

2002 No. 255

ANIMAL HEALTH

The TSE (Scotland) Regulations 2002

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The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972^(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the 1972 Act, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

Part I
Introductory provisions

Citation, commencement and extent

1.—(1) These Regulations may be cited as the TSE (Scotland) Regulations 2002 and shall come into force on 19th June 2002.

(2) These Regulations extend to Scotland only.

Purpose and application

2.—(1) Subject to paragraph (2) below, these Regulations do not apply to the production or placing on the market of the products, medical devices, starting materials, intermediate products and live animals referred to in article 1(2) of the Community TSE Regulation.

(2) In so far as necessary to avoid the cross-contamination or substitution referred to in article 2 of the Community TSE Regulation, these Regulations apply to the use of specified risk material in the production or placing on the market of any product, medical device, starting material or intermediate product referred to in article 1(2) of the Community TSE Regulation.

(3) Part III of these Regulations applies in relation to mammalian protein, mammalian meat and bone meal meat and processed animal protein intended for the feeding of animals (excluding humans).

(4) Part III of these Regulations does not apply in relation to—

- (a) catering waste; or
- (b) eggs and egg products.

Interpretation

3.—(1) In these Regulations, unless the context otherwise requires—

“ABPO approved”, in relation to premises, means approved under article 7, or registered under article 12, of the Animal By-Products Order 1999(a), and “ABPO approval” shall be construed accordingly;

“Agency” means the Food Standards Agency;

“agricultural land” means land used or capable of use for the purposes of a trade or business in connection with agriculture;

“agriculture” includes fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, the use of land for woodlands, and horticulture (except the propagation of plants and the growing of plants within greenhouses and glass or plastic structures);

“catering waste” has the same meaning as in the Animal By-Products Order 1999;

“the Commission Decision” means Commission Decision 2001/9/EC(b) concerning control measures required for the implementation of Council Decision 2000/766/EC concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein;

“the Community TSE Regulation” means Regulation (EC) No. 999/2001 of the European Parliament and of the Council of 22nd May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies(c) as amended by the Community Transitional Measures;

“the Community Transitional Measures” means—

- (a) Commission Regulation (EC) No. 1248/2001 of 22nd June 2001 amending Annexes III, X and XI to Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards epidemio-surveillance and testing of transmissible spongiform encephalopathies(d);

(a) S.I. 1999/646, amended by S.S.I. 2001/171.

(b) O.J. No. L 2, 5.1.2001, p.32.

(c) O.J. No. L 147, 31.5.2001, p.1.

(d) O.J. No. L 173, 27.6.2001, p.12.

- (b) Commission Regulation (EC) No. 1326/2001 of 29th June 2001 laying down transitional measures to permit the changeover to the Regulation of the European Parliament and of the Council (EC) No. 999/2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies, and amending Annexes VII and XI to that Regulation(a); and
- (c) Commission Regulation (EC) No. 270/2001 of 14th February 2002 amending Annex XI to Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards bovine vertebral column and amending Regulation (EC) No. 1326/2001 as regards animal feeding and placing on the market of ovine and caprine animals and products thereof(b);

“cutting premises” means cutting premises as defined in the Fresh Meat (Hygiene and Inspection) Regulations 1995(c) which are licensed cutting premises under those Regulations; “the Divisional Veterinary Manager” means the veterinary inspector appointed for the time being by the Scottish Ministers to receive information in relation to animals suspected of being affected by a TSE or animals affected by a TSE, or the carcasses of such animals, for the area in which such animals or carcasses are located;

“farmed animal” means an animal which is kept, fattened or bred for the production of food;

“feedingstuff” has the meaning given to it by section 66(1) of the Agriculture Act 1970(d), save that it shall apply to products and substances for oral feeding to any creature (other than a human being), and section 66(2)(b) of that Act shall have effect for the purposes of these Regulations as it does for the purposes of that Act;

“food” has the same meaning as in the Food Safety Act 1990(e);

“justice of the peace” means a full justice as defined by section 9 of the District Courts (Scotland) Act 1975(f);

“inspector” means–

- (a) a person appointed as such for the purposes of these Regulations by the Scottish Ministers, including a veterinary inspector;
- (b) a person appointed as such for the purposes of these Regulations by the Agency, including a person designated as an OVS or as a meat hygiene inspector in accordance with regulation 8(2) of the Fresh Meat (Hygiene and Inspection) Regulations 1995;
- (c) a person appointed as such for the purposes of these Regulations by a local authority in relation to its enforcement responsibilities under these Regulations;

“livestock” means–

- (a) any creature, including a fish, kept, fattened or bred for the production of food, wool, skin or fur;
- (b) any creature other than a dog kept for use in the farming of land; and
- (c) any equine animal;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(g);

“MBM product” means any product containing mammalian meat and bone meal;

“mammalian meat and bone meal” means–

- (a) any mammalian protein (including greaves) derived from the whole or part or any part of any dead mammal by–
 - (i) the process of rendering; or
 - (ii) in the case of a product originating outside of Scotland, by an equivalent process; or
- (b) any material derived from mammalian protein,

and for this purpose “protein” means any proteinaceous material which is derived from a carcass but does not include milk or any milk product;

(a) O.J. No. L 177, 30.6.2001, p.61.

(b) O.J. No. L 45, 15.2.2002, p.4.

(c) S.I. 1995/539, amended by S.I. 1995/731, 1763, 2148, 2200, 3124 and 3189, 1996/1148 and 2235, 1997/1729 and 2074 and S.S.I. 2000/62, 171 and 288, 2001/160, 358, 394 and 429 and 2002/35 and 234.

(d) 1970 c.40. The definition of “feeding stuff” was substituted by S.I. 1991/2840.

(e) 1990 c. 16.

(f) 1975 c.20. The definition of “full justice” was inserted by section 8 of the Bail, Judicial Appointments etc. (Scotland) Act 2000 (asp 9).

(g) 1994 c.39.

“monitoring notification”, in respect of any category of notifiable animal, means a notification of the death of the animal to the Scottish Ministers;

“notifiable animal” means any TSE susceptible animal in relation to which the annual programme of monitoring under article 6 of the Community TSE Regulation applies;

“OVS” means an official veterinary surgeon designated as such in accordance with regulation 8(1) of the Fresh Meat (Hygiene and Inspection) Regulations 1995;

“occupier”, in relation to any premises, means any person carrying on a business there;

“premises” means any place, including any land, building, structure (moveable or otherwise), tent or vehicle—

- (a) in which TSE susceptible animals may be bred, grazed, handled, held, kept, marketed or shown to the public;
- (b) in which processed animal protein or mammalian meat and bone meal may be handled, kept or disposed of;
- (c) in which specified risk material may be removed from a carcase of an animal, handled or kept or disposed of; or
- (d) any place where blood, carcases or parts of the carcases derived from any creature except man may be kept;

“processed animal protein” means meat and bone meal, meat meal, bone meal, blood meal, dried plasma and other blood products, hydrolysed protein, hoof meal, horn meal, poultry offal meal, feather meal, dry greaves, fishmeal, dicalcium phosphate, gelatin and any other similar products, and includes mixtures, feedingstuffs, feed additives and premixtures, containing these products; but does not include mammalian meat and bone meal;

“production” includes the manufacture, mixing or packaging of any product, together with ancillary storage and transport operations;

“rendering” means subjecting any material at a rendering, fishmeal or other plant to any of the systems of treatment or procedures mentioned in Schedule 2 to the Animal By-Products Order 1999;

“ruminant animal” means a bovine animal, a sheep or a goat;

“scheme animal” means a bovine animal—

- (a) which has been slaughtered pursuant to the purchase scheme introduced under Commission Regulation (EC) No. 716/96 adopting exceptional support measures for the beef market in the United Kingdom; or
- (b) which the Scottish Ministers have caused to be slaughtered under the Animal Health Act 1981(a) for the prevention of bovine spongiform encephalopathy;

“sealed vehicle” means a vehicle sealed in accordance with regulation 42(3) below;

“slaughterhouse” means a slaughterhouse as defined in the Fresh Meat (Hygiene and Inspection) Regulations 1995 which is a licensed slaughterhouse under those Regulations;

“specified risk material” includes—

- (a) any animal material which comes into contact with specified risk material after it has been removed from the carcase; and
- (b) specified solid waste;

but does not include—

- (i) the vertebral column of a bovine animal born and continuously reared in the United Kingdom or Portugal and slaughtered there when it was aged over 12 months but no more than 30 months; and
- (ii) the vertebral column of a bovine animal born, continuously reared and slaughtered in Sweden;

“specified solid waste” means any solid matter resulting from the slaughter or death of a bovine animal, sheep or goat, or from the subsequent processing of the carcase of a bovine animal, sheep or goat, which is collated, in any part of the drainage system draining any place at which specified risk material is handled;

“TSE” means all transmissible spongiform encephalopathies with the exception of those occurring in humans;

“TSE susceptible animal” means any animal (whether it is a farmed animal or not) capable of being affected by a TSE;

“tallow” means fat derived from animal tissues by a process of rendering;

(a) 1981 c.22.

“UK specified risk material” means specified risk material derived from an animal which has died or was slaughtered in the United Kingdom;

“veterinary inspector” means a person appointed as such by the Scottish Ministers;

“young lamb stamp” means the stamp described in regulation 41(2) below.

(2) Expressions in these Regulations which appear in the Community TSE Regulation or in the Community Transitional Measures have the same meaning in these Regulations as they have for the purposes of the Community TSE Regulation or the Community Transitional Measures.

(3) Expressions in Part III of these Regulations which are not defined in paragraph (1) above and which appear in Council Decision 2000/766/EC(a) concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein or the Commission Decision have the same meaning in these Regulations as they have for the purposes of those Decisions.

(4) For the purposes of these Regulations, material shall be treated as a feedingstuff whether it is used or intended to be used as a feedingstuff by itself or as an ingredient in something which is so used or intended for such use.

(5) Any person appointed by the Scottish Ministers or a local authority to be an inspector for the purposes of the Animal Health Act 1981 or the Processed Animal Protein (Scotland) Regulations 2001(b) shall be deemed to have been appointed by the Scottish Ministers or that authority to be an inspector for the purposes of these Regulations.

(6) Any obligation in these Regulations on any person to slaughter an animal shall be treated as including the person so obliged causing the animal to be slaughtered.

(7) Other than in relation to information sworn before a sheriff or a justice of the peace, and other than in relation to the service of a notice or other document in accordance with regulation 100, any reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000(c), which has been recorded and is consequently capable of being reproduced.

Part II

TSE Monitoring

TSE monitoring

4.—(1) An inspector may make such enquiries and carry out such investigations as that inspector considers necessary for any purpose connected with the administration or enforcement of the annual programme of monitoring under Article 6 of the Community TSE Regulation.

(2) For any such purpose an inspector shall, on producing, if required to do so, some duly authenticated document showing the authority of that inspector, have the right at all reasonable hours to enter any premises (excluding premises used only as a dwelling) to—

- (a) ascertain whether any TSE susceptible animal is being or has been kept on the premises;
- (b) ascertain whether—
 - (i) any TSE exists or has existed on the premises or any other premises; or
 - (ii) any animal which is being kept on the premises or has been kept on the premises is, or was at the time it was kept there, affected with any TSE;
- (c) collect, pen, inspect and examine any TSE susceptible animal and for that purpose may require the keeper of any such animal to arrange for the collection and penning of the animal;
- (d) inspect and examine the carcase of such an animal;
- (e) take such samples from, and make such tests in relation to, any TSE susceptible animal, or the carcase of such an animal, as that inspector considers necessary;

(a) O.J. No. L 306, 7.12.2000, p.32.

(b) S.S.I. 2001/276 as amended by S.S.I. 2001/383.

(c) 2000 c.7.

- (f) mark for identification purposes any TSE susceptible animal, or the carcase of such an animal, or administer or otherwise attach an electronic identification device to any TSE susceptible animal;
- (g) serve a notice to restrict or prohibit the movement of any TSE susceptible animal or the carcase of such an animal;
- (h) seize any TSE susceptible animal or the carcase of such an animal;
- (i) serve any notice in connection with the slaughter of any TSE susceptible animal;
- (j) slaughter any TSE susceptible animal;
- (k) examine any record, in whatever form the record may be held, and take copies of the record;
- (l) have access to, and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with any record; and for this purpose the inspector may require any person who has charge of or who is otherwise concerned with the operation of the computer, apparatus or material to afford to that inspector such assistance as that inspector may reasonably require 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; and
- (m) ascertain whether there is or has been any contravention of, or failure to comply with, this Part of these Regulations or any evidence of any such contravention or failure.

(3) No person except an inspector shall remove or otherwise interfere with any mark applied to a TSE susceptible animal or the carcase of such an animal under paragraph (2)(f) above and no person except a veterinary inspector or an OVS shall remove or otherwise interfere with any electronic identification device attached to or otherwise administered to such an animal under that sub-paragraph.

(4) If a sheriff or justice of the peace, on sworn information in writing is satisfied that there are reasonable grounds for entry into any premises for any such purpose as is mentioned in paragraph (2) above and that either—

- (a) admission to the premises has been refused or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier; or
- (b) an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent,

the sheriff or justice of the peace may by signed warrant authorise an inspector to enter the premises, if need be by using reasonable force.

(5) The occupier of premises entered by an inspector under this regulation or by virtue of a warrant issued under it, and the employees of the occupier and any person on the premises who is or has been in possession or charge of any animal or carcase which is or has been on the premises, shall—

- (a) provide such reasonable facilities to the inspector and comply with such reasonable requirements as the inspector considers necessary for any purpose connected with the administration or enforcement of the annual programme of monitoring referred to in article 6 of the Community TSE Regulation; and
- (b) if required by an inspector, give such information as that occupier possesses as to—
 - (i) any animal or carcase which is or has been on the premises;
 - (ii) any other animal or carcase with which any animal or carcase which is or has been on the premises may have come into contact; and
 - (iii) the location and movement of any animal or carcase which is or has been in the possession or charge of the occupier.

(6) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it, may be accompanied by—

- (a) such other person as that inspector considers necessary to give such assistance as that inspector considers necessary; and
- (b) a representative of the European Commission acting for the purpose of the Community TSE Regulation or the Community Transitional Measures.

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

Movement prohibitions and restrictions of TSE susceptible animals

5.—(1) This regulation applies where an inspector is satisfied that for any purpose connected with the administration or enforcement of the annual programme of monitoring under article 6 of the Community TSE Regulation it is necessary to prohibit or restrict the movement of any TSE susceptible animal from or to any premises.

(2) For any such purpose, and inspector may, by notice in writing served on the owner or person in charge of the animal, prohibit or restrict the movement of the animal or carcase from or to any premises described in the notice for such period and subject to such conditions as that inspector considers necessary for that purpose and specifies in the notice.

(3) During the period in which the notice is in force an inspector may renew it subject to such conditions as that inspector considers necessary for the same or a shorter period.

(4) A notice which is renewed may be renewed from time to time in a similar manner by an inspector.

(5) Where a notice is in force under this regulation the conditions of which allow movement of any animal or carcase from premises on the authority of a licence issued by an -inspector, an inspector may issue a licence for this purpose subject to such requirements or conditions as that inspector considers necessary.

(6) Where an animal or carcase is being moved under the authority of a licence issued under this Part of these Regulations, the person in charge of the animal or carcase being so moved shall carry the licence during the authorised movement and shall, on demand made by an inspector or by a police officer, produce the licence and allow a copy or extract to be taken, and shall also, on such demand, furnish the name and address of that person.

Slaughter of TSE susceptible animals at slaughterhouses

6.—(1) This regulation and regulation 7 below apply where the Scottish Ministers are satisfied it is necessary to slaughter any TSE susceptible animal for any purpose connected with the administration or enforcement of the annual programme of monitoring under article 6 of the Community TSE Regulation.

(2) Where the Scottish Ministers are satisfied that it is necessary to slaughter a TSE susceptible animal at a slaughterhouse, an inspector shall so inform the occupier of the premises concerned and direct the occupier to slaughter the animal in such manner and within such period as the inspector directs.

(3) Before an inspector directs an occupier to slaughter an animal under this regulation, that inspector shall consider the hygiene, specified risk material or animal welfare requirements with which the occupier must comply at the slaughterhouse in relation to—

- (a) the slaughter of the animal; and
- (b) any related operation, including—
 - (i) the handling of the animal before and at slaughter, or the handling, storage, treatment and disposal of the carcase, any part of the carcase or any blood derived from the carcase or any part of the carcase; and
 - (ii) any operation in relation to any other animal or the slaughter of any other animal at the slaughterhouse, including the handling of any other animal before and at slaughter, or the handling, storage, treatment and disposal of the carcase, any part of the carcase or any blood derived from the carcase or any part of the carcase of any other animal.

(4) Where the inspector is satisfied that for the purpose of complying with any of these requirements the occupier must—

- (a) slaughter any other animal at the slaughterhouse; or
- (b) carry out any such related operation,

the inspector shall direct the occupier to slaughter the other animal or carry out the related operation in such manner and within such period as the inspector directs.

(5) In directing an occupier under this regulation, an inspector may direct that occupier in relation to—

- (a) the keeping and handling before and at slaughter of any animal at the slaughterhouse, whether or not it is to be slaughtered under a direction given under this regulation;

- (b) the arrangements for the slaughter at the slaughterhouse of any animal slaughtered under a direction given under this regulation; and
- (c) the treatment, storage and disposal of the carcase of any animal slaughtered at the slaughterhouse or any part of the carcase or any blood derived from the carcase or any part of the carcase.

(6) Any direction under this regulation shall be complied with at the expense of the person to whom the direction is given, except where and to the extent that the Scottish Ministers are satisfied that it is not proportionate for that person to bear some or all of that expense.

(7) Where the Scottish Ministers are satisfied that it is not proportionate for a person to whom a direction is given to bear some or all of the expense of complying with it, they shall give notice to that person of the proportion of the expense, if any, which they are satisfied the person should bear.

(8) If a direction under this regulation is not complied with, an inspector may arrange for it to be complied with and may recover the expense of such compliance from the person to whom the direction was given.

Slaughter of TSE susceptible animals at other premises

7.—(1) Where the Scottish Ministers are satisfied that it is necessary to slaughter a TSE susceptible animal at premises other than a slaughterhouse a veterinary inspector shall serve a notice of intended slaughter on the owner or person in charge of the animal—

- (a) informing that owner or person of that intention; and
- (b) specifying the period within which representations from the owner or person in charge of the animal may be made to the Scottish Ministers in that regard.

(2) After considering any representations received during that period from the owner or person in charge of the animal, the Scottish Ministers shall either—

- (a) withdraw the notice of intended slaughter; or
- (b) serve a notice on the owner or person in charge of the animal confirming the intended slaughter of the animal.

(3) After service of the notice confirming the intended slaughter of the animal, the Scottish Ministers shall cause the animal to be slaughtered as soon as possible having regard to the requirements of the annual programme of monitoring referred to in Article 6 of the Community TSE Regulation.

Retention and seizure of carcasses etc. of TSE susceptible animals

8.—(1) This regulation applies where the Scottish Ministers are satisfied that for any purpose connected with the administration or enforcement of the annual programme of monitoring under article 6 of the Community TSE Regulation it is necessary—

- (a) to require an occupier of premises to retain on the premises, under the direction of the Scottish Ministers, a carcase of a TSE susceptible animal, any part of such a carcase or any blood derived from any such carcase or part; or
- (b) to seize from any premises the carcase of a TSE susceptible animal, any part of such a carcase or any blood derived from any such carcase or part.

(2) For any such purpose an inspector may—

- (a) direct the occupier of the premises to retain on the premises a carcase of a TSE susceptible animal on the premises, any part of such a carcase or any blood derived from any such carcase or part; or
- (b) seize or dispose of—
 - (i) any carcase of a TSE susceptible animal from any premises, or any part of such a carcase, whether or not it is a carcase or part of a carcase which the occupier has been required to be retained under the direction of an inspector; or
 - (ii) any blood derived from a carcase of a TSE susceptible animal or any part of such a carcase, whether or not the carcase or part of the carcase from which the blood is derived has been required to be retained under the direction of an inspector or has been seized by an inspector.

(3) The power of an inspector to direct an occupier under this regulation to retain a carcase, part of a carcase or blood derived from any carcase or part includes the power to make directions in relation to the treatment, storage and disposal of the carcase, part or blood.

(4) Any direction under this regulation shall be complied with at the expense of the person to whom the direction is given, except where and to the extent that the Scottish Ministers are satisfied that it is not proportionate for that person to bear some or all of that expense.

(5) Where the Scottish Ministers are satisfied that it is not proportionate for a person to whom a direction is given to bear some or all of the expense of complying with it, they shall give notice to that person of the proportion of the expense, if any, which they are satisfied the person should bear.

(6) If a direction under this regulation is not complied with, an inspector may arrange for it to be complied with and may recover the expense of such compliance from the person to whom the direction was given.

Compensation for slaughtered TSE susceptible animals

9.—(1) Where a TSE susceptible animal is slaughtered under regulation 6 or 7 above, the Scottish Ministers shall pay compensation to the owner of the animal in accordance with the provisions of Part I of Schedule 1 to these Regulations.

(2) The Scottish Ministers shall pay compensation in accordance with the provisions of Part II of that Schedule to the owner of any carcase, part of a carcase or blood seized or disposed of under regulation 8 above.

Notifications

10.—(1) For any purpose connected with the administration or enforcement of the annual programme of monitoring referred to in Article 6 of the Community TSE Regulation, the Scottish Ministers may certify in respect of any category of notifiable animal that a monitoring notification in respect of animals in that category is required.

(2) Where—

- (a) in respect of a category of notifiable animal the Scottish Ministers have certified that a monitoring notification is required; or
- (b) the Scottish Ministers appoint an agent for the purposes of receiving notifications under this regulation on their behalf,

the Scottish Ministers shall publish by such means as they think fit, including by notice in the Edinburgh Gazette, the details of the certificate or the name of the agent, the address of the agent and other relevant contact information and the date on and after which notifications under this regulation shall be made to the agent instead of to the Scottish Ministers.

(3) Where, in respect of a category of notifiable animal, the Scottish Ministers have certified that a monitoring notification in respect of animals in that category is required—

- (a) a person who has in the possession or under the charge of that person an animal of that category, or the carcase of an animal of that category, shall, within 24 hours from the time when the animal dies or was killed or the carcase comes into the possession or charge of that person, notify the fact, and such other information as may be required by virtue of the monitoring notification, to the Scottish Ministers or, where the Scottish Ministers have appointed an agent to receive notifications under this regulation on their behalf, to that agent; and
- (b) any veterinary surgeon or other person who, in the course of the duties of that surgeon examines or inspects an animal of that category which dies during the course of those duties, or examines or inspects the carcase of such an animal, shall within 24 hours from the time when the animal dies or the carcase is examined or inspected, notify the fact, and such other information as may be required by virtue of the monitoring notification, to the Scottish Ministers or, where the Scottish Ministers have appointed an agent to receive notifications under this regulation on their behalf, to that agent.

(4) A person who has in the possession or under the charge of that person on any premises any animal or carcase in respect of which the Scottish Ministers have certified that a monitoring notification is required, shall detain it on the premises until it has been collected by or on behalf of the Scottish Ministers.

Part III

Animal feeding

Mammalian protein and mammalian meat and bone meal

Mammalian protein

11.—(1) Subject to paragraph (2) below, no person shall—

- (a) knowingly sell or supply for feeding to ruminant animals; or
- (b) feed to a ruminant animal,

any feedingstuff in which that person knows or has reason to suspect that any mammalian protein has been incorporated.

(2) The prohibitions in paragraph (1) above shall not apply to the feeding to an animal of any feedingstuff for research purposes in a research establishment under the authority of a licence issued by a veterinary inspector and in accordance with any conditions subject to which the licence is issued, or to the sale or supply of any feedingstuff to a research establishment for such purposes.

Mammalian meat and bone meal for use in feedingstuffs for livestock

12.—(1) Subject to paragraphs (5) and (6) below, no person shall—

- (a) sell or supply for incorporation into any feedingstuff for livestock any mammalian meat and bone meal;
- (b) use any mammalian meat and bone meal in the production of any feedingstuff for livestock;
- (c) sell or supply for feeding to livestock any feedingstuff in which any mammalian meat and bone meal has been incorporated; or
- (d) feed to livestock any feedingstuff in which any mammalian meat and bone meal has been incorporated.

(2) Subject to paragraph (6) below, no person shall undertake any production using any mammalian meat and bone meal or any MBM product on premises where any feedingstuff for livestock is produced.

(3) Subject to paragraphs (5) to (8) below, no person shall have in the possession of that person any mammalian meat and bone meal or any MBM product on any premises where—

- (a) any livestock is kept;
- (b) any feedingstuff for livestock is produced; or
- (c) any feedingstuff for livestock is stored but not produced and no livestock are kept.

(4) Subject to paragraphs (6) and (8) below, no person shall transport any mammalian meat and bone meal or any MBM product in any vehicle in which any feedingstuff for livestock is being transported.

(5) The prohibitions in paragraphs (1) and (3) above shall not apply to the feeding to an animal of any feedingstuff for research purposes in a research establishment under the authority of a licence issued by a veterinary inspector and in accordance with any conditions subject to which the licence is issued, or to the sale or supply of any feedingstuff to a research establishment for such purposes or to the possession of a feedingstuff at such an establishment for such purposes.

(6) In any proceedings for an offence under paragraphs (1) to (4) above it shall be a defence for any person charged to prove—

- (a) that that person did not know nor have reason to suspect that the material in question was mammalian meat and bone meal or contained mammalian meat and bone meal; and
- (b) that that person had taken all reasonable steps to ensure that it was not and did not contain mammalian meat and bone meal.

(7) In any proceedings for an offence under paragraph (3) above in relation to any MBM product it shall be a defence for any person charged to prove—

- (a) in the case of an offence under paragraph (3)(a) above, that the MBM product was in the possession of that person solely for feeding to a pet of a species which is not commonly

used as livestock in the United Kingdom or to a working dog or for use as a fertiliser on a domestic garden or for house plants;

- (b) in the case of an offence under paragraph (3)(c) above, that both the MBM product and the feedingstuff for livestock were offered for sale on those premises;
- (c) that the MBM product was stored and used in a place which was physically separated from any place where feedingstuff for livestock was stored or to which such animals had access; and
- (d) that adequate precautions were taken to ensure that no equipment used with the MBM product was used with the feedingstuff for livestock.

(8) In any proceedings for an offence under paragraph (3) or (4) above it shall be a defence for any person charged to prove that at all material times both the mammalian meat and bone meal or MBM product (as the case may be) and the feedingstuff for livestock were securely packaged and that no spillage or leakage took place.

(9) No person shall transport from or to any premises, or store in bulk at any premises, any mammalian meat and bone meal the sale or supply of which is prohibited by paragraph (1)(a) above, unless that person and the premises are registered by the Scottish Ministers for the purpose and the premises are not used for the preparation of feedingstuffs for livestock.

(10) The Scottish Ministers shall register that person and the premises under this regulation where the occupier declares the premises are capable of being used in accordance with this Part of these Regulations.

Mammalian meat and bone meal for use in fertilisers on agricultural land

13.—(1) No person shall sell or have in the possession of that person with a view to sale, for use as a fertiliser on agricultural land, any mammalian meat and bone meal or any material derived from or containing any mammalian meat and bone meal.

(2) No person shall use on agricultural land as a fertiliser any mammalian meat and bone meal or any material derived from or containing any mammalian meat and bone meal.

(3) Subject to paragraph (4) below, no person shall—

- (a) sell or have in the possession of that person with a view to sale, for use as a fertiliser on any land other than agricultural land; or
- (b) use as a fertiliser on any such land,

any mammalian meat and bone meal or any material derived from or containing any mammalian meat and bone meal, unless the mammalian meat and bone meal concerned was manufactured in accordance with paragraph (5) below.

(4) Nothing in paragraph (3) above shall prevent—

- (a) the sale for use on any land other than agricultural land;
- (b) the possession with a view to such sale; or
- (c) the use on any such land,

of any fertiliser consisting solely of mammalian meat and bone meal or derived from or containing mammalian meat and bone meal, if that mammalian meat and bone meal was manufactured before the date of coming into force of the contract for its purchase by the manufacturer of that fertiliser.

(5) No person shall manufacture mammalian meat and bone meal for use as or in any fertiliser except by a rendering process in which—

- (a) the particle size of the raw material prior to processing is reduced so that the maximum dimension of no particle exceeds 50 mm; and
- (b) the material is heated to a core temperature of more than 133°C for at least 20 minutes at a pressure of at least 3 bar.

(6) In this regulation—

- (a) mammalian meat and bone meal does not include any mammalian meat and bone meal derived solely from blood; and
- (b) the references to mammalian meat and bone meal being “manufactured” are references to the rendering process by which the mammalian meat and bone meal concerned was derived.

Feeding of processed animal protein to farmed animals

14.—(1) Subject to paragraph (2) below, no person shall feed any processed animal protein to a farmed animal.

- (2) The prohibition in paragraph (1) above shall not apply to—
- (a) the feeding to farmed animals (other than ruminants) of fishmeal—
 - (i) produced in Scotland in premises approved under regulation 16 below, which are used in accordance with the conditions of the approval, and transported and intermediately stored in accordance with the conditions specified in paragraphs 1, 2 and 3 of Schedule 2 to these Regulations;
 - (ii) produced in another part of the United Kingdom in premises approved by the competent authority of that part in accordance with Annex I to the Commission Decision, which are used in accordance with the conditions of the approval, and transported and intermediately stored in accordance with the conditions specified in that Annex;
 - (iii) produced in another member State in premises approved by the competent authority of that member State in accordance with Annex I to the Commission Decision, which are used in accordance with the conditions of the approval, and transported and intermediately stored in accordance with the conditions specified in that Annex; or
 - (iv) produced in a third country which—
 - before being sold or supplied in Scotland, has been analysed in accordance with Commission Directive 98/88/EC(a);
 - is transported directly from the border inspection post in accordance with the conditions specified in paragraphs 4 and 5 of Schedule 2 to these Regulations; and
 - is not intermediately stored otherwise than in accordance with the conditions of paragraph 3 of that Schedule;
 - (b) the feeding to farmed animals of gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive 70/524/EEC(b) concerning additives in feedingstuffs;
 - (c) the feeding to farmed animals (other than ruminants) of dicalcium phosphate—
 - (i) produced in Scotland in premises approved and used as mentioned in regulation 17(1) and (3) below;
 - (ii) produced in another part of the United Kingdom in premises approved by the competent authority of that part in accordance with the Commission Decision and used in accordance with that approval; or
 - (iii) produced in another member State in premises approved by the competent authority of that member State in accordance with the Commission Decision and used in accordance with that approval;
 - (d) the feeding to farmed animals (other than ruminants) of hydrolysed protein—
 - (i) produced in Scotland in premises approved and used as mentioned in regulation 17(2) and (3) below;
 - (ii) produced in another part of the United Kingdom in premises approved by the competent authority of that part in accordance with the Commission Decision and used in accordance with that approval; or
 - (iii) produced in another member State in premises approved by the competent authority of that member State in accordance with the Commission Decision and used in accordance with that approval; or
 - (e) the feeding to farmed animals of milk and milk products.

(a) O.J. No. L 318, 27.11.1988, p.45.

(b) O.J. No. L 270, 14.12.1970, p.1, as last amended by Directive 1999/70/EC (O.J. No. L 80, 25.3.1999, p.20).

Sale or supply of processed animal protein intended for the feeding of farmed animals

15.—(1) Subject to paragraph (2) below, no person shall sell or supply any processed animal protein intended for the feeding of any farmed animal.

- (2) The prohibitions in paragraph (1) above shall not apply to the sale or supply of—
- (a) fishmeal referred to in regulation 14(2)(a) above for feeding to farmed animals (other than ruminants);
 - (b) gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive 70/524/EEC concerning additives in feedingstuffs;
 - (c) dicalcium phosphate referred to in regulation 14(2)(c) above for feeding to farmed animals (other than ruminants);
 - (d) hydrolysed protein referred to in regulation 14(2)(d) above for feeding to farmed animals (other than ruminants); or
 - (e) milk and milk products.

Production of fishmeal for feeding to farmed animals other than ruminants

16.—(1) No person shall use any premises for the production of fishmeal for feeding to farmed animals other than ruminants unless—

- (a) the premises are approved for that purpose by the Scottish Ministers under this regulation; and
- (b) fishmeal produced at the premises—
 - (i) is not transported from the premises otherwise than in accordance with the conditions specified in paragraphs 1 and 2 of Schedule 2 to these Regulations; and
 - (ii) is not intermediately stored otherwise than in accordance with the conditions specified in paragraph 3 of that Schedule.

(2) On an application made to them under this regulation for the approval of premises for the production of fishmeal for feeding to farmed animals other than ruminants, the Scottish Ministers shall approve the premises for this purpose if, following an inspection of the premises by a veterinary inspector, they are satisfied that—

- (a) the premises will be dedicated only to fishmeal production;
- (b) the premises are ABPO approved; and
- (c) the occupier of the premises will be able to ensure that fishmeal is transported from the premises and intermediately stored in accordance with the conditions specified in paragraphs 1, 2 and 3 of Schedule 2 to these Regulations.

(3) The person carrying on any business at premises approved under this regulation shall ensure that—

- (a) the production of fishmeal at the premises is in accordance with the approval and in compliance with the provisions of this regulation subject to which the approval is granted;
- (b) any person employed by that person, and any person invited to the premises, complies with those provisions; and
- (c) any inspector, and any person acting under the authority of an inspector, is provided with adequate facilities so as to enable that inspector or person to carry out functions under these Regulations in relation to the premises and that the inspector or person is given such reasonable assistance and access to such records (including any records held in electronic form) as may at any reasonable time be required for that purpose.

Production of dicalcium phosphate and hydrolysed protein for feeding to farmed animals other than ruminants

17.—(1) No person shall use any premises for the production of dicalcium phosphate for feeding to farmed animals other than ruminants unless—

- (a) the premises—
 - (i) are approved for that purpose by the Scottish Ministers under this regulation; and
 - (ii) are used for that purpose in accordance with the conditions specified in Schedule 3 to these Regulations; and

- (b) transport of dicalcium phosphate to the premises is in accordance with the conditions specified in paragraph 4 of that Schedule.
- (2) No person shall use any premises for the production of hydrolysed protein for feeding to farmed animals other than ruminants unless—
- (a) the premises—
 - (i) are approved for that purpose by the Scottish Ministers under this regulation; and
 - (ii) are used for that purpose in accordance with the conditions specified in Schedule 4 to these Regulations; and
 - (b) transport of hydrolysed protein to the premises is in accordance with the conditions specified in paragraph 3 of that Schedule.
- (3) On an application made to them under this regulation for the approval of premises for the production of dicalcium phosphate or hydrolysed protein, the Scottish Ministers shall approve the premises for the production concerned if, following an inspection of the premises by a veterinary inspector, they are satisfied that—
- (a) the premises are ABPO approved;
 - (b) the occupier of the premises will be able to maintain and use the premises in accordance with the ABPO approval;
 - (c) in respect of an application for approval of the premises for production of dicalcium phosphate, the occupier of the premises will be able to comply with the conditions specified in Schedule 3 to these Regulations; and
 - (d) in respect of an application for approval of the premises for production of hydrolysed protein, the occupier of the premises will be able to comply with the conditions specified in Schedule 4 to these Regulations.
- (4) The occupier of premises approved under this regulation shall ensure that—
- (a) in respect of the production of dicalcium phosphate at the premises, the production is in accordance with the approval and complies with the provisions of this regulation and Schedule 3 to these Regulations subject to which the approval is granted;
 - (b) in respect of the production of hydrolysed protein at the premises, the production is in accordance with the approval and complies with the provisions of this regulation and Schedule 4 to these Regulations subject to which the approval is granted;
 - (c) any person employed by that occupier, and any person invited to the premises, complies with those provisions; and
 - (d) any inspector, and any person acting under the authority of an inspector, is provided with adequate facilities so as to enable that inspector or person to carry out functions under these Regulations in relation to the premises and that the inspector or person is given such reasonable assistance and access to such records (including any records held in electronic form) as may at any reasonable time be required for that purpose.

Transport and storage of processed animal protein

18.—(1) No person shall transport from or to any premises, or store in bulk at any premises, any processed animal protein the sale or supply of which is prohibited by regulation 15 above, unless—

- (a) the premises are not used for the preparation of feedingstuffs for ruminant animals; and
- (b) both that person and the premises are registered for the purpose of the Commission Decision by the Scottish Ministers.

(2) The Scottish Ministers shall register premises under this regulation where the occupier declares that the premises are capable of being used in accordance with the Commission Decision.

(3) Where a vehicle used for the transport of any dicalcium phosphate or hydrolysed protein, for feeding to farmed animals other than ruminants, is subsequently used for the transport of any other products, the person using the vehicle for the transport of such dicalcium phosphate or hydrolysed protein shall ensure the vehicle is thoroughly cleaned and inspected before and after the transport of such dicalcium phosphate or hydrolysed protein.

Applications for approval and approvals of premises

19.—(1) An application for approval of premises under regulations 16 or 17 above shall be made in writing to the Scottish Ministers by or on behalf of the person carrying on or proposing to carry on the business at the premises to which the application relates.

(2) The Scottish Ministers shall notify the applicant in writing of their decision on an application made to them in accordance with this regulation; and, if they refuse to approve the premises in respect of which an application is made, they shall notify the applicant in writing of their reasons for the refusal.

(3) An approval of premises under regulations 16 or 17 above shall specify—

- (a) the name and address of the person to whom the approval is granted and the address of the approved premises;
- (b) the use of the premises for the description of production for which the approval is granted; and
- (c) the conditions subject to which the approval is granted.

(4) If the Scottish Ministers refuse to approve the premises or grant an approval subject to any condition, they shall give to the applicant a statement of—

- (a) the reasons for the refusal or the condition; and
- (b) the right of the applicant under this Part of these Regulations to appeal against the refusal or the condition and the period within which and the person to whom an appeal may be made.

Suspension and withdrawal of approvals

20.—(1) The Scottish Ministers may suspend or withdraw an approval of any premises approved under regulations 16 or 17 above if it appears to them that—

- (a) the premises are being used otherwise than in accordance with the approval;
- (b) any condition specified in a Schedule to these Regulations which relates to the approval of the premises has not been complied with;
- (c) the premises are not ABPO approved;
- (d) inspection of the premises for the purposes of these Regulations is being hampered or denied;
- (e) a notice has been served on the occupier in relation to the use of the premises under this Part of these Regulations and—
 - (i) the Scottish Ministers are not satisfied that the action required by the notice to be taken by the occupier has been taken within the time required; and
 - (ii) as a result there is a risk that the premises are being used otherwise than in accordance with the approval, any condition specified in the approval has not been complied with or inspection of the premises for the purposes of these Regulations is being hampered or denied;
- (f) the person using the premises for the use for which they are approved no longer wishes to carry on that use of the premises; or
- (g) the premises are not being used for the use for which they are approved.

(2) Before suspending or withdrawing an approval, the Scottish Ministers shall—

- (a) give notice of the intended suspension or withdrawal to the occupier of the premises (or, in the case of a suspension or withdrawal under paragraph (1)(g) above, to the person known to the Scottish Ministers as the last person to use the premises for the use for which they are approved and to any other person who appears to them to be in current occupation of the premises); and
- (b) have regard to any representations made to them by that person in relation to the intended suspension or withdrawal.

(3) A notice of suspension or withdrawal of an approval shall include the following information:—

- (a) a summary of the decision of the Scottish Ministers to suspend or withdraw the approval and a description of the use of the premises for which the approval is suspended or withdrawn;
 - (b) the reason for the suspension or withdrawal;
 - (c) the date on which the suspension or withdrawal takes effect, which–
 - (i) in respect of a suspension, may be the same date as the date on which the notice is given; and
 - (ii) in respect of a withdrawal, must be not less than 21 days after the date on which the notice is given;
 - (d) in respect of a suspension, the matters which must be remedied for the suspension to be lifted;
 - (e) a statement of the right of the person to whom the notice is given to appeal under regulation 21 below against the suspension or withdrawal and the period within which and the person to whom an appeal may be made; and
 - (f) in respect of a withdrawal, any conditions for the protection of public or animal health to which any continued use of the premises for an approved use after the withdrawal takes effect is subject pending an appeal.
- (4) Where a suspension of an approval of premises under this regulation has taken effect the premises shall be treated as if they were not approved for the use for which the approval is suspended.
- (5) The Scottish Ministers shall lift a suspension of an approval where–
- (a) they are satisfied that–
 - (i) the reason for the suspension no longer applies; and
 - (ii) the person who would use the premises for the use for which they are approved will use the premises in accordance with the approval and the conditions of the approval; or
 - (b) the determination of an appeal under regulation 21 below against the suspension is that the approval should not have been suspended.
- (6) Where the Scottish Ministers lift a suspension they shall give notice thereof to the person to whom they gave notice of the suspension.
- (7) Premises may continue to be used by the occupier for a use for which an approval is withdrawn during the period of 21 days after the notification to the occupier of the withdrawal.
- (8) After the expiry of this period the premises may not be used for the use for which the approval is withdrawn unless before the period expired an appeal was made in accordance with regulation 21 below and the appeal has not been finally disposed of or abandoned.
- (9) Where the Scottish Ministers have given notice of a decision to withdraw the approval of premises the occupier of the premises shall not use the premises for that use except in accordance with any conditions for the protection of public or animal health included in the notice of withdrawal.

Appeals

21.—(1) Where in respect of any premises the Scottish Ministers have given notice of a decision under this Part of these Regulations–

- (a) to refuse to approve any premises;
 - (b) to grant an approval of any premises subject to conditions;
 - (c) to suspend the approval of any premises; or
 - (d) to withdraw the approval of any premises,
- the person to whom the notice is given may, within 21 days of being notified of the decision, appeal against the decision to the person specified in the notice.

(2) An appeal under this regulation shall be made by written statement given to the person specified in the notice accompanied by a brief explanation of the ground of the appeal and such other information and documents as the notice may specify.

- (3) Where on an appeal under this regulation the person hearing the appeal determines that–
- (a) the grant of an approval should not have been refused;

- (b) unreasonable conditions have been attached to the grant of an approval; or
 - (c) an approval should not have been suspended or withdrawn,
- the Scottish Ministers shall give effect to that determination.

Feedingstuffs

Manufacture of feedingstuffs containing processed animal protein

22.—(1) Subject to paragraph (2) below, no person shall manufacture any feedingstuff, including petfood, which is destined for animals other than farmed animals, and which contains processed animal protein, in premises which prepare feed for farmed animals.

(2) If any feedingstuff is produced with no processed animal protein other than fishmeal, dicalcium phosphate or hydrolysed protein, it may be manufactured in premises which prepare feed for farmed animals other than ruminants.

Production of feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants

23.—(1) Subject to paragraph (3) below, no person shall use any premises for the production of feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants unless—

- (a) the premises are not used for the preparation of feedingstuffs for ruminant animals; and
- (b) the premises are registered for the purpose of paragraph 6 of Annex I to the Commission Decision by the Scottish Ministers.

(2) The Scottish Ministers shall register premises under this regulation where the occupier declares that the premises are capable of being used for the production of feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants in accordance with paragraph 6 of Annex I to the Commission Decision.

(3) The prohibition in paragraph (1) above shall not apply to the use of premises for the production of feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants and for the preparation of feedingstuffs for ruminant animals if—

- (a) the fishmeal satisfies the requirements of regulation 14(2)(a) above;
- (b) the transport to or from the premises or the storage at the premises of feed material destined for ruminant animals is completely separate from feed material prohibited for feeding to ruminant animals;
- (c) the storage, manufacturing and packaging facilities at the premises and the transport to or from the premises, of compound feedingstuffs destined for ruminant animals is completely separate from feed material prohibited for feeding to ruminant animals; and
- (d) the person using the premises for the preparation of feedingstuffs for ruminant animals which are used for the production of feedingstuffs containing fishmeal for feeding to other animal species carries out routine tests on the feedingstuffs destined for ruminant animals to ensure that any processed animal protein the feeding of which to farmed animals is prohibited by regulation 14 above are not present in those feedingstuffs.

(4) No person shall produce any feedingstuff containing fishmeal for feeding to farmed animals other than ruminants unless the packaging of the feedingstuff is labelled clearly to indicate the words “it contains fishmeal— cannot be fed to ruminant animals”.

(5) No person shall use any vehicle for the transport of bulk feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants at the same time as the vehicle is used for the transport of any feed for ruminant animals.

(6) Where a vehicle used for the transport of bulk feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants is subsequently used for the transport of other products, the person using the vehicle for the transport of the bulk feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants shall ensure it is thoroughly cleaned and inspected before and after the transport of those bulk feedingstuffs.

Production of feedingstuffs containing dicalcium phosphate and hydrolysed protein for feeding to farmed animals other than ruminants

24.—(1) Subject to paragraph (4) below, no person shall use any premises for the production of feedingstuffs containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants unless—

- (a) the premises are not used for the preparation of feedingstuffs for ruminant animals; and
- (b) the premises are registered for the purpose of paragraph 3 of Annex II to the Commission Decision by the Scottish Ministers.

(2) Subject to paragraph (4) below, no person shall use any premises for the production of feedingstuffs containing hydrolysed protein for feeding to farmed animals other than ruminants unless—

- (a) the premises are not used for the preparation of feedingstuffs for ruminant animals; and
- (b) the premises are registered for the purpose of paragraph 2 of Annex III to the Commission Decision by the Scottish Ministers.

(3) The Scottish Ministers shall register premises under this regulation where the occupier declares that the premises are capable of being used for the production of—

- (a) feedingstuffs containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants in accordance with paragraph 3 of Annex II to the Commission Decision; or
- (b) feedingstuffs containing hydrolysed protein for feeding to farmed animals other than ruminants in accordance with paragraph 2 of Annex III to the Commission Decision.

(4) The prohibitions in paragraphs (1) and (2) above shall not apply to the use of premises for the preparation of feedingstuffs for ruminant animals which are used for the production of feedingstuffs containing dicalcium phosphate from defatted bones, or hydrolysed protein, for other animal species, if—

- (a) in respect of dicalcium phosphate, it satisfies the requirements of regulation 14(2)(c) above;
- (b) in respect of hydrolysed protein, it satisfied the requirements of regulation 14(2)(d) above;
- (c) the transport to or from the premises or the storage at the premises of feed material destined for ruminant animals is completely separate from feed material prohibited for feeding to ruminant animals;
- (d) the storage, manufacturing and packaging facilities at the premises and the transport to or from the premises, of compound feedingstuffs destined for ruminant animals is completely separate from feed material prohibited for feeding to ruminant animals; and
- (e) the person using the premises carries out routine tests on the feedingstuffs destined for ruminant animals to ensure that any processed animal protein the feeding of which to farmed animals is prohibited by regulation 14 above are not present in those feedingstuffs.

(5) No person shall produce any feedingstuff containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants unless the packaging of the feedingstuff is labelled clearly to indicate the words “this feedingstuff contains dicalcium phosphate from defatted bones - cannot be fed to ruminant animals”.

(6) No person shall produce any feedingstuff containing hydrolysed protein for feeding to farmed animals other than ruminants unless the packaging of the feedingstuff is labelled clearly to indicate the words “this feedingstuff contains hydrolysed protein - cannot be fed to ruminant animals”.

(7) No person shall use any vehicle for the transport of bulk feedingstuffs for feeding to farmed animals other than ruminants containing dicalcium phosphate from defatted bones or hydrolysed protein at the same time as the vehicle is used for the transport of any feed for ruminant animals.

(8) Where a vehicle used for the transport of bulk feedingstuffs containing dicalcium phosphate from defatted bones, or hydrolysed protein, for feeding to farmed animals other than ruminants, is subsequently used for the transport of other products, the person using the vehicle for the transport of such bulk feedingstuffs shall ensure the vehicle is thoroughly cleaned and inspected before and after the transport of those bulk feedingstuffs.

Use and storage of feedingstuffs containing fishmeal, dicalcium phosphate or hydrolysed protein

25.—(1) Subject to paragraph (2) below, no person shall use or store any feedingstuff, other than petfood referred to in chapter 4 of Annex I to Council Directive 92/118/EEC^(a), containing any—

- (a) fishmeal;
- (b) dicalcium phosphate derived from defatted bones; or
- (c) hydrolysed protein,

on a farm where ruminant animals are kept, fattened or bred for the production of food.

(2) Paragraph (1) above shall not apply to the use or storage of any feedingstuff containing any fishmeal, dicalcium phosphate derived from defatted bones or hydrolysed protein on any farm where ruminant animals are kept if measures are implemented on the farm which are sufficient to prevent the feedingstuff being fed to those ruminant animals.

Administration and enforcement

Records relating to mammalian meat and bone meal and processed animal protein

26.—(1) Any person who consigns mammalian meat and bone meal or processed animal protein shall keep for a period of not less than two years from the date of consignment (or, in the case of mammalian meat and bone meal or processed animal protein produced outside Scotland, for a period of not less than two years from the date on which it was imported into the United Kingdom) a record indicating—

- (a) the date and nature of the material consigned;
- (b) the weight consigned and, unless consigned loose, the number and weight of the packages, pallets or other containers in which it is consigned;
- (c) the destination of the consignment;
- (d) the name and address of the consignee;
- (e) the registration number of the vehicle in which it is consigned; and
- (f) the name and address of the operator of that vehicle.

(2) Any person receiving a consignment of mammalian meat and bone meal or processed animal protein shall keep for a period of not less than two years from the date of receipt of the consignment a record indicating—

- (a) the date on which it was received and the nature of the material received;
- (b) its weight on receipt and, unless consigned loose, the number and weight of the packages, pallets or other containers in which it was consigned;
- (c) the place from which it was consigned;
- (d) the name and address of the person by whom it was consigned;
- (e) the registration number of the vehicle in which it was consigned; and
- (f) the name and address of the operator of that vehicle.

(3) Any person receiving a consignment of mammalian meat and bone meal or processed animal protein shall keep for a period of not less than two years from the date of any use, disposal or further consignment of the material used, disposed of or further consigned a record indicating—

- (a) in the case of any use, the nature of the material used and details of each use, the weight of any part of the consignment incorporated into a product and the nature and date of manufacture of any such product;
- (b) in the case of disposal, the weight disposed of, the date of such disposal, and the place in which, method by which and name of the person by whom it was disposed of; and
- (c) in the case of further consignment, the information required by paragraph (1) above.

(4) Any person who controls a vehicle in which mammalian meat and bone meal or processed animal protein is transported shall keep, for a period of not less than two years from the date on which transport of a particular consignment of such protein commenced (or, in the case of an import, from the date on which that material entered Scotland), a record of—

(a) O.J. No. L 62, 15.3.1993, p.49.

- (a) the person and place from which that consignment was transported and the nature of the material consigned;
- (b) the date on which it was collected from that person;
- (c) the weight consigned and, unless consigned loose, the number and weight of the packages, pallets or other containers in which it is consigned;
- (d) the registration number, and the name and address of the driver, of the vehicle in which it was transported and, if the vehicle includes a trailer, the number of the trailer;
- (e) the person and place to which it was to be or was delivered; and
- (f) the date or intended date of delivery to that person.

(5) The driver of a vehicle in which a consignment of mammalian meat and bone meal or processed animal protein is transported shall have a document recording the information required by paragraph (4) above in the possession of that driver at all times when that driver is in charge of that vehicle.

(6) In relation to a vehicle not having a registration number, the requirement to keep a record of the registration number pursuant to paragraphs (1)(e), (2)(e) and (4)(d) above shall be a requirement to keep such details as permit the identification of the vehicle in which the consignment was transported.

(7) Where a vehicle is used for the transport of bulk feedingstuffs for feeding to farmed animals other than ruminants containing—

- (a) fishmeal for feeding to farmed animals other than ruminants;
- (b) dicalcium phosphate from defatted bones; or
- (c) hydrolysed protein,

the person using the vehicle for the transport of such bulk feedingstuffs shall keep, for a period of not less than two years from the date of such transport, a record of each cleaning and inspection of the vehicle required by regulation 23(6) or 24(8) above.

Cleansing and disinfection

27.—(1) Any person who produces mammalian meat and bone meal or any MBM product shall ensure the thorough cleansing and disinfection of any premises or equipment used for such production before they are used for any other purpose except the production of a fertiliser that is not for use on agricultural land.

(2) Subject to paragraphs (3) and (4) below, any person who stores or transports mammalian meat and bone meal or an MBM product, or who makes any arrangement for such storage or transport, shall ensure the thorough cleansing and disinfection of any premises, vehicle or equipment used for such storage or transport as soon as possible after the storage or transport ceases and in any event before they are used for any other purpose.

(3) It shall be a defence for any person charged with an offence of failure to comply with paragraph (2) above to prove that at all material times the mammalian meat and bone meal or MBM product (as the case may be) was securely packaged and that no spillage or leakage took place.

(4) It shall be a defence for any person charged with an offence of failure to comply with paragraph (2) above by virtue of any arrangement made by that person to show that that person took all reasonable steps to ensure that the premises, equipment or vehicle in question were thoroughly cleansed and disinfected in accordance with that paragraph.

(5) An inspector may serve on the occupier of any premises or on the owner or operator of vehicle or equipment on or in which there is, or has been—

- (a) any mammalian meat and bone meal; or
- (b) any MBM product

a notice requiring that person to cleanse and disinfect, at the expense of that person and in such a manner and within such period as may be specified in the notice, all or any part of the premises or vehicle or any equipment or any other thing used in connection with any such mammalian meat and bone meal or MBM product.

(6) If any person on whom a notice is served under paragraph (5) above fails to comply with the requirements of the notice, an inspector may, without prejudice to any proceedings arising out of such default, carry out or cause to be carried out the requirements of the notice, and the amount

of any expenses reasonably incurred by the inspector in doing so shall be recoverable from the person in default by the authority on whose behalf the inspector served the notice.

Powers of inspectors

28.—(1) An inspector may make such enquiries and carry out such investigations as considered necessary for any purpose connected with the administration or enforcement of the provisions of this Part of these Regulations.

(2) For such purposes, an inspector shall, on producing, if required to do so, some duly authenticated document showing the authority of that inspector, have the right at all reasonable hours to enter any premises (excluding premises used only as a dwelling) to—

- (a) ascertain whether any—
 - (i) TSE susceptible animal; or
 - (ii) any mammalian meat and bone meal or processed animal protein, or any feed or feedingstuff, is being or has been kept on the premises;
- (b) ascertain whether—
 - (i) any TSE exists or has existed on the premises or any other premises; or
 - (ii) any animal which is being kept on the premises or has been kept on the premises is, or was at the time it was kept there, affected with any TSE;
- (c) collect, pen, inspect and examine any TSE susceptible 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 and examine—
 - (i) any mammalian meat and bone meal or processed animal protein;
 - (ii) any feedingstuff;
 - (iii) any production, storage, transport or other operation carried out under this Part of these Regulations and anything used for the marking and identification of any mammalian meat and bone meal or processed animal protein or feedingstuff; or
 - (iv) the carcase of TSE susceptible animal;
- (e) make such tests and take such samples from any mammalian meat and bone meal, processed animal protein or feedingstuff, or TSE susceptible animal, or the carcase of such an animal, as that inspector considers necessary;
- (f) mark for identification purposes any mammalian meat and bone meal, processed animal protein or feedingstuff, or TSE susceptible animal, or the carcase of such an animal;
- (g) serve a notice to restrict or prohibit the movement of any mammalian meat and bone meal, processed animal protein or feedingstuff, TSE susceptible animal or the carcase of such an animal;
- (h) serve a notice under regulation 29(2) or (3) below or carry out or cause to be carried out the requirements of such a notice in terms of regulation 29(4) below;
- (i) seize any mammalian meat and bone meal or processed animal protein or feedingstuff, TSE susceptible animal or the carcase of such an animal;
- (j) serve any notice in connection with such seizure;
- (k) slaughter any TSE susceptible animal or serve any notice in connection with the slaughter of the animal;
- (l) serve a notice requiring any cleansing and disinfection or carry out or cause to be carried out any cleansing and disinfection;
- (m) examine any record, in whatever form the record may be held, and take copies of the record;
- (n) have access to, and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with any record; and for this purpose may require any person who has charge of or who is otherwise concerned with the operation of the computer, apparatus or material to afford to that inspector such assistance as that inspector may reasonably require 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; or
- (o) ascertain whether there is or has been any contravention of, or failure to comply with, this Part of these Regulations or any evidence of any such contravention or failure.

(3) No person except an inspector shall remove or otherwise interfere with any mark applied under paragraph (2)(f) above.

(4) If a sheriff or justice of the peace, on sworn information in writing is satisfied that there are reasonable grounds for entry into any premises for any purpose as is mentioned in paragraph (2) above and that either—

- (a) admission to the premises has been refused, or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier; or
- (b) an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent,

the sheriff or justice of the peace may issue a warrant authorising an inspector to enter the premises for that purpose if need be by reasonable force.

(5) The occupier of premises entered by an inspector under this regulation or by virtue of a warrant issued under it, and the employees of the occupier and any person on the premises who is or has been in possession or charge of any mammalian meat and bone meal or processed animal protein, or any animal or carcase, which is or has been on the premises, shall—

- (a) provide such reasonable facilities to the inspector and comply with such reasonable requirements as the inspector considers necessary for any purpose connected with the administration or enforcement of this Part of these Regulations; and
- (b) if required by an inspector, give such information as the occupier possesses as to—
 - (i) any mammalian meat and bone meal or processed animal protein, or any animal or carcase which is or has been on the premises;
 - (ii) any animal or carcase with which any mammalian meat and bone meal or processed animal protein, or any animal or carcase, which is or has been on the premises may have come into contact; and
 - (iii) the location, transport and movement of any mammalian meat and bone meal or processed animal protein, or any animal or carcase, which is or has been in the possession or charge of the occupier.

(6) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it may be accompanied by—

- (a) such other person as the inspector considers necessary to give such assistance as that inspector considers necessary; and
- (b) a representative of the European Commission acting for the purpose of the Community TSE Regulation or the Community Transitional Measures.

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

(8) Any notice under this regulation shall be complied with at the expense of the person on whom the notice is served.

(9) If a notice under this regulation is not complied with, an inspector may arrange for it to be complied with at the expense of the person on whom the notice is served.

Disposal and recall of mammalian meat and bone meal and MBM products

29.—(1) Paragraph (2) below applies where an inspector finds—

- (a) any mammalian meat and bone meal or any MBM product possessed or transported in contravention of regulation 12(3) or (4) above; or
- (b) any processed animal protein sold or supplied in contravention of regulation 15(1) above.

(2) Where this paragraph applies an inspector may serve a notice on the person in possession of the mammalian meat and bone meal, MBM product or processed animal protein requiring that person to dispose of it, and any other mammalian meat and bone meal, MBM product or processed animal protein with which it has come into contact, in such manner and within such period as may be specified in the notice.

(3) An inspector may serve on any person who has sold or supplied—

- (a) any feedingstuff the sale or supply of which is prohibited by regulation 11(1) or 12(1)(c), or which the inspector reasonably suspects of being so prohibited; or

- (b) any processed animal protein the sale or supply of which is prohibited by regulation 15(1) above or which the inspector reasonably suspects of being so prohibited,

a notice requiring that person to collect at the expense of that person that feedingstuff or processed animal protein from the person to whom that person supplied or sold it, or from such other person to whom it may have subsequently been supplied or sold, and to transport it to such place and within such period as may be specified in the notice.

(4) If any person on whom a notice is served under paragraph (2) or (3) above fails to comply with the requirements of the notice, an inspector may, without prejudice to any proceedings arising out of such default, carry out or cause to be carried out the requirements of the notice, and the amount of any expenses reasonably incurred by the inspector in doing so shall be recoverable from the person in default by the authority on whose behalf the inspector served the notice.

Part IV

Specified Risk Material

Introductory provisions

Interpretation of expressions used in this Part

30.—(1) For the purposes of this Part of these Regulations material shall be treated as a cosmetic, pharmaceutical or medical product whether it is used or intended for use as such by itself or as an ingredient or additive in something which is so used or intended for such use.

(2) The provisions of this Part of these Regulations shall apply to specified risk material from scheme animals, save that the provisions appearing in the first column of the Table in Schedule 5 to these Regulations shall apply only to the extent, and subject to the modifications, specified in the corresponding entry in the second column of that Table.

Presumptions that food intended for human consumption

31.—(1) For the purposes of this Part of these Regulations any food commonly used for human consumption shall, if placed on the market or offered, exposed or kept for placing on the market, be presumed, until the contrary is proved, to have been placed on the market or, as the case may be, to have been or to be intended for placing on the market, for human consumption.

(2) The following, namely—

- (a) any food commonly used for human consumption which is found on premises used for the preparation, storage or placing on the market of that food; and
- (b) any article or substance commonly used in the manufacture of food for human consumption which is found on premises used for the preparation, storage or placing on the market of that food,

shall be presumed, until the contrary is proved, to be intended for placing on the market, or for manufacturing food for placing on the market, for human consumption.

(3) Any article or substance capable of being used in the composition or preparation of any food commonly used for human consumption which is found on premises on which that food is prepared shall, until the contrary is proved, be presumed to be intended for such use.

Carcases and specified risk material

Removal of specified risk material

32. Subject to regulations 33 to 37, no person shall contravene or fail to comply with points 1 and 5 of Part A of Annex XI to the Community TSE Regulation.

Removal of specified risk material from carcasses in slaughterhouses

33.—(1) Subject to paragraphs (2) and (3) below, in relation to specified risk material which is removed as required by the Community TSE Regulation and these Regulations, the occupier of a

slaughterhouse shall ensure that the specified risk material is removed from the rest of the carcass as soon as it is reasonably practicable after the animal was slaughtered and before the carcass is presented for inspection pursuant to regulation 37(1) below.

(2) In the case of a carcass of a sheep or goat which was aged over 12 months or had at least one permanent incisor erupted through the gum at the time of slaughter—

- (a) no person shall remove the spinal cord from such a carcass except in a licensed slaughterhouse or a licensed cutting premises in accordance with regulation 35 below; and
- (b) where such a carcass of a sheep or goat is dressed for human consumption in a slaughterhouse, the specified risk material except the spinal cord shall be removed in accordance with paragraph (1) above and the rest of the carcass shall be consigned to a licensed slaughterhouse or licensed cutting premises for removal of the spinal cord in accordance with regulation 35 below.

(3) In the case of the carcass of a bovine animal which was accompanied at the time of slaughter by a slaughter certificate under the Beef Assurance Scheme as described in Schedule 1 to the Fresh Meat (Beef Controls) (No. 2) Regulations 1996(a)—

- (a) no person shall remove the vertebral column from such a carcass except in a licensed cutting premises; and
- (b) where such a carcass of a bovine animal is dressed for human consumption in a slaughterhouse, the specified risk material except the vertebral column shall be removed in accordance with paragraph (1) above and the rest of the carcass shall be consigned to a licensed cutting premises for removal of the vertebral column in accordance with regulation 36 below.

(4) Without prejudice to the storage requirements of regulation 51 below, the occupier of a slaughterhouse shall ensure that the specified risk material does not come into contact with any other animal material (except animal material derived from animals tested for the presence of a TSE which is required to be disposed of as if it were specified risk material) while in the slaughterhouse.

(5) An occupier of a slaughterhouse in possession of any material derived from a carcass of an animal in relation to which there is carried out (whether by an inspector or on behalf of the occupier or any other person) any test for the presence of a TSE shall, if the occupier disposes of the material before a negative result in respect of the test is received, ensure that the material is stained, stored and consigned for disposal as if it were specified risk material.

(6) Material which is not specified risk material may be separated from intestines which have been removed from the carcass before the intestines are stained.

(7) In the case of specified risk material which is intended to be examined by or on behalf of an inspector or a veterinary surgeon, the specified risk material shall not be stained until after the completion of the examination.

(8) Notwithstanding the definition of specified risk material in regulation 3(1) above—

- (a) where the carcass of a sheep or goat containing spinal cord which is specified risk material is consigned to a licensed slaughterhouse or licensed cutting premises for removal in accordance with regulation 35 below; or
- (b) where the carcass of a bovine animal containing vertebral column which is specified risk material is consigned to licensed premises for removal in accordance with regulation 36 below or has been imported in accordance with the Community TSE Regulation and the Community Transitional Measures,

the carcass shall not be regarded as specified risk material for the purposes of these Regulations.

Removal of specified risk material from carcasses elsewhere

34.—(1) Subject to the following provisions of this regulation, when specified risk material is removed from the carcass of a ruminant animal elsewhere than in a slaughterhouse, the occupier of the premises at which the specified risk material is removed shall ensure that it is removed as soon as is reasonably practicable after the death of the animal and that it is stained blue immediately, and in any event before the carcass is frozen.

(a) S.I. 1996/2097, amended by S.I. 1996/2522 and S.S.I. 2000/62 and 449.

(2) Without prejudice to the storage requirements of regulation 51 below, the occupier of those premises shall ensure that the specified risk material does not come into contact with any other animal material while on the premises and that it is disposed of in accordance with these Regulations.

(3) In the case of specified risk material which is intended to be examined by or on behalf of an inspector, the specified risk material shall not be stained until after the completion of the examination.

(4) The provisions of this regulation shall not apply in the case of a post-mortem examination carried out by a veterinary surgeon or a veterinary practitioner at a farm, provided that veterinary surgeon or practitioner makes arrangements for the disposal of the whole of the carcase by burial there.

Removal of spinal cord of sheep and goats

35.—(1) Where a carcase of a sheep or goat is consigned as referred to in regulation 33(2)(b) above to a licensed slaughterhouse or licensed cutting premises the occupier of that slaughterhouse or cutting premises shall ensure that the spinal cord is removed in accordance with paragraph (2) below from the rest of the carcase at the premises as soon as practicable after the arrival of the carcase there and before the carcase is presented for inspection pursuant to regulation 37(3) below.

- (2) Removal of spinal cord under paragraph (1) above shall be carried out by—
- (a) longitudinally splitting the whole vertebral column; or
 - (b) removing a longitudinal section of the whole vertebral column containing the whole spinal cord.

(3) If the spinal cord is removed at any premises other than a slaughterhouse or cutting premises for the purposes of veterinary or scientific examination, after that examination both the spinal cord and the vertebral column shall be stained blue and disposed of as specified risk material in accordance with this Part of these Regulations.

Removal of vertebral column of bovine animals

36.—(1) Where a carcase of a bovine animal containing vertebral column which is specified risk material—

- (a) is consigned as referred to in regulation 33(3)(b) above to licensed cutting premises; or
- (b) is imported and transported in accordance with the Community TSE Regulation or the Community Transitional Measures to licensed cutting premises,

the occupier of that cutting premises shall ensure that the vertebral column is removed from the rest of the carcase at the premises as soon as is practicable after the arrival of the carcase there and before the carcase is presented for inspection pursuant to regulation 37(3) below.

(2) In this regulation, “carcase” means any whole carcase, half carcase or quarter carcase.

(3) If the vertebral column which is specified risk material is removed at any premises other than a slaughterhouse or licensed cutting premises for the purposes of veterinary or scientific examination, after that examination both the spinal cord and the vertebral column shall be stained blue and disposed of as specified risk material in accordance with this Part of these Regulations.

Inspection of carcasses in slaughterhouses and cutting premises

37.—(1) The occupier of any slaughterhouse shall permit an inspector, or a person acting under the responsibility of an inspector, to—

- (a) inspect the carcase of any ruminant animal slaughtered there, so that the inspector or person can check whether the requirements of the Community TSE Regulation and these Regulations have been complied with; and
- (b) mark each carcase which has been so checked and found to comply with the requirements of the Community TSE Regulation and these Regulations.

(2) The occupier of any slaughterhouse shall give to any inspector or, or a person acting under the responsibility of an inspector, such reasonable assistance as the inspector or person may require.

(3) The occupier of a licensed slaughterhouse or licensed cutting premises shall permit an inspector or a person acting under the responsibility of an inspector, to inspect the carcase of any bovine animal or the carcase of any sheep or goat consigned there so that the inspector or person can check whether the specified risk material has been removed from the carcase in accordance with the Community TSE Regulation and this Part of these Regulations, and the occupier shall give to any such inspector or person such reasonable assistance as that inspector or person shall require.

Prohibition on placing on the market of non-compliant carcasses for human consumption

38. No person shall place on the market the carcase of any bovine animal, sheep or goat for human consumption unless it has been inspected, and if appropriate marked as required by regulation 37 above and on such inspection found to comply with the requirements specified in regulation 37 above.

Staining of specified risk material

39.—(1) No person shall contravene or fail to comply with point 7 of Part A of Annex XI to the Community TSE Regulation.

(2) Subject to paragraph (3) below, the occupier of a slaughterhouse or a cutting premises shall ensure that, after its removal, specified risk material is stained blue.

(3) In the case of scheme animals, the occupier of a slaughterhouse shall ensure that, after its removal, specified risk material is stained yellow.

(4) In this Part of these Regulations “stained blue” in relation to any material means being treated (whether by immersion, spraying or other application) with a 0.5% weight/volume solution of the colouring agent Patent Blue V (E131, 1971 Colour Index No. 42051(a)) in such a way that the colouring is clearly visible—

- (a) in the case of specified risk material other than the head of a sheep or goat, over the whole surface of the material; and
- (b) in the case of the head of a sheep or goat, over the whole of the cut surface and majority of the head,

except that, if the tongue is to be removed, this shall be done immediately after slaughter and the head shall be stained immediately after the removal of the tongue.

(5) In this Part of these Regulations “stained yellow” in relation to any material means being treated (whether by immersion, spraying or other application) with a 0.5% weight/volume solution of the colouring agent Tartrazine (E102, Colour Index No. 19140) in such a way that the colouring is clearly visible over the whole surface of the material.

(6) The requirement to stain specified risk material shall not apply—

- (a) if the specified risk material is to be sent to a veterinary or medical school, laboratory, hospital or similar institution for instructional, diagnostic or research purposes; or
- (b) to specified risk material which is intended to be used at premises licensed under regulation 56 below.

(7) Where specified risk material has been stained, the occupier of any premises at which such material is stored or handled and, in the case of a place [any premises?] licensed under this Part of these Regulations, the operator of that place, [occupier of those premises?] shall take appropriate measures to ensure that colouring remains visible—

- (a) in the case of stained specified risk material other than the head of a sheep or goat, over the whole surface of the material; and
- (b) in the case of the head of a sheep or goat, over the whole of the cut surface and the majority of the head,

until the stained specified risk material is incinerated or rendered.

(8) Where specified risk material is required to be stained but has not been so stained, the occupier of any premises at which such material is stored or handled and, in the case of any premises of which an operator is licensed under this Part of these Regulations, the occupier of those premises shall, as soon as practicable after the occupier becomes aware that the specified risk

(a) Colour Index is published by the Society of Dyers and Colourists at Perkin House, 82 Grattan Road, Bradford, West Yorkshire BD1 2JB.

material was required to be stained, inform the Scottish Ministers and detain the specified risk material until it has been inspected or collected on behalf of the Scottish Ministers or the Scottish Ministers have informed the occupier that it may be disposed of in accordance with the requirements of the Community TSE Regulation or this Part of these Regulations.

Consignment of specified risk material after removal from carcasses

40. Once specified risk material has been removed from the carcase and treated in accordance with the Community TSE Regulation and this Part of these Regulations, including any material treated as if it were specified risk material in accordance with regulation 33(4) above, or, in the case of specified solid waste, recovered from the drainage system, the person responsible for its removal or recovery shall, without unreasonable delay, send it directly to—

- (a) a licensed collection centre;
- (b) a licensed rendering plant;
- (c) a licensed incinerator;
- (d) premises licensed under regulation 56 below; or
- (e) a veterinary or medical school, laboratory, hospital or similar institution for instructional, diagnostic or research purpose.

Young lamb stamp

41.—(1) Where a sheep or goat is slaughtered in a slaughterhouse, and at the time of slaughter it was aged not more than 12 months or it had no permanent incisor teeth erupted, the carcase of the animal shall be marked with the young lamb stamp.

(2) The young lamb stamp shall consist of a circular mark 5 centimetres in diameter containing in legible form in letters 1 cm high “MHS” and “YL”, and shall be applied by an inspector, or a meat technician acting under the responsibility of an OVS, and no other person shall apply the young lamb stamp or possess the equipment for applying the stamp.

(3) No person shall use any stamp so resembling the young lamb stamp, or in such a way, as to be likely to suggest that any carcase other than a carcase of a sheep or goat which had no permanent incisors erupted, is such a carcase.

(4) The Agency may, in relation to any slaughterhouse, appoint as meat technicians such number of persons as are necessary to assist the inspectors in carrying out their functions under paragraph (2) above.

Presence of an inspector

42.—(1) An inspector, or meat technician acting under the responsibility of an OVS, shall be present at any slaughterhouse where any carcase of a sheep or goat that is not marked with a young lamb stamp is being loaded for delivery to a licensed slaughterhouse or to licensed cutting premises and that inspector or technician shall supervise the loading.

(2) An inspector, or meat technician acting under the responsibility of an OVS, shall be present at any licensed slaughterhouse or licensed cutting premises where any carcase of a sheep or goat that is not marked with a young lamb stamp is being unloaded, and that inspector or technician shall supervise the unloading.

(3) Immediately after the loading referred to in paragraph (1) above the delivery vehicle shall be sealed by an inspector, or meat technician acting under the responsibility of an OVS, and no other person may seal such a vehicle.

(4) On arrival at a licensed slaughterhouse or licensed cutting premises a sealed vehicle shall be unsealed by an inspector, or meat technician acting under the responsibility of an OVS, and no other person may unseal such a vehicle.

(5) The Agency may, in relation to any licensed slaughterhouse or licensed cutting premises, appoint as meat technicians such number of persons as are necessary to assist the inspectors in carrying out their functions under this regulation.

Transport of unmarked carcasses of sheep and goats

43.—(1) No person shall transport from a slaughterhouse a carcass of a sheep or goat suitable for human consumption that is not marked with a young lamb stamp, except—

- (a) when all specified risk material has been removed from the carcass;
- (b) to licensed cutting premises that are co-located with the slaughterhouse; or
- (c) to a licensed slaughterhouse or licensed cutting premises after the carcass has been inspected and health marked in accordance with the Fresh Meat (Hygiene and Inspection) Regulations 1995, provided it is transported in a sealed vehicle.

(2) No person shall transport a carcass in accordance with paragraph (1) above unless the carcass is accompanied by a document indicating—

- (a) the name, address and licence number of the slaughterhouse from which the carcass is being transported; and
- (b) where the carcass is being transported to a licensed slaughterhouse or licensed cutting premises, the name, address and licence number of those premises.

Possession of unmarked carcasses of sheep and goats

44. No person shall have in their possession elsewhere than in a licensed slaughterhouse, in a sealed vehicle or at licensed cutting premises a carcass of a sheep or goat intended for sale for human consumption containing spinal cord, unless it is stamped with a young lamb stamp.

Laceration of central nervous tissue

45.—(1) No person shall contravene or fail to comply with point 4 of Part A of Annex XI to the Community TSE Regulation.

(2) No person shall use any meat which is derived from a bovine, ovine or caprine animal that has been slaughtered in contravention of paragraph (1) above in the preparation of any food for human consumption or any feedingstuff.

Prohibitions on placing on market and use of specified risk material

Prohibition on placing on market and use of specified risk material for human consumption

46.—(1) No person shall place on the market any specified risk material, or any food containing specified risk material, for human consumption.

(2) No person shall use any specified risk material in the preparation of food for human consumption.

(3) No person shall place on the market any specified risk material for use in the preparation of any food for human consumption.

(4) For the purposes of this regulation “specified risk material” includes anything derived from it.

Prohibition on feeding specified risk material to animals

47.—(1) Subject to paragraph (2) below, no person shall—

- (a) place on the market any specified risk material for any feedingstuff, or any feedingstuff containing specified risk material;
- (b) use any specified risk material in the preparation of any feedingstuff; or
- (c) place on the market any specified risk material for use in the preparation of any feedingstuff.

(2) Paragraph (1) above shall not apply to—

- (a) the placing on the market of any specified risk material; or
- (b) the use of any specified risk material,

in the preparation of any feedingstuff for feeding to any animal for research purposes in a research establishment licensed under these Regulations in accordance with any conditions subject to which the licence is issued.

(3) Subject to paragraph (4) below, no person shall place on the market any specified risk material, or any feedingstuff which that person knows or has reason to suspect contains any specified risk material, for feeding to any animal.

(4) Paragraph (3) above shall not apply to the placing on the market of any feedingstuff to a research establishment licensed under these Regulations in accordance with any conditions subject to which the licence is issued.

(5) Subject to paragraph (6) below, no person shall feed to any animal—

- (a) any specified risk material;
- (b) any feedingstuff which that person knows or has reason to suspect contains any specified risk material; or
- (c) a whole carcase or any part of a sheep, goat or bovine animal from which specified risk material has not been removed in accordance with these Regulations.

(6) Paragraph (5)(a) and (b) above shall not apply to the feeding to any animal of any specified risk material or feedingstuff for research purposes in a research establishment licensed under these Regulations and in accordance with any conditions subject to which the licence is issued.

(7) For the purposes of this regulation—

- (a) “specified risk material” includes anything derived from it;
- (b) a feedingstuff shall be treated as containing specified risk material if it contains anything derived from it; and
- (c) “animal” does not include a human being.

(8) It shall be a defence for any person charged with an offence under this regulation to prove that that person did not know or have any reason to believe that the material or the feedingstuff in relation to which that person is charged, contained specified risk material.

Specified risk material for use in cosmetic, pharmaceutical and medical products

48.—(1) No person shall sell any UK specified risk material for use in the preparation or manufacture of any cosmetic, pharmaceutical or medical product.

(2) No person shall use any UK specified risk material in the preparation or manufacture of any ingredient to be sold for use in the preparation or manufacture of a cosmetic, pharmaceutical or medical product.

(3) The prohibitions in paragraphs (1) and (2) above shall apply to anything derived from UK specified risk material as if it were UK specified risk material.

(4) It shall be a defence for any person charged with an offence under paragraph (1) or (2) above to prove that that person did not know or have any reason to believe that the material was, or was derived from, UK specified risk material.

Mechanically recovered meat

49.—(1) No person shall contravene or fail to comply with point 3 of Part A of Annex XI to the Community TSE Regulation.

(2) No person shall use any mechanically recovered meat which is derived from a bovine, ovine or caprine animal in the preparation of any food for human consumption or any feedingstuff.

Prohibitions on collection, transport, rendering, incineration etc. and storage of specified risk material

Use of premises for collection, rendering, incineration etc. of specified risk material

50. No person shall use any premises for any purpose in connection with—

- (a) the collection of specified risk material;
- (b) the rendering or incineration of specified risk material, or any other manner of disposal or destruction of specified risk material,

unless the occupier of the premises is licensed to use the premises for the purpose under this Part of these Regulations by the Licensing Authority.

Storage of specified risk material

51.—(1) Subject to paragraph (2) below, no person shall store specified risk material in the same room on any premises as any food, feedingstuff or any cosmetic, pharmaceutical or medical product.

(2) The requirement in paragraph (1) above shall not apply where an inspector has under this paragraph approved the storage of specified risk material in the same room as any food, feedingstuff or any cosmetic, pharmaceutical or medical product, on being satisfied that the arrangements for storage will ensure the adequate separation of the specified risk material from the food, feedingstuff or product.

(3) No person shall store specified risk material otherwise than in an impervious container which—

- (a) contains nothing but specified risk material;
- (b) is labelled as containing specified risk material;
- (c) is not left uncovered when containing specified risk material; and
- (d) after use for such storage, is thoroughly washed and disinfected before being used for any other purpose.

Transport of specified risk material

52.—(1) No person shall transport specified risk material unless—

- (a) the specified risk material is in a container marked with the words “specified risk material”, the place of destination and the name of the person to whom it is being sent; and
- (b) that person provides a written statement to the person to whom it is sent of the premises from which the specified risk material was collected for delivery.

(2) No person shall transport specified risk material unless it is—

- (a) transported in a container which—
 - (i) is not being used at the same time to transport any material other than specified risk material; and
 - (ii) is impervious; and
- (b) kept covered at all times while in the container except when necessary for loading into the container or examination by an inspector.

(3) Any person transporting specified risk material shall ensure that the container in which the specified risk material is transported is thoroughly washed and disinfected before being used for any other purpose.

Procedure for bringing in specified risk material from England, Wales or Northern Ireland

53.—(1) No person shall bring specified risk material into Scotland from England, Wales or Northern Ireland unless—

- (a) it is stained in accordance with the Community TSE Regulation and with legislation having effect in, as the case may be England, Wales or Northern Ireland and corresponding to the provisions of this Part of these Regulations relating to staining; or
- (b) it is exempt from the requirement to stain under that legislation by virtue of provisions corresponding to regulation 39(6) above;

(2) Any person bringing specified risk material into Scotland from England, Wales or Northern Ireland shall immediately transport it to one of the destinations specified in regulation 40 above.

Procedure for bringing in carcasses containing specified risk material from England, Wales or Northern Ireland

54.—(1) No person shall bring a carcass of a sheep or goat which contains spinal cord which is specified risk material into Scotland from England, Wales or Northern Ireland unless it is

transported in a sealed vehicle, in accordance with the provisions of legislation having equivalent effect, as the case may be, in England, Wales or Northern Ireland to the provisions of regulation 43, to a licensed slaughterhouse or licensed cutting premises for removal of the spinal cord in accordance with regulation 35.

(2) No person shall bring a carcase of a bovine animal which contains vertebral column which is specified risk material into Scotland from England, Wales or Northern Ireland unless it is transported direct to a licensed cutting premises for removal of the vertebral column in accordance with regulation 36.

Licensing

Licensing of premises

55.—(1) The Licensing Authority may—

- (a) license any occupier of premises to use the premises for any use in connection with—
 - (i) the collection or transport of specified risk material; or
 - (ii) the rendering or incineration of specified risk material, or any other manner of disposal or destruction of specified risk material; and
- (b) license any occupier of a slaughterhouse or cutting premises to use the slaughterhouse or cutting premises in connection with—
 - (i) the removal referred to in regulation 35 of the spinal cord, or any part of the spinal cord, from the vertebral column of a sheep or goat; or
 - (ii) the removal referred to in regulation 36 of the vertebral column of a bovine animal,

subject to such conditions as the Authority believes are necessary to ensure the occupier is able to comply with the requirements of Part A of Annex XI to the Community TSE Regulation and these Regulations which apply to the use concerned.

(2) On an application made to the Licensing Authority for a licence under this regulation, the Authority shall grant a licence if, following an inspection of the premises by an inspector, it is satisfied that—

- (a) the occupier of the premises has in place facilities, procedures and methods of operation sufficient for the occupier to be able to comply with such of the requirements of Part A of Annex XI to the Community TSE Regulation which apply to the use to which the application relates;
- (b) in respect of an application for a licence to use premises in connection with rendering of specified risk material, the premises have the facilities specified in Part I of Schedule 6 to these Regulations sufficient to enable the occupier of the premises to render the specified risk material at the premises by one of the methods specified in Part II of that Schedule; and
- (c) there is no significant risk that inspection on behalf of the Authority of the use of the premises will be hampered or denied.

(3) In considering applications for a licence for the purposes of this regulation the Licensing Authority may (in addition to any other relevant matters) have regard to the need for the efficient enforcement of this Part of these Regulations.

(4) In this Part of these Regulations—

- (a) in relation to slaughterhouses and cutting premises “the Licensing Authority” is the Agency;
- (b) in relation to any other premises, “the Licensing Authority” is the Scottish Ministers;
- (c) “licensed collection centre” means premises used for any use in connection with the collection or transport of specified risk material which its occupier is licensed by the Licensing Authority under this Part of these Regulations to use for a purpose which would otherwise be subject to a prohibition by this Part of these Regulations;
- (d) “licensed incinerator” and “licensed rendering plant” means an incinerator or, as the case may be, a rendering plant, which its occupier is licensed by the Licensing Authority under this Part of these Regulations to use for a purpose which would otherwise be subject to a prohibition by this Part of these Regulations; and

- (e) “licensed slaughterhouse” and “licensed cutting premises” means a slaughterhouse or, as the case may be, cutting premises, which its occupier is licensed by the Licensing Authority under this Part of these Regulations for use for a purpose which would otherwise be subject to a prohibition by this Part of these Regulations.

Licensing of premises for the use of specified risk material in production or research

56.—(1) The Scottish Ministers may license the occupier of any premises to use premises for—

- (a) the use of specified risk material in the production referred to in Article 2 of the Community TSE Regulation; or
- (b) the use of specified risk material or other source of TSE infectivity in relation to keeping live animals used in or intended for research,

subject to such conditions as they believe are necessary to ensure the occupier of the premises is able to comply with the separation and production requirements of that Article which apply to the production or the keeping concerned.

(2) On an application made to them under this regulation for a licence the Scottish Ministers shall grant a licence if, following an inspection of the premises by a veterinary inspector, they are satisfied that—

- (a) the occupier of the premises has in place facilities and procedures for tracing through the production or keeping to which the application relates which are sufficient to trace all specified risk material delivered to the premises and able to show that—
 - (i) all specified risk material delivered to the premises is used for the purpose for which it was delivered or is disposed of in accordance with such conditions as they may specify in the licence; or
 - (ii) no product produced at the premises is used as, or in connection with or in the production of, any food or feedingstuff or any cosmetic, pharmaceutical or medical product; and
- (b) the use of the specified risk material in the production or keeping concerned does not give rise to risk—
 - (i) to human health; or
 - (ii) with the exception of the health of the animals for whose keeping the licence is required, animal health.

(3) The occupier of any premises licensed under this regulation shall—

- (a) ensure that the use of the premises for the licensed purpose is in accordance with—
 - (i) the conditions of the licence; and
 - (ii) the provisions of this Part of these Regulations, and Schedule 5 to, these Regulations relating to that use;
- (b) ensure that any person employed by that occupier, and any person invited to the premises, complies with these conditions.

(4) The occupier of any premises licensed under this regulation shall permit an inspector, or a person acting under the responsibility of an inspector, to—

- (a) inspect any carcass, part carcass, blood, specified solid waste or specified risk material on the premises to enable the inspector to check whether the requirements of Part A of Annex XI to the Community TSE Regulation which apply to the premises are complied with there; and
- (b) inspect any operation at the premises in connection with the removal, collection, transport, disposal or destruction of specified risk material to enable the inspector to check whether the requirements of Part A of Annex XI to the Community TSE Regulation which apply to the operation are complied with there,

and shall give to an inspector, or any person acting under the responsibility of the inspector, such reasonable assistance as that inspector may require.

(5) No person shall carry out any operation in relation to specified risk material at premises for which the occupier is licensed under this regulation except in accordance with any conditions specified in the licence.

Applications for licences

57.—(1) An application for a licence under this Part of these Regulations shall be made in writing to the Licensing Authority by or on behalf of the occupier of the premises to which the application relates.

(2) The Licensing Authority shall notify the applicant in writing of the decision of the authority on an application made to it in accordance with this regulation.

(3) A licence under this Part of these Regulations shall specify—

- (a) the name and address of the person to whom the licence is granted and the address of the licensed premises;
- (b) the use of the premises for which the licence is granted; and
- (c) the conditions subject to which the licence is granted.

(4) If the Authority refuses to grant a licence to the occupier of premises or grants a licence subject to any condition it shall give to the applicant a statement of—

- (a) the reasons for the refusal or the condition; and
- (b) the right of the applicant under this Part of these Regulations to appeal against the refusal or the condition and the period within which and the person to whom an appeal may be made.

Requirements of use of licensed premises

58.—(1) An occupier licensed to use premises under this Part of these Regulations shall—

- (a) ensure that the use of the premises for the licensed use is in accordance with the conditions of the licence;
- (b) ensure that any person employed by that occupier, and any person invited to the premises, complies with these conditions.

(2) An occupier licensed to use premises under this Part of these Regulations shall permit an inspector, or a person acting under the responsibility of an inspector, to—

- (a) inspect any carcass, part carcass, blood, specified solid waste or specified risk material on the premises to enable the inspector to check whether the requirements of Part A of Annex XI to the Community TSE Regulation which apply to the premises are complied with there; and
- (b) inspect any part of the premises, any facility or any operation at the premises in connection with the removal, collection, transport, disposal or destruction of specified risk material to enable the inspector to check whether the requirements of Part A of Annex XI to the Community TSE Regulation which apply to the operation are complied with there,

and shall give to an inspector, or any person acting under the responsibility of the inspector, such reasonable assistance as that inspector may require.

(3) No person shall carry out any operation in relation to specified risk material at premises for which the occupier is licensed under this regulation except in accordance with the requirements of the Community TSE Regulations and of these Regulations and with any conditions specified in the licence.

Suspension of licences

59.—(1) The Licensing Authority may suspend a licence of any premises licensed under this Part of these Regulations if it appears to the Authority that—

- (a) the premises are being used otherwise than in accordance with—
 - (i) the licence; or
 - (ii) this Part of these Regulations or Schedule 5 to these Regulations;
- (b) any condition specified in the licence has not been complied with;
- (c) inspection of the premises for the purposes of these Regulations is being hampered or denied; or
- (d) a notice has been served on the occupier in relation to the use of the premises under this Part of these Regulations and the Authority is not satisfied that the action required by the notice to be taken by the occupier has been taken within the time required.

- (2) Before suspending a licence the Licensing Authority shall—
 - (a) give notice of the intended suspension to the occupier of the premises; and
 - (b) have regard to any representations made to the Authority by that person in relation to the intended suspension.
- (3) A notice of suspension of a licence shall include the following information:—
 - (a) a summary of the decision of the Licensing Authority to suspend the licence and a description of the use of the premises for which the licence is suspended;
 - (b) the reason for the suspension;
 - (c) the date on which the suspension takes effect (which may be the same date as the date on which the notice is issued);
 - (d) the matters which must be remedied for the suspension to be lifted; and
 - (e) a statement of the right of the person to whom the notice of suspension is given to appeal under this Part of these Regulations against the suspension and the period within which and the person to whom an appeal may be made.
- (4) Where a suspension of a licence of premises under this regulation has taken effect the premises shall be treated as if they were not licensed for the use for which the licence is suspended.
- (5) The Licensing Authority shall lift a suspension of a licence where—
 - (a) it is satisfied that—
 - (i) the reason for the suspension no longer applies; and
 - (ii) the person who would use the premises for the use for which they are licensed will use the premises in accordance with the licence and the conditions of the licence; or
 - (b) the determination of an appeal under this Part of these Regulations against the suspension is that the licence should not have been suspended.
- (6) Where the Licensing Authority lifts a suspension it shall give notice of this to the person to whom it gave notice of the suspension.

Revocation of licences

- 60.—**(1) The Licensing Authority may revoke a licence of any premises licensed under this Part of these Regulations if it appears to the Authority that—
- (a) the premises are being used otherwise than in accordance with—
 - (i) the licence; or
 - (ii) this Part of these Regulations or Schedule 5 to these Regulations;
 - (b) any condition specified in the licence has not been complied with;
 - (c) inspection of the premises for the purposes of these Regulations is being hampered or denied;
 - (d) a notice has been served on the occupier in relation to the use of the premises under this Part of these Regulations and the Authority is not satisfied that the action required by the notice to be taken by the occupier has been taken within the time required;
 - (e) the premises are not being used for the purpose for which the occupier is licensed.
- (2) Before revoking a licence the Licensing Authority shall—
 - (a) give notice of the intended revocation to the occupier of the premises; and
 - (b) have regard to any representations made to the Authority by that person in relation to the intended revocation.
 - (3) A notice of revocation of a licence shall include the following information:—
 - (a) a summary of the decision of the Licensing Authority to revoke the licence and a description of the use of the premises for which the licence is revoked;
 - (b) the reason for the revocation;
 - (c) the date on which the revocation takes effect, which may not be before the period of 21 days after the date on which the notice is given;
 - (d) a statement of the right of the person to whom notice of revocation is given to appeal against the revocation;
 - (e) a statement—

- (i) that, for the protection of public or animal health pending an appeal, continued use of the premises for the use for which the licence is revoked is prohibited; or
- (ii) of any conditions for the protection of public or animal health to which any continued use of the premises for a licensed use is subject pending an appeal.

(4) Subject to paragraph (7) below, where a statement under paragraph (3)(e)(ii) is included in a notice of revocation of a licence, premises may continue to be used by the occupier for a use for which a licence is revoked during the period of 21 days after the notification to the occupier of the revocation.

(5) After the expiry of the period referred to in paragraph (4) above, the premises may not be used for the use for which the licence is revoked unless before the period expired an appeal was made in accordance with regulation 61 below and the appeal has not been finally disposed of or abandoned.

(6) Where the Licensing Authority has given notice of a decision to revoke the licence and the notice of revocation included a statement under paragraph (3)(e)(i) above, the occupier of the premises shall not use the premises for the use for which the licence is revoked.

(7) Where the Licensing Authority has given notice of a decision to revoke the licence and the notice of revocation included a statement under paragraph (3)(e)(ii) above, the occupier of the premises shall not use the premises for the use for which the licence is revoked except in accordance with any conditions specified in the statement.

Appeals against/review in relation to suspension and revocation of licences

61.—(1) Where in respect of any premises the Licensing Authority has given notice of a decision under this Part of these Regulations—

- (a) to refuse to license any occupier of any premises;
- (b) to grant a licence of any occupier of any premises subject to conditions;
- (c) to suspend the licence of any occupier of any premises; or
- (d) to revoke the licence of any occupier of any premises,

the person to whom the notice is given may, within 21 days of being notified of the decision, appeal against the decision to the person specified in the notice.

(2) An appeal under this regulation shall be made by written statement given to the person specified in the notice accompanied by a brief explanation of the ground of the appeal and such other information and documents as may be so specified.

(3) Where on an appeal under this regulation the person hearing the appeal determines that—

- (a) the grant of a licence should not have been refused the appeal;
- (b) unreasonable conditions have been attached to the grant of a licence; or
- (c) a licence should not have been suspended or revoked,

the Licensing Authority shall give effect to that determination.

Collection centres and incinerators

Collection centres

62.—(1) Any person delivering specified risk material to a licensed collection centre shall state in writing to the operator of the collection centre concerned the place from which that specified risk material was collected for delivery to that collection centre.

(2) No person shall take delivery of specified risk material at a collection centre, or operate a collection centre for specified risk material, unless it has been licensed and has sufficient facilities for storing and handling specified risk material in a manner which keeps it separate from other animal material.

(3) The operator of a licensed collection centre shall ensure that—

- (a) without prejudice to the storage requirements of regulation 51 above, all specified risk material in the collection centre is kept separate from all other animal material; and
- (b) all equipment used in relation to the collection or storage of specified risk material that comes into contact with such material is thoroughly washed and disinfected before that

operator uses the equipment or allows it to be used in relation to the collection or storage of any other material.

(4) No person shall consign specified risk material from a licensed collection centre except to a licensed incinerator or a licensed rendering plant.

Incinerators

63.—(1) Any person delivering specified risk material to a licensed incinerator shall state in writing to the operator of the incinerator concerned the place from which that specified risk material was collected for delivery to that incinerator.

- (2) No person shall operate an incinerator incinerating specified risk material unless—
- (a) the incinerator has been licensed as having suitable facilities to incinerate specified risk material in accordance with paragraph (4) below;
 - (b) that person disposes of the ash in a way that does not pose a risk to human or animal health; and
 - (c) the incinerator is equipped with a refractory lining.

(3) The operator of a licensed incinerator shall make a consignment record on the arrival of specified risk material at the premises and shall keep that record for a period of not less than two years from the date of arrival.

(4) The operator of a licensed incinerator shall incinerate all specified risk material delivered to that operator to a standard specified in the licence and in such a way that all moisture is removed, the material is reduced to ash and the ash is disposed of in accordance with the terms of the licence.

(5) No person shall remove specified risk material from a licensed incinerator unless it has been completely incinerated.

Rendering plants

Delivery of specified risk material to rendering plants

64.—(1) Any person delivering specified risk material to a licensed rendering plant shall state in writing to the operator of the rendering plant concerned the place from which that specified risk material was collected for delivery to that rendering plant.

(2) No person shall take delivery of specified risk material at a rendering plant, or operate a rendering plant for specified risk material, unless at the time of the delivery it is licensed under this Part of these Regulations as having the facilities specified in Part I of Schedule 6 to these Regulations sufficient to enable it to separate the specified risk material into protein and tallow by one of the methods specified in Part II of that Schedule.

(3) The occupier of a licensed rendering plant shall ensure that all containers, receptacles and vehicles which have been used for the transport of specified risk material are cleaned, washed and disinfected before they leave the premises.

Storage etc. of specified risk material at rendering plants

65.—(1) Subject to paragraph (2) below, and without prejudice to the storage requirements of regulation 51 above, the operator of a licensed rendering plant shall ensure that all specified risk material in the rendering plant is kept and stored separately from all other material, handled separately from other material and rendered separately from other material.

(2) The operator of a licensed rendering plant may keep, handle, store or render specified risk material at the plant together with other material at the plant provided—

- (a) all of that material is kept, handled, stored and rendered at the plant in accordance with the requirements of these Regulations applying to specified risk material; and
- (b) the operator keeps a record for a period of not less than two years of the exact quantity of the specified risk material and the other material together with which the specified risk material is kept, handled, stored and rendered.

(3) For the purposes of this Part of these Regulations, references to specified risk material shall include references to any—

- (a) specified risk material kept, handled, stored or rendered together with other material; and
- (b) any other material together with which the specified risk material is kept, handled, stored or rendered.

Rendering of specified risk material

66.—(1) The operator of a licensed rendering plant will ensure that specified risk material is processed without undue delay and in any event within seven days of delivery using one of the methods described in Part II of Schedule 6 to these Regulations.

(2) No person shall move from the unclean section of a licensed rendering plant, as so specified by the occupier in accordance with paragraph 3 of Part I of Schedule 6 to the Regulations, into the clean section as so specified without first changing the working clothes and footwear of that person and disinfecting the latter.

(3) The operator of a licensed rendering plant shall ensure (except as provided by paragraph (4) below) that any equipment used for processing specified risk material is used only for that purpose.

(4) Subject to paragraph (5) below, the Scottish Ministers may, on application by the operator of a licensed rendering plant, consent to the use for other purposes of equipment previously used for processing specified risk material.

(5) No consent given under paragraph (4) above shall be effective until the Scottish Ministers have indicated in writing that they are satisfied that the equipment concerned has been cleaned in accordance with any conditions specified in that consent.

(6) No person shall take equipment or utensils from the unclean section of a licensed rendering plant into the clean section of a licensed rendering plant unless that equipment and those utensils are first washed and disinfected.

(7) The occupier of a licensed rendering plant shall ensure that systematic measures are taken to control birds, rodents, insects and other vermin on the premises.

(8) The occupier of a licensed rendering plant shall ensure that the premises and equipment on the premises are kept in a good state of repair and that measuring equipment is regularly calibrated.

Rendered material

67.—(1) After any specified risk material has been rendered at a licensed rendering plant the operator of the plant shall ensure that the rendered material is placed in a container labelled “specified risk material” and disposed of—

- (a) by burial at a landfill site for which there exists a current waste management licence granted under section 35 of the Environmental Protection Act 1990, or permit granted under the Pollution Prevention and Control (Scotland) Regulations 2000(a) or the Pollution Prevention and Control (England and Wales) Regulations 2000(b);
- (b) as specified in the licence; or
- (c) by sending to a licensed incinerator.

(2) An operator of a licensed rendering plant shall ensure that rendered material produced from any specified risk material—

- (a) is consigned from the plant for disposal by burial; or
- (b) is disposed of by burial,

unless the specified risk material has been processed at the plant in accordance with method 4 prescribed in Part II of Schedule 6 to these Regulations.

(3) Material rendered from animal material, other than specified risk material from scheme animals, shall be disposed of by burning in a manner which has been authorised under the

(a) S.S.I. 2000/323.

(b) S.I. 2000/1973.

Administration and enforcement

Records

68.—(1) Any person who consigns any specified risk material for transport from any premises shall make on consignment a record of each consignment showing—

- (a) the date on which the specified risk material was consigned from the premises;
- (b) the quantity and description of the material;
- (c) the destination to which it was consigned; and
- (d) the name of the haulier transporting it.

(2) Any person who transfers any specified risk material from any part of any premises licensed for the collection, disposal or destruction of any specified risk material to another part of the premises shall make on transfer a record of each transfer showing the date on which the specified risk material was transferred and the quantity and description of the material transferred.

(3) A person who collects any specified risk material from any premises for the purpose of transporting it shall make on collection a record showing—

- (a) the address of the premises from which the material was collected;
- (b) the date on which the material was collected;
- (c) the quantity and description of the material; and
- (d) the destination to which it is to be taken,

and shall ensure this record accompanies the specified risk material during transport.

(4) A person who receives any specified risk material collected from any premises shall make on receipt a record showing—

- (a) the address of the premises from which the material was collected;
- (b) the date on which the material is received;
- (c) the quantity and description of the material; and
- (d) name and address of the haulier who transported it.

(5) In addition to any records the person is required to make under paragraphs (1) and (4) above, an occupier of rendering premises (other than part-rendering premises) shall make a record of any specified risk material that person renders at the premises showing—

- (a) the weight rendered and the date of rendering;
- (b) the temperature of the material achieved during rendering;
- (c) in a batch system, the period during which the material was rendered;
- (d) the particle size to which the material was reduced before rendering;
- (e) if appropriate, the pressure to which the by-products are subjected during rendering;
- (f) if appropriate, the feed rate of the material;
- (g) if appropriate, the fat re-cycling rate;
- (h) the quantity and description of rendered material produced;
- (i) in the case of all rendered material—
 - (i) the method of disposal;
 - (ii) the quantity disposed of;
 - (iii) the date of disposal;
 - (iv) the name of the haulier; and
 - (v) the address of the disposal premises.

(6) In addition to any records the person is required to make under paragraphs (1) and (4) above, an occupier of part-rendering premises shall make a record of any specified risk material that person part-renders at the premises showing—

- (a) the weight part-rendered and the date of part-rendering; and
- (b) the quantity and description of part-rendered material produced.

(7) Any record required to be made under this regulation shall be kept by or on behalf of the person who is required to make it for a period of not less than two years from the date on which the record is made.

Cleansing and disinfection

69.—(1) If an inspector suspects that any vehicle, container or premises constitute a disease risk, that inspector may serve a notice on the person in charge of the vehicle or container, or on the occupier of the premises, requiring the vehicle, container or premises to be cleansed and disinfected.

- (2) The notice may—
- (a) specify the method of cleansing and disinfection;
 - (b) specify the method of disposal of any specified risk material remaining in the vehicle, container or premises; and
 - (c) prohibit the movement of specified risk material into the vehicle or container or on to the premises until such time as the required cleansing and disinfection has been satisfactorily completed.

Powers of inspectors

70.—(1) An inspector shall, on producing, if required to do so, some duly authenticated document showing the authority of the inspector, have the right at all reasonable hours to enter any premises (excluding premises used only as a dwelling) to—

- (a) ascertain whether any—
 - (i) TSE susceptible animal; or
 - (ii) any specified risk material,is being or has been kept on the premises;
- (b) ascertain whether—
 - (i) any TSE exists or has existed on the premises or any other premises; or
 - (ii) any animal which is being kept on the premises or has been kept on the premises is, or was at the time it was kept there, affected with any TSE;
- (c) collect, pen, inspect and examine any TSE susceptible 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 and examine—
 - (i) specified risk material; or
 - (ii) the carcase of TSE susceptible animal;
- (e) take such samples from, and make such tests in relation to, any—
 - (i) TSE susceptible animal;
 - (ii) carcase of such an animal;
 - (iii) specified risk material or any other material appearing to that inspector to be derived from an animal;
 - (iv) food or feedingstuff;
 - (v) cosmetic, pharmaceutical or medical product,as that inspector considers necessary;
- (f) mark for identification purposes any specified risk material or TSE susceptible animal, or the carcase of such an animal;
- (g) serve on the person in charge of a TSE susceptible animal, or the person in possession of the carcase of any such animal or in possession of any specified risk material, a notice—
 - (i) to restrict or prohibit the movement of the TSE susceptible animal, carcase or specified risk material; or
 - (ii) in respect of any such carcase or specified risk material, to require the person to dispose of the carcase or specified risk material in the manner and period specified in the notice;
- (h) seize any specified risk material, TSE susceptible animal or the carcase of such an animal;

- (i) serve a notice requiring any cleansing and disinfection or carry out or cause to be carried out any cleansing and disinfection ;
 - (j) serve any notice–
 - (i) in connection with the seizure any specified risk material, TSE susceptible animal or the carcase of such an animal; or
 - (ii) under regulation 69 above;
 - (k) inspect–
 - (i) the premises; or
 - (ii) any equipment at the premises;
 - (l) inspect any facility, operation or procedure at the premises, including–
 - (i) any means of preparing, manufacturing, treating (including subjecting to heat or cold) food or specified risk material; or
 - (ii) any facility, operation or procedure at the premises in connection with the removal, collection, transport, disposal or destruction of specified risk material;
 - (m) serve any licence, suspension of a licence, withdrawal of a licence or revocation of a licence under this Part of these Regulations;
 - (n) serve any direction under regulation 72 below;
 - (o) examine any record, in whatever form the record may be held, and take copies of the record;
 - (p) have access to, and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with any record; and for this purpose may require any person who has charge of or who is otherwise concerned with the operation of the computer, apparatus or material to afford to that inspector such assistance as that inspector may reasonably require 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; or
 - (q) ascertain whether there is or has been any contravention of, or failure to comply with, this Part of these Regulations or any evidence of any such contravention or failure.
- (2) No person except an inspector shall remove or otherwise interfere with any mark applied under paragraph (1)(f) above.
- (3) If a sheriff or justice of the peace, on sworn information in writing–
- (a) is satisfied that there are reasonable grounds for entry into any premises for any such purpose as is mentioned in paragraph (1) above; and
 - (b) is satisfied either that–
 - (i) admission to the premises has been refused or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier; or
 - (ii) an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent,
- the sheriff or justice of the peace may by signed warrant authorise an inspector to enter the premises, if need be by using reasonable force.
- (4) The occupier of premises entered by an inspector under this regulation or by virtue of a warrant issued under it, and the employees of that occupier and any person on the premises who is or has been in possession or charge of any mammalian meat and bone meal or processed animal protein, or any animal or carcase, which is or has been on the premises, shall–
- (a) provide such reasonable facilities to the inspector and comply with such reasonable requirements as the inspector considers necessary for any purpose connected with the administration or enforcement of this Part of these Regulations; and
 - (b) if required by an inspector, give such information as that occupier possesses as to–
 - (i) any mammalian meat and bone meal or processed animal protein, or any animal or carcase which is or has been on the premises;
 - (ii) any animal or carcase with which any mammalian meat and bone meal or processed animal protein, or any animal or carcase, which is or has been on the premises may have come into contact; and
 - (iii) the location, transport and movement of any mammalian meat and bone meal or processed animal protein, or any animal or carcase, which is or has been in the possession or charge of the occupier.

- (5) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it may be accompanied by—
- (a) such other person as that inspector considers necessary to give such assistance as that inspector considers necessary; and
 - (b) a representative of the European Commission acting for the purpose of the Community TSE Regulation or the Community Transitional Measures.
- (6) If an inspector enters any unoccupied premises, that inspector shall leave them as effectively secured against unauthorised entry as that inspector found them.

Recall, seizure and destruction of feedingstuffs

71.—(1) An inspector may serve on any person in whose possession is found any feedingstuff containing specified risk material, except a feedingstuff prepared for use at premises licensed for that use under regulation 56 above, a notice requiring that person to dispose of the material, and any other material with which it has come into contact, in such manner and within such period as may be specified in the notice.

(2) An inspector may serve on any person who has sold or supplied any feedingstuff containing specified risk material a notice requiring that person to collect at their own expense that product from the person to whom that person supplied or sold it, or from such other person to whom it may have subsequently been supplied or sold, and to transport it to such place and within such time as may be specified in the notice.

(3) If any person on whom a notice is served under paragraph (1) or (2) above fails to comply with the requirements of the notice, an inspector may, without prejudice to any proceedings arising out of such default, carry out or cause to be carried out the requirements of the notice.

(4) The amount of any expenses reasonably incurred by or on behalf of an inspector acting pursuant to paragraph (3) above shall be recoverable as a debt by that inspector or by any person under whose authority that inspector is acting from the person who was in default of the notice, unless that person took all reasonable steps to comply with the notice.

Directions

72.—(1) If the Scottish Ministers or the Agency are satisfied that specified risk material cannot be disposed of under the provisions of these Regulations, whether for reasons of mechanical breakdown of equipment or otherwise, the Scottish Ministers or the Agency may give written directions to the owner or person in control of the specified risk material for its disposal in a safe manner in accordance with the conditions of the derogation in point 8 of Part A of Annex XI to the Community TSE Regulation, and the person to whom such directions are given shall comply with them.

(2) In the event of any person not complying with those directions, the Scottish Ministers or the Agency may make arrangements for the disposal of the specified risk material at the expense of the owner or person in control of the material.

Compliance with notices

73.—(1) Any notice served under this Part of these Regulations shall be complied with at the expense of the person on whom the notice is served.

(2) If a notice served under this Part of these Regulations is not complied with, an inspector may arrange for it to be complied with at the expense of the person on whom the notice is served.

Slaughterhouse staff training

74. The occupier of any slaughterhouse where specified risk material is removed from carcasses pursuant to this regulation shall arrange or establish in consultation with an OVS a staff training programme to train staff to comply with those requirements of this Part of these Regulations which they perform on those premises.

Compliance in relation to employees

75.—(1) An occupier of any premises used for the purposes of a business in course of which any commercial operation with respect to food or food sources is carried out shall take all practicable steps to secure compliance by any of the employees of that occupier with the provisions of these Regulations which apply to those operations in relation to those premises.

(2) In this regulation “commercial operation” and “food source” have the same meanings as in the Food Safety Act 1990(a).

Inspection and seizure of suspected food

76.—(1) The following provisions of the Food Safety Act 1990 shall apply for the purposes of this Part of these Regulations as they apply for the purposes of sections 8, 14 or 15 of that Act and any reference in them to the Act shall be construed as a reference to this Part of these Regulations—

- (a) section 9 (inspection and seizure of suspected food), subject to the modification that it shall apply to an inspector as it applies to an authorised officer of a food authority;
- (b) section 30(8) (evidence of certificate of analysis or examination); and
- (c) section 44 (protection of officers acting in good faith), subject to the modifications that it shall apply to a person appointed as an inspector for the purpose of these Regulations by a local authority or the Agency as it applies to an authorised officer of a food authority.

(2) On an inspection for the purposes of this Part of these Regulations of any food intended for human consumption an inspector may certify that the food fails to comply with a provision of this Part.

(3) Where any food is certified as mentioned in paragraph (2) above it may be treated for the purposes of section 9 of the Food Safety Act 1990 as failing to comply with food safety requirements.

Part V

Control and eradication of TSEs

Notification of animals suspected of being affected by a TSE

77.—(1) Any person who has in the possession of that person or under the charge of that person an animal suspected of being affected by a TSE, and any veterinary surgeon or other person who, in the course of the duties of such person, examines or inspects any such animal, shall, with all practicable speed, notify the fact to the Divisional Veterinary Manager.

(2) Any person who has in the possession of that person or under the charge of that person on any premises an animal suspected of being affected by a TSE, shall detain it on the premises until it has been examined by a veterinary inspector.

(3) Subject to paragraph (4), below, any person who, in the course of a laboratory examination of the carcase of an animal, reasonably suspects the presence of a TSE, shall—

- (a) with all practicable speed, notify the fact to the Divisional Veterinary Manager;
- (b) retain the sample examined and the remainder of the carcase until its disposal has been authorised in writing by a veterinary inspector; and
- (c) if required in writing to do so by a veterinary inspector, surrender any samples, in whatever form, to such an inspector.

(4) Paragraph (3) above shall not apply to any TSE which has been introduced deliberately into an animal, a carcase or a sample—

- (a) in any laboratory; or
- (b) on any premises, whether or not a laboratory, licensed by the Scottish Ministers under regulation 56 above.

(a) 1990 c.16.

Measures for the purposes of Chapter IV of the Community TSE Regulation

78.—(1) An inspector may make such enquiries and carry out such investigations as that inspector considers necessary for any purpose connected with the administration or enforcement of Chapter IV of the Community TSE Regulation.

(2) For any such purpose an inspector shall, on producing, if required to do so, some duly authenticated document showing the authority of that inspector, have the right at all reasonable hours to enter any premises (excluding premises used only as a dwelling) to—

- (a) ascertain whether any TSE susceptible animal is being or has been kept on the premises;
- (b) ascertain whether—
 - (i) any TSE exists or has existed on the premises or any other premises; or
 - (ii) any animal which is being kept on the premises or has been kept on the premises is, or was at the time it was kept there, affected with any TSE;
- (c) collect, pen, inspect and examine any TSE susceptible 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 and examine the carcase of such an animal;
- (e) take such samples and make such tests in relation to any TSE susceptible animal, or the carcase of such an animal, as that inspector considers necessary;
- (f) mark for identification purposes any TSE susceptible animal, or the carcase of such an animal, or administer or otherwise attach an electronic identification device to any TSE susceptible animal;
- (g) serve a notice to restrict or prohibit the movement of any TSE susceptible animal or the carcase of such an animal;
- (h) seize any TSE susceptible animal, the carcase of such an animal any part of such a carcase or any blood, and serve any notice in connection with the seizure;
- (i) give any direction under regulation 82 below;
- (j) serve any notice in connection with the slaughter of any TSE susceptible animal;
- (k) slaughter any TSE susceptible animal;
- (l) serve a notice requiring any cleansing and disinfection or carry out or cause to be carried out any cleansing and disinfection;
- (m) examine any record, in whatever form the record may be held, and take copies of the record;
- (n) have access to, and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with any record; and for this purpose may require any person who has charge of or who is otherwise concerned with the operation of the computer, apparatus or material to afford to that inspector such assistance as that inspector may reasonably require 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; or
- (o) ascertain whether there is or has been any contravention of, or failure to comply with, this Part of these Regulations or any evidence of any such contravention or failure.

(3) No person except an inspector shall remove or otherwise interfere with any mark applied to a TSE susceptible animal or the carcase of such an animal under paragraph (2)(f) above and no person except a veterinary inspector or an OVS shall remove or otherwise interfere with any electronic identification device attached to or otherwise administered to such an animal under that sub-paragraph.

- (4) If a sheriff or justice of the peace, on sworn information in writing—
- (a) is satisfied that there are reasonable grounds for entry into any premises for any such purpose as is mentioned in paragraph (2) above; and
 - (b) is satisfied either that—
 - (i) admission to the premises has been refused or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier; or
 - (ii) an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent,

the sheriff or justice of the peace may by signed warrant authorise an inspector to enter the premises, if need be by using reasonable force.

(5) The occupier of premises entered by an inspector under this regulation or by virtue of a warrant issued under it, and the employees of that occupier and any person on the premises who is or has been in possession or charge of any animal or carcase which is or has been on the premises, shall—

- (a) provide such reasonable facilities to the inspector and comply with such reasonable requirements as the inspector considers necessary for any purpose connected with the administration or enforcement of Chapter IV of the Community TSE Regulation; and
- (b) if required by an inspector, give such information as that occupier possesses as to—
 - (i) any animal or carcase which is or has been on the premises;
 - (ii) any other animal or carcase with which any animal or carcase which is or has been on the premises may have come into contact; and
 - (iii) the location and movement of any animal or carcase which is or has been in the possession or charge of the occupier.

(6) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it may be accompanied by—

- (a) such other person as that inspector considers necessary to give such assistance as that inspector considers necessary; and
- (b) a representative of the European Commission acting for the purpose of the Community TSE Regulation or the Community Transitional Measures.

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

Movement prohibitions and restrictions of any TSE susceptible animals for the purposes of Chapter IV of the Community TSE Regulation

79.—(1) This regulation applies where an inspector is satisfied that for any purpose connected with the administration or enforcement of Chapter IV of the Community TSE Regulation it is necessary to prohibit or restrict the movement of any TSE susceptible animal, whether or not the animal is suspected of being affected by a TSE, from or to any premises.

(2) For any such purpose an inspector may, by notice in writing served on the owner or person in charge of any animal, prohibit or restrict the movement of the animal from or to any premises described in the notice for such period and subject to such conditions as that inspector considers necessary for that purpose and specifies in the notice.

(3) During the period in which the notice is in force an inspector may renew it subject to such conditions as that inspector considers necessary for the same or a shorter period.

(4) A notice which is renewed may be renewed from time to time in a similar manner by an inspector.

(5) Where a notice is in force under this regulation the conditions of which allow movement of any animal suspected of being affected by a TSE from premises on the authority of a licence issued by an inspector, an inspector may issue a licence for this purpose subject to such conditions as that inspector considers necessary.

(6) Where an animal or carcase is being moved under the authority of a licence issued under this Part of these Regulations, the person in charge of the animal or carcase being so moved shall carry the licence during the authorised movement and shall, on demand made by an inspector or by a police officer, produce the licence and allow a copy or extract to be taken, and shall also, on such demand, furnish the name and address of that person.

Slaughter of TSE susceptible animals at slaughterhouses for the purposes of Chapter IV of the Community TSE Regulation

80.—(1) This regulation and regulation 81 below apply where the Scottish Ministers are satisfied it is necessary to slaughter any TSE susceptible animal for the purposes of Chapter IV of the Community TSE Regulation.

(2) Where the Scottish Ministers are satisfied that it is necessary for these purposes to slaughter a TSE susceptible animal at a slaughterhouse, an inspector shall so inform the occupier of the premises concerned and direct the occupier to slaughter the animal in such manner and within such period as the inspector directs.

(3) Before an inspector directs an occupier to slaughter an animal under this regulation, that inspector shall consider the hygiene, specified risk material or animal welfare requirements with which the occupier must comply at the slaughterhouse in relation to—

- (a) the slaughter of the animal; and
- (b) any related operation, including—
 - (i) the handling of the animal before and at slaughter, or the handling, storage, treatment and disposal of the carcase, any part of the carcase or any blood derived from the carcase or any part of the carcase; and
 - (ii) any operation in relation to any other animal or the slaughter of any other animal at the slaughterhouse, including the handling of any other animal before and at slaughter, or the handling, storage, treatment and disposal of the carcase, any part of the carcase or any blood derived from the carcase or any part of the carcase of any other animal.

(4) Where the inspector is satisfied that for the purpose of complying with any of these requirements the occupier must—

- (a) slaughter any other animal at the slaughterhouse; or
- (b) carry out any such related operation,

the inspector shall direct the occupier to slaughter the other animal or carry out the related operation in such manner and within such period as the inspector directs

(5) In directing an occupier under this regulation, an inspector may direct that occupier in relation to—

- (a) the keeping and handling before and at slaughter of any animal at the slaughterhouse, whether or not it is to be slaughtered under a direction given under this regulation;
- (b) the arrangements for the slaughter at the slaughterhouse of any animal slaughtered under a direction given under this regulation; and
- (c) the treatment, storage and disposal of the carcase of any animal slaughtered at the slaughterhouse or any part of the carcase or any blood derived from the carcase or any part of the carcase.

(6) Any direction under this regulation shall be complied with at the expense of the person to whom the direction is given.

(7) If a direction under this regulation is not complied with, an inspector may arrange for it to be complied with at the expense of the person to whom the direction is given.

Slaughter of TSE susceptible animals at other premises for the purposes of Chapter IV of the Community TSE Regulation

81.—(1) Where the Scottish Ministers are satisfied that it is necessary for the purposes of Chapter IV of the Community TSE Regulation to slaughter a TSE susceptible animal at premises other than premises licensed under the Fresh Meat (Hygiene and Inspection) Regulations 1995(a) a veterinary inspector shall serve a notice of intended slaughter on the owner or person in charge of the animal—

- (a) informing that owner or person of that intention; and
- (b) specifying the period within which representations from the owner or person in charge of the animal may be made to the Scottish Ministers in that regard.

(2) After considering any representations received during that period from the owner or person in charge of the animal, the Scottish Ministers shall either—

- (a) withdraw the notice of intended slaughter; or
- (b) serve a notice on the owner or person in charge of the animal confirming the intended slaughter of the animal.

(a) S.I. 1995/539, amended by S.I. 1995/731, 1763, 2148, 2200, 3124 and 3189, 1996/1148 and 2235, 1997/1729 and 2074 and S.S.I. 2000/62, 171 and 288 and 2001/160, 358, 394 and 429 and 2002/35 and 234.

(3) After service of the notice confirming the intended slaughter of the animal, the Scottish Ministers shall cause the animal to be slaughtered as soon as possible having regard to the requirements of the annual programme of monitoring referred to in Article 6 of the Community TSE Regulation.

Retention, seizure and disposal of carcasses etc. of TSE susceptible animals for the purposes of Chapter IV of the Community TSE Regulation

82.—(1) This regulation applies where the Scottish Ministers are satisfied that for any purpose connected with the administration or enforcement of Chapter IV of the Community TSE Regulation it is necessary—

- (a) to require an occupier of premises to retain on the premises under the direction of the Scottish Ministers a carcase of a TSE susceptible animal, any part of such a carcase or any blood derived from any such carcase or part; or
- (b) to seize from any premises the carcase of a TSE susceptible animal, any part of such a carcase or any blood derived from any such carcase or part.

(2) For any such purpose an inspector may—

- (a) direct the occupier of the premises to retain on the premises a carcase of a TSE susceptible animal on the premises, any part of such a carcase or any blood derived from any such carcase or part; or
- (b) seize or dispose of—
 - (i) any carcase of a TSE susceptible animal from any premises, or any part of such a carcase, whether or not it is a carcase or part of a carcase which the occupier has been required to be retained under the direction of an inspector; or
 - (ii) any blood derived from a carcase of a TSE susceptible animal or any part of such a carcase, whether or not the carcase or part of the carcase from which the blood is derived has been required to be retained under the direction of an inspector or has been seized by an inspector.

(3) Directions from an inspector to an occupier under this regulation to retain a carcase, part of a carcase or blood derived from any carcase or part may include directions in relation to the treatment, storage and disposal of the carcase, part or blood.

(4) Any direction under this regulation shall be complied with at the expense of the person to whom the direction is given.

(5) If a direction under this regulation is not complied with, an inspector may arrange for it to be complied with at the expense of the person to whom the direction is given.

Compensation for slaughtered TSE susceptible animals

83.—(1) Where a TSE susceptible animal is slaughtered under regulation 80 or 81 above the Scottish Ministers shall pay compensation to the owner of the animal in accordance with the provisions of Part III of Schedule 1 to these Regulations.

(2) The Scottish Ministers shall pay compensation in accordance with the provisions of Part IV of that Schedule to the owner of any carcase, part of a carcase or blood seized or disposed of under regulation 82 above.

Prohibition of sale, supply and use of milk from affected or suspected animals

84.—(1) Subject to paragraph (2) below, no person shall knowingly—

- (a) sell or supply for human consumption or for feeding to a farmed animal or poultry;
- (b) use in the manufacture of any product for sale or supply for human consumption or for feeding to an animal or poultry; or
- (c) feed to an animal or poultry,

any milk which that person knows or has reason to suspect has been produced by a bovine animal suspected of being affected by bovine spongiform encephalopathy, a bovine animal in which the presence of bovine spongiform encephalopathy has been officially confirmed or any bovine animal referred to in Article 13 of, and point 1(a) of Annex VII to, the Community TSE Regulation as being at risk of being affected by bovine spongiform encephalopathy.

- (2) The prohibitions in paragraph (1) above shall not apply–
 - (a) to the feeding to its own calf of any milk produced by a cow;
 - (b) to the feeding to an animal or poultry of any milk for research purposes in a research establishment under the authority of a licence as may be granted by the Scottish Ministers and in accordance with any conditions subject to which the licence is granted; or
 - (c) to the sale or supply of any milk to such a research establishment for those purposes.

Part VI

Article 15(2) of and Chapter B of Annex VIII to the Community TSE Regulation

Notification of progeny etc. of TSE suspect and confirmed animals

85.—(1) Any person who has in the possession of that person or under the charge of that person any–

- (a) any animal of first generation progeny of–
 - (i) a female bovine animal infected with a TSE;
 - (ii) a BSE-confirmed ovine or caprine animal; or
- (b) any semen, embryos or ova derived from any such bovine, ovine or caprine animal, and any veterinary surgeon or other person who, in the course of the duties of such person, examines or inspects any such progeny, semen, embryos or ova, shall, with all practicable speed, notify the fact to the Divisional Veterinary Manager.

(2) Any person who has in the possession of that person or under the charge of that person on any premises any animal which that person reasonably suspects is an animal of first generation progeny of, or semen, embryos or ova derived from, a female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal, shall detain it on the premises until it has been examined by a veterinary inspector.

(3) Any person who, in the course of a laboratory examination of the carcass of an animal, or any semen, embryos or ova derived from an animal, reasonably suspects that it is an animal of first generation progeny of, or semen, embryos or ova derived from, a female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal, shall–

- (a) with all practicable speed, notify the fact to the Divisional Veterinary Manager;
- (b) retain the sample examined and the remainder of the carcass until its disposal has been authorised in writing by a veterinary inspector; and
- (c) if required in writing to do so by a veterinary inspector, surrender any samples, in whatever form, to such an inspector.

Measures to administer and enforce Article 15(2) of, and Chapter B of Annex VIII to, the Community TSE Regulation

86.—(1) An inspector may make such enquiries and carry out such investigations as that inspector considers necessary for any purpose connected with the administration or enforcement of Article 15(2) of, and Chapter B of Annex VIII to, the Community TSE Regulation.

(2) For such purposes an inspector shall, on producing, if required to do so, some duly authenticated document showing the authority of that inspector, have the right at all reasonable hours to enter any premises (excluding premises used only as a dwelling) to–

- (a) ascertain whether any animal of first generation progeny of, or semen, embryos or ova derived from, a female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal, is being or has been kept on the premises;
- (b) collect, pen, inspect and examine any animal of first generation progeny of, or semen, embryos or ova derived from, a female bovine animal infected with any TSE or a BSE-confirmed ovine or caprine animal, and for this purpose may require the keeper of any such animal to arrange for the collection and penning of the animal;
- (c) inspect and examine and take such samples and make such tests as that inspector considers necessary from any–

- (i) female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
- (ii) animal of first generation progeny of, or semen, embryos or ova derived from, a female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
- (iii) carcase of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal; or
- (iv) carcase of an animal of first generation progeny of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal;
- (d) mark for identification purposes, or administer or otherwise attach an electronic identification device to, any–
 - (i) female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
 - (ii) animal of first generation progeny of, or semen, embryos or ova derived from, a female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
 - (iii) carcase of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal; or
 - (iv) carcase of an animal of first generation progeny of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal;
- (e) serve a notice to restrict or prohibit the movement, or issue a licence in connection with the movement, of–
 - (i) any female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
 - (ii) any animal of first generation progeny of, or semen, embryos or ova derived from, a female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
 - (iii) any carcase of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal; or
 - (iv) any carcase of an animal of first generation progeny of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal;
- (f) seize or dispose of–
 - (i) any female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
 - (ii) any animal of first generation progeny of, or semen, embryos, ova or blood derived from, a female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
 - (iii) any carcase of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal; or
 - (iv) any carcase of an animal of first generation progeny of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal;
- (g) serve any notice in connection with the slaughter of, or slaughter–
 - (i) any female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal; or
 - (ii) any animal of first generation progeny of, or semen, embryos or ova derived from, a female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
- (h) give a direction under regulation 90 below;
- (i) serve a notice requiring any cleansing and disinfection or carry out or cause to be carried out any cleansing and disinfection;
- (j) examine any record, in whatever form the record may be held, and take copies of the record;
- (k) have access to, and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with any record; and for this purpose may require any person who has charge of or who is otherwise concerned with the operation of the computer, apparatus or material to afford to that inspector such assistance as that inspector may reasonably require 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; or

- (1) ascertain whether there is or has been any contravention of, or failure to comply with, this Part of these Regulations or any evidence of any such contravention or failure.

(3) No person except an inspector shall remove or otherwise interfere with any mark applied to any animal or carcase under paragraph (2)(d) above and no person except a veterinary inspector shall remove or otherwise interfere with any electronic identification device attached to or otherwise administered to such an animal under that sub-paragraph.

(4) If a sheriff or justice of the peace, on sworn information in writing—

- (a) is satisfied that there are reasonable grounds for entry into any premises for any such purpose as is mentioned in paragraph (2) above; and
- (b) is satisfied either that—
 - (i) admission to the premises has been refused or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier; or
 - (ii) an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent,

the sheriff or justice of the peace may by signed warrant authorise an inspector to enter the premises, if need be by using reasonable force.

(5) The occupier of premises entered by an inspector under this regulation or by virtue of a warrant issued under it, and the employees of that occupier and any person on the premises who is or has been in possession or charge of any animal or carcase which is or has been on the premises, shall—

- (a) provide such reasonable facilities and reasonable assistance to the inspector and comply with such reasonable requirements as the inspector considers necessary for any purpose connected with the administration or enforcement of Article 15(2) of, and Chapter B of Annex VIII to, the Community TSE Regulation; and
- (b) if required by an inspector, give such information as that occupier possesses as to—
 - (i) any animal or carcase which is or has been on the premises;
 - (ii) any other animal or carcase with which any animal or carcase which is or has been on the premises may have come into contact;
 - (iii) any semen, embryos or ova derived from any female bovine animal infected with TSE or a BSE-confirmed ovine or caprine animal; and
 - (iv) the location and movement of any animal or carcase, or any semen, embryos or ova derived from female bovine animals infected with a TSE or BSE-confirmed ovine or caprine animal, which is or has been in the possession or charge of that person.

(6) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it may be accompanied by—

- (a) such other person as that inspector considers necessary to give such assistance as that inspector considers necessary; and
- (b) a representative of the European Commission acting for the purpose of the Community TSE Regulation or the Community Transitional Measures.

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

Movement prohibitions and restrictions: Article 15(2) of, and Chapter B of Annex VIII to, the Community TSE Regulation

87.—(1) This regulation applies where an inspector is satisfied that for any purpose connected with the administration or enforcement of Article 15(2) of, and Chapter B of Annex VIII to, the Community TSE Regulation it is necessary to prohibit or restrict the movement from or to any premises of any—

- (a) female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
- (b) animal of first generation progeny of, or semen, embryos or ova derived from, a female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;

- (c) carcase of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal; or
- (d) carcase of an animal of first generation progeny of female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal.

(2) For any such purpose an inspector may, by notice in writing served on the owner or person in charge of any animal, prohibit or restrict the movement of the animal, carcase or semen, embryos or ova from or to any premises described in the notice for such period and subject to such conditions as that inspector considers necessary for that purpose and specifies in the notice.

(3) During the period in which the notice is in force a veterinary inspector may renew it subject to such conditions as that inspector considers necessary for the same or a shorter period.

(4) A notice which is renewed may be renewed from time to time in a similar manner by a veterinary inspector.

(5) Where a notice is in force under this regulation the conditions of which allow movement of any animal, carcase or semen, embryos or ova from premises on the authority of a licence issued by a veterinary inspector, a veterinary inspector may issue a licence for this purpose subject to such conditions as that inspector considers necessary.

(6) Where an animal, carcase or semen, embryos or ova is or are being moved under the authority of a licence issued under this Part of these Regulations, the person in charge of the animal, carcase or semen, embryos or ova being so moved shall carry the licence during the authorised movement and shall, on demand made by an inspector or by a police officer, produce the licence and allow a copy or extract to be taken, and shall also, on such demand, furnish the name and address of that person.

Slaughter at slaughterhouses: Article 15(2) of, and Chapter B of Annex VIII to, the Community TSE Regulation

88.—(1) This regulation and regulation 89 below apply where, for the purposes of the administration or enforcement of Article 15(2) of, and Chapter B of Annex VIII to, the Community TSE Regulation the Scottish Ministers are satisfied that it is necessary to slaughter—

- (a) any female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal; or
- (b) any animal of first generation progeny of—
 - (i) a female bovine animal infected with a TSE; or
 - (ii) a BSE-confirmed ovine or caprine animal.

(2) Where the Scottish Ministers are satisfied that it is necessary for these purposes to slaughter an animal of a description referred to in paragraph (1) above at premises licensed under the Fresh Meat (Hygiene and Inspection) Regulations 1995 an inspector shall so inform the occupier of the premises concerned and direct the occupier to slaughter the animal in such manner and within such period as the inspector directs.

(3) Before an inspector directs an occupier to slaughter an animal under this regulation, that inspector shall consider the hygiene, specified risk material or animal welfare requirements with which the occupier must comply at the slaughterhouse in relation to—

- (a) the slaughter of the animal; and
- (b) any related operation, including—
 - (i) the handling of the animal before and at slaughter, or the handling, storage, treatment and disposal of the carcase, any part of the carcase or any blood derived from the carcase or any part of the carcase; and
 - (ii) any operation in relation to any other animal or the slaughter of any other animal at the slaughterhouse, including the handling of any other animal before and at slaughter, or the handling, storage, treatment and disposal of the carcase, any part of the carcase or any blood derived from the carcase or any part of the carcase of any other animal.

(4) Where the inspector is satisfied that for the purpose of complying with any of these requirements the occupier must—

- (a) slaughter any other animal at the slaughterhouse; or
- (b) carry out any such related operation,

the inspector shall direct the occupier to slaughter the other animal or carry out the related operation in such manner and within such period as the inspector directs.

(5) In directing an occupier under this regulation, an inspector may direct that occupier in relation to—

- (a) the keeping and handling before and at slaughter of any animal at the slaughterhouse, whether or not it is to be slaughtered under a direction given under this regulation;
- (b) the arrangements for the slaughter at the slaughterhouse of any animal slaughtered under a direction given under this regulation; and
- (c) the treatment, storage and disposal of the carcase of any animal slaughtered at the slaughterhouse or any part of the carcase or any blood derived from the carcase or any part of the carcase.

(6) Any direction under this regulation shall be complied with at the expense of the person to whom the direction is given.

(7) If a direction under this regulation is not complied with, an inspector may arrange for it to be complied with and may recover the expense of such compliance from the person to whom the direction was given.

Slaughter at other premises: Article 15(2) of, and Chapter B of Annex VIII to, the Community TSE Regulation

89.—(1) Where the Scottish Ministers are satisfied that it is necessary to slaughter an animal of a description referred to in regulation 88(1) above at premises other than premises licensed under the Fresh Meat (Hygiene and Inspection) Regulations 1995 a veterinary inspector shall serve a notice of intended slaughter on the owner or person in charge of the animal—

- (a) informing that owner or person of that intention; and
- (b) specifying the period within which representations from the owner or person in charge of the animal may be made to the Scottish Ministers in that regard.

(2) After considering any representations received during that period from the owner or person in charge of the animal, the Scottish Ministers shall either—

- (a) withdraw the notice of intended slaughter; or
- (b) serve on the owner or person in charge of the animal confirming the intended slaughter of the animal.

(3) After service of the notice confirming the intended slaughter of the animal, the Scottish Ministers shall cause the animal to be slaughtered as soon as possible having regard to the requirements of Article 15(2) of, and Chapter B of Annex VIII to, Community TSE Regulation.

Retention and seizure of carcasses etc.: Article 15(2) of, and Chapter B of Annex VIII to, the Community TSE Regulation

90.—(1) This regulation applies where for any purpose connected with the administration or enforcement of Article 15(2) of, and Chapter B of Annex VIII to, Community TSE Regulation, the Scottish Ministers are satisfied that it is necessary—

- (a) to require an occupier of premises to retain on the premises under the direction of the Scottish Ministers—
 - (i) any female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
 - (ii) any animal of first generation progeny of, or semen, embryos or ova derived from, a female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
 - (iii) any carcase of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal;
 - (iv) any carcase of an animal of first generation progeny of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal; or
 - (v) any part of such a carcase or any blood derived from any such carcase or part; or
- (b) to seize from any premises any such animal, semen, embryos, ova, carcase, part of a carcase or blood.

- (2) For such purpose an inspector may—
- (a) direct the occupier of the premises to retain on the premises any such animal, semen, embryos, ova, carcase, part of a carcase or blood; or
 - (b) seize or dispose of any such animal, semen, embryos, ova, carcase, part of a carcase or blood whether or not it is an animal, semen, embryos, ova, a carcase, part of a carcase or blood which the occupier has been required to be retained under the direction of an inspector.

(3) Directions from an inspector to an occupier under this regulation may include directions in relation to the treatment, storage and disposal of the animal or semen, embryos, ova, the carcase, part of the carcase or blood.

(4) Any direction under this regulation shall be complied with at the expense of the person to whom the direction is given.

(5) If a direction under this regulation is not complied with, an inspector may arrange for it to be complied with and any costs reasonably incurred by an inspector in respect of such an arrangement shall be recoverable as a debt from the person who has failed to comply with the direction.

Compensation for slaughtered animals

91.—(1) Where an animal is slaughtered under regulation 88 or 89 above, the Scottish Ministers shall pay compensation to the owner of the animal in accordance with the provisions of Part V of Schedule 1 to these Regulations.

(2) The Scottish Ministers shall pay compensation in accordance with the provisions of Part VI of that Schedule to the owner of any animal, semen, embryos, ova, carcase, part of a carcase or blood seized or disposed of under regulation 90 above.

Offspring slaughter

92. Schedule 7 to these Regulations shall have effect for the purpose of continuing the implementation of Council Decision 98/256/EC(a) (concerning emergency measures to protect against bovine spongiform encephalopathy, amending Decision 94/474/EC and repealing Decision 96/239/EC) in relation to offspring of bovine animals.

Cleansing and disinfection

93.—(1) A veterinary inspector may serve on the occupier of any premises on which there is, or has within 56 days been, any—

- (a) female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
- (b) animal of first generation progeny of, or semen, embryos or ova derived from, a female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
- (c) carcase of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal; or
- (d) carcase of an animal of first generation progeny of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal,

a notice requiring that person to cleanse and disinfect, at the expense of that person and in such a manner and within such period as may be specified in the notice, all or any part of the premises or any equipment or any other thing used in connection with any such animal or carcase.

(2) If any person on whom a notice is served under paragraph (1) above fails to comply with the requirements of the notice, an inspector may, without prejudice to any proceedings arising out of such default, carry out or cause to be carried out the requirements of the notice, and the amount of any expenses reasonably incurred by the inspector in doing so shall be recoverable from the person in default by the authority on whose behalf the inspector served the notice.

(a) O.J. No. L 113, 15.4.98, p.32. Council Decision 98/256/EC remains in force as a transitional measure by virtue of Article 1(1) of Commission Regulation (EC) No. 1326/2001 and section D of Annex XI to the Community TSE Regulation (added by Article 3(3) of, and Annex IV to, Commission Regulation (EC) No. 1326/2001).

Part VII

Sampling and laboratory methods

Sampling and laboratory methods

94. No person shall use any premises for the sampling and laboratory testing for the presence of a TSE unless the premises are used for those purposes in accordance with the methods and protocols laid down in Chapter C of Annex X to the Community TSE Regulation.

Part VIII

Community controls, offences, penalties and enforcement

Community controls: powers of inspectors

95.—(1) An inspector shall, on producing, if required to do so, some duly authenticated document showing the authority of that inspector, have the right at all reasonable hours to enter any premises (excluding premises used only as a dwelling) for any purpose in relation to the checks and assistance referred to in Article 21 of the Community TSE Regulation.

(2) If a sheriff or justice of the peace, on sworn information in writing—

- (a) is satisfied that there are reasonable grounds for entry into any premises for any purpose as is mentioned in paragraph (1) above; and
- (b) is satisfied either that—
 - (i) admission to the premises has been refused, or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier; or
 - (ii) an application for admission, or the giving of such a notice, would defeat the object of the entry or that the case is one of urgency or that the premises are unoccupied or the occupier temporarily absent,

the sheriff or justice of the peace may by signed warrant authorise an inspector to enter the premises, if need be by using reasonable force.

(3) The occupier of premises entered by an inspector under this regulation or by virtue of a warrant issued under it, and the employees of that occupier and any person on the premises who is or has been in possession or charge of any mammalian meat and bone meal or processed animal protein, any animal or carcase which is or has been on the premises, or any specified risk material which is or has been on the premises, shall—

- (a) provide such reasonable facilities and reasonable assistance to the inspector and comply with such reasonable requirements as the inspector considers necessary for any purpose in relation to the checks and assistance referred to in Article 21 of the Community TSE Regulation; and
- (b) if required by an inspector, give such information as that occupier possesses as to—
 - (i) any mammalian meat and bone meal or processed animal protein, any animal or carcase, or any specified risk material, which is or has been on the premises;
 - (ii) any animal or carcase with which any mammalian meat and bone meal or processed animal protein, any animal or carcase, or any specified risk material, which is or has been on the premises may have come into contact; and
 - (iii) the location, transport and movement of any mammalian meat and bone meal or processed animal protein, any animal or carcase, or any specified risk material, which is or has been in the possession or charge of the occupier.

(4) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it may be accompanied by—

- (a) such other person as that inspector considers necessary to give that inspector such assistance as that inspector considers necessary; and
- (b) a representative of the European Commission acting for the purpose of the Community TSE Regulation or the Community Transitional Measures.

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

Obstruction

96.—(1) No person shall—

- (a) intentionally obstruct any person acting in the execution of these Regulations;
- (b) without reasonable cause, fail to give to any person acting in the execution of these Regulations any assistance or information which that person may reasonably require for the purpose of carrying out the functions of that person under these Regulations; or
- (c) furnish to any person acting in the execution of these Regulations any information which that person so furnishing knows to be false or misleading in a material particular.

(2) Nothing in paragraph (1)(b) above or in any other provision of these Regulations requiring the giving of assistance or information shall be construed as requiring any person to answer any question if to do so might incriminate that person.

Offences and penalties

97.—(1) If a person contravenes or fails to comply with any provision of these Regulations or a direction of the Scottish Ministers or the Agency under regulation 72 above, that person shall be guilty of an offence and shall be liable—

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

(2) Where an offence under these Regulations committed by a body corporate or a partnership is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or similar officer of the body corporate, or any person who was purporting to act in any such capacity (or in the case of a partnership, a partner or a person who was purporting to act as such), that person as well as the body corporate or the partnership, as the case may be, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, the provisions of paragraph (2) above shall apply in relation to the acts and defaults of a member in connection with the functions of management of the member as if the member were a director of the body corporate.

Offences due to fault of another person and defence of due diligence

98.—(1) Where the commission by any person of an offence under any of the provisions of these Regulations is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this paragraph of this regulation whether or not proceedings are taken against the first-mentioned person.

(2) In any proceedings for an offence under any of the provisions of these Regulations, it shall, subject to paragraph (3) below, be a defence for the person charged to prove that all reasonable precautions were taken and all due diligence exercised to avoid the commission of the offence by the person charged or by a person under the control of such person.

(3) If in any case the defence provided by paragraph (2) above involves the allegation that the commission of the offence was due to an act or default of another person, or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless at the earlier of—

- (a) seven clear days before the trial diet; or
- (b) one month after the first appearance of that person before a court in connection with the alleged offence,

that person has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in the possession of the person charged.

(4) In paragraph (3) above any reference to appearing before a court shall be construed as including a reference to being brought before a court.

Enforcement

- 99.**—(1) Part II and Part IV of these Regulations shall be enforced—
- (a) in relation to premises which are—
 - (i) licensed under the Fresh Meat (Hygiene and Inspection) Regulations 1995;
 - (ii) licensed under the Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995(a);
 - (iii) licensed under the Wild Game Meat (Hygiene and Inspection) Regulations 1995(b);
 - (iv) combined premises as defined in the Meat Products (Hygiene) Regulations 1994(c); and
 - (v) combined premises as defined in the Minced Meat and Meat Preparations (Hygiene) Regulations 1995(d),by the Agency or by the Scottish Ministers; and
 - (b) in relation to any other premises, by the local authority.
- (2) The other Parts of these Regulations shall be enforced by the local authority.
- (3) The Scottish Ministers may direct, in relation to cases of a particular description or any particular case, that an enforcement duty imposed on a local authority under this regulation shall be discharged by the Scottish Ministers and not by the local authority.

Part IX

Supplementary provisions

Service of notices and other documents

- 100.**—(1) Any notice or other document to be given or served on any person under or in relation to these Regulations may be given or served either—
- (a) by delivering it to that person;
 - (b) in the case of an incorporated body, by delivering it to their secretary or clerk at their registered or principal office, or by sending it by post to that person at that office; or
 - (c) in the case of any other person, by leaving it, or sending it by post to that person, at the usual or last known address of that person.
- (2) Where a notice or other document is to be given or served on the owner, proprietor, operator or occupier of any premises and it is not practicable after reasonable enquiry to ascertain the name and address of the person to or on whom it should be given or served, or the premises are unoccupied, the document may be given or served by addressing it to the person concerned by the description of “owner”, “proprietor”, “operator” or “occupier” of the premises (naming them) and—
- (a) by delivering it to some person on the premises; or
 - (b) if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

Amendments

- 101.** The amendments set out in Schedule 8 to these Regulations shall have effect.

Revocations and savings and transitional provisions

- 102.**—(1) Subject to the savings and transitional provisions in the following provisions of this regulation, the enactments specified in the first column of Part I of Schedule 9 to these Regulations shall be revoked to the extent specified in the corresponding entry in the third column of that Schedule.

(a) S.I. 1995/540, amended by S.I. 1995/1763, 2148, 2200 and 3205, 1997/1729 and S.S.I. 2001/62, 171 and 288 and 2002/87 and 234.

(b) S. I. 1995/2148, amended by S.I. 1995/3205 and S.S.I. 2000/02.

(c) S. I. 1994/3082, amended by S.I. 1995/539, 1763, 2200 and 3205, 1996/683 and 1499 and S.S.I. 2000/62, 171 and 288 and 2001/160, 358, 394 and 429 and 2002/35.

(d) S. I. 1995/3205, amended by S.I. 1996/3124, S.S.I. 2000/62, 171 and 288, 2001/358, 394 and 429 and 2002/35.

(2) Part II of Schedule 9 to these Regulations has effect for the purpose of making savings in respect of things done under the Bovine Spongiform Encephalopathy (No. 2) Order 1996(a) and the Bovine Spongiform Encephalopathy Compensation Order 1996(b) having effect at the coming into force of these Regulations.

(3) Part III of Schedule 9 to these Regulations has effect for the purpose of making savings in respect of things done under the Specified Risk Material Order 1997(c) having effect at the coming into force of these Regulations.

(4) Part IV of Schedule 9 to these Regulations has effect for the purpose of making savings in respect of things done under the Specified Risk Material Regulations 1997(d) having effect at the coming into force of these Regulations.

(5) Part V of Schedule 9 to these Regulations has effect for the purpose of making savings in respect of things done under the Fertilisers (Mammalian Meat and Bone Meal) (Conditions of Manufacture) Regulations 1998(e) having effect at the coming into force of these Regulations.

(6) Part VI of Schedule 9 to these Regulations has effect for the purpose of making savings in respect of things done under the Sheep and Goats Spongiform Encephalopathy Order 1998(f), the Sheep and Goats Spongiform Encephalopathy Regulations 1998(g) and the Sheep and Goats Spongiform Encephalopathy (Compensation) Order 1998(h), having effect at the coming into force of these Regulations.

(7) Part VII of Schedule 9 to these Regulations has effect for the purpose of making savings in respect of things done under the Bovine Spongiform Encephalopathy (Feeding Stuffs and Surveillance) Regulations 1999(i) having effect at the coming into force of these Regulations.

(8) Part VIII of Schedule 9 to these Regulations has effect for the purpose of making savings in respect of things done under the BSE Monitoring (Scotland) Regulations 2001(j) having effect at the coming into force of these Regulations.

(9) Part IX of Schedule 9 to these Regulations has effect for the purpose of making savings in respect of things done under the Processed Animal Protein (Scotland) Regulations 2001(k) having effect at the coming into force of these Regulations.

Ross Finnie
A member of the Scottish Executive

St Andrew's House,
Edinburgh
27th May 2002

(a) S.I. 1996/3183, as amended by S.I. 1997/2387, S.I. 1998/3071 and S.I. 1999/921.

(b) S.I. 1997/3184, as amended by S.I. 1997/2365.

(c) S.I. 1997/2964, as amended by S.S.I. 2000/344, 2001/4, 287 and 288

(d) S.I. 1997/2965, as amended by S.I. 1997/3062, S.I. 1998/2405 (as amended by S.I. 1998/2431), S.I. 1999/539 and S.S.I.2000/62, 345, 2001/3, 86 and 2001/288.

(e) S.I. 1998/955.

(f) S.I. 1998/1645.

(g) S.I. 1998/1646.

(h) S.I. 1998/1647, as amended by S.S.I. 2002/1.

(i) S.I. 1999/882 as amended by S.S.I. 2001/276.

(j) S.S.I. 2001/231, as amended by S.S.I. 2002/1.

(k) S.S.I. 2001/276 as amended by S.S.I. 2001/383.

SCHEDULE 1
Compensation

Part I

Compensation for TSE susceptible animals slaughtered under regulations 6 or 7

- 1.** The compensation payable for a TSE susceptible animal slaughtered under regulation 6 or 7 above shall be an amount equal to the market value of the animal.
- 2.** The market value of the animal shall be determined—
 - (a) by agreement between the Scottish Ministers and the owner of the animal;
 - (b) failing agreement by an arbiter appointed jointly by the Scottish Ministers and the owner of the animal; or
 - (c) failing such agreement or appointment, by an arbiter appointed by the President of the Institute of Auctioneers and Appraisers in Scotland and the liability for the costs of the arbiter shall be determined by the arbiter.
- 3.** An arbiter appointed or nominated under paragraph 2(b) or (c) above shall give to the Scottish Ministers and the owner a certificate in writing of the value that arbiter has determined.
- 4.** Where an animal was certified by a veterinary surgeon before slaughter as—
 - (a) requiring slaughter for emergency reasons relating to the welfare of the animal;
 - (b) not fit for human consumption by virtue of its condition; and
 - (c) having no market value as a consequence,there shall be no compensation payable for the animal.

Part II

Compensation for carcasses, parts of carcasses or blood of TSE susceptible animals seized or disposed of under regulation 8

- 1.** Subject to paragraph 5 below, the compensation for any carcass, part of any carcass or any blood seized or disposed of under regulation 8 shall be compensation to the owner of the carcass, part or blood of an amount equal to the value of the carcass, part or blood at the time it was seized or disposed of.
- 2.** The value of any carcass, part or blood seized or disposed of under regulation 8 shall be determined—
 - (a) by agreement between the Scottish Ministers and the owner of the carcass, part or blood seized or disposed of;
 - (b) failing agreement by an arbiter appointed jointly by the Scottish Ministers and the owner of the carcass, part or blood seized or disposed of; or
 - (c) failing such agreement or appointment, by an arbiter appointed by the President of the Institute of Auctioneers and Appraisers in Scotland and the liability for the costs of the arbiter shall be determined by the arbiter.
- 3.** The owner of a carcass, part of a carcass or blood seized or disposed of under regulation 8 shall pay any reasonable expenses incurred by the Scottish Ministers in connection with the seizure or disposal.
- 4.** These expenses shall be deducted from the amount of any compensation payable to the owner for the value of the carcass, part or blood seized or disposed of.
- 5.** If the amount of these expenses exceed the amount of compensation payable to the owner, the Scottish Ministers shall serve on the owner a notice specifying the amount of the excess and the period for payment of this amount to the Scottish Ministers.

6. The owner shall pay to the Scottish Ministers the amount of the excess within the period specified in the notice.

7. On the expiry of that period, the amount of the excess shall be recoverable as a debt by the Scottish Ministers from the owner.

Part III

Compensation for TSE susceptible animals slaughtered under regulations 80 and 81

1. The compensation payable for a sheep or goat slaughtered under regulations 80 or 81 above shall be as specified in paragraphs 2 and 3 below.

2. Where an examination at a veterinary laboratory nominated for this purpose by the Scottish Ministers of tissues taken from the carcase of the sheep or goat confirms that it was an animal affected with a TSE, the compensation shall be—

- (a) in the case of an animal at the end of its productive life, the amount of £30; and
- (b) in the case of any other such animal, the amount of £90.

3. Where an examination at a veterinary laboratory nominated for this purpose by the Scottish Ministers of tissues taken from the carcase of the sheep or goat does not confirm that it was an animal affected with a TSE, the compensation shall be whatever is the greater of—

- (a) the amount which would be payable under the preceding paragraph if the examination had confirmed it was an animal affected with a TSE; and
- (b) such sum as appears to the Scottish Ministers, having regard to any information provided by the owner of the animal slaughtered and any other relevant information, to reflect the market value of the animal, subject to a maximum sum of £400 for each animal.

Compensation for bovine animals

4. The compensation payable for a bovine animal slaughtered under regulations 80 or 81 above shall be as specified in the remaining paragraphs of, and the Annexes to, this Part of this Schedule.

5. The following definitions apply for the purposes of this Part of this Schedule as it relates to compensation payable for bovine animals—

“affected animal” means a bovine animal which is affected with a TSE;

“barrener cattle” means adult female bovine animals which have had one or more calves and which are being sold for either immediate slaughter or further fattening before slaughter;

“bovine animal” means a bull, cow, steer, heifer or calf;

“exposed animal” means a bovine animal which has been exposed to the infection of a TSE;

“indicative market price” means a price calculated in accordance with Annex 1 to this Part of this Schedule;

“market value” means—

- (a) in the case of a bovine animal aged 30 months or over, either—
 - (i) the price which might reasonably have been obtained for it at the time of valuation from a purchaser in the open market if the animal were not an affected or suspected animal or an exposed animal; or
 - (ii) the purchase price which would have applied had the animal been slaughtered at the time of valuation in accordance with Commission Regulation (EC) No. 716/96 adopting exceptional support measures for the beef market in the United Kingdom, as amended,whichever is the higher; and
- (b) in the case of a bovine animal aged under 30 months, the price which might reasonably have been obtained for it at the time of valuation from a purchaser in the open market if the animal were not an affected, suspected or exposed animal; and

“suspected animal” means a bovine animal which is suspected of being affected with bovine spongiform encephalopathy.

6. The compensation payable for an affected animal shall be an amount equal to either—

- (a) the market value of the animal; or
- (b) the indicative market price for the month in which the market value of the animal was determined,

whichever is the less.

7. Where a suspected animal is slaughtered and an examination at a veterinary laboratory nominated for this purpose by the Scottish Ministers of tissues taken from the carcase of the animal does not confirm that it was an animal affected with a TSE, the compensation shall be an amount equal to either–

- (a) the market value of the animal; or
- (b) 125% of the indicative market price for the month in which the market value of the animal was determined,

whichever is the less.

8. The market value of an affected or suspected bovine animal shall, for the purposes of payment of compensation under this Part of this Schedule, be determined–

- (a) by agreement between the Scottish Ministers and the owner of the animal;
- (b) failing agreement by an arbiter appointed jointly by the Scottish Ministers and the owner of the animal; or
- (c) failing such agreement or appointment, by an arbiter appointed by the President of the Institute of Auctioneers and Appraisers in Scotland and the liability for the costs of the arbiter shall be determined by the arbiter.

9. An arbiter appointed or nominated under paragraph 8(b) or (c) above shall give to the Scottish Ministers and the owner a certificate in writing of the value of the animal valued under the appointment or nomination.

10. The Scottish Ministers shall take such steps as they consider appropriate for the purpose of bringing to the notice of persons concerned the indicative market price in respect of each month and the total number of animals and the total sale price on which the calculation of such indicative market price was based.

11. The compensation payable for an exposed animal shall be an amount equal to either–

- (a) in the case of a female animal, 90% of the replacement value of the animal calculated in accordance with paragraph 12 below, or, if higher, the market value of the animal; and
- (b) in the case of a male animal, the market value of the animal,

enhanced, where the Scottish Ministers causes 10% or more of a herd to be slaughtered as exposed animals, by a percentage calculated in accordance with Annex 2 to this Part of this Schedule.

12. For the purposes of paragraph 11(a) above the replacement value of a bovine animal is the value, at the time of valuation, of an animal in its first lactation of the same breed and quality as that animal.

13. For the purposes of paragraph 11 above and Annex 2 to this Part of this Schedule “herd” means the bovine animals kept on a holding which–

- (a) in the case of female animals, are in milk or in calf; and
- (b) in the case of male animals, have been used for breeding purposes,

and are managed as a separate production unit at the time notice of the decision of the Scottish Ministers to slaughter the animal is given to the keeper or other person in charge of the animal.

14. In ascertaining the percentage of a herd slaughtered for the purpose of calculating any enhancement under paragraph 11 above, animals slaughtered under any voluntary slaughter scheme introduced in relation to exposed animals shall be included in the calculation as if they were animals caused to be slaughtered by the Scottish Ministers.

15. The replacement value or market value, as the case may be, of a bovine animal which the Scottish Ministers causes to be slaughtered shall, for the purposes of payment of compensation under this Order, be determined–

- (a) by agreement between the Scottish Ministers and the owner of the animal;
- (b) failing agreement by an arbiter appointed jointly by the Scottish Ministers and the owner of the animal; or
- (c) failing such agreement or appointment, by an arbiter appointed by the President of the Institute of Auctioneers and Appraisers in Scotland and the liability for the costs of the arbiter shall be determined by the arbiter.

16. A valuer appointed or nominated under paragraph 15(b) or (c) above shall give to the Scottish Ministers and the owner a certificate in writing of the value of the animal valued under the appointment or nomination.

17. Where an animal was certified by a veterinary surgeon before slaughter as—
- (a) requiring slaughter for emergency reasons relating to the welfare of the animal;
 - (b) not fit for human consumption by virtue of its condition; and
 - (c) having no market value as a consequence,
- there shall be no compensation payable for the animal.

	<u>Annex 1 to Part III of Schedule 1</u>	<u>Paragraph 5</u>
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CALCULATION OF INDICATIVE MARKET PRICE

The indicative market price for each month shall be calculated using data collected in Great Britain and relating to the month occurring two months before the date on which the market value was determined under paragraph 3 of this Part and in accordance with the following formula:

$$\frac{(A \times B) + (C \times D)}{(A + C)}$$

where—

- A equals the number of cattle aged less than 7 years when valued which were slaughtered as BSE suspects;
- B equals the average price for Friesian and Holstein cows in milk and in calf, first calving cows in milk and down calving heifers, in each case of first and second quality;
- C equals the number of cattle aged 7 years or more when valued which were slaughtered as BSE suspects; and
- D equals the average purchase price paid in the case of barren cattle of dairy breeds slaughtered in accordance with Commission Regulation (EC) No. 716/96 adopting exceptional measures for the support of the beef market in the United Kingdom, as amended,

the final figure being rounded down to the nearest multiple of £1.

	<u>Annex 2 to Part III of Schedule 1</u>	<u>Paragraph 11</u>
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CALCULATION OF ENHANCEMENT OF COMPENSATION

CALCULATION OF ENHANCEMENT OF COMPENSATION

1.—(1) For bovine animals not in a closed herd, where the Scottish Ministers cause 10% or more of the herd to be slaughtered as exposed animals, the amount of compensation payable shall, subject to sub-paragraphs (2) and (3) below, be enhanced by (10+E)%, where E equals half the percentage by which the percentage of the herd caused to be slaughtered exceeds 10%.

(2) Where the amount of compensation payable for a bovine animal exceeds £1,000, that amount shall be treated as £1,000 for the purpose of calculating under sub-paragraph (1) above the amount by which the amount of compensation payable should be enhanced.

(3) Where the calculation in sub-paragraph (1) above produces an enhancement percentage in excess of 25%, the amount of compensation payable shall be enhanced by 25%.

2. For bovine animals in a closed herd, where the Scottish Ministers cause 10% or more of the herd to be slaughtered as exposed animals, the amount of compensation payable shall be enhanced by a percentage that is 1½ times the enhancement percentage produced by the calculation in paragraph 1 above.

3. In this Annex “closed herd” means a herd into which no female bovine animal has been introduced since 15th October 1990.

Part IV

Compensation for carcasses, parts of carcasses or blood of TSE susceptible animals seized or disposed of under regulation 82

1. Subject to paragraph 5 below, the compensation for any carcase, part of any carcase or any blood seized or disposed of under regulation 82 above shall be compensation to the owner of the carcase, part or blood of an amount equal to the value of the carcase, part or blood at the time it was seized or disposed of.
2. The value of any carcase, part or blood seized or disposed of under regulation 82 above shall be determined—
 - (a) by agreement between the Scottish Ministers and the owner of the carcase, part or blood retained, seized or disposed of;
 - (b) failing agreement by an arbiter appointed jointly by the Scottish Ministers and the owner of the carcase, part or blood seized or disposed of; or
 - (c) failing such agreement or appointment, by an arbiter appointed by the President of the Institute of Auctioneers and Appraisers in Scotland and the liability for the costs of the arbiter shall be determined by the arbiter.
3. The owner of a carcase, part of a carcase or blood seized or disposed of under regulation 82 shall pay any reasonable expenses incurred by the Scottish Ministers in connection with the seizure or disposal.
4. These expenses shall be deducted from the amount of any compensation payable to the owner for the value of the carcase, part or blood seized or disposed of.
5. If the amount of these expenses exceed the amount of compensation payable to the owner, the Scottish Ministers shall serve on the owner a notice specifying the amount of the excess and the period for payment of this amount to the Scottish Ministers.
6. The owner shall pay to the Scottish Ministers the amount of the excess within the period specified in the notice.
7. On the expiry of that period, the amount of the excess shall be recoverable as a debt by the Scottish Ministers from the owner.

Part V

Compensation for any TSE suspect or confirmed animal or a first generation progeny of any such animal slaughtered under regulations 88 and 89

1. The compensation payable for a TSE suspect or confirmed animal, or a first generation progeny of any such animal, slaughtered under regulations 88 and 89 above shall be an amount equal to the market value of the animal.
2. The market value of the animal shall be determined—
 - (a) by agreement between the Scottish Ministers and the owner of the animal;
 - (b) failing agreement by an arbiter appointed jointly by the Scottish Ministers and the owner of the animal; or
 - (c) failing such agreement or appointment, by an arbiter appointed by the President of the Institute of Auctioneers and Appraisers in Scotland and the liability for the costs of the arbiter shall be determined by the arbiter.
3. The arbiter appointed or nominated under paragraph 2(b) or (c) above shall give to the Scottish Ministers and the owner a certificate in writing of the value that arbiter has determined.
4. Where an animal was certified by a veterinary surgeon before slaughter as—
 - (a) requiring slaughter for emergency reasons relating to the welfare of the animal;
 - (b) not fit for human consumption by virtue of its condition; and
 - (c) having no market value as a consequence,there shall be no compensation payable for the animal.

Part VI

Compensation for seizure or disposal under regulation 90

1. Subject to paragraph 5 below, the compensation for any—
 - (a) carcase of a TSE suspect or confirmed animal or the carcase of a first generation progeny of any such animal;
 - (b) part of such a carcase or any blood derived from any such carcase or part; or
 - (c) semen, embryos or ova derived from any TSE suspect or confirmed animal,seized or disposed of under regulation 90 above shall be compensation to the owner of the carcase, part, blood or semen, embryos or ova of an amount equal to the value of the carcase, part, blood or semen, embryos or ova at the time it was seized or disposed of.
2. The value of any carcase, part, blood or semen, embryos or ova seized or disposed of under regulation 90 above shall be determined—
 - (a) by agreement between the Scottish Ministers and the owner of the carcase, part, blood or semen, embryos or ova retained, seized or disposed of;
 - (b) failing agreement by an arbiter appointed jointly by the Scottish Ministers and the owner of the carcase, part, blood or semen, embryos or ova seized or disposed of; or
 - (c) failing such agreement or appointment, by an arbiter appointed by the President of the Institute of Auctioneers and Appraisers in Scotland and the liability for the costs of the arbiter shall be determined by the arbiter.
3. The owner of a carcase, part, blood or semen, embryos or ova seized or disposed of under regulation 90 above shall pay any reasonable expenses incurred by the Scottish Ministers in connection with the seizure or disposal.
4. These expenses shall be deducted from the amount of any compensation payable to the owner for the value of the carcase, part, blood or semen, embryos or ova seized or disposed of.
5. If the amount of these expenses exceed the amount of compensation payable to the owner, the Scottish Ministers shall serve on the owner a notice specifying the amount of the excess and the period for payment of this amount to the Scottish Ministers.
6. The owner shall pay to the Scottish Ministers the amount of the excess within the period specified in the notice.
7. On the expiry of that period, the amount of the excess shall be recoverable as a debt by the Scottish Ministers from the owner.

SCHEDULE 2

Conditions for the transport of fishmeal for feeding to farmed animals other than ruminants

- 1.** Fishmeal for use in the manufacture of feed for farmed animals other than ruminants shall be transported directly from the premises where the fishmeal is produced to the premises manufacturing the animal feed by means of a vehicle which at the same time is not used for the transport of other feed materials.
- 2.** If a vehicle used for the transport of fishmeal for use in the manufacture of feed for farmed animals other than ruminants is subsequently used for the transport of other products, it shall be thoroughly cleaned and inspected before and after the transport of the fishmeal.
- 3.** Intermediate storage of fishmeal is allowed only if it is carried out in dedicated storage plants.
- 4.** Fishmeal imported from a third country for use in the manufacture of feed for farmed animals other than ruminants shall be transported directly from the border inspection post in accordance with the conditions laid down in Article 8 of Council Directive 97/78/EC(a) to the establishment manufacturing the animal feed by means of a vehicle which at the same time is not used for the transport of other feed materials.
- 5.** If a vehicle used for the transport of fishmeal imported from a third country for use in the manufacture of feed for farmed animals other than ruminants is subsequently used for the transport of other products, it shall be thoroughly cleaned and inspected before and after the transport of the fishmeal.

(a) O.J. No. L 24, 30.1.1998, p.9.

SCHEDULE 3

Conditions for the production of dicalcium phosphate for feeding to farmed animals other than ruminants

1. Dicalcium phosphate for feeding to farmed animals other than ruminants shall be produced from defatted bones.
2. The dicalcium phosphate shall be derived from bones derived from animals fit for human consumption following ante- and post-mortem inspection.
3. The dicalcium phosphate shall be produced by a process which ensures that all bone material is finely crushed and degreased with hot water and treated with dilute hydrochloric acid (at a minimum concentration of 4% and pH<1.5) over a period of not less than two days followed by a treatment of the obtained phosphoric liquor with lime, resulting in a precipitate of dicalcium phosphate at pH 4 to 7, which is finally air dried with inlet temperature of 65°C-325°C and end temperature between 30°C-65°C or by an equivalent process approved in accordance with the procedure of Article 17 of Council Directive 89/662/EEC(a) concerning veterinary checks in intra-Community trade with a view to the completion of the internal market.
4. Dicalcium phosphate for use in the manufacture of feed for farmed animals other than ruminants shall be transported by means of a vehicle which at the same time is not used for the transport of other feed materials.

(a) O.J. No. L 395, 30.12.1989, p.13, as last amended by Directive 1992/118/EEC (O.J. No. L 62, 15.3.1993, p.49).

SCHEDULE 4

Conditions for the production of hydrolysed protein for feeding to farmed animals other than ruminants

1. Hydrolysed protein from hides and skins shall–
 - (a) be derived from hides and skins obtained from animals which have been slaughtered in a slaughterhouse and whose carcasses have been found fit for human consumption following ante- and post-mortem inspection; and
 - (b) be produced by a production process which involves appropriate measures to minimise contamination of hides and skins, preparation of the raw material by brining, liming and intensive washing followed by exposure of the material to a pH of >11 for >3 hours at temperature >80°C and followed by heat treatment at >140°C for 30 minutes at >3.6 bar; or by an equivalent production process approved in accordance with the procedure of Article 17 of Council Directive 89/662/EEC concerning veterinary checks in intra-Community trade with a view to the completion of the internal market.
2. Hydrolysed protein from fish, feather, hides and skins shall be sampled after processing and found to have a molecular weight below 10,000 Dalton.
3. Hydrolysed protein for use in the manufacture of feed for farmed animals other than ruminants shall be transported by means of a vehicle which at the same time is not used for the transport of other feed materials.

SCHEDULE 5

Application of Part IV of the Regulations to scheme animals

<i>Column 1 Provision of the Regulations</i>	<i>Column 2 Extent to which provision applies to scheme animals</i>
Regulation 33(4)	Subject to the modification that from the point at which specified risk material derived from a scheme animal is removed from the slaughterhouse, it may come into contact with any other animal material from such an animal
Regulation 34	Not applicable
Regulation 39(6)(b)	Not applicable
Regulation 52(2)	Subject to the modification that the impervious container may also contain animal material from scheme animals
Regulation 56	Not applicable
Regulation 65(1)	Subject to the modification that specified risk material may come into contact with any animal material from a scheme animal
Regulation 66(3)	Subject to the modification that equipment used for processing specified risk material may be used for processing any part of a scheme animal
Regulation 67(1)	Subject to the modification that rendered material produced from specified risk material of scheme animals shall be disposed of by burning by means which have been licensed under the Environmental Protection Act 1990
Paragraph 1 of Part I of Schedule 6	Subject to the modification that specified risk material need not be stored, handled and processed separately from animal material from scheme animals

SCHEDULE 6

Rendering requirements

PART I

Requirements for premises used for rendering specified risk material

1. The premises shall be adequately separated from the public road and other premises. Notwithstanding this, they may occupy the same site as premises where animal products which are not specified risk material are rendered provided that specified risk material is stored, handled and processed separately from other animal material and by means of equipment used only for specified risk material.
2. Unauthorised persons and animals shall not be permitted to have access to the premises.
3. The premises or part of the premises used to process specified risk material must have a clean and an unclean section specified by the occupier, adequately separated. The unclean section must have a covered place to receive and store the specified risk material for processing and must be constructed in such a way that it is easy to clean and disinfect. Floors must be laid in such a way as to facilitate the draining of liquids. The premises must have adequate lavatories, changing rooms and washbasins for staff.
4. The premises shall have sufficient capacity of hot water and steam production to render specified risk material in accordance with the method in Part II of this Schedule chosen by the operator.
5. The equipment used to render specified risk material shall include—
 - (a) measuring equipment to check temperature and, if necessary, pressure at critical points;
 - (b) recording devices to record continuously the results of measurements; and
 - (c) an adequate safety system to prevent insufficient heating.
6. To prevent recontamination of processed specified risk material by incoming specified risk material, there must be clear separation between the area of the premises where the incoming specified risk material is unloaded and rendered and the areas set aside for further processing of the heated specified risk material and the storage of finished specified risk material products.
7. The premises must have adequate facilities for cleaning and disinfecting the containers or receptacles in which unprocessed specified risk material is received and the vehicles in which it is transported.
8. Adequate facilities must be provided for disinfecting the wheels, immediately before their departure, of vehicles transporting specified risk material on leaving the unclean section of the premises.

PART II

Methods of Rendering

METHOD 1

NATURAL FAT BATCH

Reduction

1. If the particle size of the specified risk material to be rendered is more than 150 millimetres, the specified risk material shall be reduced in size using equipment specified in the licence, set so that the particle size after reduction is no greater than 150 millimetres or such smaller size as the licence shall specify. The effectiveness of the equipment shall be checked daily

and its condition recorded. If checks disclose the existence of particles larger than is permitted in the licence, the process shall be stopped and repairs made before the process is resumed.

Time and temperature

2. After reduction the specified risk material shall be heated to a core temperature greater than 100°C for at least 125 minutes, a core temperature greater than 110°C for at least 120 minutes and a core temperature greater than 120°C for at least 50 minutes.

3. The rendering shall be carried out in a batch system.

4. The specified risk material may be cooked such that the time-temperature requirements are achieved at the same time.

METHOD 2

NATURAL FAT

CONTINUOUS OR BATCH

Reduction

1. If the particle size of the specified risk material to be rendered is more than 30 millimetres, the specified risk material shall be reduced in size using equipment specified in the licence, set so that the particle size after reduction is no greater than 30 millimetres or such smaller size as the licence shall specify. The effectiveness of the equipment shall be checked daily and its condition recorded. If checks disclose the existence of particles larger than is permitted in the licence, the process shall be stopped and repairs made before the process is resumed.

Time and temperature

2. After reduction, the specified risk material shall be heated to a core temperature greater than 100°C for at least 95 minutes, a core temperature greater than 110°C for at least 55 minutes and a core temperature greater than 120°C for at least 13 minutes.

3. The rendering may be carried out in batch or continuous systems.

4. The specified risk material may be cooked such that the time-temperature requirements are achieved at the same time.

METHOD 3

ADDED FAT

CONTINUOUS OR BATCH

Reduction

1. If the particle size of the specified risk material to be rendered is more than 30 millimetres, the specified risk material shall be reduced in size using equipment specified in the licence, set so that the particle size after reduction is no greater than 30 millimetres or such smaller size as the licence shall specify. The effectiveness of the equipment shall be checked daily and its condition recorded. If checks disclose the existence of particles larger than is permitted in the licence, the process shall be stopped and repairs made before the process is resumed.

Time and temperature

2. After reduction the specified risk material shall be placed in a vessel with added fat and heated to a core temperature greater than 100°C for at least 16 minutes, a core temperature greater than 110°C for at least 13 minutes, a core temperature greater than 120°C for at least 8 minutes and a core temperature greater than 130°C for at least 3 minutes.

3. The rendering may be carried out in batch or continuous systems.

4. The specified risk material may be cooked such that the time-temperature requirements are achieved at the same time.

METHOD 4

CONTINUOUS OR BATCH PRESSURE

Reduction

1. If the particle size of the specified risk material to be rendered is more than 50 millimetres, the specified risk material shall be reduced in size using equipment specified in the licence, set so that the particle size after reduction is no greater than 50 millimetres or such smaller size as the licence shall specify. The effectiveness of the equipment shall be checked daily and its condition recorded. If checks disclose the existence of particles larger than is permitted in the licence, the process shall be stopped and repairs made before the process is resumed.

Time and temperature

2. After reduction the specified risk material shall be heated to a core temperature of more than 133°C for at least 20 minutes without interruption at a pressure of at least 3 bar.

3. The rendering may be carried out in batch or continuous systems.

METHOD 5

DEFATTED

CONTINUOUS OR BATCH

Reduction

1. If the particle size of the specified risk material to be rendered is more than 20 millimetres, the specified risk material shall be reduced in size using equipment specified in the licence, set so that the particle size after reduction is no greater than 20 millimetres or such smaller size as the licence shall specify. The effectiveness of the equipment shall be checked daily and its condition recorded. If checks disclose the existence of particles larger than is permitted in the licence, the process shall be stopped and repairs made before the process is resumed.

Time and temperature

2. After reduction the specified risk material shall be heated until they coagulate and then pressed so that fat and water are removed from the proteinaceous material. The proteinaceous material shall then be heated to a core temperature greater than 80°C for at least 120 minutes and a core temperature greater than 100°C for at least 60 minutes.

3. The rendering may be carried out in batch or continuous systems.

4. The specified risk material may be cooked such that the time-temperature requirements are achieved at the same time.

METHOD 6

ADDED FAT CONTINUOUS ATMOSPHERIC

Equipment

1. The premises shall be equipped with apparatus to crush specified risk material to the appropriate particle size, at least one cooker to cook the specified risk material, sufficient capacity of hot water and steam production to render specified risk material in accordance with this method, and equipment to separate protein from tallow and store those products.

Crushing

2. The raw material shall be reduced in size by crushing so that the particle size does not exceed 30 mm. Final reduction equipment shall be checked daily and its condition recorded. Any broken equipment shall be repaired without delay to ensure that the final particle size is achieved.

Cooking

3. The material shall be passed into a steam heated vessel where a consistent level of hot liquid tallow is maintained by recycling tallow as appropriate. Passage of the raw material through the vessel shall be controlled by means of displacement and mechanical restrictions to ensure that the cooked dried material is discharged with all of its residual moisture removed as water vapour. The maximum feed rate for raw material, the maximum tallow recycle rate, and the minimum discharge temperature will be set for the vessel in the approval for the premises granted under this Order. The material shall be cooked at a temperature in excess of 100 ° C for at least 16 minutes, a temperature in excess of 110 ° C for at least 13 minutes, a temperature in excess of 120 ° C for at least 8 minutes and a temperature in excess of 130 ° C for at least 3 minutes. Material may be cooked so that two or more time/temperature requirements are carried out at the same time. The times and temperatures achieved during the cooking process must be recorded on a permanent recording system.

Separation and storage of final products

4. On discharge from the vessel, any surplus tallow not required to maintain the vessel's operating level shall be removed, and the material separated into its tallow and protein components. Protein and tallow shall be stored separately.

Records

5. All records shall be kept for a period of not less than one year.

METHOD 7

DEFATTED CONTINUOUS ATMOSPHERIC

Equipment

1. The premises shall be equipped with apparatus to crush specified risk material to the appropriate particle size, at least one cooker to cook the specified risk material, sufficient capacity of hot water and steam production to render specified risk material in accordance with this method, and equipment to separate protein from tallow and store those products.

Crushing

2. The raw material shall be reduced in size by crushing so that the particle size does not exceed 20 mm. Final reduction equipment shall be checked daily and its condition recorded. Any broken equipment shall be repaired without delay to ensure that the final particle size is achieved.

Pre-heating

3. The crushed material shall then be passed to a pre-heater. Passage of the raw material through the pre-heater shall be controlled by means of displacement and mechanical restrictions to ensure that the cooked material is discharged at a temperature of at least 80 ° C and in a form in which water and tallow can be removed from the protein residue.

Pressing

4. The material discharged from the pre-heater must be passed through a screw press so adjusted that all water and tallow are removed from the protein residue.

Drying

5. The protein residue shall be passed into a steam heated vessel. Passage of the protein residue through the vessel shall be controlled by means of displacement and mechanical restrictions to ensure that the cooked dried protein is discharged with all of its residual moisture removed as water vapour. A maximum feed rate for protein residue and a minimum discharge temperature will be set for the vessel by an officer of the Scottish Ministers. The material shall be maintained at a temperature in excess of 80 ° C for at least 120 minutes and a temperature in excess of 100 ° C for at least 60 minutes. Material may be cooked so that both time/temperature requirements are carried out at the same time. The times and temperatures achieved during the cooking process must be recorded on a permanent recording system.

Storage of final products

6. Protein and tallow shall be stored separately.

Records

7. All records shall be kept for a period of not less than one year.

SCHEDULE 7

Offspring Slaughter

Interpretation

1.—(1) For the purposes of this Schedule—

“barrener cattle” means adult female bovine animals which have had one or more calves and which are being sold either for immediate slaughter or for further fattening before slaughter;

“beef breeding offspring animal” means an offspring animal, other than a pedigree offspring animal or a productive offspring animal, intended for suckler production;

“beef offspring animal” means an offspring animal, other than a pedigree offspring animal or a productive offspring animal, intended for the production of meat for human consumption;

“beef special premium” is the premium payable under Article 4(b) of Council Regulation (EEC) 805/68 as amended(a);

“bovine animal” includes buffalo of the species *Bubalus bubalis* and *Bison bison*;

“cattle passport” has the same meaning as in the Cattle Identification Regulations 1998(b);

“dairy offspring animal” means an offspring animal, other than a pedigree offspring animal or a productive offspring animal, intended for the production of milk for human consumption;

“indicative market price” means a price calculated in accordance with paragraph 7 below:

“market value” means—

(a) in the case of an offspring animal aged 30 months or over, either—

(i) the price which might reasonably have been obtained for it at the time of valuation from a purchaser in the open market if the animal were not an offspring animal; or

(ii) the purchase price which would have applied had the animal been slaughtered at the time of valuation under the OTMS, whichever is the higher; and

(b) in the case of an offspring animal aged under 30 months, the price which might reasonably have been obtained for it at the time of valuation from a purchaser in the open market if the animal were not an offspring animal;

“offspring animal” means a bovine animal born on or after 1st August 1996 in the United Kingdom, to a dam which—

(a) was affected or suspected of being affected with BSE when it gave birth to the animal; or

(b) has subsequently become affected or suspected of being affected with BSE;

“OTMS” means the Over Thirty Months Scheme for the purchase and slaughter of bovine animals aged over thirty months referred to in Commission Regulation (EC) No. 716/96(c) adopting exceptional support measures for the beef market in the United Kingdom, as amended;

“pedigree offspring animal” means an offspring animal which is a pure-bred breeding animal of the bovine species within the meaning of Council Directive 77/504/EEC(d);

“productive offspring animal” means—

(a) a female offspring animal in milk or in calf;

(b) a male offspring animal, other than a pedigree offspring animal, kept for breeding purposes.

(a) O.J. No. L 148, 28.6.68, p. 24 (O.J. SE Vol. I, p.187); the last relevant amendment was made by Council Regulation (EC) No. 2222/96, O.J. No. L 296, 21.11.96, p.50.

(b) S.I. 1998/871 as amended by S.I. 1998/1796, 2969, and 1999/1339

(c) O.J. No. L 99, 20.4.96, p.14, as amended by Commission Regulations (EC) Nos. 774/96 (O.J. No. L 104, 27.4.96, p.1), 835/96 (O.J. No. L 112, 7.5.96, p.17), 1512/96 (O.J. No. L 189, 30.7.96, p.93), 1846/96 (O.J. No. L 245, 26.9.96, p.9), 1974/96 (O.J. No. L 262, 16.10.96, p.2), 2149/96 (O.J. No. L 288, 9.11.96, p.14), 2423/96 (O.J. No. L 329, 19.12.96, p.43) and 1365/97 (O.J. No. L 188, 17.7.97, p.6).

(d) O.J. No. L 206, 12.8.77, p.8 to which there are amendments not relevant to these Regulations.

(2) For the purpose of calculating the compensation payable for an offspring animal, the age of the animal at slaughter shall be conclusively determined by reference to the date of birth of the animal shown on the cattle passport for the animal.

Requirements relating to offspring animals

2.—(1) If an inspector is of the opinion that there is an offspring animal on any premises, that inspector may serve a notice in Form OC 1 on the person appearing to that inspector to be the owner or person in charge of that animal.

(2) On the service of a notice in Form OC 1—

- (a) the requirements contained in that notice shall have effect; and
- (b) the owner or person in charge of the animal who has been served with the notice shall surrender the cattle passport for the animal to an officer of the Scottish Ministers.

(3) The occupier of any premises and the employees of that occupier, and any person who is or has been in possession or charge of any animal or carcase which is or has been on the premises, shall—

- (a) provide such reasonable facilities and reasonable assistance and comply with such reasonable requirements as are necessary to assist the inspector to form an opinion and carry out any inspection, examination, test, sampling or marking under this paragraph; and
- (b) if so required by an inspector, or by an officer of the Scottish Ministers, give such information as that person possesses as to—
 - (i) any animal or carcase which is or has been on the premises;
 - (ii) any other animal or carcase with which any animal or carcase which is or has been on the premises may have come into contact; and
 - (iii) the location and movement of any animal or carcase which is or has been in the possession or charge of that person.

(4) If an animal to which a notice in Form OC 1 relates is moved from premises under a licence issued by an officer of the Scottish Ministers which is subject to a condition, the notice in Form OC 1 shall, providing the animal is moved in accordance with the condition, cease to have effect on the expiry of the period in respect of which the condition applies.

(5) A notice in Form OC 1 may at any time be withdrawn by a notice in Form OC 3 served by a veterinary inspector on the person appearing to that inspector to be the owner or person in charge of the animal to which the notice in Form OC 1 relates.

Notice of intended slaughter

3.—(1) The Scottish Ministers may, if they think fit, cause any offspring animal to be slaughtered.

(2) Subject to paragraph (5) below, where the Scottish Ministers propose to cause an offspring animal to be slaughtered under this paragraph a veterinary inspector shall serve a notice of intended slaughter in Form OC 2 on the person appearing to that inspector to be the owner or person in charge of the animal specifying the premises at which the animal is to be slaughtered.

(3) Following the service of a notice in Form OC 2 an inspector may insert or administer an implant for the purpose of electronically tagging an offspring animal.

(4) No person except an inspector shall remove or otherwise interfere with an implant inserted or administered under paragraph (3) above.

(5) Where an animal is presented at any premises for slaughter for human consumption and a veterinary inspector is of the opinion that the animal is an offspring animal, the Scottish Ministers may cause the animal to be slaughtered under this paragraph without any notice in Form OC 2 being served on the owner or person in charge of the animal before it is slaughtered.

(6) Where an offspring animal is slaughtered in accordance with paragraph (5) above an inspector or officer of the Scottish Ministers shall, as soon as reasonably practicable thereafter, give notice to the owner or other person in charge of the carcase of the slaughtered animal that the animal has been slaughtered as an offspring animal.

(7) If an animal to which a notice in Form OC 2 relates is moved from premises under a licence issued by an officer of the Scottish Ministers which is subject to a condition, the notice in Form OC 2 shall, providing the animal is moved in accordance with the condition, cease to have effect on the expiry of the period in respect of which the condition applies.

(8) A notice in Form OC 2 may at any time be withdrawn by a notice in Form OC 3 served by a veterinary inspector on the person appearing to that inspector to be the owner or person in charge of the animal to which the notice in Form OC 2 relates.

Compensation for slaughtered offspring animals

4.—(1) Subject to the provisions of this paragraph, where the Scottish Ministers cause an offspring animal to be slaughtered under paragraph 3 above the Scottish Ministers shall pay compensation in accordance with the provisions of this paragraph.

(2) The compensation payable for a pedigree offspring animal or a productive offspring animal shall be an amount equal to the market value of the animal.

(3) The compensation payable for a dairy offspring animal, a beef breeding offspring animal or a beef offspring animal shall be the percentage of the indicative market price for the month in which the animal is slaughtered specified in the table in paragraph 6 below for an animal of the description and age of the animal slaughtered; together with the amount (if any) specified in that table in respect of any beef special premium payable for the animal which has not been claimed.

(4) The market value of a pedigree offspring animal or a productive offspring animal shall, for the purposes of payment of compensation under these Regulations, be determined—

- (a) by agreement between the Scottish Ministers and the owner of the animal;
- (b) failing agreement by an arbiter appointed jointly by the Scottish Ministers and the owner of the animal; or
- (c) failing such agreement or appointment, by an arbiter appointed by the President of the Institute of Auctioneers and Appraisers in Scotland and the liability for the costs of the arbiter shall be determined by the arbiter.

(5) An arbiter appointed or nominated for the purpose of this paragraph shall give to the Scottish Ministers and the owner a certificate in writing of the value that arbiter has determined.

(6) Where an offspring animal is slaughtered as an offspring animal and was certified before slaughter by a veterinary surgeon as—

- (a) requiring slaughter for emergency reasons relating to the welfare of the animal;
- (b) not fit for human consumption by virtue of its condition; and
- (c) having no market value as a consequence,

there shall be no compensation payable for the animal under this paragraph.

(7) Where an offspring animal is slaughtered as an offspring animal and was certified in form OC 4 before slaughter by a veterinary surgeon as—

- (a) requiring slaughter for emergency reasons relating to the welfare of the animal;
- (b) not unfit for human consumption by virtue of its condition,

compensation shall be payable for the animal in accordance with the compensation payable under paragraph (3) above for a beef animal of the age of the animal slaughtered (without any amount in respect of beef special premium).

(8) Where a notice in Form OC 1 has been served on an offspring animal and the animal is slaughtered under section 17 of the Animal Health Act 1981(a) in its application to brucellosis or tuberculosis as an affected animal, an animal exposed to the infection of brucellosis or tuberculosis or an animal which is a reactor, within the meaning of the Brucellosis and Tuberculosis Compensation (Scotland) Order 1978(b) and the notice in Form OC 1 has been withdrawn by the time of such slaughter or is withdrawn at that time, the compensation payable for the animal shall be ascertained in accordance with the Order concerned.

(9) Where a notice in Form OC 1 has been served on an offspring animal and the animal is slaughtered under section 32 of the Animal Health Act 1981 in its application to the disease bovine spongiform encephalopathy as an animal affected or suspected of being affected with that disease,

(a) 1981 c.22; section 35(1A) was inserted by section 1(2) of the Animal Health and Welfare Act 1984 (c.40).

(b) S.I. 1978/1485, amended by S.I. 1981/1448, S.I. 1996/1358 and S.I. 1998/2181.

and the notice in Form OC 1 has been withdrawn by the time of such slaughter or is withdrawn at that time, the compensation payable for the animal shall be ascertained in accordance with the provisions of regulation 83 and Part III of Schedule 1 above.

(10) The Scottish Ministers shall take such steps as they consider appropriate for the purpose of bringing to the notice of such organisations as appear to them to be representative of owners of bovine animals—

- (a) the indicative market price in respect of each month; and
- (b) the number of animals and the sale price of the animals on which the calculation of such indicative market price was based.

Forms

5. The following forms shall be used for the purposes of this Schedule—

<u>FORM OC1</u>	
Notice of requirements relating to an offspring animal	
To	
Of	
Location of animal	
I, the undersigned, being an inspector of the hereby give you notice in accordance with the provisions of Schedule 7 to the TSE (Scotland) Regulations 2002 that, as the person appearing to be the owner or person in charge of the bovine animal specified below, you are required to observe the requirements of this form as specified overleaf.	
The Bovine animal to which the completed and signed notice applies is:	
Official Ear Mark Description of bovine animal including age, breed and sex:	
Signed	Dated
Name in BLOCK LETTERS	
Office Address	

FORM OC1 REQUIREMENTS

Notice of requirements as respects the animal specified overleaf

Requirements:

1. The animal must be detained at the location specified overleaf. If the owner or person in charge of the animal intends to move the animal off the premises that owner or person must first obtain a licence from an officer of the Scottish Ministers for the animal to be moved; and the movement of the animal off the premises must be in accordance with any condition subject to which the licence is issued.

2. In the event of the animal dying, otherwise than as the result of being slaughtered, a veterinary inspector must be informed immediately.

3. In the event of the animal dying or being slaughtered on the premises–

- (a) the carcase of the animal must be retained and surrendered to a veterinary inspector on request;
- (b) the carcase of the animal must be disposed of as required by the veterinary inspector; and
- (c) the carcase of the animal must not be moved off the premises except under the authority of a licence issued by a veterinary inspector of the Scottish Ministers and in accordance with any conditions subject to which the licence is issued.

Breach of the requirements of this notice may constitute an offence against the TSE (Scotland) Regulations 2002 and render a person liable to penalties on conviction.

FORM OC2

Notice of intended slaughter of an offspring animal

To

Of

Location of animal

I, the undersigned, being a veterinary inspector of the
hereby give you notice in accordance with the provisions of the TSE (Scotland) Regulations 2002
that, as the person appearing to me to be the owner or person in charge of the bovine animal
specified below, the Scottish Ministers propose to cause the animal to be slaughtered at the
premises specified below as an offspring animal under Schedule 7 to the TSE (Scotland)
Regulations 2002.

Signed

Dated

Name in BLOCK LETTERS

Office Address:

The bovine animal to which the completed and signed notice applies is:

Official Ear Mark Description of bovine animal including age, breed and sex:

Premises at which the animal is to be slaughtered:

FORM OC3

Withdrawal of notice relating to an offspring animal

I, the undersigned, being a veterinary inspector of the,
hereby withdraw as from this day of the notice relating to the bovine animal
specified below, signed by.....and served on
..... on day of.....

The bovine animal to which the completed and signed notice applies is:

Official Ear Tag Number/Offspring Slaughter Tag Number/Age/Breed/Sex:

Signed

Dated

Name in BLOCK LETTERS

Office Address

FORM OC 4

Certificate that a casualty animal is not unfit for human consumption

Name and address of owner or person in charge of the animal

Telephone number

Animal details

<i>Eartag</i>	<i>Sex</i>	<i>Breed</i>	<i>Age</i>	<i>Other identifiers</i>

Reason for slaughter

After carrying out ante mortem inspection, making due enquiries, and, where appropriate, carrying out the tests detailed below *, I certify that in my opinion—

- (1) this animal was not affected with any disease or condition liable to render the whole carcase of the animal unfit for human consumption or that could be transmitted through the meat to humans or animals; and
- (2) there is no evidence that any substances have been administered to the animal that might lead to a residue being present in the meat which might render meat from the animal unfit for human consumption or that the animal consumed any substance that might render meat from the animal unfit for human consumption.

*Tests performed and results

Name of veterinary surgeon

Address

Time and date

Signed

Table of compensation

6. The following table of compensation shall be used for the purposes of this Schedule—

Ascertainment of amount of compensation for dairy offspring animals, beef breeding offspring animals and beef offspring animals by reference to the indicative market price for the month of slaughter

Age (months)	Dairy	Beef breeding	Beef						
			Basic scale	+	Slaughter premium	+	Steers	Bulls	
							Not yet entered a claim for first beef special premium	Not yet entered a claim for second beef special premium	Not yet entered a claim for beef special premium
Less than 1	20% of IMP	20% of IMP	20% of IMP						
1 – less than 3	30% of IMP	30% of IMP	30% of IMP	+	£30.04				
3 – less than 6	40% of IMP	40% of IMP	40% of IMP	+	£30.04				
6 – less than 7	50% of IMP	50% of IMP	50% of IMP	+	£30.04				
7 – less than 8	50% of IMP	50% of IMP	50% of IMP	+		+	£90.13		£126.18
8 – less than 9	50% of IMP	50% of IMP	50% of IMP	+	£48.07	+	£90.13		£126.18
9 – less than 12	60% of IMP	60% of IMP	60% of IMP	+	£48.07	+	£90.13		£126.18
12 – less than 15	70% of IMP	70% of IMP	70% of IMP	+	£48.07	+	£90.13		£126.18
15 – less than 18	80% of IMP	80% of IMP	80% of IMP	+	£48.07	+	£90.13		£126.18
18 – less than 20	90% of IMP	90% of IMP	90% of IMP	+	£48.07	+	£90.13		£126.18
20 – less than 21	90% of IMP	90% of IMP	90% of IMP	+	£48.07	+		£90.13	£126.18
21 – less than 24	100% of IMP	100% of IMP	100% of IMP	+	£48.07	+		£90.13	£126.18
24 – less than 27	110% of IMP	110% of IMP	100% of IMP	+	£48.07	+		£90.13	£126.18
27 – less than 30	120% of IMP	120% of IMP	100% of IMP	+	£48.07	+		£90.13	£126.18
30 or over	130% of IMP	120% of IMP	OTMS rate	+	£48.07	+		£90.13	£126.18

Calculation of indicative market price

7. The indicative market price for each month shall be calculated using data collected in Great Britain relating to the month occurring two months before the month of slaughter and in accordance with the following formula:—

$$\frac{(A \times B) + (C \times D)}{(A + C)}$$

where—

- A equals the number of cattle aged less than 7 years when valued which were slaughtered as BSE suspects;
- B equals the average price for Friesian and Holstein cows in milk and in calf, first calving cows in milk and down calving heifers, in each case of first and second quality;
- C equals the number of cattle aged 7 years or more when valued which were slaughtered as BSE suspects; and
- D equals the average purchase price paid in the case of barren cattle of dairy breeds slaughtered in accordance with Commission Regulation (EC) No. 716/96 adopting exceptional measures for the support of the beef market in the United Kingdom, as amended,

the final figure being rounded down to the nearest multiple of £1.

SCHEDULE 8
CONSEQUENTIAL AMENDMENTS

Part I

Amendment to the Welfare of Animals (Slaughter or Killing) Regulations 1995(a)

For regulation 3A(b) (laceration of central nervous tissue after stunning), there is substituted—

“**3A** Nothing in these Regulations shall be taken as permitting, on or after 19th June 2002, the laceration after stunning, of central nervous tissue by means of an elongated rod shaped instrument introduced into the cranial cavity of any bovine, ovine or caprine animal prior to slaughtering it for human or animal consumption, as prohibited by the TSE (Scotland) Regulations 2002.”.

Part II

Amendments to the Specified Risk Material Order 1997(c)

1. In the list of countries in article 3(3) (specified sheep or goat material)(d), there are inserted in the appropriate alphabetical places—

- (a) “El Salvador”; and
- (b) “Panama”.

2. In article 4(5) (specified bovine material)(e), “Austria, Finland or” is omitted.

3. In article 6(2A)(a) (import of class I specified risk material)(f) for “designated under regulation 15A of the Specified Risk Material Regulations 1997(a)”, there is substituted “licensed under regulation 55(1) of the TSE (Scotland) Regulations 2002”.

4. In the list of countries(g) in the declaration on the form in Schedule 2 (form of importation certificate), there are inserted in the appropriate alphabetical places—

- (a) “El Salvador”; and
- (b) “Panama”.

Part III

Amendment to the Cattle Identification Regulations 1998(h)

For regulation 26(1A) (animal deaths or lost or stolen animals)(i), there is substituted—

“(1A) If a notifiable bovine animal with a cattle passport dies, the keeper will be treated as having complied with paragraph (1) above if, on notifying the fact in accordance with regulation 10(3) of the TSE (Scotland) Regulations 2002, the keeper surrenders the cattle passport to the Scottish Ministers or, where the Scottish Ministers have appointed an agent to receive notifications, to that agent.”.

(a) S.I. 1995/539, as amended by S.I. 1995/731, 1763, 2148, 2200, 3124 and 3189, 1996/1148 and 2235, 1997/1729 and 2074, S.S.I.2000/62, 171 and 288.
 (b) Regulation 3A was inserted by S.S.I. 2001/73.
 (c) S.I. 1997/2964, as amended by S.S.I. 2000/344, 2001/4 and 2001/287.
 (d) Article 3(3) was inserted by S.S.I. 2001/287.
 (e) Article 4(5) was inserted by S.S.I. 2001/287.
 (f) Article 6(2A) was inserted by S.S.I. 2001/287.
 (g) The list of countries in the declaration was inserted by S.S.I. 2001/287.
 (h) S.I. 1998/871, as amended by S.I. 1998/1796, 1998/2969, 1999/1339, S.S.I. 2001/231 and 2002/1.
 (i) Regulation 26(1A) was inserted by S.S.I.2001/231.

Part IV

Amendments to the Animal By-Products Order 1999(a)

1. For article 3(3)(b) (interpretation and scope), there is substituted—
“(b) specified risk material controlled by the Specified Risk Material Order 1997 or the TSE (Scotland) Regulations 2002”.
2. For article 7(2)(d) (approval of premises and equipment for rendering animal by-products), there is substituted—
“(d) the equipment will not be used to render any specified risk material controlled by the Specified Risk Material Order 1997 or the TSE (Scotland) Regulations 2002”.
3. For article 8(2) (operation of approved rendering plants), there is substituted—
“No person shall render specified risk material controlled by the Specified Risk Material Order 1997 or the TSE (Scotland) Regulations 2002 in any equipment approved for rendering animal by-products under article 7”.

Part V

Amendment to the Feeding Stuffs (Scotland) Order 2000(b)

For the definition of “mammalian meat and bone meal” in article 2(1) (interpretation), there is substituted—

““mammalian meat and bone meal” has the meaning given in article 3(1) of the TSE (Scotland) Regulations 2002;”.

Part VI

Amendment to the Cattle (Identification of Older Animals) (Scotland) Regulations 2001(c)

For regulation 9(2) (notification of death)(d), there is substituted—

“(2) If a notifiable bovine animal with a registration certificate dies, the keeper will be treated as having complied with paragraph (1) above if, on notifying the fact in accordance with regulation 10(3) of the TSE (Scotland) Regulations 2002, the keeper surrenders the registration certificate to the Scottish Ministers or, where the Scottish Ministers have appointed an agent to receive notifications, to that agent.”.

Part VII

Amendment to the Rendering (Fluid Treatment) (Scotland) Order 2001(e)

In the definition of “animal by-product” in article 2 (interpretation), for “the Specified Risk Material Regulations 1997”, there is substituted “the TSE (Scotland) Regulations 2002.”.

(a) S.I. 1999/646, as amended by S.S.I. 2001/171.
(b) S.S.I. 2000/453, as amended by S.S.I. 2001/231 and 334.
(c) S.S.I. 2001/1, as amended by S.S.I. 2001/231 and 2002/1 and 22.
(d) Regulation 9(2) was inserted by S.S.I.2001/231.
(e) S.S.I. 2001/189.

SCHEDULE 9
REVOCATIONS AND SAVINGS

Part I

Revocations

<i>Column 1 – enactment</i>	<i>Column 2 - references</i>	<i>Column 3 – extent</i>
The Bovine Spongiform Encephalopathy (No. 2) Order 1996	(S.I. 1996/3183)	The whole Order
The Bovine Spongiform Encephalopathy Compensation Order 1996	(S.I. 1996/3184)	The whole Order
The Specified Risk Material Order 1997	(S.I. 1997/2964)	Articles 5 and 7 to 14
The Specified Risk Material Regulations 1997	(S.I. 1997/2965)	The whole Regulations
The Bovine Spongiform Encephalopathy Compensation (Amendment) Order 1997	(S.I. 1997/2365)	The whole Order
The Specified Risk Material (Amendment) Regulations 1997	(S.I. 1997/3062)	The whole Regulations
The Bovine Spongiform Encephalopathy (No. 2) (Amendment) Order 1997	(S.I. 1997/2387)	The whole Order
The Fertilisers (Mammalian Meat and Bone Meal) Regulations 1998	(S.I. 1998/954)	The whole Regulations
The Fertilisers (Mammalian Meat and Bone Meal) (Conditions of Manufacture) Regulations 1998	(S.I. 1998/955)	The whole Regulations
The Sheep and Goats Spongiform Encephalopathy Order 1998	(S.I. 1998/1645)	The whole Order
The Sheep and Goats Spongiform Encephalopathy Regulations 1998	(S.I. 1998/1646)	The whole Regulations
The Sheep and Goats Spongiform Encephalopathy (Compensation) Order 1998	(S.I. 1998/1647)	The whole Order
The Specified Risk Material (Amendment) Regulations 1998	(S.I. 1998/2405)	The whole Regulations
The Specified Risk Material (Coming into Force Date) (Amendment) Regulations 1998	(S.I. 1998/2431)	The whole Regulations
The BSE Offspring Slaughter Regulations 1998	(S.I. 1998/3070)	The whole Regulations
The Bovine Spongiform Encephalopathy (No. 2) (Amendment) Order 1998	(S.I. 1998/3071)	The whole Order
The Specified Risk Material (Inspection Charges) Regulations 1999	(S.I. 1999/539)	The whole Regulations
The Animal By-Products Order 1999	(S.I. 1999/646)	Article 35(2) and Part II of Schedule 6
The Bovine Spongiform Encephalopathy (Feeding Stuffs and Surveillance) Regulations 1999	(S.I. 1999/882)	The whole Regulations
The Bovine Spongiform Encephalopathy (No. 2) (Amendment) Order 1999	(S.I. 1999/921)	The whole Order
The Food Standards Act 1999 (Transitional and Consequential Provisions and Savings (Scotland) Regulations 2000	(S.S.I. 2000/62)	Regulation 6(10) and Part X of Schedule 4

<i>Column 1 – enactment</i>	<i>Column 2 - references</i>	<i>Column 3 – extent</i>
The Specified Risk Material Order Amendment (Scotland) Regulations 2000	(S.S.I. 2000/344)	Regulation 2(6)
The Specified Risk Material Amendment (Scotland) Regulations 2000	(S.I. 2000/345)	The whole Regulations
The Specified Risk Material Amendment (Scotland) Regulations 2001	(S.I. 2001/3)	The whole Regulations
The Specified Risk Material Amendment (No. 2) (Scotland) Regulations 2001	(S.I. 2001/86)	The whole Regulations
The Specified Risk Material Amendment (No. 3) (Scotland) Regulations 2001	(S.I. 2001/288)	The whole Regulations
The BSE Monitoring (Scotland) Regulations 2001	(S.I. 2001/231)	Regulations 2 to 9
The Processed Animal Protein (Scotland) Regulations 2001	(S.S.I. 2001/276)	Regulations 4 to 9, 12 to 16, 26 and Schedules 1, 2 and 3
The Restriction on Pithing (Scotland) Regulations 2001	(S.S.I. 2001/73)	The whole Regulations
The Processed Animal Protein (Scotland) Amendment Regulations 2001	(S.S.I. 2001/383)	Regulation 2(2)
The Sheep and Goats Spongiform Encephalopathy (Compensation) Amendment (Scotland) Order 2001	(S.S.I. 2001/458)	The whole Order
The BSE Monitoring (Scotland) Amendment Regulations 2002	(S.S.I. 2002/1)	Regulation 2

Part II

Savings of things done under the Bovine Spongiform Encephalopathy (No. 2) Order 1996^(a) and the Bovine Spongiform Encephalopathy Compensation Order 1996^(b)

- 1.** Any notice issued under the Bovine Spongiform Encephalopathy (No. 2) Order 1996 and having effect at the coming into force of these Regulations to prohibit or restrict the movement of an animal shall have effect as if it were a notice issued under regulation 79 of these Regulations to prohibit or restrict the movement of the animal; and a requirement of such a notice shall have effect as if it were a requirement of a notice issued under regulation 79 of these Regulations.
- 2.** Any licence issued under the Bovine Spongiform Encephalopathy (No. 2) Order 1996 and having effect at the coming into force of these Regulations to permit the movement of an animal shall have effect as if it were a licence issued under regulation 79 of these Regulations.
- 3.** Any notice of intended slaughter of—

 - (a) an affected or suspected animal in Form C; or
 - (b) an exposed animal in Form F,

issued under the Bovine Spongiform Encephalopathy (No. 2) Order 1996 and having effect at the coming into force of these Regulations shall have effect as if it were a notice of intended slaughter of the animal issued under regulation 81(1) of these Regulations.
- 4.** Any notice of confirmation of intention to slaughter in Form G issued under the Bovine Spongiform Encephalopathy (No. 2) Order 1996 and having effect at the coming into force of these Regulations shall have effect as if it were a notice of confirmation of intended to slaughter issued under regulation 81(2)(b) of these Regulations.
- 5.** Any notice requiring any cleansing and disinfection issued under article 9 of the Bovine Spongiform Encephalopathy (No. 2) Order 1996 and having effect at the coming into force of these Regulations shall have effect as if it were a notice issued under regulation 93 of these Regulations.
- 6.** Any licence issued under article 12(2)(b) of the Bovine Spongiform Encephalopathy (No. 2) Order 1996 and having effect at the coming into force of these Regulations to permit the feeding to an animal or poultry of milk for research purposes in a research establishment shall have effect as if it were a licence issued under regulation 84(2)(b) of these Regulations.
- 7.** Any licence issued under article 13(2) or 14(5) of the Bovine Spongiform Encephalopathy (No. 2) Order 1996 and having effect at the coming into force of these Regulations to permit the feeding to an animal of any feedingstuff for research purposes in a research establishment shall have effect as if it were a licence issued under regulation 11(2) or 12(5) of these Regulations.
- 8.** Any notice issued under article 16(1) of the Bovine Spongiform Encephalopathy (No. 2) Order 1996 and having effect at the coming into force of these Regulations, requiring the disposal of any mammalian meat and bone meal or any MBM product and any other material with which it has come into contact, shall have effect as if it were a notice issued under regulation 29(2) of these Regulations.
- 9.** Any notice issued under article 16(2) of the Bovine Spongiform Encephalopathy (No. 2) Order 1996 and having effect at the coming into force of these Regulations, requiring the collection and transport of any feedingstuff, shall have effect as if it were a notice issued under regulation 29(3) of these Regulations.
- 10.** Any requirement to keep a record in relation to consignments of mammalian meat and bone meal or any such product under article 17 of the Bovine Spongiform Encephalopathy (No. 2) Order 1996 and having effect at the coming into force of these Regulations shall have effect as if it were a requirement to keep a record under regulation 26 of these Regulations.

(a) S.I. 1996/3183, as amended by S.I. 1997/2387, S.I. 1998/3071 and S.I. 1999/646 and 921.

(b) S.I. 1996/3184, as amended by S.I. 1997/2365.

11. The compensation payable in respect of any bovine animal slaughtered before the coming into force of these Regulations pursuant to the exercise by the Scottish Ministers of powers under section 32(1) of the Animal Health Act 1981 shall be calculated in accordance with the provisions of the Bovine Spongiform Encephalopathy Compensation Order 1996.

Part III

Savings of things done under the Specified Risk Material Order 1997^(a)

- 1.** Any licence issued under article 8(5) of the Specified Risk Material Order 1997 and having effect at the coming into force of these Regulations to permit the feeding to any creature of any specified risk material or feedingstuff for research purposes in a research establishment shall have effect as if it were a licence for the purposes of regulation 47(6) of these Regulations.
- 2.** Any approval issued under article 10(1) of the Specified Risk Material Order 1997 and having effect at the coming into force of these Regulations shall have effect as if it were a licence issued under regulation 56(1) of these Regulations.
- 3.** Any approval issued under article 12(2) of the Specified Risk Material Order 1997 and having effect at the coming into force of these Regulations shall have effect as if it were an approval issued under regulation 51(2) of these Regulations.

(a) S.I. 1997/2964, as amended by S.S.I. 2000/344 and 2001/4 and 287.

Part IV

Savings of things done under the Specified Risk Material Regulations 1997(a)

1. Any approval by the Scottish Ministers under regulation 6(1) of the Specified Risk Material Regulations 1997 and having effect at the coming into force of these Regulations shall have effect as if it were a licence issued under regulation 55(1) or 56(1) of these Regulations.
2. Any authorisation by the Agency under regulation 6(2) of the Specified Risk Material Regulations 1997 and having effect at the coming into force of these Regulations shall have effect as if it were a licence issued under regulation 55(1) of these Regulations.
3. Any authorisation by the Agency under regulation 15(7) of the Specified Risk Material Regulations 1997 and having effect at the coming into force of these Regulations shall have effect as if it were a licence issued under regulation 55(1) of these Regulations.
4. Any designation by the Agency under regulation 15A(4) and (5) of the Specified Risk Material Regulations 1997 and having effect at the coming into force of these Regulations shall have effect as if it were a licence issued under regulation 55(1) of these Regulations.
5. Any appointment by the Agency of a meat technician under regulation 16(4) of the Specified Risk Material Regulations 1997 and having effect at the coming into force of these Regulations shall have effect as if it were an appointment of the meat technician under regulation 41(4) of these Regulations.
6. Any appointment by the Agency of a meat technician under regulation 18(5) of the Specified Risk Material Regulations 1997 and having effect at the coming into force of these Regulations shall have effect as if it were an appointment of the meat technician under regulation 42(5) of these Regulations.
7. Any written directions for the disposal of specified risk material in a safe manner under regulation 26(1) of the Specified Risk Material Regulations 1997 and having effect at the coming into force of these Regulations shall have effect as if they were such directions under regulation 72(1) of these Regulations.
8. Any approval of the storage of specified risk material under regulation 28(2) of the Specified Risk Material Regulations 1997 and having effect at the coming into force of these Regulations shall have effect as if it were an approval issued under regulation 51(2) of these Regulations.

(a) S.I. 1997/2965, as amended by S.I. 1997/3062, 1998/2405 (as amended by S.I. 1998/2431) and 1999/539, and S.S.I. 2000/62, 323 and 345 and 2001/3, 86 and 288.

Part V

Savings of things done under the Fertilisers (Mammalian Meat and Bone Meal) (Conditions of Manufacture) Regulations 1998^(a)

1. Any appointment of an authorised officer under regulation 9(1) of the Fertilisers (Mammalian Meat and Bone Meal) (Conditions of Manufacture) Regulations 1998 and having effect at the coming into force of these Regulations shall have effect as if it were an appointment of that officer as an inspector for the purposes of these Regulations.

2. Any appointment of a person under section 67(3)(a) of the Agriculture Act 1970^(b), deemed by virtue of regulation 9(3) of the Fertilisers (Mammalian Meat and Bone Meal) (Conditions of Manufacture) Regulations 1998 to be a person appointed under regulation 9(1) of those Regulations and having effect at the coming into force of these Regulations, shall have effect as if it were an appointment of that person as an inspector for the purposes of these Regulations.

^(a) S.I. 1998/955.

^(b) 1970 c.40. Section 67 was amended by paragraph 85(2) of Schedule 13 to the Local Government etc. (Scotland) Act 1994 (c.39) and S.S.I. 2001/334.

Part VI

Savings of things done under the Sheep and Goats Spongiform Encephalopathy Order 1998**(a)**, the Sheep and Goats Spongiform Encephalopathy Regulations 1998**(b)** and the Sheep and Goats Spongiform Encephalopathy (Compensation) Order 1998**(c)**

1. Any notice issued under article 4 or 5 of the Sheep and Goats Spongiform Encephalopathy Order 1998 and having effect at the coming into force of these Regulations to prohibit or restrict the movement of an animal shall have effect as if it were a notice issued under regulation 79 of these Regulations to prohibit or restrict the movement of the animal; and a requirement of such a notice shall have effect as if it were a condition of a notice issued under regulation 79 of these Regulations.

2. Any licence issued under the Sheep and Goats Spongiform Encephalopathy Order 1998 and having effect at the coming into force of these Regulations to permit the movement of an animal shall have effect as if it were a licence issued under regulation 79 of these Regulations.

3. Any notice requiring any cleansing and disinfection issued under article 6 of the Sheep and Goats Spongiform Encephalopathy Order 1998 and having effect at the coming into force of these Regulations shall have effect as if it were a notice issued under regulation 93 of these Regulations.

4. Any notice of intended slaughter of an affected or suspected animal in Form C served under article 7 the Sheep and Goats Spongiform Encephalopathy Order 1998 and having effect at the coming into force of these Regulations shall have effect as if it were a notice of intended slaughter of the animal issued under regulation 81(1) of these Regulations.

5. Any appointment of a veterinary inspector for the purposes of the Sheep and Goats Spongiform Encephalopathy Regulations 1998 by the appropriate Minister (within the meaning of those Regulations) and having effect at the coming into force of these Regulations shall have effect as if it were an appointment of that veterinary inspector as a veterinary inspector by the Scottish Ministers for the purposes of these Regulations.

6. The compensation payable in respect of any sheep or goat slaughtered before the coming into force of these Regulations pursuant to the exercise by the Scottish Ministers of powers under section 32(1) of the Animal Health Act 1981 shall be calculated in accordance with the provisions of the Sheep and Goats Spongiform Encephalopathy (Compensation) Order 1998.

(a) S.I. 1998/1645.

(b) S.I. 1998/1646.

(c) S.I. 1998/1647 as amended by S.S.I. 2002/1.

Part VII

Savings of things done under the Bovine Spongiform Encephalopathy (Feeding Stuffs and Surveillance) Regulations 1999^(a)

Any appointment of an authorised officer for the purposes of the Bovine Spongiform Encephalopathy (Feeding Stuffs and Surveillance) Regulations 1999 by the appropriate Minister (within the meaning of those Regulations) or a local authority and having effect at the coming into force of these Regulations shall have effect as if it were an appointment of that officer as an inspector by the Scottish Ministers or the local authority (as the case may be) for the purposes of these Regulations.

^(a) S.I. 1999/882 as amended by S.S.I. 2001/276.

Part VIII

Savings of things done under the BSE Monitoring (Scotland) Regulations 2001^(a)

1. Any appointment of an inspector for the purposes of the BSE Monitoring (Scotland) Regulations 2001 by the Scottish Ministers or a local authority and having effect at the coming into force of these Regulations shall have effect as if it were an appointment of that inspector by the Scottish Ministers or the local authority (as the case may be) as an inspector for the purposes of these Regulations.

2. Any appointment of a veterinary inspector for the purposes of the BSE Monitoring (Scotland) Regulations 2001 by the Scottish Ministers and having effect at the coming into force of these Regulations shall have effect as if it were an appointment of that veterinary inspector as a veterinary inspector by the Scottish Ministers for the purposes of these Regulations.

3. Any appointment of an agent under regulation 3 of the BSE Monitoring (Scotland) Regulations 2001 by the Scottish Ministers to receive notifications under that regulation and having effect at the coming into force of these Regulations shall have effect as if it were an appointment of that agent by the Scottish Ministers under regulation 10 of these Regulations to receive notifications under that regulation.

(a) S.S.I. 2001/231, as amended by S.S.I. 2002/1.

Part IX

Savings of things done under the Processed Animal Protein (Scotland) Regulations 2001(a)

1. Any approval by the Scottish Ministers under regulation 5 of the Processed Animal Protein (Scotland) Regulations 2001 and having effect at the coming into force of these Regulations shall have effect as if it were an approval by the Scottish Ministers under regulation 16 of these Regulations.

2. Any approval by the Scottish Ministers under regulation 6 of the Processed Animal Protein (Scotland) Regulations 2001 and having effect at the coming into force of these Regulations shall have effect as if it were an approval by the Scottish Ministers under regulation 17(1) of these Regulations.

3. Any approval by the Scottish Ministers under regulation 7 of the Processed Animal Protein (Scotland) Regulations 2001 and having effect at the coming into force of these Regulations shall have effect as if it were an approval by the Scottish Ministers under regulation 17(2) of these Regulations.

4. Any authorisation of premises for the purposes of paragraph 6 of Annex I to the Commission Decision by the Scottish Ministers under regulation 13(2) of the Processed Animal Protein (Scotland) Regulations 2001 and having effect at the coming into force of these Regulations shall have effect as if it were a registration of the premises for those purposes by the Scottish Ministers under regulation 23(1)(b) of these Regulations.

5. Any authorisation of premises for the purposes of paragraph 3 of Annex II to the Commission Decision by the Scottish Ministers under regulation 14(2) of the Processed Animal Protein (Scotland) Regulations 2001 and having effect at the coming into force of these Regulations shall have effect as if it were a registration of the premises for those purposes by the Scottish Ministers under regulation 24(1)(b) of these Regulations.

6. Any authorisation of premises for the purposes of paragraph 2 of Annex III to the Commission Decision by the Scottish Ministers under regulation 15(2) of the Processed Animal Protein (Scotland) Regulations 2001 and having effect at the coming into force of these Regulations shall have effect as if it were a registration of the premises for those purposes by the Scottish Ministers under regulation 24(2)(b) of these Regulations.

7. Any appointment of an inspector for the purposes of the Processed Animal Protein (Scotland) Regulations 2001 by the Scottish Ministers or a local authority and having effect at the coming into force of these Regulations shall have effect as if it were an appointment of that inspector as an inspector by the Scottish Ministers or the local authority (as the case may be) for the purposes of these Regulations.

8. Any appointment of a veterinary inspector for the purposes of the Processed Animal Protein (Scotland) Regulations 2001 by the Scottish Ministers and having effect at the coming into force of these Regulations shall have effect as if it were an appointment of that veterinary inspector as a veterinary inspector by the Scottish Ministers for the purposes of these Regulations.

(a) S.S.I. 2001/276 as amended by S.S.I. 2001/383.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in Scotland, otherwise than in relation to trade, for—

- (a) the administration and enforcement of the following directly applicable Community legislation (“the Community TSE Regulation and Community Transitional Measures”)—
 - Regulation (EC) No. 999/2001 of the European Parliament and of the Council of 22nd May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (O.J. No. L 147, 31.5.2001, p.1) (“the TSE Regulation”);
 - Commission Regulation (EC) No. 1248/2001 of 22nd June 2001 amending Annexes III, X and XI to Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards epidemio-surveillance and testing of transmissible spongiform encephalopathies (O.J. No. L 173, 27.6.2001, p.12);
 - Commission Regulation (EC) No. 1326/2001 of 29th June 2001 laying down transitional measures to permit the changeover to the Regulation of the European Parliament and of the Council (EC) No. 999/2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies, and amending Annexes VII and XI to that Regulation (O.J. No. L 177, 30.6.2001, p.61); and
 - Commission Regulation (EC) No. 270/2001 of 14th February 2002 amending Annex XI to Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards bovine vertebral column and amending Regulation (EC) No. 1326/2001 as regards animal feeding and the placing on the market of ovine and caprine animals and products thereof (O.J. No. L 45, 15.12.2002 2002, p.4); and
- (b) continuing the implementation of Council Decision 2000/766/EC (O.J. No. L 306, 7.12.2000, p.32) concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein, and Commission Decision 2001/9/EC (O.J. No. L 2, 5.1.2001, p.32) concerning control measures required for the implementation of Council Decision 2000/766/EC, in accordance with Article 1(2) of Commission Regulation (EC) No. 1326/2001.

The Regulations come into force on 19th June 2002.

Part I of these Regulations contain introductory provisions. These include the interpretation provisions of regulation 3. Regulation 3(2) provides that the expressions in the Regulations which appear in the Community TSE Regulation and Community Transitional Measures have the same meaning for the purposes of these Regulations as they have for the purposes of the Community TSE Regulation and Community Transitional Measures. “TSE” is defined as meaning all transmissible spongiform encephalopathies with the exception of those occurring in humans. Regulation 2(1) reflects Article 1 of the Community TSE Regulation to make provision for the purpose and application of the Regulations.

Part II of these Regulations makes provision for the administration and enforcement of the Community TSE Regulation and Community Transitional Measures in relation to the prevention of TSE. These are provisions for TSE monitoring, movement prohibitions and restrictions of TSE susceptible animals; slaughter of TSE susceptible animals at slaughterhouses and at other premises; retention and seizure of carcasses etc. of TSE susceptible animals; provision for compensation; and provision for notifications for the purposes of the programme of monitoring under Article 6 of the Community TSE Regulation.

Part III of these Regulations makes provision in relation to animal feeding. It continues the implementation of Council Decision 2000/766/EC (O.J. No. L 306, 7.12.2000, p.32) concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein, and Commission Decision 2001/9/EC (O.J. No. L 2, 5.1.2001, p.32) concerning control measures required for the implementation of Council Decision 2000/766/EC, in accordance with Article 1(2) of Commission Regulation (EC) No. 1326/2001. Article 1(2) of Commission Regulation (EC) No. 1326/2001, and section C of Annex XI to the Community TSE Regulation (added by Article 3(3) of, and Annex IV to, Commission Regulation (EC) No. 1326/2001 and as defined in the Regulations) provide that this Council Decision and Commission Decision remain in force. The implementation of these Decisions was previously provided by the

Processed Animal Protein (Scotland) Regulations 2001 (S.S.I. 2001/276 as amended by S.S.I. 2001/383), revoked in part by these Regulations.

Part III also includes provision for the administration and enforcement of the Community TSE Regulation and Community Transitional Measures in relation to feeding ruminants with mammalian protein, livestock with mammalian meat and bone meal and farmed animals (including ruminants and livestock) with processed animal protein.

Part IV of these Regulations makes provision for the administration and enforcement of the Community TSE Regulation and Community Transitional Measures in relation to specified risk material. These are provisions on the removal, collection or disposal of specified risk material; provisions for licensing of premises for the removal of certain types of specified risk material and for collection or disposal of specified risk material; prohibitions on the use of specified risk material for human consumption; provisions relating to mechanically recovered meat and laceration of central nervous tissue (often known as pithing); provisions for the separation of live animals and products of animal origin in premises which use specified risk material in production and live animals in or intended for research; prohibitions on feeding specified risk material to animals; provisions relating to transport and storage of specified risk material; requirements to make and keep records; requirements for cleansing and disinfection; powers of inspectors; provisions relating to compliance with notices, suspension and revocation of licences; appeals against suspension and revocation of licences; and offences.

Part V of these Regulations makes provision for the administration and enforcement of the Community TSE Regulation and Community Transitional Measures in relation to control and eradication of TSE. These are provisions for notifications of animals suspected of being affected by a TSE; measures with respect to animals suspected of being affected by a TSE; movement prohibitions and restrictions of animals suspected of being affected by a TSE; slaughter of animals suspected of being affected by a TSE; retention and seizure of carcasses etc. of TSE susceptible animals; and provisions for compensation.

Part VI of these Regulations makes provision in relation to placing on the market of first generation progeny of, and semen, embryos and ova derived from, TSE suspect or confirmed animals.

It begins with provisions for the administration and enforcement of Article 15(2) of, and chapter B of Annex VIII to, the Community TSE Regulation in relation to placing on the market of first generation progeny of, and semen, embryos and ova derived from, TSE suspect or confirmed bovine animals, sheep and goats. These are provisions, similar to those in Part V of these Regulations, in relation to the last-born progeny to which female bovine animals infected with a TSE, or BSE-confirmed sheep or goats, gave birth during the preceding two year period or during the period that followed the appearance of the first clinical signs of the onset of the disease.

Part VI then makes provision for the continued implementation of Council Decision 98/256/EC (O.J. No. L 113, 15.4.98, p.32), concerning emergency measures to protect against bovine spongiform encephalopathy, amending Decision 94/474/EC and repealing Decision 96/239/EC, in relation to offspring of bovine animals. An offspring for this purpose is any bovine animal born to a dam which is affected or suspected of being affected with BSE when it gave birth to the animal or which subsequently becomes affected or suspected of being affected with BSE. Council Decision 98/256/EC remains in force as a transitional measure by virtue of Article 1(1) of Commission Regulation (EC) No. 1326/2001 and section D of Annex XI to the Community TSE Regulation. The implementation of Council Decision 98/256/EC in relation to offspring animals was previously provided by the BSE Offspring Slaughter Regulations 1998 (S.I. 1998/3070) revoked by these Regulations.

Part VII of these Regulations makes provision for the administration and enforcement of the Community TSE Regulation and Community Transitional Measures in relation to sampling and laboratory methods.

Part VIII of these Regulations makes provision for the administration and enforcement of the Community TSE Regulation and Community Transitional Measures in relation to offences, penalties and enforcement.

Part IX of and Schedules 8 and 9 to these Regulations contain supplementary provisions for the service of notices and other documents, amendments and revocations.

A Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. A copy of it can be obtained from the Scottish Executive Environment and Rural Affairs Department, Pentland House, 47 Robb's Loan, Edinburgh EH14 1TY.