

OFFERYNNAU STATUDOL CYMRU

**2004 Rhif 2735 (Cy.242)**

**ANIFEILIAID, CYMRU**

**Rheoliadau TSE (Cymru) (Diwygio) 2004**

*Wedi'u gwneud* - - *19 Hydref 2004*

*Yn dod i rym* - - *1 Tachwedd 2004*

Mae Cynulliad Cenedlaethol Cymru, gan ei fod wedi'i ddynodi(1) at ddibenion adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972(2), mewn perthynas â mesurau yn y maes milfeddygol a ffytoiechydol ar gyfer gwarchod iechyd y cyhoedd, drwy ymarfer y pwerau a roddwyd iddo gan yr adran honno, drwy hyn yn gwneud y Rheoliadau canlynol:

**Cychwyn a chymhwyso**

1. Enw'r Rheoliadau hyn yw Rheoliadau TSE (Cymru) (Diwygio) 2004 a deuant i rym ar 1 Tachwedd 2004.

**Diwygio Rheoliadau TSE (Cymru) 2002**

2. Diwygir Rheoliadau TSE (Cymru) 2002(3) yn unol â'r Rheoliad hwn.
3. Yn union ar ôl rheoliad 86 rhoddir —

**“Enforcement of Annex VII to the Community TSE Regulation**

**86A.** Schedule 6A (enforcement of Annex VII to the Community TSE Regulation) shall have effect.”

4. Yn union ar ôl Atodlen 6, mewnosdir yr Atodlen ganlynol—

(1) O.S.1999/2027 fel ei ddiwygiwyd gan O.S. 2002/794.

(2) 1972 p.68

(3) O.S. 2002/1416 (Cy.142) fel ei ddiwygiwyd gan O.S. 2003/2756

## “SCHEDULE 6A

regulation 86A

## Enforcement of Annex VII to the Community TSE Regulation (4)

**PART I****Competent authority**

1. The Secretary of State will be the competent authority for the purposes of Annex VII (other than paragraph 1(a) and 2(a)) to 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 (“Annex VII”) and will exercise all powers and duties imposed on the Member State in that Annex.

**Confirmation of TSE in sheep**

2.—(1) Following the confirmation of TSE in sheep on a holding under Article 13 of Regulation (EC) No. 999/2001, the Secretary of State, after —

- (a) carrying out the inquiry specified in Article 13(1)(b) of that Regulation and in paragraph 1 of Annex VII, and
- (b) sampling the animals in accordance with Part V of these Regulations to establish their genotype (if this is necessary),

will decide which of the options set out in paragraphs 2(b)(i) and (ii) of Annex VII the Secretary of State intends to exercise.

(2) The Secretary of State must then serve a notice on the occupier of the holding informing the occupier of which of the options in those paragraphs the Secretary of State intends to exercise.

(3) The notice must specify—

- (a) the identity of the animals to be killed and destroyed;
- (b) the identity of the animals (if any) to be slaughtered for human consumption;
- (c) the identity of the animals (if any) that may be retained;
- (d) the identity of any ova and embryos that must be destroyed;
- (e) the time limit for complying with the notice; and
- (f) the right to apply for a derogation in accordance with paragraph 14.

**Confirmation of TSE in goats**

3. Following the confirmation of TSE in goats on a holding under Article 13 of Regulation (EC) No. 999/2001, the Secretary of State, after carrying out the inquiry specified in Article 13(1)(b) of that Regulation and in paragraph 1 of Annex VII, will serve a

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(4) This Schedule enforces Annex VII (other than paragraphs 1(a) and 2(a)) to 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). Annex VII to that Regulation was first replaced in respect of ovine and caprine animals by Commission Regulation (EC) No 260/2003 amending Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards the eradication of transmissible spongiform encephalopathies in ovine and caprine animals and rules for the trade in live ovine and caprine animals and bovine embryos (OJ No. L 37, 13/02/2003, p. 7) and replaced again by Commission Regulation (EC) No. 1915/2003 as regards the trade and import of ovine and caprine animals and the measures following the confirmation of transmissible spongiform encephalopathies in bovine, ovine and caprine animals (OJ No. L 283, 31.10.2003, p. 29).

notice on the occupier of the holding informing the occupier of the holding that the Secretary of State intends to kill and destroy all the goats on the holding and all caprine embryos and ova from those animals in accordance with paragraph 2(b)(i) of Annex VII.

#### **Infected animals from another holding**

4. In the case of infected animals introduced from another holding, the Secretary of State may act in accordance with paragraphs 2 and 3 above in relation to the holding of origin in addition to, or instead of, the holding on which infection was confirmed.

#### **Common grazing**

5. In the case of infected animals on common grazing, the Secretary of State may limit a notice under paragraph 2 or 3 above to an individual flock in accordance with paragraph 2(b)(iii), second sentence of Annex VII.

#### **Confirmation of BSE in sheep or goats**

6. Following the confirmation of BSE in sheep or goats on a holding, the Secretary of State, after carrying out the inquiry specified in Article 13(1)(b) of Regulation (EC) No. 999/2001 and paragraph 1 of Annex VII, will serve a notice on the occupier of the holding informing the occupier of the Secretary of State's intention to kill and destroy the animals, embryos and ova in accordance with paragraph 2(c) of Annex VII.

#### **Time for appeals**

7. The Secretary of State must not proceed with a notice served under this part until after the 21 day period for the appeal under Part III is completed or, if there is an appeal, until the appeal is determined.

#### **Subsequent occupiers**

8. If there is a change in occupation of the holding, the previous occupier must ensure that the subsequent occupier is made aware of the existence and contents of the notice, and failure to do so will be an offence.

## **PART II**

### **MOVEMENT OF ANIMALS**

#### **Scope**

9. This Part will have effect as soon as a notice has been served under Part I of this Schedule, irrespective of any appeal against the notice.

#### **Introduction of animals on to a holding**

10. Any person who introduces an animal on to a holding in contravention of paragraph 3.1 of Annex VII will be guilty of an offence, and liable on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or to both; or on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or to both.

### **Use of ovine germinal products**

11. Any person who uses ovine germinal products in contravention of paragraph 3.2 of Annex VII will be guilty of an offence, and liable on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or to both; or on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or to both.

### **Movement of animals from a holding**

12. Any person who moves an animal from a holding in contravention of paragraph 5 of Annex VII will be guilty of an offence, and liable on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or to both; or on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or to both.

### **Time of movement restrictions**

13. For the purposes of paragraph 6 of Annex VII the relevant dates will be established by the National Assembly giving written notification of those dates to the occupier of the holding.

### **Derogations**

14.—(1) In accordance with paragraph 4 of Annex VII, the occupier of a holding may apply to the National Assembly for a derogation under that paragraph.

(2) In accordance with paragraph 7 of that Annex, the occupier of a holding may apply to the National Assembly asking it to exercise one or both of the options permitted under that paragraph.

(3) An application under this paragraph will be in writing and will set out in full the reasons for the application.

(4) After it has considered the application the National Assembly will serve a notice on the applicant giving its decision, which will state that it either—

- (a) consents to the application;
- (b) consents in part to the application; or
- (c) refuses the application.

## **PART III**

### **APPEALS**

#### **Notices**

15. A notice served under any provision of this Schedule (other than one under paragraph 14(4)(a)) will—

- (a) give the reasons for the decision; and
- (b) explain the right of the person receiving the notice to make written representations to the National Assembly and to be heard by an independent person appointed by the National Assembly, in relation to an appeal made under paragraphs 13 and 14 of this Schedule and to make written representations to the Secretary of State

and to be heard by an independent person appointed by the Secretary of State, in relation to an appeal made under any other provision of this Schedule.

## **Appeals**

**16.**—(1) A person on whom a notice is served under any provision of this Schedule (other than paragraph 14(4)(a)) may within 21 days beginning with the day on which the notice is served—

- (a) provide written representations to the National Assembly concerning the National Assembly's decision, in relation to an appeal made under paragraphs 13 and 14 of this Schedule and to provide written representations to the Secretary of State, in relation to an appeal made under any other provision of this Schedule; and
- (b) provide notice of whether or not that person wishes to be heard by an independent person appointed by the National Assembly, in relation to an appeal made under paragraphs 13 and 14 of this Schedule and to provide notice of whether or not that person wishes to be heard by an independent person appointed by the Secretary of State in relation to any other provision of this Schedule.

(2) Where an appellant gives notice of the appellant's wish to be heard by an independent person—

- (a) the National Assembly or the Secretary of State as the case may be, will appoint an independent person to hear representations and specify a time limit within which representations must be made;
- (b) the appointed person will not, except with the consent of the appellant, be an officer of the National Assembly or the Secretary of State;
- (c) if the appellant so requests the hearing will be in public;
- (d) if the appellant so requests, the National Assembly or the Secretary of State as the case may will furnish to the appellant a copy of the report of the person so appointed.

(3) The independent person will report in writing to the National Assembly or the Secretary of State as the case may be.

(4) The National Assembly and the Secretary of State will give to the appellant written notification of their determination and the reasons for it.

## **PART IV**

### **COMPENSATION**

## **Compensation**

**17.**—(1) The Secretary of State will pay to the owner of animals killed and destroyed, and products destroyed, under this Schedule as follows —

**Statws** This is the original version (as it was originally made). Dim ond ar ei ffurf wreiddiol y mae'r eitem hon o ddeddfwriaeth ar gael ar hyn o bryd.

Animal or product	Compensation (£)
Sheep* or goat	90
Lamb (under 12 months old)** or kid (under 12 months old)	50
Embryos	150
Ova	5

\* In the case of a female sheep in respect of which the National Assembly has granted a derogation under paragraph 4 or 7 of Annex VII the compensation shall be £30 if it is killed after the first year of the derogation period.

\*\* Where the National Assembly has granted a derogation in accordance with paragraph 7 of Annex VII in respect of any ram in a flock, the compensation for any lamb in that flock killed after the first year of the period of derogation shall be £25.

(2) If the owner of an animal considers this compensation to be unreasonable he will notify the Secretary of State.

(3) Following notification the owner may obtain, at the owner's expense, a valuation of the animal from a valuer nominated by the President of the Royal Institution of Chartered Surveyors.

(4) The owner must accept the valuer nominated under paragraph (3) and pay the valuer's fee.

(5) The valuer will value the animal at the price that might reasonably have been obtained for it at the time of valuation from a buyer in the open market if the animal was not from a flock affected by TSE.

(6) The valuer will then submit the valuation and any other relevant information and documentation to the Secretary of State, and a copy to the owner.

(7) The valuation will be binding on both the owner and the Secretary of State.”.

Arwyddwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(5).

19 Hydref 2004

*D. Elis-Thomas*  
Llywydd Cynulliad Cenedlaethol Cymru

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## EXPLANATORY NOTE

*(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)*

Mae'r Rheoliadau hyn yn diwygio Rheoliadau TSE (Cymru) 2002, [O.S. 2002/1416 \(Cy.142\)](#).

Maent yn darparu ar gyfer gorfodi yng Nghymru Atodiad VII (ac eithrio paragraffau 1(a) a 2(a)) i Reoliad [\(EC\) Rhif 999/2001](#) Senedd Ewrop a'r Cyngor sy'n pennu rheolau ar gyfer gwarchod rhag, rheoli a dileu enffalopathïau sbyngffurf trosglwyddadwy penodol (OJ Rhif L. 147, 31.5.2001, t.1). Disodlwyd Atodiad VII i'r Rheoliad hwnnw gan Reoliad y Comisiwn [\(EC\) Rhif 260/2003](#) sy'n diwygio Rheoliad [\(EC\) Rhif 999/2001](#) Senedd Ewrop a'r Cyngor ynghylch dileu enffalopathïau sbyngffurf trosglwyddadwy mewn anifeiliaid defeidiog a gafrog a rheolau masnachu anifeiliaid defeidiog a gafrog byw ac embryonau buchol (OJ Rhif L. 37, 13.02.2003, t.7). Cafodd yr Atodiad ei disodli gan Reoliad y Comisiwn [\(EC\) Rhif 1915/2003](#) (OJ Rhif L 283, 31.10.2003, t.29).

Maent yn ychwanegu Atodlen newydd i'r prif Reoliadau. Maent yn darparu mai'r Ysgrifennydd Gwladol yw'r awdurdod cymwys at ddibenion Atodiad VII i Reoliad y Gymuned (paragraff 1 o'r Atodlen).

Maent yn darparu ar gyfer hysbysebion i'w cyflwyno a gweithdrefnau hysbysu i'w dilyn pan gadarnheir presenoldeb enffalopathïau sbyngffurf trosglwyddadwy mewn defaid a geifr (paragraffau 2 i 8).

Mae Rhan II o'r Atodlen yn rheoleiddio symud defaid a geifr yn dilyn cyflwyno hysbysiad o dan Rhan 1 (paragraffau 9 i 13) ac yn darparu ar gyfer y rhanddirymiadau posibl a nodir yn Atodiad VII i reoliad yr EC (paragraff 14).

Mae Rhan III yn darparu cyfundrefn apelau ar gyfer hysbysiadau a gyflwynwyd yn unol â'r Atodlen.

Mae Rhan IV yn pennu iawndal ar gyfer anifeiliaid, embryonau ac wyau a ddifawyd yn unol â'r Atodlen,

Mae Arfarniad Rheoliadol wedi ei baratoi a gellir cael copi oddi wrth o Adran Iechyd Anifeiliaid a Phlanhigion, Cynulliad Cenedlaethol Cymru, Parc Cathays, Caerdydd, CF10 3NQ.