

SCHEDULE 1

Compensation

Part III

Compensation for TSE susceptible animals slaughtered under regulations 80 and 81

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—

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- (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.