

SCHEDULES

SCHEDULE 1

Section 3.

TRANSMISSIBLE SPONGIFORM ENCEPHALOPATHIES

In the 1981 Order, insert the following Part after Part 2—

“PART 2A

TRANSMISSIBLE SPONGIFORM ENCEPHALOPATHIES

Livestock genotypes

Power of Department to specify susceptible livestock genotypes

32A. Where, in the opinion of the Department, a livestock genotype is more susceptible than other livestock genotypes—

- (a) to infection by a form of TSE, or
- (b) to becoming a carrier of a form of TSE,

the Department may by order specify, for the purposes of this Part, the livestock genotype and, if it considers it appropriate, the form of TSE concerned.

Identification of genetically susceptible livestock

32B.—(1) The Department may by order make provision requiring the keeper of any livestock—

- (a) to allow an inspector to take a sample from it, for the purpose of establishing its genotype;
 - (b) to allow an inspector to administer or otherwise attach to it an identification device;
 - (c) where the genotype of the livestock has been established (whether or not as a result of the exercise of powers conferred by this Part) to keep a record of its genotype.
- (2) An order under paragraph (1) may, in particular—
- (a) provide that only identification devices of a kind specified in the order may be administered or attached;

- (b) make provision as to the assistance which an inspector may require the keeper to give;
- (c) make provision with respect to the testing of samples;
- (d) require the issuing and keeping of certificates recording the genotypes of livestock.

Restriction notice

Restrictions on breeding

32C.—(1) This Article applies where it appears to the Department that livestock is of a genotype specified in an order under Article 32A.

(2) The Department shall consider whether there are exceptional circumstances that justify allowing the livestock to be used for breeding.

(3) If it appears to the Department that allowing the livestock, or its semen, eggs or embryos, to be used for, or in connection with, breeding would not be justified, it shall give a notice (in this Part referred to as a “restriction notice”) to the keeper of the livestock.

(4) A restriction notice—

- (a) may be made so as to apply to more than one creature, and
- (b) may describe the livestock to which it applies in such a way as the Department considers appropriate, and
- (c) shall specify the restrictions and requirements provided for in paragraphs (7) to (10).

(5) If the keeper of the livestock is not the same person as its owner, the Department may give a separate restriction notice to the owner.

(6) If the keeper of the livestock is not the same person as the person in possession of the semen, eggs or embryos of the livestock, the Department may give a separate restriction notice to the person in possession of the semen, eggs or embryos.

(7) A person to whom a restriction notice is given shall not—

- (a) use livestock to which the notice applies, or its semen, eggs or embryos, for purposes of or in connection with breeding, or
- (b) cause or permit such livestock or such semen, eggs or embryos to be used by another person for those purposes.

(8) A person to whom a restriction notice is given shall arrange for any semen, egg or embryo which has at any time been taken from livestock to which the notice applies, and which is in the person’s possession or under the person’s control, to be destroyed within such period, of not less than 28 days, as may be specified in the notice.

Status: This is the original version (as it was originally enacted).

(9) A person to whom a restriction notice is given shall arrange for each creature to which the notice applies—

- (a) to be castrated or (as appropriate) sterilised within such period, of not less than 28 days, as may be specified in the notice, or
- (b) to be slaughtered before the end of the period of 7 months beginning with that date.

(10) A person to whom a restriction notice is given shall comply with any restrictions on the movement of any livestock to which the notice applies as may be specified in the notice.

(11) For the purposes of paragraph (2) exceptional circumstances include circumstances in which the imposition in relation to the livestock of the restrictions and requirements of paragraphs (7) to (10) is likely to cause the extinction of the breed or type of which the livestock is a member.

Appeal

32D.—(1) A person to whom a restriction notice has been given may appeal against the notice to a person appointed by the Department for the purpose of dealing with appeals under this Part (“an assessor”).

(2) Subject to paragraph (3), an appeal may not be brought after the end of the period of 21 days beginning with the date on which the notice concerned was given to the appellant.

(3) The Department may, in a particular case, extend the period of 21 days if it considers that there are exceptional circumstances justifying the extension.

(4) If the restriction notice applies to more than one creature, the appeal may be limited to the creature or creatures specified by the appellant.

(5) If the assessor allows the appeal, in whole or in part, the assessor may—

- (a) revoke the notice,
- (b) revoke the notice so far as it applies to one or more creatures specified by the assessor, or
- (c) direct that a further test is carried out in relation to such livestock as may be specified by the assessor.

(6) A direction under paragraph (5)(c) may require—

- (a) a further sample to be taken,
- (b) the further test to be carried out by a different testing laboratory.

(7) The Department may by order supplement the provisions of this Article.

(8) An order under paragraph (7) may, in particular, make provision—

- (a) as to the procedure to be followed on an appeal,

- (b) extending the period mentioned in Article 32C(9)(a) or (b) where an appeal is brought against a restriction notice,
- (c) requiring the appellant to meet the reasonable costs of, and in connection with, the taking of a further sample or the carrying out of a further test as a result of a direction under paragraph (5)(c), and
- (d) as to the recovery of any such costs.

(9) The revocation of a restriction notice (in whole or in part) by an assessor does not prevent the issue of another restriction notice, following the testing of a further sample.

Regulation of movement of livestock

Regulation of movement of susceptible livestock

- 32E.**—(1) This Article applies to livestock—
- (a) whose genotype is specified by virtue of Article 32A; and
 - (b) in relation to whose genotype the form of TSE concerned is so specified.
- (2) The Department may by order—
- (a) prohibit or regulate the movement of any livestock to which this Article applies or the carcasses of any such livestock;
 - (b) regulate the isolation of any livestock to which this Article applies;
 - (c) regulate the issue and production of licences in respect of the movement of livestock to which this Article applies.

Enforcement

Department's powers of enforcement

32F.—(1) This Article applies if the Department is satisfied that a person to whom a restriction notice has been given has failed to comply with one or more of the restrictions or requirements imposed on that person by Article 32C.

- (2) But it does not apply in relation to any livestock—
- (a) which is the subject of an appeal under Article 32D which has not been disposed of, or
 - (b) which, as the result of a successful appeal, is no longer subject to the restriction notice.
- (3) The Department may take such reasonable steps as it considers appropriate to secure that the failure is remedied.
- (4) In particular, the Department may—

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- (a) cause to be destroyed any semen, egg or embryo which has not been destroyed as required by Article 32C(8);
 - (b) cause to be castrated (or, as appropriate, sterilised) or slaughtered any livestock—
 - (i) which is the subject of the notice, but
 - (ii) which has neither been castrated (or, as appropriate, sterilised) within the period mentioned in Article 32C(9)(a) nor slaughtered within the period mentioned in Article 32C(9)(b).
- (5) The Department may by order make provision supplementing the provisions of this Article.

Offence

- 32G.—**(1) A person to whom a restriction notice is given commits an offence (whether or not the notice is the subject of an appeal) if that person—
- (a) sells (or otherwise transfers to another person) livestock to which the notice applies, or any of its semen, eggs or embryos;
 - (b) fails, without reasonable excuse (proof of which lies on that person), to comply with any of the restrictions or requirements specified in the notice.
- (2) Any other person commits an offence if he uses any semen, egg or embryo which he knows, or has reasonable cause to believe, has been taken from livestock which is the subject of a restriction notice.

Powers of slaughter

Powers of slaughter: TSE

- 32H.—**(1) With a view to—
- (a) preventing the spread of;
 - (b) controlling; or
 - (c) eliminating,
- any form of TSE, the Department may, if it thinks fit, cause any livestock to which this paragraph applies to be slaughtered.
- (2) Paragraph (1) applies to livestock—
- (a) whose genotype is specified by virtue of Article 32A; and
 - (b) in relation to whose genotype the form of TSE concerned is so specified.
- (3) Paragraph (1) also applies to livestock whose genotype is not ascertained because—

- (a) it is not reasonable in the circumstances, by reason of urgency or otherwise, to seek to ascertain the genotype; or
- (b) the genotype cannot, in the absence for the time being of scientific knowledge, established method or otherwise, reasonably be ascertained.

Compensation

32I.—(1) The Department shall by order make provision for compensation in respect of—

- (a) any livestock slaughtered, or other thing destroyed, in accordance with a restriction notice;
- (b) any livestock slaughtered, or other thing destroyed, by virtue of Article 32F;
- (c) any livestock slaughtered in accordance with Article 32H.

(2) Without prejudice to the generality of paragraph (1), an order under that paragraph may do either or both of the following—

- (a) require the Department to pay compensation not exceeding such amount as may be specified in the order
- (b) provide for the calculation of compensation using such scales or such other basis of calculation as may be so specified.

Interpretation

32J. In this Part—

“breeding” includes the placing in any creature of an embryo which has been created otherwise than by fertilisation;

“keeper”, in relation to livestock, includes an owner of the livestock;

“livestock” means—

- (a) any creature which is kept, fattened or bred for the production of food, wool, skin or fur;
- (b) any creature, other than a dog, which is kept for use in the farming of land; and
- (c) any equine animal;

“TSE” means transmissible spongiform encephalopathy.”.