

## SCHEDULE 1

Regulations 9, 83 and 91

### 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.

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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 carcass 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 carcass 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–

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- (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.

**Paragraph 5**

*Annex 1 to Part III of Schedule 1*

***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.

#### **Paragraph 11**

### *Annex 2 to Part III of Schedule 1*

#### ***CALCULATION OF ENHANCEMENT OF COMPENSATION***

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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 1\_ 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 carcass, part of any carcass or any blood seized or disposed of under regulation 82 above 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 82 above shall be determined—

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- (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.