
STATUTORY INSTRUMENTS

2018 No. 731

The Transmissible Spongiform Encephalopathies (England) Regulations 2018

PART 3

Administration and enforcement

Approvals, authorisations, licences and registrations

7.—(1) The Secretary of State must grant an approval, authorisation, licence or registration under these Regulations if satisfied that the relevant TSE requirements will be complied with.

(2) An approval, authorisation, licence or registration must be in writing and must specify—

- (a) the address of the holding;
- (b) the name of the occupier;
- (c) the purpose for which the approval, authorisation, licence or registration (as the case may be) is granted.

(3) An approval, authorisation, licence or registration may be made subject to such conditions as are necessary to—

- (a) ensure compliance with the TSE requirements;
- (b) protect public or animal health.

(4) The Secretary of State must give written reasons for any refusal to grant an approval, authorisation, licence or registration, and explain that the applicant has the right to make written representations to a person appointed by the Secretary of State in accordance with regulation 11.

Occupier's duty

8. The occupier of any holding approved, authorised, licensed or registered under these Regulations must ensure that—

- (a) the holding is maintained and operated in accordance with—
 - (i) any condition of the approval, authorisation, licence or registration (as the case may be),
 - (ii) the TSE requirements, and
- (b) any person employed by them, and any person permitted to enter the holding, complies with those conditions and requirements.

Suspension and amendment

9.—(1) The Secretary of State may suspend or amend an approval, authorisation, licence or registration granted under these Regulations if—

- (a) any of the conditions under which it was granted is not fulfilled, or

- (b) the Secretary of State is satisfied that the TSE requirements are not being complied with.
- (2) The Secretary of State may amend an approval, authorisation, licence or registration granted under these Regulations if the Secretary of State considers it necessary in light of technical or scientific developments.
- (3) A suspension or amendment—
 - (a) may have immediate effect if the Secretary of State considers it necessary for the protection of public or animal health;
 - (b) otherwise, may have effect after the expiration of at least 21 days.
- (4) Notification of the suspension or amendment must—
 - (a) be in writing;
 - (b) state when the suspension or amendment comes into effect;
 - (c) give reasons;
 - (d) explain that the person who has been notified has the right to make written representations to a person appointed by the Secretary of State in accordance with regulation 11.
- (5) The appeals procedure in regulation 11 applies.
- (6) If the suspension or amendment does not have immediate effect and representations are made under regulation 11, it must not have effect until the final determination by the Secretary of State of the appeal unless the Secretary of State considers that it is necessary for the protection of public or animal health for the amendment or suspension to have effect before then.

Revocations of approvals, authorisations, licences and registrations

- 10.—**(1) The Secretary of State may revoke an approval, authorisation, licence or registration granted under these Regulations if the Secretary of State is satisfied that the holding will not be operated in accordance with the TSE requirements, and if—
- (a) it is currently suspended and the period for appeal under regulation 11 has expired, or the suspension has been upheld following such appeal,
 - (b) it has been previously suspended and there is further non-compliance with the TSE requirements, or
 - (c) the Secretary of State is satisfied that the occupier no longer uses the holding for the purpose for which the approval, authorisation, licence or registration (as the case may be) was granted.
- (2) Notification of the revocation must—
- (a) be in writing;
 - (b) state when the revocation comes into effect;
 - (c) give reasons;
 - (d) explain that the person who has been notified has the right to appeal by way of written representations to a person appointed by the Secretary of State in accordance with regulation 11.
- (3) The appeals process in regulation 11 applies.
- (4) If the Secretary of State revokes an approval, authorisation, licence or registration under paragraph (1)(b) or (c) and representations are made under regulation 11, the revocation remains in force during that appeals procedure.

Appeals

11.—(1) Where a person in receipt of a notification does not agree with any action taken under these Regulations and wishes to appeal on a matter appealable under this regulation, that appellant may make written representations to a person appointed for the purpose by the Secretary of State concerning any decision of the Secretary of State within 21 days following receipt of the notification of the decision.

(2) A person involved with the making of the decision may make written submissions to the appointed person concerning the decision within 21 days of receipt of the appellant's representations.

(3) A report of the findings of the appointed person must be submitted in writing to the Secretary of State.

(4) The Secretary of State must give to the appellant written notification of the Secretary of State's final determination and the reasons for it.

(5) Unless the Secretary of State determines that action under these Regulations must be taken immediately due to a risk to public health or animal health or welfare, no action may be taken by the Secretary of State to kill any animal or destroy any thing under these Regulations until—

(a) the 21 day period has expired without any appeal being lodged;

(b) if there is an appeal, that appeal is determined or withdrawn.

Valuations

12.—(1) This regulation applies when compensation is not fixed in accordance with a procedure laid down in these Regulations and where an individual valuation is required to establish the appropriate market value.

(2) The owner and the Secretary of State may agree on an individual valuation.

(3) If the owner and the Secretary of State cannot agree on a valuation, they may jointly nominate a valuer to carry out a valuation.

(4) If the owner and the Secretary of State cannot agree on such a nomination, the President of the Royal Institution of Chartered Surveyors may nominate the valuer, and both the owner and the Secretary of State must accept that nomination.

(5) Both the owner and a representative of the Secretary of State have the right to be present at a valuation meeting.

(6) The nominated valuer must carry out the valuation and submit it and any other relevant information and documentation to the Secretary of State, and provide a copy to the owner.

(7) The submitted valuation is binding on both the owner and the Secretary of State.

(8) In this regulation, "owner" means the owner of the animal or product that is disposed of under these Regulations.

Appointment and authorisation of inspectors

13.—(1) Except as specified in paragraph (2)—

(a) a local authority may appoint inspectors,

(b) the Secretary of State may appoint inspectors and veterinary inspectors,

for the purposes of enforcing the EU TSE Regulation and these Regulations.

(2) The Food Standards Agency may appoint inspectors and veterinary inspectors for the purposes of enforcing Schedules 7 and 8 in relation to a slaughterhouse or cutting plant.

(3) The appointment of an inspector (whether under paragraph (1) or (2)) may be limited to powers and duties specified in the notification of appointment.

(4) Inspectors may be authorised by the Secretary of State or the Food Standards Agency to carry out functions specified in a letter of authorisation.

Powers of entry

14.—(1) An inspector may, on giving reasonable notice, and on producing a duly authenticated authorisation, enter any holding (except if used wholly or mainly as a private dwelling), vehicle, container, vessel or trailer at any reasonable hour for the purpose of ensuring compliance with the EU TSE Regulation and enforcing these Regulations.

(2) The requirement to give notice does not apply where—

- (a) the requirement has been waived by the occupier;
- (b) reasonable efforts to identify the occupier have failed;
- (c) reasonable efforts to agree an appointment have failed;
- (d) an inspector has reasonable suspicion of a failure to comply with the TSE requirements.

(3) A justice of the peace may sign a warrant to permit an inspector to enter any holding, vehicle, container, vessel or trailer, if necessary by reasonable force, if satisfied on sworn information in writing—

- (a) that there are reasonable grounds to enter for the purpose of executing or enforcing the TSE requirements, and
- (b) that any of the following conditions are met—
 - (i) admission has been refused, or a refusal is expected, and (in either case) notification of an application for a warrant has been given to the occupier;
 - (ii) asking for admission, or the giving of such a notification to the occupier, would defeat the object of the entry;
 - (iii) entry is required urgently;
 - (iv) the holding, vehicle, container, vessel or trailer is unoccupied or the occupier is temporarily absent.

(4) A warrant under this regulation is valid for one month.

(5) An inspector may be accompanied by such other persons as are considered necessary for the visit.

(6) If an inspector enters any unoccupied holding, or where the occupier is temporarily absent, the inspector must leave the holding (so far as reasonably practicable) effectively secured against unauthorised entry as it was before entry.

Powers of inspectors

15.—(1) In carrying out any functions under the these Regulations an inspector may—

- (a) seize any—
 - (i) animal,
 - (ii) body of an animal, and any parts of the body (including the blood and the hide) and any semen, embryo or ovum,
 - (iii) animal protein or feedingstuffs that may contain animal protein, or
 - (iv) milk or milk product,and dispose of them as necessary;
- (b) carry out any inquiries, investigations, examinations and tests;

- (c) collect, pen and inspect any animal and for this purpose may require the keeper of any such animal to arrange for the collection and penning of the animal;
 - (d) inspect any body of an animal carcase and any parts of the body (including the blood and the hide) and any semen, embryo or ovum;
 - (e) inspect any part of the holding, any equipment, facility, operation or procedure;
 - (f) take any samples, including any samples that the Secretary of State requires to be taken in compliance with the United Kingdom's obligations under Annex 3;
 - (g) seize or detain any cattle passport;
 - (h) have access to, and inspect and copy any records (in whatever form they are held) in order to determine if these Regulations are being complied with, or remove such records to enable them to be copied;
 - (i) have access to, inspect and check the operation of, any computer and any associated apparatus or material that is or has been in use in connection with any record; and for this purpose an inspector may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford such assistance as the inspector may reasonably require (including providing them with any necessary passwords) and, where a record is kept by means of a computer, may require the records to be produced in an accessible form;
 - (j) mark anything (including an animal) whether electronically or otherwise, for identification purposes;
 - (k) lock or seal any container or store.
- (2) A person must not deface, obliterate, or remove any mark or seal, or remove any lock, applied under paragraph (1)(j) or (k).
- (3) An inspector is not personally liable for anything done—
- (a) in the execution or purported execution of these Regulations, and
 - (b) within the scope of their employment,
- if the inspector acted in the honest belief that their duty under these Regulations required or entitled them to do it; but this does not affect any liability of their employer.

Notices

- 16.**—(1) If it is necessary for any reason connected with the enforcement of the TSE requirements, an inspector may serve a notice on—
- (a) the owner or keeper of any animal;
 - (b) the person in possession of the body or any part of the body of an animal (including the blood and the hide) or any semen, embryo or ovum;
 - (c) the person in possession, or supplier, of any animal protein or feedingstuffs that may contain animal protein;
 - (d) the owner, or person in possession, of any milk or milk products;
 - (e) the occupier or person in charge of any holding, vehicle or container to which the these Regulations apply;
 - (f) the occupier of a slaughterhouse.
- (2) A notice may—
- (a) require any action that an inspector reasonably believes is necessary for controlling the spread of disease;

- (b) prohibit or require the movement of any animal onto or from the holding specified in the notice;
- (c) prohibit the movement of any milk or milk products from the holding specified in the notice;
- (d) specify those parts of the holding to which an animal may or may not be allowed access;
- (e) require the killing of any animal;
- (f) prohibit or require the movement onto or from the holding specified in the notice of the body or any part of the body (including the blood and the hide) of any animal, any animal protein or feedingstuffs that may contain animal protein, and any animal semen, embryo or ovum;
- (g) require the disposal of the body or any part of the body (including the blood and the hide) of any animal (whether or not it is one that was required to be detained), and any semen, embryo, ovum, milk or milk product as may be specified in the notice;
- (h) require the disposal of any animal protein or feedingstuffs that may contain animal protein, or specify how they are to be used;
- (i) require that a person does not feed any animal protein or feedingstuffs that may contain animal protein to livestock, or may require that it is recalled;
- (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
- (k) require an occupier of a slaughterhouse—
 - (i) to take a sample from bovine animals in accordance with paragraph 6 of Schedule 2, or
 - (ii) to permit an official veterinarian to take brain stem samples from an ovine animal in accordance with paragraph 6 of Schedule 2.
- (3) A notice must be in writing, and specify—
 - (a) the reason for the service of the notice;
 - (b) the measures which that person must take;
 - (c) any time limit for taking particular measures.
- (4) Any notice or licence may be amended, suspended or revoked in writing at any time.
- (5) A person must comply with the terms of a notice at their own expense, and if there is non-compliance an inspector may arrange to have it complied with at that person's expense.

Notices restricting movement

17.—(1) If a notice is served restricting movements of any animal or product, an inspector may subsequently permit movement under the authority of a licence.

(2) Any person transporting a restricted animal or product under the authority of a licence must carry the licence with them during any movement, and produce it on demand to an inspector.

Offences and penalties

18.—(1) It is an offence—

- (a) to fail to comply with the TSE requirements;
- (b) to fail to comply with the requirements of any notice or licence served or issued under these Regulations;

- (c) to intentionally obstruct an inspector carrying out any functions (including the facilitation of samples taken by an inspector in accordance with paragraph 8 of Schedule 2) under the EU TSE Regulation or these Regulations;
 - (d) without reasonable cause, fail to give to an inspector acting for the purpose of ensuring compliance with the EU TSE Regulation or these Regulations any assistance or information or provide any facilities that the inspector may reasonably require;
 - (e) to give false or misleading information to an inspector for the purpose of ensuring compliance with the EU TSE Regulation or these Regulations;
 - (f) to fail to produce a record when required to do so by an inspector acting under these Regulations.
- (2) A person guilty of an offence is liable on summary conviction to a fine.

Corporate responsibility

19.—(1) If a breach of any TSE requirement is shown to be committed by a body corporate—

- (a) with the consent or connivance of an officer, or
- (b) attributable to any neglect on their part,

the officer as well as the body corporate is liable to prosecution.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with their function of management as if they were a director of the body.

(3) If a breach of any TSE requirement is shown to be committed by a partnership—

- (a) with the consent or connivance of a partner, or
- (b) attributable to any neglect on their part,

the partner as well as the partnership is liable to prosecution.

(4) If a breach of any TSE requirement is shown to be committed by an unincorporated association—

- (a) with the consent or connivance of an officer of the association or a member of its governing body, or
- (b) attributable to any neglect on the part of such an officer or member,

that officer or member as well as the association is liable to prosecution.

(5) In this regulation—

“officer”, in relation to a body corporate or unincorporated association, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner.

Enforcement

20.—(1) The Secretary of State enforces Schedule 2 TSE monitoring requirements in slaughterhouses and cutting plants.

(2) The Food Standards Agency enforces Schedule 7 and paragraph 1 of Schedule 8 in slaughterhouses and cutting plants.

(3) Otherwise these Regulations are enforced by the local authority.

(4) The Secretary of State may direct, in relation to any particular case that an enforcement duty imposed on the local authority must be discharged by the Secretary of State and not by the local authority.

(5) Where the Secretary of State makes a direction under paragraph (4), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.

Consequential amendments

21.—(1) In Schedule 3 of the Official Feed and Food Controls (England) Regulations 2009⁽¹⁾, in paragraph (a)(viii), for “Transmissible Spongiform Encephalopathies (England) Regulations 2010” substitute “Transmissible Spongiform Encephalopathies (England) Regulations 2018”.

(2) The Animal By-Products (Enforcement) (England) Regulations 2013⁽²⁾ are amended as follows—

- (a) in paragraph (1) of regulation 23 (powers of entry and additional powers)—
 - (i) at the end of sub-paragraph (a) insert “, and where the premises are either unoccupied or the occupier is temporarily absent, the authorised person must leave them as effectively secured against unauthorised entry as they were before entry”;
 - (ii) omit sub-paragraphs (j) and (k);
- (b) in regulation 29(1) (transitional provisions), omit the words “for the period ending on 31st December 2014,”;
- (c) in Schedule 2, omit paragraph 10.

Revocations

22. The statutory instruments listed in Schedule 9 are revoked.

Transitional provisions

23. Any notice, licence, approval, authorisation, or registration issued, served, made or granted under the Transmissible Spongiform Encephalopathies (England) Regulations 2010⁽³⁾ and which has effect at the coming into force of these Regulations remains in force as if it were issued, served, made or granted under these Regulations.

Review

24.—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provisions contained in these Regulations, and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 19th July 2023.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015⁽⁴⁾ requires that a report published under this regulation must in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a),

(1) [S.I. 2009/3255](#) to which there are amendments not relevant to these Regulations.

(2) [S.I. 2013/2952](#).

(3) [S.I. 2010/801](#) as amended by [S.I. 2011/2861](#), [2012/2897](#) and [2013/336](#).

(4) [2015 c. 26](#).

- (b) assess the extent to which those objectives are achieved,
 - (c) assess whether those objectives remain appropriate, and
 - (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.
- (5) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).