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STATUTORY RULES OF NORTHERN IRELAND

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**2008 No. 508**

The Transmissible Spongiform Encephalopathies  
Regulations (Northern Ireland) 2008

PART III

ADMINISTRATION AND ENFORCEMENT

**Approvals, authorisations, licences and registrations**

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

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

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

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

- (a) ensure that the provisions of the Community TSE Regulation and these Regulations will be complied with; or
- (b) protect public or animal health.

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

- (a) give its reasons in writing; and
- (b) explain that the applicant has the right to make written representations to a person appointed by the Department.

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

**Occupier’s duty**

7. The occupier of any premises approved, authorised, licensed or registered under these Regulations commits an offence if 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; and
  - (ii) the requirements of the Community 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**

- 8.**—(1) The Department may suspend or amend an official document if—
- (a) any condition under which it was granted is not fulfilled; or
  - (b) it is satisfied that the provisions of the Community TSE Regulation or of these Regulations are not being complied with.
- (2) The Department may amend an official document if the Department considers it necessary in the light of technical or scientific developments.
- (3) A suspension or amendment under this regulation—
- (a) may have immediate effect if the Department considers it necessary for the protection of public or animal health;
  - (b) otherwise it must not have effect for at least 21 days from notification.
- (4) A suspension or amendment of an official document under this regulation must be notified to the holder thereof and must—
- (a) be in writing;
  - (b) state its effective date;
  - (c) give the reasons for issue; and
  - (d) explain that the person who has been notified has the right to make written representations to a person appointed by the Department.
- (5) The appeals procedure in regulation 10 then applies.
- (6) If the suspension or amendment under this regulation does not have immediate effect and representations are made under regulation 10, it must not have effect until the final determination of the appeal is given by the Department unless the Department considers that it is necessary for the protection of public or animal health for the amendment or suspension to have effect before then.

## **Revocations of approvals, etc.**

- 9.**—(1) The Department may revoke an official document if it is satisfied that the premises to which it relates will not be operated in accordance with the Community TSE Regulation or these Regulations and if—
- (a) the document is currently suspended and the period for appeal under regulation 10 has expired or the Department has upheld the suspension following such appeal;
  - (b) the Department has previously suspended it and there is further non-compliance with the Community TSE Regulation or these Regulations; or
  - (c) the Department is satisfied that the occupier no longer uses the premises for the purpose for which the document was granted.
- (2) If the Department revokes an official document under paragraph (1)(b) or (1)(c) the appeals procedure in regulation 10 applies but the revocation remains in force during that appeals procedure.

## **Appeals**

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

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

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

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

## **Valuations**

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

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

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

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

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

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

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

## **Appointment of inspectors**

**12.** The Department must appoint inspectors for the purposes of the enforcement of these Regulations except as specified in Schedules 7 and 8.

## **Powers of entry**

**13.**—(1) Inspectors have a right to enter any premises for the purpose of ensuring that the Community TSE Regulation or these Regulations are being complied with.

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

(3) They may exercise their right under paragraph (1) at all reasonable hours.

(4) They may take—

(a) such other persons as they consider necessary; and

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

(5) If inspectors enter any unoccupied premises they must leave them (so far as reasonably practicable) as effectively secured against unauthorised entry as they found them.

(6) If a lay magistrate, on sworn information in writing, is satisfied that there are reasonable grounds for entry into any premises for the purposes of the enforcement of these Regulations, and either—

- (a) admission has been refused, or a refusal is expected, and (in either case) notice to apply for a warrant has been given to the occupier;
- (b) asking for admission, or the giving of such a notice, 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 lay magistrate may by a signed warrant authorise the inspectors to enter the premises, if need be by reasonable force.

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

(8) In this regulation “premises” includes—

- (a) domestic premises if they are being used for any purpose in connection with the Community TSE Regulation or these Regulations; and
- (b) any vehicle, container or structure (moveable or otherwise).

### **Powers of inspectors**

14.—(1) Inspectors may—

- (a) seize any—
  - (i) animal;
  - (ii) body of an animal and any parts of the body (including the blood and the hide) and any semen, embryo or ovum; or
  - (iii) animal protein or feedingstuffs that may contain animal protein,
 and dispose of them as necessary;
- (b) carry out any inquiries, investigations, examinations and tests;
- (c) collect, pen and inspect any animal and for this purpose may require the keeper of any such animal to arrange for the collection and penning of the animal;
- (d) inspect any body of an animal and any parts of the body (including the blood and the hide) and any semen, embryo or ovum;
- (e) inspect any part of the premises, any equipment, facility, operation or procedure;
- (f) take any samples;
- (g) have access to, inspect and copy any records (in whatever form they are held) in order to determine if these Regulations are being complied with, including records kept under the Community TSE Regulation and these Regulations, or remove such records to enable them to be copied;
- (h) have access to, inspect and check the operation of, any computer and any associated apparatus or material that is or has been in use in connection with any record; and for this purpose may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford the inspectors such assistance as they may reasonably require (including the provision of any necessary passwords) and, where a record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away;
- (i) mark or tag anything (including an animal) whether electronically or otherwise, for identification purposes; and
- (j) lock or seal any container or store.

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

- (3) Inspectors are not personally liable for anything they do—
  - (a) in the execution or purported execution of these Regulations; and
  - (b) within the scope of their employment,

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

### **Notices**

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

- (a) the owner or keeper of any animal;
  - (b) the person in possession of the body or any part of the body of an animal (including the blood and the hide) or any semen, embryo or ovum; or
  - (c) the person in possession, or supplier, of any animal protein or feedingstuffs that may contain animal protein.
- (2) The notice must be in writing and give the reasons for it being served.
- (3) The notice may—
- (a) prohibit or require the movement of any animal onto or from the premises specified in the notice;
  - (b) specify those parts of premises to which an animal may or may not be allowed access;
  - (c) require the killing or slaughter of any animal;
  - (d) prohibit or require the movement onto or from premises, specified in the notice, of the body or any part of the body (including the blood and the hide) of any animal, any animal protein or feedingstuffs that may contain animal protein and any animal semen, embryo or ovum;
  - (e) require the disposal of the body or any part of the body (including the blood and the hide) of any animal, whether or not it is one that was required to be detained, and any semen, embryo or ovum as may be specified in the notice;
  - (f) require the disposal of any animal protein or feedingstuffs that may contain animal protein or specify how they are to be used; or
  - (g) require the recall of any animal protein or feedingstuffs that may contain animal protein.

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

- (5) A notice may specify how it must be complied with and the time limit for compliance.
- (6) A notice must be complied with at the expense of the person on whom it is served, and if it is not complied with an inspector may arrange to have it complied with at that person's expense.
- (7) A notice served may be amended, suspended, revoked or withdrawn by a further notice.
- (8) Failure to comply with a notice is an offence.

### **Notices restricting movement**

**16.**—(1) If a notice restricting any movement is served, inspectors may subsequently permit that movement under the authority of a licence.

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

### **Obstruction**

17. A person is guilty of 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; or
- (d) fails to produce a record when required to do so by an inspector acting under these Regulations.

### **Penalties**

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

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

### **Enforcement**

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

- (a) Schedule 7; and
- (b) paragraphs 1, 3 and 4 of Schedule 8.

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

### **Revocations**

20. The following Regulations are revoked—

- (a) the Bovine Products (Restriction on Placing on the Market) (No.2) Regulations (Northern Ireland) 2005(1);
- (b) the Transmissible Spongiform Encephalopathies Regulations (Northern Ireland) 2006(2);
- (c) the Bovine Products (Restriction on Placing on the Market) (No.2) (Amendment) Regulations (Northern Ireland) 2007(3);
- (d) the Transmissible Spongiform Encephalopathies (Amendment) Regulations (Northern Ireland) 2008(4).

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(1) S.R. 2005 No.515  
(2) S.R. 2006 No.202  
(3) S.R. 2007 No.307  
(4) S.R. 2008 No.188