
WELSH STATUTORY INSTRUMENTS

2018 No. 968

**The Transmissible Spongiform
Encephalopathies (Wales) Regulations 2018**

PART 3

Administration and Enforcement

Approvals, authorisations, licences or registrations

7.—(1) The Welsh Ministers must grant an approval, authorisation, licence or registration under these Regulations if they are satisfied that the provisions of the EU TSE Regulation and these Regulations will be complied with.

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

- (a) the address of the premises;
- (b) the name of the occupier; and
- (c) the purpose for which it is granted.

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

- (a) ensure that the provisions of the EU TSE Regulation and these Regulations will be complied with; or
- (b) protect public or animal health.

(4) Where refusing to grant an approval, authorisation, licence or registration, or granting one subject to conditions, the Welsh Ministers must—

- (a) give reasons in writing; and
- (b) explain that the applicant has the right to make written representations to a person appointed by the Welsh Ministers.

(5) The appeals procedure in regulation 11 then applies.

Occupier's duty

8. The occupier of any premises approved, authorised, licensed or registered under these Regulations commits an offence if they do not ensure that—

- (a) the premises are maintained and operated in accordance with—
 - (i) any condition of the approval, authorisation, licence or registration;
 - (ii) the requirements of the EU TSE Regulation and these Regulations; and
- (b) any person employed by them, and any person permitted to enter the premises, complies with those conditions and requirements.

Suspension and amendment

9.—(1) The Welsh Ministers 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 Welsh Ministers are satisfied that the provisions of the EU TSE Regulation or of these Regulations are not being complied with.

(2) The Welsh Ministers may amend an approval, authorisation, licence or registration granted under these Regulations if the Welsh Ministers consider it necessary in the light of technical or scientific developments.

(3) A suspension or amendment—

- (a) may have immediate effect if the Welsh Ministers consider it necessary for the protection of public or animal health; and
- (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 the reasons; and
- (d) explain that the person who has been notified has the right to make written representations to a person appointed by the Welsh Ministers.

(5) The appeals procedure in regulation 11 then 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 of the appeal by the Welsh Ministers unless the Welsh Ministers consider 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 or registrations

10.—(1) The Welsh Ministers may revoke an approval, authorisation, licence or registration granted under these Regulations if the Welsh Ministers are satisfied that the premises will not be operated in accordance with the EU TSE Regulation or these Regulations 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 EU TSE Regulation or these Regulations; or
- (c) the Welsh Ministers are satisfied that the occupier no longer uses the premises for the purpose for which it was granted.

(2) Notification of the revocation must—

- (a) be in writing;
- (b) state when the revocation comes into effect;
- (c) give the reasons; and
- (d) explain that the person who has been notified has the right to make written representations to a person appointed by the Welsh Ministers.

(3) If the Welsh Ministers revoke an approval, authorisation, licence or registration under paragraph (1)(b) or (1)(c) the appeals procedure in regulation 11 applies, but the revocation remains in force during that appeals procedure.

Appeals procedure

11.—(1) Where the appeals procedure in this regulation applies, a person may make written representations to a person appointed for the purpose by the Welsh Ministers concerning any decision of the Welsh Ministers within 21 days of notification of the decision to that person.

(2) The Welsh Ministers may also make written submissions to the appointed person concerning the decision within 21 days of receipt of the appellant's representations.

(3) The appointed person must then report in writing to the Welsh Ministers.

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

(5) Unless the Welsh Ministers consider that immediate action is necessary for the protection of public health or animal health or welfare, they may not kill any animal or destroy any thing under these Regulations until—

- (a) the 21 day period has expired without any appeal being lodged; or
- (b) if there is an appeal, that appeal is determined or withdrawn.

Valuations

12.—(1) This regulation applies when a valuation is necessary under these Regulations.

(2) The owner and the Welsh Ministers may agree on a valuation.

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

(4) If the owner and the Welsh Ministers cannot agree on who the valuer should be, the valuation must be carried out by a valuer named on a list maintained by the Welsh Ministers, nominated by the President of the Royal Institution of Chartered Surveyors or the President of the Central Association of Agricultural Valuers as the Welsh Ministers may decide.

(5) The valuer must carry out the valuation and submit it and any other relevant information and documentation to the Welsh Ministers, and provide a copy to the owner.

(6) Both the owner and a representative of the Welsh Ministers have the right to be present at a valuation.

(7) The valuation is binding on both the owner and the Welsh Ministers.

(8) In this regulation, “owner” (“*perchennog*”) means the owner of the animal or product in question.

Appointment of inspectors

13.—(1) Except as specified in paragraph (2), the Welsh Ministers and the local authority may appoint inspectors for the purposes of enforcing these Regulations.

(2) The Food Standards Agency may appoint 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 appointment.

Powers of entry

14.—(1) An inspector may, on giving reasonable notice, enter any premises (except if used wholly or mainly as a private dwelling) at any reasonable hour for the purpose of executing or enforcing the EU TSE Regulation or these Regulations.

(2) The inspector must, if so required, produce some duly authenticated document showing their authority before exercising their right under paragraph (1).

(3) The requirement to give notice under paragraph (1) 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; or
- (d) an inspector has reasonable suspicion of a failure to comply with the EU TSE Regulation or these Regulations.

(4) An inspector may take with them such other persons as the inspector considers necessary.

(5) If an inspector enters any unoccupied premises or (where the premises are occupied) the occupier of the premises is temporarily absent the inspector must leave those premises (so far as reasonably practicable) as effectively secured against unauthorised entry as the inspector found them.

(6) If a justice of the peace, on sworn information in writing, is satisfied that there are reasonable grounds for entry into any premises (including a dwellinghouse) for the purposes of the enforcement of the EU TSE Regulation and these Regulations, and—

- (a) 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;
- (b) asking for admission, or the giving of such a notification, would defeat the object of the entry;
- (c) the case is one of urgency; or
- (d) the premises are unoccupied or the occupier is temporarily absent,

the justice may by a signed warrant authorise an inspector to enter the premises, if need be by reasonable force.

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

Powers of inspectors

15.—(1) 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 and any parts of the body (including the blood and the hide) and any semen, embryo or ovum;
- (e) inspect any part of the premises, any equipment, facility, operation or procedure;
- (f) take any samples;
- (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, including records kept under the EU TSE Regulation and these Regulations, 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 may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford them such assistance as the inspector may reasonably require (including providing the inspector with any necessary passwords) and, where a record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away;
 - (j) mark anything (including an animal) whether electronically or otherwise, for identification purposes; and
 - (k) lock or seal any container or store.
- (2) Any person who defaces, obliterates, or removes any mark or seal, or removes any lock, applied under paragraph (1) commits an offence.
- (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 the inspector's duty under these Regulations required or entitled them to do it; but this does not affect any liability of the inspector's employer.

Notices

16.—(1) If it is necessary for any reason connected with the enforcement of the EU TSE Regulation or these Regulations 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; or
 - (d) the owner, or person in possession, of any milk or milk products.
- (2) The notice must be in writing.
- (3) The notice may—
- (a) prohibit or require the movement of any animal onto or from the premises specified in the notice;
 - (b) prohibit the movement of any milk or milk products from the premises specified in the notice;
 - (c) specify those parts of premises to which an animal may or may not be allowed access;
 - (d) require the killing or slaughter of any animal;
 - (e) prohibit or require the movement onto or from premises 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;
 - (f) 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;

- (g) require the disposal of any animal protein or feedingstuffs that may contain animal protein or specify how they are to be used;
 - (h) require the recall of any animal protein or feedingstuffs that may contain animal protein;
 - (i) require an occupier of a slaughterhouse—
 - (i) to take a sample from animals in accordance with paragraph 4 of Schedule 2, or
 - (ii) to permit an official veterinarian to take a sample from animals in accordance with paragraph 4 of Schedule 2;
 - (j) require that all or any part of the premises (and any associated equipment) is cleansed and disinfected where an inspector suspects there is a risk to public or animal health; or
 - (k) require any action that an inspector reasonably believes is necessary for controlling the spread of disease.
- (4) A notice may specify how it must be complied with, and specify time limits.
- (5) A notice must be complied with at the expense of the person on whom it is served, and if it is not complied with an inspector may arrange to have it complied with at that person's expense.
- (6) Failure to comply with a notice is an offence.

Service of notices

- 17.—**(1) Any notice served under these Regulations must be in writing and may be amended, suspended or revoked at any time.
- (2) Any such notice may be served by—
- (a) delivering it to the person;
 - (b) leaving it at the person's proper address; or
 - (c) sending it by post or by electronic means to the person at that address.
- (3) Any such notice may be served on—
- (a) in the case of a body corporate, an officer of the body;
 - (b) in the case of a partnership, a partner or a person having the control or management of the partnership business; and
 - (c) in the case of an unincorporated association, an officer of the association.
- (4) For the purposes of this regulation, “proper address” (“*priod gyfeiriad*”) means—
- (a) in the case of a body corporate or an officer of that body—
 - (i) the address of the registered or principal office of that body, or
 - (ii) the email address of the officer;
 - (b) in the case of a partnership, a partner or a person having the control or management of the partnership business—
 - (i) the address of the principal office of the partnership, or
 - (ii) the email address of the partner or person having that control or management;
 - (c) in the case of an unincorporated association or an officer of the association—
 - (i) the address of the principal office of the association, or
 - (ii) the email address of the officer; and
 - (d) in any other case, a person's last known address, which includes an email address.

(5) For the purpose of paragraph (4), the principal office of a body corporate registered outside the United Kingdom or of a partnership or Scottish partnership established outside the United Kingdom is its principal office in the United Kingdom.

(6) If the name or address of any occupier of premises on whom a notice is to be served under these Regulations cannot, after reasonable inquiry, be ascertained, the notice may be served by leaving it conspicuously affixed to a building or object on the premises.

(7) A notice may specify that a person in receipt of it must immediately inform an inspector of its safe receipt.

(8) A person must comply with the terms of any notice served, given or displayed under these Regulations.

(9) In this regulation—

“body corporate” (“*corff corfforaethol*”) includes a limited liability partnership,

“director” (“*cyfarwyddwr*”), in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate,

“officer” (“*swyddog*”), in relation to a body corporate, means any director, manager, secretary or other similar officer of the body corporate,

“partnership” (“*partneriaeth*”) does not include a limited liability partnership.

Notices restricting movement

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

(2) The person transporting the 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, and failure to do so is an offence.

Other offences

19. A person commits an offence if that person—

- (a) intentionally obstructs an inspector acting under these Regulations;
- (b) without reasonable cause, fails to give to an inspector acting under these Regulations any assistance or information or to provide any facilities that the inspector may reasonably require that person to give or provide for the performance of the inspector's functions under these Regulations;
- (c) gives false or misleading information to an inspector acting under these Regulations;
- (d) fails to produce a record when required to do so by an inspector acting under these Regulations;
- (e) fails to comply with the requirements of any notice or licence served or issued under these Regulations; or
- (f) fails to comply with the TSE requirements.

Penalties

20. A person guilty of an offence under these Regulations is liable on summary conviction to a fine.

Corporate offences

21.—(1) If an offence under these Regulations committed by a body corporate is shown—

- (a) to have been committed with the consent or connivance of an officer; or
- (b) to be 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 functions of management as if they were a director of the body.

(3) If an offence under these Regulations committed by a partnership is shown—

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

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

(4) If any offence under these Regulations committed by an unincorporated association, other than a partnership, is shown—

- (a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body; or
- (b) to be 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” (“*swyddog*”), 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; and

“partner” (“*partner*”) includes a person purporting to act as a partner.

Enforcement

22.—(1) The Welsh Ministers enforce Schedule 2 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 Welsh Ministers may direct, in relation to cases of a particular description or any particular case that an enforcement duty imposed on the local authority under this regulation must be discharged by the Welsh Ministers and not by the local authority.

Consequential amendments

23.—(1) In Schedule 3 to the Official Feed and Food Controls (Wales) Regulations 2009 ^{M1}, for “Transmissible Spongiform Encephalopathies (Wales) Regulations 2008” substitute “Transmissible Spongiform Encephalopathies (Wales) Regulations 2018”.

(2) The Animal By-Products (Enforcement) (Wales) Regulations 2014 ^{M2} are amended as follows—

- (a) in regulation 20(a) (penalties), omit “not exceeding the statutory maximum”;
- (b) in regulation 29(1) (transitional provision), omit “for the period ending on 31 December 2014,”;
- (c) in Schedule 2, omit paragraph 7.

Marginal Citations

- M1** S.I. 2009/3376 (W. 298) to which there are amendments not relevant to these Regulations.
M2 S.I. 2014/517 (W. 60).

Revocations

24. The following Regulations are revoked—

- (a) the Transmissible Spongiform Encephalopathies (Wales) Regulations 2008 ^{M3};
- (b) the Transmissible Spongiform Encephalopathies (Wales) (Amendment) (No. 2) Regulations 2008 ^{M4};
- (c) the Transmissible Spongiform Encephalopathies (Wales) (Amendment) Regulations 2009 ^{M5};
- (d) the Transmissible Spongiform Encephalopathies (Wales) (Amendment) Regulations 2010 ^{M6};
- (e) the Older Cattle (Disposal) (Wales) Regulations 2006 ^{M7};
- (f) the Bovine Hides Regulations 1997 ^{M8}, and
- (g) the Selective Cull (Enforcement of Community Compensation Conditions) Regulations 1996 ^{M9}.

Marginal Citations

- M3** S.I. 2008/3154 (W. 282).
M4 S.I. 2008/3266 (W. 288).
M5 S.I. 2009/192 (W. 24).
M6 S.I. 2010/1822 (W. 179).
M7 S.I. 2006/62 (W. 11).
M8 S.I. 1997/813.
M9 S.I. 1996/3186.

Transitional provisions

25. Any notice, approval, authorisation, licence or registration issued, served, made or granted under the Transmissible Spongiform Encephalopathies (Wales) Regulations 2008 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.

Changes to legislation:

There are currently no known outstanding effects for the The Transmissible Spongiform Encephalopathies (Wales) Regulations 2018, PART 3.