

EXPLANATORY MEMORANDUM TO
THE TRANSMISSIBLE SPONGIFORM ENCEPHALOPATHIES REGULATIONS
(NORTHERN IRELAND) 2010

S.R. 2010 No. 406

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department of Agriculture and Rural Development to accompany the Statutory Rule (details above) which is laid before The Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under the powers conferred by Section 2(2) of, as read with paragraph 1A of Schedule 2 to, the European Communities Act 1972, and is subject to the negative resolution procedure.
- 1.3 The Rule complies with the 21 day rule and will come into operation on 31st December 2010.

2. Purpose

- 2.1 The proposed Transmissible Spongiform Encephalopathies Regulations (Northern Ireland) 2010 will update and replace the current Transmissible Spongiform Encephalopathies Regulations (Northern Ireland) 2008 and the Transmissible Spongiform Encephalopathies (Amendment) Regulations (Northern Ireland) 2009.
- 2.2 The new Regulations provide the necessary powers to administer and enforce the provisions of European Commission Regulation (EC) 999/2001 and amendments on the prevention, control and eradication of Transmissible Spongiform Encephalopathies such as BSE and Scrapie.
- 2.3 The Regulations provide for:
 - (a) The Department as competent authority for the purposes of the Community TSE Regulation, with exceptions;
 - (b) TSE monitoring, control and eradication;
 - (c) Feedingstuffs;
 - (d) Specified risk material, mechanically separated meat and slaughtering techniques;
 - (e) Restrictions on placing on the market and export; and

(f) Administration and enforcement.

2.4 The Regulations have been cleared for making by the Departmental Solicitors Office.

3. Background

3.1 The TSE Regulations (Northern Ireland) 2008 came into force on 1st January 2009 and were last amended in November 2009. There have been a number of amendments made to the EU TSE Regulations and the 2008 domestic Regulations require updating to reflect this and various other operational and technical changes. The changes reflect the declining prevalence of BSE in cattle, new controls on milk and milk products derived from sheep and goats in which a TSE is suspected or confirmed and technical advances in line with the European Commission Roadmap.

3.2 The Agricultural and Rural Development Committee agreed that the Regulations progress to the legislative stage at their meeting on 12th October 2010.

4. Consultation

4.1 A consultation with stakeholders was carried out between 26th March and 18th June 2010.

4.2 A letter and consultation package was sent to one hundred and sixty seven organisations throughout Northern Ireland; and the documents placed on the Departments website.

4.3 Two responses to the consultation were received from the Ulster Farmers' Union and the Northern Ireland Judicial Appointments Commission. Neither organisation objected to the making of the legislation.

5. Equality Impact

5.1 The Regulations will apply to agriculture producers irrespective of any association with Section 75 groups. None of the proposals should have a differential impact on any specific Section 75 Group, other than gender. It is recognized that the Regulations will impact on male farmers, more than female farmers, as the agriculture industry is a male dominated business.

6. Regulatory Impact and Financial Implications

6.1 A Regulatory Impact Assessment (RIA) was carried out on the legislation.

6.2 The recommendation of the assessment was to amend the current legislation. There may be minimal costs to the dairy sheep/goat Industry, however in the event of classical scrapie being suspected or confirmed the introduction of the new provisions if necessary will provide benefits to animal health. The milk restrictions on suspect TSE premises will reinforce the necessity for stringent biosecurity measures and incentivise good practice. These measures will, in turn, yield increased protection of animal health. Also the requirement to BSE test home slaughter over 48 month bovines will have additional minimal cost to Industry, but will increase protection of human health.

7. Section 24 of the Northern Ireland Act 1998

7.1 The Regulations deal with prevention, control and eradication of transmissible spongiform encephalopathies and do not have any human rights implications, nor are they incompatible with EU law. The Regulations are therefore deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

8. EU Implications

8.1 Not applicable.

9. Position in GB

9.1 DEFRA has already made their equivalent Transmissible Spongiform Encephalopathies (England) Regulations 2010, which came into force on 6th April 2010.

9.2 The Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010 came into operation on 28th May 2010 and the Welsh will shortly consult with stakeholders on their equivalent legislation.

10. Position in the Republic of Ireland

10.1 The Department of Agriculture, Fisheries and Food are reviewing their current Regulations with the intention of putting revised Regulations in place by March 2011.

11. Additional Information

11.1 Executive referral – these proposed Regulations were subject to Section 2.4 of the Ministerial Code “Duty to bring matters to the attention of the Executive Committee” as they are cross cutting in that they create new offences and have been cleared by the Department of Justice on 1st October 2010 and have been approved by the Executive on 2nd December 2010.

12. Contact

12.1 Séamus Kelly at the Department of Agriculture and Rural Development.
Telephone: 028 9052 4899 or e-mail: Séamus.Kelly@dardni.gov.uk