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STATUTORY INSTRUMENTS

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**1988 No. 2299**

**ANIMALS**

**ANIMAL HEALTH**

**The Bovine Spongiform Encephalopathy (No. 2) Order 1988**

*Made - - - - 27th December 1988*

*Coming into force - - 30th December 1988*

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for Wales, acting jointly, in exercise of the powers conferred on them by sections 1, 7(1), 8(1), 15(4), 32(2), 72, 86(1), 87(2) and (4) and 88(2) of the Animal Health Act 1981<sup>(1)</sup> and of all other powers enabling them in that behalf, hereby make the following Order:

**Title and commencement**

1. This Order may be cited as the Bovine Spongiform Encephalopathy (No. 2) Order 1988 and shall come into force on 30th December 1988.

**Extension of definition of “disease”**

2. For the purposes of the Act the definition of “disease” in section 88(1) of the Act is hereby extended so as to comprise bovine spongiform encephalopathy.

**Interpretation**

3.—(1) In this Order, unless the context otherwise requires—

“the Act” means the Animal Health Act 1981;

“affected animal” means a bovine animal which is affected with the disease;

“animals” means bovine animals, sheep, goats, deer and all other ruminating animals;

“animal protein” means any protein material which is derived from a carcass but does not include milk or any milk product or dicalcium bone phosphate;

“appropriate Minister” means, in relation to England, the Minister, and in relation to Scotland or to Wales, the Secretary of State;

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(1) 1981 c. 22; section 86(1) contains a definition of “the Ministers” relevant to the exercise of the statutory powers under which this Order is made; sections 1, 7(1), 8(1), 72, 86(1), 87(2) and (4) and 88(2) were applied to bovine spongiform encephalopathy by the Zoonoses Order 1988 (S.I.1988/2264).

“bovine animal” means a bull, cow, steer, heifer or calf;

“carcase”, except in the definition of animal protein, means the carcase of a bovine animal and includes part of a carcase, and the meat, blood, bones, hair, hide, horn, hooves, offal or other part of a bovine animal, separately or otherwise, or any portion thereof and the intestinal contents of a bovine animal; and in the definition of animal protein “carcase” means the carcase of an animal and includes part of a carcase, and the meat, blood, bones, hair, wool, hide, skin, horn, hooves, offal or other part of an animal, separately or otherwise, or any portion thereof;

“the disease” means bovine spongiform encephalopathy;

“Divisional Veterinary Officer” means the veterinary inspector appointed for the time being by the Minister to receive information about affected or suspected animals, or the carcasses of such animals, for the area in which such animals or carcasses are;

“inspector” means a person appointed to be an inspector for the purposes of the Act by the Minister or by a local authority, and, when used in relation to an officer of the Ministry, includes a veterinary inspector;

“market” means a market, fairground, sale-yard or any other place where bovine animals are commonly exposed for sale;

“the Minister” and “the Ministry” means respectively the Minister and the Ministry of Agriculture, Fisheries and Food;

“premises” includes land;

“research establishment” means an establishment carrying out research into the disease;

“suspected animal” means a bovine animal which is suspected of being affected with the disease;

“slaughterhouse” means—

- (a) in relation to England and Wales, a slaughterhouse or knacker’s yard as defined in section 34 of the Slaughterhouse Act 1974(2), and
- (b) in relation to Scotland, a slaughterhouse as defined in section 22 of the Slaughter of Animals (Scotland) Act 1980(3);

“veterinary inspector” means a veterinary inspector appointed by the Minister;

“veterinary surgeon” means a person registered in the register of veterinary surgeons or in the supplementary veterinary register.

(2) Any reference in this Order to a lettered form is a reference to the form bearing that letter in the Schedule to this Order.

#### **Notification of disease in bovine animals**

4.—(1) A person who has in his possession or under his charge an affected or a suspected animal, or the carcase of such an animal, and any veterinary surgeon or other person who, in the course of his duties, examines or inspects any such animal or carcase shall, with all practicable speed, notify the fact to the Divisional Veterinary Officer.

(2) A person who has in his possession or under his charge on any premises an affected or a suspected animal, or the carcase of such an animal, shall detain it on the premises until it has been examined by a veterinary inspector.

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(2) 1974 c. 3.  
(3) 1980 c. 13.

### **Application of section 32 of the Act to the disease and notice of intended slaughter**

5.—(1) Section 32 of the Act, which enables the Minister to cause animals to be slaughtered on account of disease, shall apply to the disease.

(2) Where the Minister proposes to cause an affected or a suspected animal to be slaughtered under the powers conferred on him by section 32 of the Act in its application to the disease a veterinary inspector shall serve a notice of intended slaughter in Form C on the owner or person in charge of the animal.

### **Veterinary enquiry as to existence of disease and requirements as respects affected or suspected animals**

6.—(1) If a veterinary inspector has reasonable grounds for supposing that the disease exists or has within 56 days existed on any premises he shall, with all practicable speed, take such steps as may be necessary to establish the correctness of that supposition.

(2) For the purposes of such an enquiry a veterinary inspector may—

- (a) examine any bovine animal or carcase on the premises;
- (b) make such tests and take such samples from any bovine animal or carcase on the premises as he may consider necessary for the purpose of diagnosis;
- (c) mark for identification purposes any bovine animal or carcase on the premises.

(3) The occupier of the premises and his employees, and any person who is or has been in possession or charge of any animal or carcase which is or has been on the premises, shall—

- (a) provide such reasonable facilities and comply with such reasonable requirements as are necessary for the purposes of the enquiry; and
- (b) if so required by an inspector of the Minister or by an officer of the appropriate Minister, give such information as he possesses as to—
  - (i) any animal or carcase which is or has been on the premises;
  - (ii) any other animal or carcase with which any animal or carcase which is or has been on the premises may have come into contact, and
  - (iii) the location and movement of any animal or carcase which is or has been in his possession or charge.

(4) If, on completion of the enquiry, the veterinary inspector is of the opinion that there is an affected or a suspected animal on the premises he shall serve a notice in Form A on the owner or person in charge of that animal.

- (a) (5) (a) Subject to sub-paragraph (b) below, a notice in Form A shall remain in force for a period of 28 days from the date specified in the notice unless renewed for a further period of 28 days beginning with the day on which it would otherwise have expired by a further notice in writing served by a veterinary inspector on the owner or person in charge of such animal before or on the day on which the notice in Form A was due to expire; and any notice in Form A which has been so renewed may be further renewed from time to time by a veterinary inspector in a similar manner and for a similar period.
- (b) A notice in Form A may at any time be withdrawn by a notice in Form B served by a veterinary inspector on the owner or person in charge of the animal to which the notice in Form A relates.

(6) On the service of a notice in Form A the requirements contained in that notice shall have effect.

### **Restrictions on movement of other bovine animals**

7.—(1) If a veterinary inspector has reasonable grounds for supposing that the movement of any bovine animal, other than an affected or a suspected animal, from any premises may give rise to the risk of the spread of the disease he may, by notice in writing served on the owner or person in charge of the animal, prohibit the movement of the animal off the premises, except under the authority of a licence issued by an officer of the appropriate Minister and in accordance with any conditions subject to which the licence is issued.

(2) A notice served under paragraph (1) above shall continue in force until withdrawn by a further notice in writing served by a veterinary inspector on the owner or person in charge of the animal to which that notice relates.

### **Prohibition of sale, supply and use of certain feedingstuffs for feeding to ruminating animals**

8.—(1) No person shall knowingly sell or supply for feeding to animals any feedingstuff in which he knows or has reason to suspect any animal protein has been incorporated.

(2) Subject to paragraph (3) below, no person shall feed to an animal any feedingstuff in which he knows or has reason to suspect that any animal protein has been incorporated.

(3) The prohibition in paragraph (2) above shall not apply to the feeding of a feedingstuff to an animal for research purposes under the authority of a licence issued by a veterinary inspector and in accordance with any conditions subject to which the licence is issued.

(4) This article shall cease to have effect on 1st January 1990.

### **Prohibition of sale, supply and use of milk from affected or suspected animals**

9.—(1) No person shall knowingly—

- (a) sell or supply for human consumption or for feeding to an animal; or
- (b) use in the manufacture of any product for sale or supply for human consumption or for feeding to an animal,

any milk which he knows or has reason to suspect has been produced by an affected or a suspected animal.

(2) Subject to paragraph (3) below, no person shall feed to an animal any milk which he knows or has reason to suspect has been produced by an affected or a suspected animal.

(3) The prohibition in paragraph (2) above shall not apply—

- (a) to the feeding to its own calf of any milk produced by a cow; or
- (b) to the feeding of any milk to an animal, in a research establishment under the authority of a licence issued by a veterinary inspector and in accordance with any conditions subject to which the licence is issued.

(4) In this article “animal” means any kind of mammal, except man, and any kind of four-footed beast which is not a mammal and any bird.

### **Cleansing and disinfection**

10.—(1) A veterinary inspector may serve on the occupier of any premises on which there is or has within 56 days been an affected or a suspected animal, or the carcass of such an animal, a notice requiring him to cleanse and disinfect, at his own expense, and in such a manner and within such period as may be specified in the notice,—

- (a) all or any part of the premises;

- (b) any equipment, appliance, utensil or other thing used in connection with any such animal or carcase.

(2) If any person on whom a notice is served under paragraph (1) above fails to comply with the requirements of the notice, an inspector may, without prejudice to any proceedings arising out of such default, carry out or cause to be carried out the requirements of the notice, and the amount of any expenses reasonably incurred by the inspector in doing so shall be recoverable by the appropriate Minister or, as the case may be, by the local authority as a civil debt from the person in default.

### **Sampling**

**11.** Where an inspector of the Minister has reasonable grounds for supposing that the provisions of article 8 of this Order have not been or are not being complied with he may take from any feedingstuff such samples as he considers necessary in order to establish the correctness of that supposition.

### **Production of licences**

**12.** Where an animal or carcase is being moved under the authority of a licence issued under this Order the person in charge of the animal or carcase being so moved shall carry the licence during the authorised movement and shall, on demand made by an inspector or by a member of a police force, produce the licence and allow a copy or extract to be taken, and shall also, on such demand, furnish his name and address.

### **Offences**

**13.** Any person who, without lawful authority or excuse, proof of which shall lie on him—

- (a) defaces, obliterates or removes any mark applied to any bovine animal or carcase under article 6(2)(c) of this Order;
- (b) contravenes any provision of this Order or any provision of a licence issued, or of a notice served, under this Order;
- (c) fails to comply with any such provision or with any condition of such a licence or notice; or
- (d) knowingly causes or permits any such contravention or non-compliance,

commits an offence against the Act.

### **Local authority to enforce Order**

**14.** The provision of this Order shall, except where otherwise provided, be executed and enforced by the local authority.

### **Revocation**

**15.** The Bovine Spongiform Encephalopathy Order 1988(4), the Bovine Spongiform Encephalopathy (Amendment) Order 1988(5) and article 4 of the Zoonoses Order 1988(6) are hereby revoked.

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(4) S.I. 1988/1039.

(5) S.I. 1988/1345.

(6) S.I. 1988/2264.

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In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 21st December 1988.

L.S.

*Trumpington*  
Parliamentary Secretary, Ministry of Agriculture,  
Fisheries and Food

22nd December 1988

*Sanderson of Bowden*  
Minister of State, Scottish Office

27th December 1988

*Peter Walker*  
Secretary of State for Wales

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## SCHEDULE

### FORM A ANIMAL HEALTH ACT 1981 THE BOVINE SPONGIFORM ENCEPHALOPATHY (No. 2) ORDER 1988 (Article 6) NOTICE IMPOSING REQUIREMENTS AS RESPECTS AN AFFECTED OR SUSPECTED ANIMAL

To .....

of .....

.....

I, the undersigned, being a veterinary inspector of the Ministry of Agriculture, Fisheries and Food, hereby give you notice in accordance with the provisions of the above Order that, as the owner/  
\*person in charge of the bovine animal specified below, you are required:

- (a) to detain the said animal on the premises known as (insert description of premises including full postal address) .....

.....  
except that the animal may be—

- (i) slaughtered on such premises,
  - (ii) moved off such premises direct to a research establishment under the authority of a licence issued by a veterinary inspector and in accordance with any conditions subject to which the licence is issued, or
  - (iii) in the case of an animal in a slaughterhouse or market, moved direct to its farm of origin under the authority of a licence issued by a veterinary inspector and in accordance with any conditions subject to which the licence is issued;
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- (b) in the event of the said animal dying (otherwise than as a result of being slaughtered) on such premises, to immediately inform the Divisional Veterinary Officer of this fact and to retain the carcass of the animal and to surrender it to a veterinary inspector on request;
- (c) in the event of the said animal dying or being slaughtered on the premises—
  - (i) to dispose of the carcass of the animal on the premises if so required by a veterinary inspector, and
  - (ii) except where it is surrendered to a veterinary inspector in accordance with paragraph (b) above, not to permit the carcass of the animal to be moved off the premises except under the authority of a licence issued by a veterinary inspector and in accordance with any conditions subject to which the licence is issued;
- (d) in the event of the said animal being pregnant to ensure—
  - (i) that it is isolated from all other bovine animals on the said premises during the period of calving and for 72 hours afterwards in accommodation which has been approved by a veterinary inspector for this purpose,
  - (ii) that its placenta, discharges and bedding are buried or burnt, and
  - (iii) that the accommodation used for its calving is cleansed and disinfected in accordance with the directions of a veterinary inspector.

This notice remains in force for a period of 28 days from ..... 19..... but may be renewed by a subsequent notice served by a veterinary inspector.

Breach of the requirements of this notice may constitute an offence against the Animal Health Act 1981 and render a person liable to penalties on conviction.

The bovine animal to which this notice applies is specified in the table below.

<i>Official ear mark</i>	<i>Description of bovine animal to include age, breed and sex</i>

Signed ..... Dated ..... 19.....

Name in block letters .....

Official address .....

\*delete as appropriate

NOTE: Article 9 of the Bovine Spongiform Encephalopathy (No. 2) Order 1988 prohibits the feeding to animals of any milk from an affected or a suspected animal, except that milk from a cow may be fed to its own calf.

FORM BANIMAL HEALTH ACT 1981THE BOVINE SPONGIFORM ENCEPHALOPATHY (No. 2) ORDER 1988(Article 6)WITHDRAWAL OF NOTICE IMPOSING REQUIREMENTS AS RESPECTS AN AFFECTED OR SUSPECTED ANIMAL

To .....

of .....

.....



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I, the undersigned, being a veterinary inspector of the Ministry of Agriculture, Fisheries and Food, hereby willidraw as from this ..... day of ..... 19..... the notice in Form A relating to the bovine animal specified below, signed by ..... and served on you on the ..... day of ..... 19.....

The bovine animal to which the notice in Form A which is withdrawn by this notice applies is specified in the table below.

<i>Official ear mark</i>	<i>Description of bovine animal to include age, breed and sex</i>
.....	.....

Signed ..... Dated ..... 19.....

Name in block letters .....

Official address .....

.....

FORM CANIMAL HEALTH ACT 1981THE BOVINE SPONGIFORM ENCEPHALOPATHY (No. 2) ORDER 1988(Article 5(2))NOTICE OF INTENDED SLAUGHTER

To .....

of .....

.....

I, the undersigned, being a veterinary inspector of the Ministry of Agriculture, Fisheries and Food, hereby give you notice that the Minister proposes to cause the bovine animal specified below, which is affected/\*suspected of being affected with bovine spongiform encephalopathy, to be slaughtered as soon as possible under the powers conferred on him by section 32 of the above Act in its application to that disease.

The bovine animal to which this notice applies is specified in the table below.

<i>Official ear mark</i>	<i>Description of bovine animal to include age, breed and sex</i>
.....	.....

Signed ..... Dated ..... 19.....

Name in block letters .....

Official address .....

.....

\* delete as appropriate

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order revokes and re-enacts, with certain amendments, the provisions of the Bovine Spongiform Encephalopathy Order 1988 (“the principal Order”) as amended.

The Order continues to provide for—

- (a) the compulsory notification of bovine spongiform encephalopathy (“the disease”) in bovine animals (article 4);
- (b) the application of section 32 of the Animal Health Act 1981 (power to slaughter animals) to the disease and the service by a veterinary inspector of a notice of intended slaughter (in Form C) on the owner of any bovine animal which is affected, or suspected of being affected, with the disease and which the Minister proposes to cause to be slaughtered under the powers conferred on him under section 32 of the Act in its application to the disease (article 5);
- (c) the investigation by a veterinary inspector into the existence of the disease and the examination by him of bovine animals and their carcasses for this purpose (article 6(1), (2) and (3));
- (d) the imposition (by a notice in Form A served by a veterinary inspector) of certain requirements, including a prohibition on movement except under licence, in respect of a bovine animal which is affected, or suspected of being affected, with the disease (article 6(4), (5) and (6));
- (e) the prohibition (by a notice in writing served by a veterinary inspector) of the movement of any bovine animal, except under licence, where this may give rise to the risk of the spread of the disease (article 7);
- (f) the prohibition (which will now cease to have effect on 1st January 1990 instead of 1st January 1989 and which is now subject to one exemption) of (1) the sale and supply for feeding to ruminating animals of any feedingstuff in which any animal protein (as defined in the Order) has been incorporated and (2) the feeding to ruminating animals of any such feedingstuff (article 8);
- (g) the cleansing and disinfection of premises and of equipment used in connection with a bovine animal or carcass which is affected or suspected of being affected with the disease (article 10); and
- (h) sampling of feedingstuffs, production of licences issued for the movement of bovine animals and carcasses and offences (articles 11, 12 and 13).

The only changes of substance made to the principal Order are the inclusion of prohibitions on (1) the sale and supply for human consumption or for feeding to animals or birds of any milk from a bovine animal which is affected or suspected of being affected with the disease (2) the use of any such milk in the manufacture of any product for sale or supply for human consumption or for feeding to animals or birds and (3) the feeding (subject to certain exemptions) of any such milk to animals or birds (article 9).