

SCHEDULE 3

Regulation 5(b)

Control and eradication of TSE in bovine animals

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Notification

1.—(1) For the purposes of Article 11 of the EU TSE Regulation (notification), any person who has possession or control of any bovine animal suspected of having a TSE must immediately notify the Scottish Ministers and detain it on the premises until it has been examined by a veterinary inspector.

(2) Any veterinary surgeon who examines or inspects any bovine animal suspected of having a TSE must, with all practical speed, notify the Scottish Ministers.

(3) Any person (other than the Scottish Ministers) who examines the body of any bovine animal, or any part of it, in a laboratory and who reasonably suspects the presence of a TSE must immediately notify the Scottish Ministers, and retain the body and any parts of it until a veterinary inspector has authorised disposal.

(4) Failure to comply with this paragraph is an offence.

Restriction of a notified animal

2.—(1) Where a bovine animal is the subject of notification under paragraph 1, an inspector may serve a notice prohibiting its movement from the premises pending determination of whether or not it is suspected of having a TSE.

(2) Movement of restricted animals is only permitted in accordance with regulation 16.

Killing of a suspect animal

3.—(1) For the purposes of paragraphs (1) and (2) of Article 12 of the EU TSE Regulation (measures with respect to suspect animals), if a veterinary inspector suspects that a bovine animal has a TSE the veterinary inspector must—

- (a) cause it to be killed on the holding immediately;
- (b) remove its cattle passport and serve a notice prohibiting the animal from being moved from the holding until it has been killed; or

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- (c) ensure that its cattle passport is stamped “Not for human consumption” and serve a notice directing the owner to consign it to other premises for killing and prohibiting movement other than in accordance with that direction.
- (2) The inspector must restrict the movement of other bovine animals on the holding in accordance with the second, third and fifth paragraphs of Article 12(1) of the EU TSE Regulation and Article 2(1)(a) of Commission Decision [2007/411/EC](#).
- (3) The inspector may restrict the movement of bovine animals on other holdings in accordance with the fourth paragraph of Article 12(1) of the EU TSE Regulation.
- (4) If the suspect animal is killed on the holding, it is an offence to remove the body from that holding except in accordance with a written direction from an inspector.
- (5) If the suspect animal is not killed immediately, its keeper must dispose of its milk in such a way that it cannot be consumed by humans or animals except its own calf or animals kept for research purposes, and failure to comply with this sub-paragraph is an offence.

Identification and restriction of progeny and cohorts

4.—(1) In accordance with Article 13(2) of the EU TSE Regulation (measures following confirmation of the presence of a TSE) as read with Article 2(1)(b) and (2) of Commission Decision [2007/411/EC](#), if—

- (a) a veterinary inspector suspects that a bovine animal has a TSE;
- (b) the monitoring of carcasses under Part 1 of Schedule 2 or under Annex III to the EU TSE Regulation (monitoring system) confirms that an animal is suspected of having a TSE; or
- (c) the competent authority of another part of the United Kingdom or another Member State notifies the Scottish Ministers that a bovine animal is suspected of having a TSE,

an inspector must identify—

- (i) (if the suspect animal is female) all its progeny born within 2 years prior to, or after, clinical onset of the disease; and
- (ii) in all cases all its bovine cohorts born on or after 1st August 1996,

and for these purposes the animal’s date of birth is the one shown on its cattle passport.

(2) An inspector must serve notices prohibiting movement of the animals identified in accordance with sub-paragraph (1) from the holding on which they are kept or where the inspector suspects they may be kept (whether or not this is the same holding as that of the suspect animal) and remove their cattle passports.

(3) If the inspector cannot immediately identify the animals specified in sub-paragraph (1) the inspector must prohibit the movement of all bovine animals from the holding pending identification.

(4) Movements of restricted animals are only permitted in accordance with regulation 16.

Action following confirmation of test result

5.—(1) In accordance with Article 13(1)(c) of, and point 2 of Chapter A of Annex VII to, the EU TSE Regulation (measures following confirmation of the presence of a TSE) as read with Article 2(1)(b) and (2) of Commission Decision [2007/411/EC](#), when it is confirmed that a bovine animal had a TSE an inspector must cause to be killed—

- (a) (if the animal is female) all its progeny born within 2 years prior to, or after, clinical onset of the disease; and
- (b) in all cases, all the bovine animals in its cohort born on or after 1st August 1996 except where—

- (i) an inspector is satisfied that the animal did not have access to the same feed as the animal in which a TSE was confirmed; or
- (ii) the animal is a bull that is kept at, and will not be removed from, a semen collection centre, but it is an offence to remove the animal from the centre except to be killed, and when it is killed the owner must ensure that the carcase is completely destroyed, and failure to do so is an offence.

(2) If the animal is not killed on the holding, an inspector must ensure that its cattle passport is stamped “Not for human consumption” and serve a notice directing the owner to consign it to other premises for killing as specified in the direction.

(3) If the test is confirmed as negative the inspector must remove all restrictions imposed because of the suspect animal and return the cattle passports.

(4) When an animal is killed under this paragraph, it is an offence to remove the body of the animal from the premises on which it was killed except in accordance with a written direction from an inspector.

(5) The appeals procedure in regulation 10 applies to a decision to kill under sub-paragraph (1) (b), and no animal may be killed until—

- (a) receipt of written notification from the person on whom the notice is served that that person has no intention to proceed with an appeal;
- (b) after the 21 day period for appeal under regulation 10 has expired; or
- (c) if there is an appeal, the appeal is refused or withdrawn.

(6) When an animal is killed under this paragraph, it is an offence to remove the carcase from the premises on which it was killed except in accordance with a written direction from an inspector.

Death while under restriction

6. If a bovine animal dies or is killed while it is under restriction for any reason under this Schedule, the owner must immediately notify the Scottish Ministers and retain the body on the premises until the owner is directed in writing to move or dispose of it by an inspector, and it is an offence not to comply with this paragraph or to fail to comply with a direction under it.

Placing on the market of progeny

7. Any person who places on the market a bovine animal in contravention of Article 15(2) (live animals, their semen, embryos and ova) of, and Chapter B of Annex VIII (conditions relating to progeny of TSE suspect or confirmed animals referred to in Article 15(2)) to, the EU TSE Regulation is guilty of an offence.

When compensation is payable

8. The Scottish Ministers must pay compensation—

- (a) when an animal is killed under this Schedule;
- (b) when an animal is to be killed under this Schedule, and has been valued for the purposes of compensation, but dies (or is killed for other reasons) after valuation; or
- (c) where an animal is subject to a movement restriction under this Schedule and has to be killed as an emergency and a veterinary surgeon has declared in writing that the animal would otherwise have been fit for human consumption in accordance with Chapter VI of Section I of Annex III to Regulation (EC) No. 853/2004 (emergency slaughter outside the slaughterhouse), in which case compensation is the market value of the body (including the blood and the hide).

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Amount of compensation payable

9.—(1) The compensation is the average price paid in Great Britain for that age and category of animal—

- (a) for a pedigree animal, in the previous 6 months before the date of its valuation; and
- (b) for any other bovine animal, in the previous month before the date of its valuation.

(2) A pedigree animal is one for which a pedigree certificate has been issued by a breeders' organisation or association that fulfils the conditions of Commission Decision [84/247/EEC](#) laying down the criteria for the recognition of breeders' organisations and associations which maintain or establish herd-books for pure-bred breeding animals of the bovine species⁽¹⁾.

(3) The Scottish Ministers must categorise animals as follows, and for the purposes of determining which category the animal falls into, the age of the animal is the age, as shown by its cattle passport, at the date on which the notice of intention to kill was served—

<i>Categories</i>	
<i>Male</i>	<i>Female</i>
Beef Sector – non-pedigree animal	
Up to and including 3 months	Up to and including 3 months
Over 3 months up to and including 6 months	Over 3 months up to and including 6 months
Over 6 months up to and including 9 months	Over 6 months up to and including 9 months
Over 9 months up to and including 12 months	Over 9 months up to and including 12 months
Over 12 months up to and including 16 months	Over 12 months up to and including 16 months
Over 16 months up to and including 20 months	Over 16 months up to and including 20 months
Over 20 months—	Over 20 months—
Breeding bulls	Calved
Other	Not calved
Dairy Sector – non-pedigree animal	
Up to and including 3 months	Up to and including 3 months
Over 3 months up to and including 6 months	Over 3 months up to and including 6 months
Over 6 months up to and including 12 months	Over 6 months up to and including 12 months
Over 12 months up to and including 16 months	Over 12 months up to and including 16 months
Over 16 months up to and including 20 months	Over 16 months up to and including 20 months
Over 20 months	Over 20 months—
	Calved
	Not calved
Beef Sector – pedigree animal	

(1) O.J. No. L 125, 12.5.1984, p.58, amended by Commission Decision (EC) No. [2007/371/EC](#) (O.J. L 140, 1.6.2007, p.49).

<i>Categories</i>	
<i>Male</i>	<i>Female</i>
6 months up to and including 12 months	6 months up to and including 12 months
Over 12 months up to and including 24 months	Over 12 months up to and including 24 months
Over 24 months	Over 24 months (not calved) Calved under 36 months Calved 36 months and over
Dairy Sector – pedigree animal	
Up to and including 2 months	Up to and including 2 months
Over 2 months up to and including 12 months	Over 2 months up to and including 10 months
Over 12 months up to and including 24 months	Over 10 months up to and including 18 months
Over 24 months	Over 18 months (not calved) Calved under 36 months Calved 36 months and over.

Exceptions

10.—(1) Where the Scottish Ministers consider that the data to calculate the average price is inadequate, they may pay compensation at—

- (a) for animals in that category, the most recent previously calculated average price for which there was sufficient data to calculate the average price; or
- (b) for the individual animal, the market value.

(2) For buffalo or bison, compensation is the market value.

(3) The market value is the price that might reasonably have been obtained for the individual animal—

- (a) from a purchaser in the open market;
- (b) at the time of valuation;
- (c) on the assumption that the animal was not from a herd affected by a TSE; and
- (d) calculated in accordance with regulation 11.

(4) Where the owner and the Scottish Ministers cannot agree on a market value, the valuation must be carried out in accordance with the procedure laid down in regulation 11(3) to (8) with the owner paying any valuation fee arising.