
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 357

ANIMALS

ANIMAL HEALTH

**The Transmissible Spongiform Encephalopathies
(Scotland) Amendment Regulations 2007**

<i>Made</i>	- - - -	<i>16th July 2007</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>17th July 2007</i>
<i>Coming into force</i>	- -	<i>18th July 2007</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972⁽¹⁾ and all other powers enabling them to do so.

There has been a consultation as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety⁽²⁾.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Transmissible Spongiform Encephalopathies (Scotland) Amendment Regulations 2007 and come into force on 18th July 2007.

(2) In these Regulations “the principal Regulations” means the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006⁽³⁾.

(1) 1972 c. 68 (“the 1972 Act”). Section 2(2) was amended by the Scotland Act 1998 (c. 46) (“the 1998 Act”), Schedule 8, paragraph 15(3). The function conferred on the Minister of the Crown under section 2(2) of the 1972 Act, so far as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. In so far as not so transferred and in so far as relating to food (including drink) including the primary production of food, that function was transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005 (S.I.2005/849).

(2) O.J. No. L 31, 1.2.02, p.1, as amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (O.J. No. L 245, 29.9.03, p.4) and by Commission Regulation (EC) No. 575/2006 (O.J. No. L 100, 8.4.06, p.3).

(3) S.S.I. 2006/530.

Amendment of the principal Regulations

2. For Schedule 6 to the principal Regulations (specified risk material, mechanically recovered meat and slaughtering techniques) substitute the Schedule set out in the Schedule to these Regulations.

Savings

3.—(1) Any appointment of an inspector under paragraph 1(2) of Schedule 6 to the principal Regulations in force immediately before the coming into force of these Regulations shall have effect as if it was an appointment of that person as an inspector under paragraph 1(2) of the Schedule set out in the Schedule to these Regulations.

(2) Any authorisation issued under paragraph 13 or 14 of Schedule 6 to the principal Regulations in force immediately before the coming into force of these regulations, shall have effect as if it was an authorisation issued to a cutting plant or (as the case may be) butcher shop issued under paragraphs 13 or 14 of the Schedule set out in the Schedule to these Regulations.

St Andrew's House,
Edinburgh
16th July 2007

SHONA ROBISON
Authorised to sign by the Scottish Ministers

SCHEDULE

Regulation 2

SCHEDULE SUBSTITUTED FOR SCHEDULE 6 TO THE TRANSMISSIBLE SPONGIFORM ENCEPHALOPATHIES (SCOTLAND) REGULATIONS 2006

““SCHEDULE 6

Regulation 5

Specified risk material, mechanically separated meat and slaughtering techniques

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Functions of the Food Standards Agency

1.—(1) Except in relation to butcher shops, the Food Standards Agency shall carry out in relation to this Schedule the duties of the member State set out in point 11.1 and point 11.2 of Annex V to the Community TSE Regulation as amended by Commission Regulation (EC) No. 722/2007 amending Annexes II, V, VI, VIII, IX and XI to Regulation (EC) No. 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies⁽⁴⁾ (“the amended Community TSE Regulation”), and shall grant authorisations for the purposes of point 4.3(a) of that Annex.

(4) O.J. L 164, 26.6.07, p.7.

Status: This is the original version (as it was originally made).

(2) The Food Standards Agency may appoint as inspectors such persons (whether or not officers of the Agency) as they consider necessary for the purpose of enforcing Annex V to the amended Community TSE Regulation and this Schedule within a slaughterhouse or cutting plant.

(3) An appointment as an inspector may be limited to powers and duties specified in the appointment.

(4) An inspector appointed in accordance with sub-paragraph (2) shall have the powers set out in regulations 13, 14, 15 and 16 and regulations 13(2) and (3), 14(2) and (3), 15(4) to (7) and 16(2) shall apply accordingly, and references to “the Scottish Ministers” or “the local authority” shall be construed as references to the Food Standards Agency.

Local authorities' duties with regards to butcher shops

2. Local authorities shall carry out the duties of the member State in point 11.1 and point 11.2 of Annex V to the amended Community TSE Regulation in relation to this Schedule in so far as it relates to the removal in butcher shops of those parts of the vertebral column of bovine animals that are specified risk material and shall grant authorisations and effect registrations for the purposes of point 4.3(b) of that Annex.

Training

3.—(1) The occupier of any slaughterhouse, cutting plant or butcher shop where specified risk material is removed must—

- (a) ensure that staff receive any training necessary to ensure that the occupier complies with his duties in this Schedule; and
- (b) keep records of each person’s training for as long as that person works there.

(2) Any person who fails to comply with this paragraph is guilty of an offence.

Mechanically separated meat

4.—(1) Any person who fails to comply with point 5 of Annex V to the amended Community TSE Regulation (measures concerning mechanically separated meat) is guilty of an offence.

(2) Any person who uses any mechanically separated meat produced in contravention of that point in the preparation of any food for sale for human consumption or of any feedingstuff is guilty of an offence.

(3) In this paragraph, “mechanically separated meat” means the product obtained by removing meat from flesh-bearing bones after boning, using mechanical means resulting in the loss or modification of the muscle fibre structure.

Pithing

5. Any person who fails to comply with point 6 of Annex V to the amended Community TSE Regulation (measures concerning laceration of tissues) is guilty of an offence.

Tongue harvesting

6. Any person who fails to comply with point 7 of Annex V to the amended Community TSE Regulation (harvesting of tongues from bovine animals) is guilty of an offence.

Head meat harvesting

7. Any person who fails to comply with point 8.1 of Annex V to the amended Community TSE Regulation (harvesting of bovine head meat) is guilty of an offence.

Removal of specified risk material

8.—(1) Any person who removes specified risk material in any premises other than premises in which that specified risk material may be removed under point 4.1, point 4.3(a) or point 4.3(b) of Annex V to the amended Community TSE Regulation is guilty of an offence.

(2) In the case of a cutting plant, it is an offence to remove—

- (a) (i) any part of the vertebral column that is specified risk material from any bovine animal aged over 30 months at slaughter, or
- (ii) in circumstances where the carcass containing the specified risk material has been brought into Scotland from another member State, any part of the vertebral column that is specified risk material from any bovine animal aged 30 months or less at slaughter,

unless the plant is authorised under paragraph 13(1)(a); or

- (b) the spinal cord from any sheep or goat aged over 12 months at slaughter or which has a permanent incisor erupted through the gum, unless the plant is authorised for the purpose of such removal under paragraph 13(1)(b).

(3) In the case of a butcher shop, it is an offence to remove any part of the vertebral column that is specified risk material from a bovine animal, if the shop is not authorised and registered for that purpose under paragraph 14, or the carcass containing the specified risk material has been brought into Scotland from another member State.

Bovine animals in a slaughterhouse

9.—(1) When a bovine animal is slaughtered, the occupier of the slaughterhouse must remove all specified risk material (other than those parts of the vertebral column that are specified risk material) as soon as is reasonably practicable after slaughter and in any event before post-mortem inspection.

(2) The occupier of the slaughterhouse must consign any carcass containing those parts of the vertebral column that are specified risk material as soon as is reasonably practicable—

- (a) in the case of any bovine animal that is aged over 30 months at slaughter, to a cutting plant authorised under paragraph 13(1)(a) or to another member State in accordance with point 10.2 of Annex V to the amended Community TSE Regulation; and
- (b) in the case of any bovine animal that is aged 30 months or less at slaughter, to a cutting plant, to a butcher shop authorised and registered under paragraph 14 or to another member State in accordance with point 10.2 of Annex V to the amended Community TSE Regulation.

(3) The occupier of the slaughterhouse must identify a carcass containing vertebral column that is not specified risk material in accordance with point 11.3(a) of Annex V to the amended Community TSE Regulation and provide information in accordance with point 11.3(b) of that Annex.

(4) No person shall include a blue stripe in the label referred to in Article 13 of Regulation No. 1760/2000 of the European Parliament and of the Council establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No. 820/97⁽⁵⁾ except in accordance with point 11.3(a) of Annex V to the amended Community TSE Regulation.

(5) O.J. No. L 204, 11.8.00, p.1, as last amended by Council Regulation (EC) No. 1791/2006 (O.J. No. L 363, 20.12.06, p.1).

- (5) Any person who fails to comply with this paragraph is guilty of an offence.

Sheep and goats in a slaughterhouse

10.—(1) When a sheep or goat is slaughtered, the occupier of a slaughterhouse must remove all specified risk material (other than the spinal cord) as soon as is reasonably practicable after slaughter and in any event before post-mortem inspection.

(2) In the case of a sheep or goat aged over 12 months at slaughter, or which has a permanent incisor erupted through the gum, he must as soon as is reasonably practicable after slaughter—

- (a) remove the spinal cord at the slaughterhouse before the post-mortem inspection;
- (b) send the carcase to a cutting plant authorised under paragraph 13(1)(b); or
- (c) in accordance with point 10.1 of Annex V to the amended Community TSE Regulation, send the carcase to a cutting plant in another member State provided that the Food Standards Agency has entered into a written agreement with the competent authority of the receiving member State, and the dispatch is in accordance with that agreement.

(3) In sub-paragraph (2)(c), “cutting plant” means premises—

- (a) approved or conditionally approved as such under Article 31(2) of Regulation 882/2004; or
- (b) operating as such under Article 4(5) of Regulation 853/2004 pending such approval.

(4) Any person who fails to comply with this paragraph is guilty of an offence.

Young lamb and goat stamps

11.—(1) In this paragraph “young lamb stamp” and “young goat stamp” mean the stamps described in sub-paragraph (3) in relation to sheep and goats respectively.

(2) An inspector may stamp a sheep or goat in a slaughterhouse with a young lamb stamp or a young goat stamp if the animal does not have a permanent incisor erupted through the gum and the documentation, if any, relating to the animal does not indicate that it is aged over 12 months at slaughter.

(3) The stamp shall mark the carcase with a circular mark 5 centimetres in diameter with the following in capital letters 1 centimetre high—

- (a) “MHS”; and
- (b) in the case of a sheep, “YL”; or
- (c) in the case of a goat, “YG”.

(4) It is an offence for any person other than an inspector to apply the stamp or a mark resembling the stamp, or to possess equipment for applying it.

Removal of spinal cord from sheep and goats

12. It is an offence to remove the spinal cord or any part of it from a sheep or goat aged over 12 months at slaughter or that had one or more permanent incisors erupted through the gum (other than for the purposes of veterinary or scientific examination) except by—

- (a) longitudinally splitting the whole vertebral column; or
- (b) removing a longitudinal section of the whole vertebral column including the spinal cord.

Authorisation of cutting plants by the Food Standards Agency

13.—(1) The Food Standards Agency may authorise a cutting plant to remove—

- (a) those parts of the vertebral column that are specified risk material from bovine animals aged over 30 months at slaughter; or
- (b) spinal cord from sheep and goats aged over 12 months at slaughter or which have a permanent incisor erupted through the gum,

if the Agency is satisfied that the provisions of Annex V to the amended Community TSE Regulation and this Schedule will be complied with.

(2) The procedures in regulations 6, 8, 9 and 10 apply to authorisations under this paragraph as they apply to approvals, authorisations, licences or registrations under those regulations, but all references to “the Scottish Ministers” shall be construed as references to the Agency.

Authorisation and registration of butcher shops by local authorities

14.—(1) A local authority may authorise a butcher shop to remove those parts of the vertebral column that are specified risk material from bovine animals aged 30 months or less at slaughter and register the shop for that purpose, if the authority is satisfied that the provisions of Annex V to the amended Community TSE Regulation and this Schedule will be complied with.

(2) The procedures in regulations 6, 8 and 9 apply, but all references to “the Scottish Ministers” shall be construed as references to the local authority concerned.

(3)

(i) Where in respect of any butcher shop the local authority has given notice of a decision under this regulation—

- (a) to refuse to grant authorisation and registration;
- (b) to grant authorisation and registration subject to any conditions;
- (c) to suspend authorisation and registration; or
- (d) to revoke authorisation and registration,

the occupier may, within one month from the date of that notice, appeal against the decision to the sheriff.

(ii) an appeal to the sheriff under sub paragraph (3)(i) shall be made by way of summary application;

(iii) the local authority shall give effect to the sheriff’s determination.

Removal of specified risk material at a cutting plant authorised under paragraph 13(1)

15.—(1) The occupier of a cutting plant authorised under paragraph 13(1) shall ensure that, as soon as is reasonably practicable after a carcass arrives at a plant, and in any event before the carcass leaves the plant—

- (a) all specified risk material of a kind to which the authorisation relates; and
- (b) where the carcass is derived from a bovine animal aged 30 months or less at slaughter, those parts of the vertebral column that are specified risk material,

are removed from the carcass and failure to do so is an offence.

(2) In sub-paragraph (1)(b), “carcass” means—

- (a) a carcass;
- (b) a half carcass;
- (c) a half carcass cut into no more than three wholesale cuts; and
- (d) quarters,

containing no specified risk material other than vertebral column.

Removal of bovine vertebral column that is specified risk material at a cutting plant not authorised under paragraph 13(1)(a)

16.—(1) In the case of carcase derived from a bovine animal aged 30 months or less at slaughter that has not been brought into Scotland from another member State, the occupier of a cutting plant not authorised under paragraph 13(1)(a) shall ensure that those parts of the vertebral column that are specified risk material are removed from the carcase as soon as reasonably practicable, and in any event before the carcase leaves the premises.

(2) Any person who fails to comply with this paragraph is guilty of an offence.

Removal of bovine vertebral column that is specified risk material at a butcher shop authorised and registered under paragraph 14

17.—(1) In the case of a carcase derived from a bovine animal aged 30 months or less at slaughter that has not been brought into Scotland from another member State, the occupier of a butcher shop authorised and registered under paragraph 14 shall ensure that those parts of the vertebral column that are specified risk material are removed from the carcase as soon as reasonably practicable, and in any event before the carcase leaves the premises.

(2) Any person who fails to comply with this paragraph is guilty of an offence.

Meat from another member State

18.—(1) For the purposes of point 10.1 and point 10.2 of Annex V to the amended Community TSE Regulation, where the carcase containing those parts of the vertebral column of a bovine animal that are specified risk material is brought into Scotland from another member State, the importer must send it directly to a cutting plant authorised under paragraph 13(1)(a).

(2) Any person who fails to comply with this paragraph is guilty of an offence.

Staining and disposal of specified risk material

19.—(1) The occupier of any premises where specified risk material is removed who fails to comply with point 3 of Annex V to the amended Community TSE Regulation (marking and disposal) is guilty of an offence.

(2) For the purposes of that point—

(a) staining involves treating the material (whether by immersion, spraying or other application) with—

(i) a 0.5% weight/volume solution of the colouring agent Patent Blue V (E131, 1971 Colour Index No 42051(6)), or

(ii) such other colouring agent as may be approved in writing by the Scottish Ministers or the Food Standards Agency; and

(b) the stain must be applied in such a way that the colouring is and remains clearly visible—

(i) over the whole of the cut surface and the majority of the head in the case of the head of a sheep or goat, and

(ii) in the case of all other specified risk material, over the whole surface of the material.

(3) This paragraph does not apply in relation to any specified risk material which is destined for use as provided in Article 1(2)(b) and (c) of the Community TSE Regulation.

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

Scheme animals

20.—(1) After the specified risk material has been removed from a bovine animal slaughtered for the purposes of Commission Regulation (EC) No. 716/96 adopting exceptional support measures for the beef market in the United Kingdom(7), the remainder (excluding the hide) must immediately be stained in accordance with paragraph 19 in such a way that the colouring is and remains clearly visible over the whole surface of the material.

(2) Any person who fails to comply with this paragraph is guilty of an offence.

Security of specified risk material

21.—(1) Pending consignment or disposal from the premises on which it was removed, the occupier of the premises shall ensure that specified risk material is adequately separated from any food, feedingstuff or cosmetic, pharmaceutical or medical product and held in an impervious covered container that is labelled as either—

(a) containing specified risk material; or

(b) Category 1 animal by-products and including the words “For disposal only”.

(2) The occupier must ensure that the container is thoroughly washed as soon as reasonably practicable each time that it is emptied, and disinfected before use for any other purpose.

(3) Any person who fails to comply with this paragraph is guilty of an offence.

Prohibition on the supply of specified risk material for human consumption

22. It is an offence for any person to sell or supply—

(a) any specified risk material, or any food containing specified risk material, for human consumption; or

(b) any specified risk material for use in the preparation of any food for human consumption.

Definitions of Community legislation

23. In this Schedule—

“Regulation 853/2004” means Regulation (EC) No. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin(8), as last amended by Council Regulation (EC) No. 1791/2006 and as read with Directive 2004/41/EC of the European Parliament and of the Council(9), Commission Regulation (EC) No. 1688/2005(10) Commission Regulation (EC) No. 2074/2005(11) (itself amended by Commission Regulation (EC) No. 1664/2006(12)) and Commission Regulation (EC) No. 2076/2005(13) (itself amended by Commission Regulation (EC) No. 1666/2006(14); and

“Regulation 882/2004” means Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules(15), as last amended by Council

(7) O.J. No. L 99, 20.4.96, p.14, as last amended by Council Regulation (EC) No. 2109/2005 (O.J. No. L 337, 22.12.05, p.25).

(8) O.J. No. L 139, 30.4.04, p.55. The revised text of Regulation (EC) No. 853/2004 is now set out in a Corrigendum (O.J. No. L 226, 25.6.04, p.22).

(9) O.J. No. L 157, 30.4.04, p.33. The revised text of Directive 2004/41/EC is now set out in a Corrigendum (O.J. No. L 195, 2.6.04, p.12).

(10) O.J. No. L 271, 15.10.05, p.17.

(11) O.J. No. L 338, 22.12.05, p.27.

(12) O.J. No. L 320, 18.11.06, p.13.

(13) O.J. No. L 338, 22.12.05, p.83.

(14) O.J. No. L 320, 18.11.06, p.47.

(15) O.J. No. L 165, 30.4.04, p.1. The revised text of Regulation (EC) No. 882/2004 is now set out in Corrigendum (O.J. No. L 191, 28.5.2004, p.1).

Regulation (EC) No. 1791/2006 and as read with Commission Regulation (EC) No. 2074/2005 (itself amended by Commission Regulation (EC) No. 1664/2005) and Commission Regulation (EC) No. 2076/2005 (itself amended by Commission Regulation (EC) No. 1666/2006).”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006 (“the principal Regulations”), which provide for the enforcement in relation to Scotland of Regulation (EC) No. 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (O.J. No. L 147, 31.5.2001, p.1) as amended by and as read with the Community instruments set out in Schedule 1 to the principal Regulations.

The amendment is that a revised Schedule 6 is inserted into the principal Regulations.

Schedule 6 to the TSE Regulations currently provides for the enforcement of Part A of Annex XI to Regulation (EC) No. 999/2001 (concerning specified risk material, mechanically recovered meat and slaughtering techniques).

By virtue of Article 22(1) of Regulation (EC) 999/2001, the provisions contained in Part A of Annex XI to that Regulation were of a transitional nature pending the adoption of a Decision under Article 5(2) or (4) of that Regulation determining the BSE status of countries according to their BSE risk, following which Annex V to Regulation (EC) No. 999/2001 (introduced by Article 8 thereof) would apply in relation to specified risk material.

A Decision has now been adopted under Article 5(2) of Regulation (EC) No. 999/2001 (Commission Decision 2007/453/EC establishing the BSE status of Member States or third countries or regions thereof according to their BSE risk (O.J. No. L 172, 30.6.2007, p.84)).

Commission Regulation (EC) No. 722/2007 amending Annexes II, V, VI, VIII, IX and XI to Regulation (EC) No. 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (O.J. No. L 164, 26.6.2007, p.7) revokes Annex XI to Regulation (EC) No. 999/2001 and inserts a revised Annex V (“specified risk material”) into that Regulation.

The revised Schedule 6 to the principal Regulations provides for the enforcement of the revised Annex V inserted into Regulation (EC) No. 999/2001 by Commission Regulation (EC) No. 722/2007.

The Regulations also make saving provisions with respect to the appointment of inspectors and authorisations issued under Schedule 6 to the principal Regulations.

A full regulatory impact assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Food Standards Agency, 6th Floor, St Magnus House, 25 Guild Street, Aberdeen AB11 6NJ.