

2019 No. 118

ANIMALS

**The Transmissible Spongiform Encephalopathies (Scotland)
Amendment Regulations 2019**

<i>Made</i> - - - -	<i>26th March 2019</i>
<i>Laid before the Scottish Parliament</i>	<i>28th March 2019</i>
<i>Coming into force</i> - -	<i>23rd May 2019</i>

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

The Scottish Ministers have carried out 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 matter of food safety(b).

Citation and commencement

1. These Regulations may be cited as the Transmissible Spongiform Encephalopathies (Scotland) Amendment Regulations 2019 and come into force on 23 May 2019.

Amendment of the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010

2. The Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010(c) are amended in accordance with regulations 3 to 10.

3.—(1) In regulation 2 (interpretation), paragraph (1) is amended as follows.

(2) In the definition of “Regulation (EC) No. 853/2004”—

- (a) in paragraph (b), at the end insert “, as last amended by Commission Implementing Regulation (EU) No 1223/2011(d)”,
- (b) in paragraph (c), for “and” substitute “, as last amended by Commission Regulation (EU) 2017/1980(e)”,

(a) 1972 c.68. Section 2(2) was amended by paragraph 15(3) of schedule 8 of the Scotland Act 1998 (c.46) (“the 1998 Act”) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by section 3(3) and Part 1 of the schedule of the European Union (Amendment) Act 2008 (c.7). The functions conferred upon the Minister of the Crown under section 2(2), insofar as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. Paragraph 1A of schedule 2 was inserted by section 28 of the 2006 Act and was amended by the 2008 Act, schedule, Part 1.

(b) OJ L 031 1.2.2002, p.1.

(c) S.S.I. 2010/177 amended by S.S.I. 2011/171, S.S.I. 2013/307 and S.S.I. 2015/100.

(d) OJ L 314, 29.11.2011, p.12.

(e) OJ L 285, 01.11.2017, p.8.

- (c) omit paragraph (d).
- (3) In the definition of “Regulation (EC) No. 882/2004”—
- (a) in paragraph (a), insert at the end “, as last amended by Commission Regulation (EU) 2017/1980; and”,
 - (b) omit paragraph (b),
 - (c) in paragraph (c), insert at the end “, as last amended by Commission Implementing Regulation (EU) 2019/35(a)”.
- (4) In the definition of “Regulation (EC) No 1069/2009” insert at the end “, as last amended by Regulation (EU) No 2017/625(b)”.
- (5) In the definition of “Regulation (EU) No 142/2011” omit “as last amended by Commission Regulation (EU) No 717/2013”.
- 4.** In regulation 3 (appointment of competent authority) after “to” insert “paragraphs 1 to 18 of”.
- 5.—**(1) Regulation 15 (notices) is amended as follows.
- (2) In paragraph (1)—
- (a) the word “or” following sub-paragraph (c) is omitted,
 - (b) after sub-paragraph (d) insert—
 - “(e) the occupier or person in charge of any holding, vehicle or container to which the these Regulations apply; or
 - (f) the occupier of a slaughterhouse.”.
- (3) In paragraph (3)—
- (a) the word “or” at the end of sub-paragraph (g) is omitted,
 - (b) after sub-paragraph (h) insert—
 - “(i) require that a person does not feed any animal protein or feedingstuffs that may contain animal protein to livestock;
 - (j) require that all or any part of the holding, vehicle, vessel or container (and any associated equipment) is cleansed and disinfected where the inspector suspects there is a risk to animal or human health; or
 - (k) require an occupier of a slaughterhouse—
 - (i) to take a sample from any bovine animal in accordance with paragraph 8 of Part 1 of schedule 2, or
 - (ii) to permit an official veterinarian to take brain stem samples from an bovine animal in accordance with paragraph 8 of Part 1 of schedule 2.”.
- 6.—**(1) Schedule 2 (TSE monitoring) is amended as follows.
- (2) In Part 1 (monitoring for TSE) omit—
- (a) paragraph 1 (notification of the body of a goat),
 - (b) paragraph 12 (slaughter of bovine animals).
- (3) Omit Part 2 (contents of the RMOP).
- 7.—**(1) Schedule 4 (control and eradication of TSE in sheep and goats) is amended as follows.
- (2) In paragraph 4 (movement restrictions), for “Chapter A” in each place where it occurs substitute “Chapter B”.

(a) OJ L 9, 11.1.2019, p.77.
 (b) OJ L 94, 7.4.2017, p.1.

- (3) In paragraph 6 (action following confirmation of TSE in sheep)—
- (a) in sub-paragraph (1)(a) for “Article 2.3(b) of, and point 1(b) of Chapter A” substitute “point 2.2 of Chapter B”,
 - (b) in sub-paragraph (1), and in sub-paragraph (2), for “point 2.3(b)(i) or (ii) of Chapter A” substitute “point 2.2 of Chapter B”.
- (4) In paragraph 7 (confirmation of TSE in goats), in sub-paragraph (2)—
- (a) for “point 1(b) of Chapter A” substitute “point 2.2 of Chapter B”,
 - (b) for “point 2.3(b)(i) of Chapter A” substitute “point 2.2 of Chapter B”.
- (5) In paragraph 9 (inability to exclude BSE in sheep or goats), in sub-paragraph (2)—
- (a) for “point 1(b) of Chapter A” substitute “point 2.2 of Chapter B”,
 - (b) for “point 2(3)(a) of Chapter A” substitute “point 2.2.1 of Chapter B”.
- (6) For paragraph 10 (confirmation of atypical scrapie in sheep or goats) substitute—

“Confirmation of atypical scrapie in sheep or goats

10. If the TSE is confirmed in a suspect sheep or goat as atypical scrapie, but BSE is excluded, the Scottish Ministers, after carrying out an inquiry, must serve a notice informing the occupier that the holding will be subject to intensified TSE monitoring in accordance with Annex 7 to the EU TSE Regulation.”.

(7) In paragraph 13 (killing and destruction following confirmation), in sub-paragraph (1) for “, 9(2) or 10(4)” substitute “or 9(2)”.

(8) In paragraph 14 (animals from another holding) for “point 2.4 of Chapter A” substitute “point 2.2 of Chapter B”.

(9) For paragraph 15 (common grazing) substitute—

“Common grazing

15. In the case of any animal with a TSE on common grazing, the Scottish Ministers may limit movement restrictions and killing to an individual flock or herd.”.

(10) For paragraph 16 (multiple flocks on a holding) substitute—

“Multiple flocks on a holding

16. Where more than one flock or herd is kept on a single holding, the Scottish Ministers may limit movement restrictions and killing to an individual flock or herd.”.

(11) In paragraph 18 (introduction of animals onto a holding) for “point 3.1 of Chapter A” substitute “point 3.2 of Chapter B”.

(12) In paragraph 19 (use of ovine germinal products) for “point 3.2 of Chapter A” substitute “point 3.3 of Chapter B”.

(13) In paragraph 20 (movement of animals from a holding) for “point 3.3 of Chapter A” substitute “point 3.4 of Chapter B”.

(14) In paragraph 21 (period of movement restrictions) for “point 3.4 of Chapter A” substitute “point 3.5 of Chapter B”.

8. For schedule 6 (feedingstuffs) substitute the schedule which is set out in the schedule of these Regulations.

9.—(1) Schedule 7 (specified risk material, mechanically separated meat and slaughtering techniques) is amended as follows.

(2) For paragraph 2 (training) substitute—

“Training

2. The occupier of any slaughterhouse or cutting plant where specified risk material is removed must ensure that staff receive any training necessary to comply with the occupier’s duties under this schedule; and failure to do so is an offence.”.

(3) In paragraph 6 (head meat harvesting), after “point 8.1” insert “or point 9”.

(4) In paragraph 8 (bovine animals in a slaughterhouse)—

(a) in sub-paragraph (1)—

(i) after “specified risk material”, in the first place where it occurs, insert “from the carcase”,

(ii) omit “and specified risk material contained in or attached to offal”,

(b) in sub-paragraph (2)(b) at the end insert “from the remaining offal”,

(c) omit sub-paragraph (4),

(d) for sub-paragraph (5) substitute—

“(5) In accordance with point 11.3(a) of Annex V to the EU TSE Regulation, when the removal of the vertebral column is required, carcasses or wholesale cuts of carcasses of bovine animals containing vertebral column must be identified by a clearly visible red stripe on the label referred to in that point.”.

(5) In paragraph 9 (sheep and goats in a slaughterhouse)—

(a) in sub-paragraph (1)—

(i) after “specified risk material”, in the first place where it occurs, insert “from the carcase”,

(ii) omit “and specified risk material contained in or attached to offal”,

(b) in sub-paragraph (2)(b), at the end insert “from the remaining offal”.

(6) In paragraph 11 (young lamb and goat stamps), in paragraph (2)(a), for “MHS” substitute “FSS”.

(7) In paragraph 12 (removal of spinal cord material from sheep and goats)—

(a) in sub-paragraph (a) omit “or”,

(b) after sub-paragraph (b) insert—

“or

(c) an alternative method authorised in accordance with paragraph 12A.

Authorisation of alternative method of removal

12A. Food Standards Scotland may authorise an alternative method of removal at specified premises provided that the occupier of those premises demonstrates to the satisfaction of Food Standards Scotland that—

(a) the method is appropriate to achieve the objectives of the EU TSE Regulation;

(b) the equipment used to carry out the removal is fully effective; and

(c) the persons using the equipment are properly trained and skilled in its use and maintenance.”.

(8) In paragraph 13 (authorisation of cutting plants by Food Standards Scotland), for sub-paragraph (1), substitute—

“(1) If Food Standards Scotland is satisfied that the provisions of Annex 5 to the EU TSE Regulation and this schedule will be complied with, Food Standards Scotland may authorise a cutting plant to:

- (a) remove those parts of the vertebral column of bovine animals that are specified risk material;
- (b) remove the spinal cord from sheep and goats aged over 12 months at slaughter, or that have a permanent incisor erupted through the gum; and
- (c) harvest the head meat from bovine animals in accordance with point 9 of Annex V.”.

(9) In paragraph 16 (staining and disposal of specified risk material), for sub-paragraph (2)(a), substitute—

“(a) indelible staining must involve treating the material (whether by immersion, spraying or other application) with a blue colouring agent using a solution of such a strength that the staining is clearly visible and remains visible after the specified risk material has been chilled or frozen; and”.

(10) After paragraph 18 (prohibition on the sale, supply or possession for sale or supply of specified risk material for human consumption) insert—

“Determination of the age of sheep or goats

19. For the purposes of this schedule, “aged over 12 months” means that the age of the animal has been determined to be over 12 months in accordance with a method of ageing approved by the Scottish Ministers.”.

10. In schedule 8 (restrictions on placing on the market and export), in paragraph 1(2) after “point 1 (a) of” insert “Chapter B of”.

St Andrew’s House,
Edinburgh
26th March 2019

MAIRI GOUGEON
Authorised to sign by the Scottish Ministers

SCHEDULE

Regulation 8

“SCHEDULE 6

Regulation 5(e)

Feedingstuffs

Killing of animals that have had access to unlawful feedingstuffs

1.—(1) Where an inspector has reasonable grounds to believe that an animal has been fed or has had access to any material prohibited by Article 7 of, and listed in Annex 4 to, the EU TSE Regulation (referred to in this schedule as unlawful feedingstuffs), that inspector may serve a notice on the owner or person in charge of the animal in accordance with sub-paragraph (2).

(2) The notice may require the owner or person in charge of the animal to—

- (a) kill the animal and dispose of it, as specified in the notice; or
- (b) keep the animal on such holding and in such manner as the notice provides.

(3) Where a bovine animal is required by notice to be killed an inspector must ensure that the relevant cattle passport is stamped “Not for human consumption”.

(4) Any animal the cattle passport for which has been stamped under sub-paragraph (2) must not be consigned for slaughter for human consumption.”.

Compensation

2.—(1) Where an animal is killed because an inspector has reasonable grounds to believe that a TSE susceptible animal has been fed or has had access to unlawful feedingstuffs which consist of—

- (a) specified risk material,
- (b) any material that the inspector has reasonable grounds to believe carries the risk of TSE infectivity, or
- (c) animal protein for which the inspector cannot establish the origin of the TSE infectivity risk,

the Scottish Ministers may pay compensation in accordance with sub-paragraph (4) if the Scottish Ministers consider it appropriate in all the circumstances.

(2) The Scottish Ministers must give notice of any decision to pay compensation in writing to the owner of the animal.

(3) The appeal procedure in regulation 10 applies in relation to any such decision.

(4) The compensation for—

- (a) a bovine animal is the value established in accordance with schedule 3;
- (b) an ovine or caprine animal is the value established in accordance with paragraph 24 of schedule 4; and
- (c) an animal that is not bovine, ovine or caprine, is the market value of the animal calculated in accordance with paragraph 4 of schedule 5.

Restriction and disposal of unlawful feedingstuffs

3.—(1) Where unlawful feedingstuffs have been identified by an inspector as suspected of containing material prohibited by Article 7 of, and listed Annex 4 to, the EU TSE Regulation, an inspector may serve a notice on the owner or person in possession of the feedingstuffs.

- (2) The notice may require the owner or person in possession of the feedingstuffs to—
- (a) restrict access by animals to the area where the feedingstuffs are stored;
 - (b) prevent the feedingstuffs being fed to animals generally, or prevent it being fed to those animals specified in the notice;
 - (c) require disposal of the feedingstuffs by the owner or person in possession of the feedingstuffs in accordance with instructions contained in the notice, with the cost of such disposal being borne by the recipient of the notice.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010 (S.S.I. 2010/177) (“the 2010 Regulations”). The 2010 Regulations implement 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 (OJ No L 147, 31.5.2001, p.1) (“the EU TSE Regulation”).

The EU TSE Regulation has been subsequently updated and so these Regulations make consequential amendments to the 2010 Regulations and fix out of date references.

Regulation 3 amends regulation 2 of the 2010 Regulation (interpretation) so that the definitions of certain EU instruments are up to date.

Regulation 4 amends regulation 3 of the 2010 Regulations (appointment of competent authority) to provide that the Scottish Ministers are the competent authority for the purposes of paragraph (19) of schedule 7.

Regulation 5 amends regulation 15 of the 2010 Regulation (notices) to make provision for the serving of notices under that regulation.

Regulations 6, 7, 8, 9 and 10 make consequential amendments to schedules 2, 4, 6, 7 and 8 of the 2010 Regulations.

Regulation 9(10) inserts a new paragraph (19) into schedule 7 of the 2010 Regulations. This provides that the term “aged over 12 months”, when it appears in that schedule, means that the age of the animal in question has been determined in accordance with a method which has been approved by the Scottish Ministers.

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