

SCHEDULE 2

TSE monitoring

PART 1

Monitoring for TSE

Notification of the body of a goat for the purpose of monitoring under Article 6 of the EU TSE Regulation

1.—(1) For the purpose of monitoring under Article 6 of the EU TSE Regulation, a person who has possession or control of the body of a goat aged 18 months or over at death, must—

- (a) within 24 hours from the time when the animal died or was killed or the body came into that person's possession or control notify the Scottish Ministers; and
- (b) where the Scottish Ministers direct, retain it until it has been collected by or on behalf of the Scottish Ministers,

and failure to do so is an offence.

(2) This paragraph does not apply in relation to goats slaughtered for human consumption or killed in accordance with Schedule 4.

Delivery of the body of a bovine animal for the purpose of monitoring under Article 6 of the EU TSE Regulation

2.—(1) For the purpose of monitoring under Article 6 of the EU TSE Regulation, a person who has possession or control of the body of a bovine animal that must be tested for BSE in accordance with point 3.1 of Part I of Chapter A of Annex III to that Regulation (monitoring in animals not slaughtered for human consumption) must, unless directed otherwise by the Scottish Ministers, within 24 hours either—

- (a) make arrangements with another person for that other person to collect it and deliver it to an approved sampling site within 72 hours; or
- (b) identify an approved sampling site that will carry out the sampling and deliver the animal to that site so as to arrive at the site within 72 hours,

and failure to do so is an offence.

(2) The periods of 24 and 72 hours referred to in sub#paragraph (1) run from the time when the animal died or was killed or the body came into the possession or control of the person to whom the requirements of that sub#paragraph apply.

Persons collecting and delivering

3. A person with whom arrangements are made under paragraph 2(1)(a) for the delivery of a body to an approved sampling site must, unless directed otherwise by the Scottish Ministers, within 48 hours of the time when the body comes into that person's possession or control—

- (a) identify an approved sampling site that will carry out the sampling; and
- (b) ensure it is delivered to that site,

and failure to do so is an offence.

Destruction without sampling

4. Any person who destroys the body of a bovine animal to which paragraph 2(1) applies before it has undergone sampling at an approved sampling site, except in accordance with a direction of the Scottish Ministers, commits an offence.

Retention of bodies of bovine animals pending test results

5. An approved sampling site to which the body of a bovine animal has been sent for sampling in accordance with this Part must retain it in accordance with point 6.3 of Part I of Chapter A of Annex III to the EU TSE Regulation (measures following testing), and failure to do so is an offence.

Island areas

6.—(1) The requirements of paragraphs 1(1) and 2 do not apply in an island area.

(2) In this paragraph, “island area” means—

- (a) islands in the area of the Argyll and Bute Council, excluding the island of Bute;
- (b) the area of Comhairle nan Eilean Siar;
- (c) islands in the area of the Highland Council, excluding the island of Skye;
- (d) islands in the area of North Ayrshire Council;
- (e) the area of the Orkney Islands Council; and
- (f) the area of the Shetland Islands Council.

(3) The exemption in sub-paragraph (1) continues to apply even if the body of the animal has been removed from an island area.

Consignment and slaughter of over-age bovine animals

7.—(1) If a bovine animal was born or reared in the United Kingdom before 1st August 1996, it is an offence—

- (a) to consign it to a slaughterhouse for human consumption (whether the animal is alive or dead); or
- (b) to slaughter it for human consumption.

(2) For the purposes of sub-paragraph (1), a bovine animal is deemed to have been born or reared in the United Kingdom before 1st August 1996 unless its cattle passport shows either that—

- (a) it was born in the United Kingdom on or after 1st August 1996; or
- (b) it first entered the United Kingdom on or after 1st August 1996.

Brain stem sampling of bovine animals (slaughterhouses)

8.—(1) The occupier of a slaughterhouse in which a bovine animal which must be tested in accordance with point 2 of Part I of Chapter A of Annex III to the EU TSE Regulation (monitoring in animals slaughtered for human consumption) is slaughtered or (if the animal is slaughtered at a place other than a slaughterhouse) processed must—

- (a) take a sample comprising the brain stem for testing in accordance with point 1 of Chapter C of Annex X to the EU TSE Regulation (sampling);
- (b) ensure that the animal from which the sample has been taken can be identified; and
- (c) arrange for the sample to be delivered to an approved testing laboratory,

and failure to do so is an offence.

(2) The Scottish Ministers must, by means of a notice, notify the occupier of a slaughterhouse if an animal comes into any of the categories specified in point 2.1 of Part I of Chapter A of Annex III to the EU TSE Regulation (except in the case of a dead animal consigned to a slaughterhouse with a written declaration from a veterinary surgeon that it falls into one of those categories).

(3) For the purposes of point 5 of Part I of Chapter A of Annex III to the EU TSE Regulation (monitoring in other animals), the Scottish Ministers may serve a notice on the occupier of a slaughterhouse requiring the occupier to take a sample from any bovine animal slaughtered there and send it for testing in accordance with sub#paragraph (1).

Brain stem sampling of bovine animals (other places of slaughter)

9. The occupier of a place—

- (a) that, for the purposes of point 4.1(a) of Annex V to the EU TSE Regulation (removal of specified risk material), is an other place of slaughter; and
- (b) in which a bovine animal covered by point 2 of Part I of Chapter A of Annex III to the EU TSE Regulation (monitoring in animals slaughtered for human consumption) is slaughtered must—
 - (i) arrange for a sample, comprising the brain stem, to be taken for testing in accordance with point 1 of Chapter C of Annex X to the EU TSE Regulation (sampling);
 - (ii) ensure that the animal from which the sample has been taken can be identified; and
 - (iii) arrange for the sample to be delivered to an approved testing laboratory,

and failure to do so is an offence.

Approval of laboratories

10.—(1) The Scottish Ministers must approve laboratories to test samples taken under paragraph 8 if the Scottish Ministers are satisfied that the laboratory—

- (a) will carry out the testing in accordance with Chapter C of Annex X to the EU TSE Regulation (sampling and laboratory testing);
- (b) has adequate quality control procedures; and
- (c) has adequate procedures to ensure the correct identification of the samples and notification of the test results to the consigning slaughterhouse and to the Scottish Ministers.

(2) The Scottish Ministers may charge the fees set out in the following table for the initial approval and ongoing quality assessment of a laboratory—

Fees for laboratory approvals and quality assessment

	<i>Fee (£)</i>
Initial approval	29,770
Annual proficiency testing and follow#up inspection for the first year after approval	8,834
Annual proficiency testing from the second year after approval	4,135

Fee (£)

Single proficiency test (in the event of a failure in the annual proficiency testing) 1,385

Rate of an inspector per hour or part thereof (for any additional inspections that are necessary to check for compliance with the matters set out at sub#paragraph (1)(a) to (c)) 87.24

(3) For the purposes of this paragraph and paragraphs 8 and 9, “approved testing laboratory” means—

- (a) a laboratory approved under this paragraph;
- (b) a laboratory approved under corresponding legislation elsewhere in the United Kingdom;
- (c) an EU National Reference laboratory⁽¹⁾; or
- (d) a diagnostic laboratory approved by a Member State in accordance with Annex X to the EU TSE Regulation (reference laboratories, sampling and laboratory analysis methods).

Approved sampling sites

11.—(1) The Scottish Ministers must on application approve a sampling site to sample animals to which paragraph 2 applies if the Scottish Ministers are satisfied that the sampling site has adequate control procedures to carry out the sampling.

(2) For the purposes of this Schedule, an “approved sampling site” means a sampling site approved under this paragraph or a sampling site in another part of the United Kingdom approved by the competent authority in that part of the United Kingdom to carry out sampling under the EU TSE Regulation.

Slaughter of bovine animals

12.—(1) It is an offence for the occupier to use a slaughterhouse to slaughter for human consumption a bovine animal that, in accordance with point 2 of Part I of Chapter A of Annex III to the EU TSE Regulation (monitoring in animals slaughtered for human consumption), requires BSE testing at slaughter, unless the Scottish Ministers have approved the Required Method of Operation (“RMOP”) for that slaughterhouse and that occupier.

(2) The RMOP must, as a minimum, describe—

- (a) the procedures that will be followed to comply with Part 1 of this Schedule; and
- (b) all the systems and procedures required by Part 2 of this Schedule.

(3) The Scottish Ministers must approve the RMOP if they are satisfied that all the requirements of the EU TSE Regulation and these Regulations will be complied with, and the occupier must demonstrate this by means of an assessment of 2 days’ duration during which animals are slaughtered (using bovine animals that are not required, under point 2 of Part I of Chapter A of Annex III to the EU TSE Regulation, to be tested for BSE).

(4) If a bovine animal referred to in sub-paragraph (1) is slaughtered for human consumption other than in accordance with the RMOP, the occupier of the slaughterhouse is guilty of an offence.

⁽¹⁾ Designated under Article 33(1) of Regulation (EC) No. 882/2004 (O.J. No. L 165, 30.4.2004, p.1).

Retention of products and disposal

13.—(1) In relation to any sampled bovine animal, the occupier of a slaughterhouse or other place of slaughter (for the purposes of point 4.1(a) of Annex V to the EU TSE Regulation (removal of specified risk material), hide market or tannery must, for the purpose of point 6.3 of Part I of Chapter A of Annex III to the EU TSE Regulation (measures following testing) and pending receipt of the test result, either—

- (a) retain all carcasses and all parts of the body (including the blood and the hide) that will have to be disposed of in the event of a positive result; or
- (b) dispose of them in accordance with sub#paragraph (2).

(2) For the purposes of points 6.4 and 6.5 of that Part, if a positive result is received for a sampled bovine animal, the occupier must immediately dispose of—

- (a) the carcass and all parts of the body of that animal (including the blood and the hide); and
- (b) unless a derogation has been granted under sub-paragraph (5), the carcass and all parts of the body (including the blood and the hide) of the animal immediately preceding that animal on the slaughter line and the 2 animals immediately following it,

in accordance with point 6.4 of that Part.

(3) If no sample has been sent to or no sample has been received by, an approved testing laboratory for testing in accordance with paragraphs 8 and 9, or if an insufficient test result is received, in respect of a bovine animal required to be tested under this Schedule, the occupier must immediately dispose of—

- (a) the carcass and all parts of the body (including the blood and the hide) of that animal; and
- (b) unless a derogation has been granted under sub-paragraph (5), the carcass and all parts of the body (including the blood but not the hide) of the animal immediately preceding that animal on the slaughter line and the 2 animals immediately following it,

in accordance with point 6.4 of that Part; and for the purposes of this sub-paragraph an “insufficient test result” means a certification by an approved testing laboratory that the sample sent to the laboratory was not of an adequate quality or was not of a sufficient quantity to obtain a test result.

(4) If a no-test result is received in respect of an animal required to be tested under this Schedule, the occupier must immediately dispose of the carcass and all parts of the body (including the blood and the hide) of that animal in accordance with point 6.4 of that Part; and for the purposes of this sub-paragraph a “no-test result” means a negative result from a sample following multiple rapid testing where such testing was certified as necessary by an approved testing laboratory.

(5) The Scottish Ministers may grant in writing a derogation under point 6.6 of Part I of Chapter A of Annex III to the EU TSE Regulation if they are satisfied that there is a system in place that prevents contamination between carcasses.

(6) Failure to comply with sub#paragraphs (1) to (4) is an offence.

TSE sampling of sheep, goats and deer

14.—(1) In relation to any sheep or goat selected for sampling, the occupier of a slaughterhouse, hide market or tannery must—

- (a) for the purposes of point 7.3 of Part II of Chapter A of Annex III to the EU TSE Regulation (measures following testing of ovine and caprine animals), retain the carcass and all parts of the body (including the blood and the hide) pending receipt of the test result (except to the extent that point 7.3 permits direct disposal of animal by-products pending receipt of a negative rapid test result); and

- (b) in the event of a positive result, immediately dispose of the carcase and all parts of the body (including the blood and the hide) in accordance with point 7.4 of that Part.

(2) Where—

- (a) a sheep, goat or deer has died, or has been killed, other than for human consumption; and
- (b) either—
 - (i) the death or killing occurred at premises approved, or required to be approved, under the Animal By-Products (Scotland) Regulations 2003(2); or
 - (ii) the carcase of the sheep, goat or deer has been taken to those premises,

the occupier of the premises must comply with any direction given by the Scottish Ministers requiring the carcase to be sampled at the premises.

(3) In relation to any deer selected for monitoring for TSE in accordance with Part III of Chapter A of Annex III to the EU TSE Regulation (monitoring in other animal species), the occupier of a slaughterhouse, hide market or tannery must—

- (a) retain the carcase and all parts of the body (including the blood and the hide) pending receipt of the test result; and
- (b) in the event of a positive result, immediately dispose of the carcase and all parts of the body (including the blood and the hide) in accordance with point 7.4 of Part II of Chapter A of Annex III to the EU TSE Regulation.

(4) Failure to comply with sub-paragraph (1), (2) or (3) is an offence.

Compensation

15.—(1) If an animal slaughtered for human consumption tests positive, the Scottish Ministers must pay to the occupier of the slaughterhouse or other place of slaughter compensation for the carcase and all parts of the body (including the blood and the hide) of—

- (a) that animal; and
- (b) if they are destroyed because of that positive result, the animal immediately preceding it on the slaughter line and the 2 animals immediately following it.

(2) The compensation is the market value, established under the procedure in regulation 11(1) to (7) (reading “occupier” wherever “owner” is mentioned in that regulation), with the occupier paying any fee arising for nominating and employing a valuer.

(3) For the purposes of sub-paragraph (2), the market value is the price that would reasonably be expected to have been obtained for the animal from a buyer in the open market at the time of the valuation and on the assumption that the animal was not affected by a TSE.

(4) Compensation under this paragraph is not payable in any other case.

(2) S.S.I. 2003/411, amended by S.S.I. 2006/3 and 530, 2007/1 and 2009/7.