, the occupier of the slaughterhouse must remove all specified risk material from the carcass (other than the spinal cord) as soon as is reasonably practicable after slaughter and in any event before post-mortem inspection.

- (2) The occupier must—
- (a) as soon as reasonably practicable after post-mortem inspection, consign any offal that has been removed from the carcass and that contains or is attached to specified risk material to an appropriate area of the slaughterhouse; and

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- (b) as soon as reasonably practicable after the offal is consigned there and in any event before the offal is removed from the slaughterhouse, remove the specified risk material.
- (3) In the case of an ovine or caprine animal aged over 12 months at slaughter, or that has a permanent incisor erupted through the gum, the occupier must as soon as is reasonably practicable after slaughter—
  - (a) remove the spinal cord at the slaughterhouse without delay following the post-mortem inspection; or
  - (b) send the meat to—
    - (i) a cutting plant authorised under paragraph 13(1)(b);
    - (ii) a cutting plant located in another part of the United Kingdom and authorised under the corresponding provision applicable in that part; or
    - (iii) in accordance with point 10.1 of Annex V, a cutting plant located in another Member State.
- (4) Failure to comply with this paragraph is an offence.

#### **Bovine, ovine and caprine animals in other places of slaughter**

**10.**—(1) When a bovine, ovine or caprine animal is slaughtered in a place that, for the purposes of point 4.1(a) of Annex V, is an other place of slaughter, the person carrying out the slaughter must remove all specified risk material as soon as is reasonably practicable after slaughter.

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

#### **Young lamb and goat stamps**

**11.**—(1) An inspector may stamp an ovine or caprine animal in a slaughterhouse with a young lamb stamp or a young goat stamp respectively if the animal does not have a permanent incisor erupted through the gum and the documentation, if any, relating to the animal does not indicate that it is aged over 12 months at slaughter.

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

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

(3) It is an offence for any person other than an inspector to apply the stamp or a mark resembling the stamp, or to possess the equipment for applying it.

(4) It is an offence to mark an ovine animal or caprine animal with a stamp that is or resembles a young lamb stamp or a young goat stamp unless it is an animal permitted to be marked in accordance with sub-paragraph (1).

#### **Removal of spinal cord from ovine and caprine animals**

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

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

(c) an alternative method approved in accordance with sub-paragraph (2).

(2) The Food Standards Agency may approve an alternative method of removal at a specified holding provided that the occupier of the holding 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 Food Standards Agency**

**13.**—(1) If the Food Standards Agency is satisfied that the provisions of Annex V 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; or
- (b) remove the spinal cord from ovine and caprine animals aged over 12 months at slaughter, or that have a permanent incisor erupted through the gum; or
- (c) harvest the head meat from bovine animals in accordance with point 9 of Annex V.

(2) The procedures in regulations 7, 9, 10 and 11 apply, but all references to the Welsh Ministers must be construed as references to the Food Standards Agency.

### **Removal of specified risk material at a cutting plant authorised under paragraph 13(1)**

**14.** The occupier of a cutting plant authorised under paragraph 13(1) commits an offence if that occupier fails to, as soon as is reasonably practicable after the arrival at the plant of meat, and in any event before the meat is removed from the plant, remove from the meat all specified risk material of a kind to which the authorisation relates.

### **Carcases from a Member State**

**15.** For the purposes of point 10.1 and point 10.2 of Annex V, where a carcase containing those parts of the vertebral column of a bovine animal that are specified risk material is brought into Wales from a Member State, the importer must send it directly to a cutting plant authorised under paragraph 13(1)(a), and failure to do so is an offence.

### **Staining and disposal of specified risk material**

**16.**—(1) The occupier of any premises where specified risk material is removed commits an offence if that occupier fails to comply with point 3 of Annex V (marking and disposal).

(2) For the purposes of that point—

- (a) staining involves treating the material (whether by immersion, spraying or other application) with a blue colouring agent using a solution of such 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.

*Status: This is the original version (as it was originally made).*

### **Security of specified risk material**

17.—(1) Pending consignment or disposal from the premises or place where it was removed, the occupier of the premises must ensure that specified risk material is adequately separated from any food, feedingstuff or cosmetic, pharmaceutical or medical product and held in an impervious covered container that is labelled as containing either—

- (a) specified risk material; or
- (b) Category 1 animal by-products and including the words “For disposal only”.

(2) The occupier must ensure that the container is thoroughly washed as soon as is reasonably practicable each time that it is emptied, and disinfected before use for any other purpose.

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

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

18. It is an offence to sell, supply or possess for sale or supply—

- (a) any specified risk material, or any food containing specified risk material, for human consumption; or
- (b) any specified risk material for use in the preparation of any food for human consumption.

## SCHEDULE 8

Regulation 6(g)

### Restrictions on placing on the market and export

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

1.—(1) It is an offence for any person to place on the market or to export (or offer to export) to third countries any products consisting of or incorporating any material (other than milk) derived from a bovine animal born or reared within the United Kingdom before 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 that have been used for leather production in accordance with Article 1(3) of Commission [Decision 2007/411/EC\(31\)](#).

(3) For the purposes of this paragraph, a bovine animal is deemed to have been born or reared in the United Kingdom before 1 August 1996 unless its cattle passport shows either that—

- (a) it was born in the United Kingdom on or after 1 August 1996; or
- (b) it first entered the United Kingdom on or after 1 August 1996.

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

2.—(1) It is an offence for any person to place on the market or to export (or offer to export) to third countries 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.

(3) For the purposes of this paragraph, a bovine animal is deemed to have been born or reared in the United Kingdom before 1 August 1996 unless its cattle passport shows either that—

- (a) it was born in the United Kingdom on or after 1 August 1996; or

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



- (b) it first entered the United Kingdom on or after 1 August 1996.

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## EXPLANATORY NOTE

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

These Regulations, which apply in relation to Wales, revoke and remake with amendments the Transmissible Spongiform Encephalopathies (Wales) Regulations 2008 (S.I. 2008/3154 (W. 282)).

These Regulations continue to 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”).

Part 1 of the Regulations provides that the Welsh Ministers are the competent authority for the purposes of the EU TSE Regulation, except in Schedule 7 where the competent authority is the Food Standards Agency (regulation 3). Animals kept for the purposes of research (and to which the EU TSE Regulation do not apply) must be disposed of 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 and derived products not intended for human consumption (OJ No L 300, 14.11.2009, p. 1) (regulation 4).

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.

Regulations 7 to 11 deal with approvals, authorisations, licences and registrations, occupiers’ duties, suspension, amendment and revocations of approvals etc., and an appeals procedure.

Regulation 12 deals with valuations.

Regulations 13 to 15 give powers to the Welsh Ministers, the local authority and the Food Standards Agency to appoint inspectors, and deal with powers of entry and powers of inspectors. Regulation 16 provides for a notice procedure, regulation 17 provides for service of notices and regulation 18 provides for licences permitting movement during a movement restriction.

Regulations 19 to 21 deal with, penalties and offences.

Regulation 22 details who is responsible for enforcing these Regulations.

Regulation 23 contains some consequential amendments.

Regulation 24 deals with revocations.

Regulation 25 contains transitional provisions.

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 deals with control and eradication of TSEs in bovine animals and for those purposes makes provision for the payment of compensation by Welsh Ministers for bovine animals.

Schedule 4 deals with control and eradication of TSEs in sheep and goats and for those purposes makes provision for the payment of compensation by Welsh Ministers for sheep and goats.

**Status:** This is the original version (as it was originally made).

Schedule 5 deals with control and eradication of TSEs in animals that are not bovine, ovine or caprine and for those purposes makes provision for the payment of compensation by Welsh Ministers.

Schedule 6 deals with feedingstuffs. Part 1 covers restrictions on feeding protein to animals and provides for the payment of compensation by Welsh Ministers for the slaughter of animals which have had access to unlawful feedingstuffs. Part 2 deals with controls on the production of protein and feedingstuffs.

Schedule 7 covers specified risk material, mechanically separated meat and slaughtering techniques. The Food Standards Agency is appointed as the competent authority for the purposes of this Schedule.

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

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a Regulatory Impact Assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.