

STATUTORY INSTRUMENTS

1990 No. 222

ANIMALS

ANIMAL HEALTH

The Bovine Spongiform Encephalopathy Compensation
Order 1990

<i>Made - - - -</i>	<i>13th February 1990</i>
<i>Laid before Parliament</i>	<i>13th February 1990</i>
<i>Coming into force</i>	<i>14th February 1990</i>

The Minister of Agriculture, Fisheries and Food in exercise of the powers conferred on him by sections 32(3) and 86(1) of the Animal Health Act 1981(a), and of all other powers enabling him in that behalf, with the approval of the Treasury in accordance with the said section 32(3), and 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 by sections 34(7) and 86(1) of the said Act, 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 Compensation Order 1990 and shall come into force on 14th February 1990.

Interpretation

2. 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 bovine spongiform encephalopathy;

“average price” means a price calculated from the information referred to in paragraph 1 of the Schedule to this Order and in accordance with paragraph 2 of that Schedule;

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

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

“month” means any one of the twelve months of the year;

“return” means a document furnished to the Minister by the person or persons operating a market at a place listed in paragraph 1 of the Schedule to this Order which shows for a month the number of commercial grade friesian cows and heifers in milk and in calf sold at that market and the total sale price therefor;

“suspected animal” means a bovine animal which is suspected of being affected with bovine spongiform encephalopathy.

(a) 1981 c. 22; section 86(1) contains definitions of “the Minister” and “the Ministers” relevant to the exercise of the statutory powers under which this Order is made.

Compensation for bovine animals slaughtered for bovine spongiform encephalopathy

3.—(1) Where the Minister causes an affected animal or a suspected animal to be slaughtered under the powers conferred on him by section 32(1) of the Act in its application to bovine spongiform encephalopathy^(a) the compensation payable by him shall, subject to paragraph (2) below, be an amount equal to either –

- (a) the market value of the animal; or
- (b) the average price in respect of the month which occurred two months prior to the month in which the market value of the animal was determined in accordance with paragraph (3) below, rounded down to the nearest multiple of £1,

whichever is the less.

(2) Where the Minister causes an affected or suspected animal to be slaughtered and an examination at a veterinary laboratory of the Ministry of tissues taken from the carcase of the animal does not confirm that it was an affected animal the compensation payable by the Minister shall be an amount equal to either –

- (a) the market value of the animal; or
- (b) 125 per cent of the average price in respect of the month which occurred two months prior to the month in which the market value of the animal was determined in accordance with paragraph (3) below, rounded down to the nearest multiple of £1,

whichever is the less.

(3)(a) Notwithstanding the provisions of articles 3 and 4 of the Diseases of Animals (Ascertainment of Compensation) Order 1959^(b) the market value of a bovine animal which the Minister proposes to cause to be slaughtered shall, for the purposes of payment of compensation under this Order, be determined –

- (i) by agreement between the Minister and the owner of the animal, or
- (ii) by one valuer appointed jointly by the Minister and the said owner, or
- (iii) failing such agreement or appointment, by a valuer nominated by the President of the Royal Institution of Chartered Surveyors.

(b) A valuer appointed or nominated under sub-paragraph (a)(ii) or (iii) above shall be paid by the Minister and shall give to the Minister and the owner a certificate in writing of the said value.

(c) For the purpose of obtaining an agreement under sub-paragraph (a)(i) above the Minister may employ a valuer to agree the market value.

(d) In this paragraph a reference to a valuer shall be construed as a reference to an individual, and not to a company or firm or to two or more persons jointly.

(4) For the purposes of this article, the market value of a bovine animal is the price which might reasonably have been obtained for it at the time of valuation from a purchaser in the open market if the animal were not an affected or a suspected animal.

Revocation

4. The Bovine Spongiform Encephalopathy Compensation Order 1988^(c) is hereby revoked.

^(a) Section 32 of the Animal Health Act 1981 was applied to bovine spongiform encephalopathy by S.I. 1988/2299. ^(b) S.I. 1959/1335. ^(c) S.I. 1988/1346.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 13th February 1990.



John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

13th February 1990

Sanderson of Bowden
Minister of State, Scottish Office

12th February 1990

Peter Walker
Secretary of State for Wales

12th February 1990

John Taylor
Thomas Sackville
Two of the Lords Commissioners of
Her Majesty's Treasury

SCHEDULE

Article 2

CALCULATION OF AVERAGE PRICE

1. For the purposes of article 3(1) and (2) of this Order an average price shall be calculated in respect of each month from the information contained in the returns for that month in respect of the following markets –

Aberdeen:	Central Mart, Kittybrewster, Aberdeen AB9 2UQ.
Ayr:	County Auction Market, Castle Hill Road, Ayr KA7 2HR.
Banbury:	Midland Marts Ltd., PO Box 10, Banbury Stock Yard, Merton Street, Banbury, Oxon OX16 8EP.
Beeston:	Beeston Castle Smithfield, Tarporley, Cheshire CW6 9NJ.
Carmarthen:	Carmarthen Market, Sair Lane, Carmarthen, Dyfed SA31 1QY.
Chippenham:	Chippenham Market Auctioneers Ltd., 14 Market Place, Chippenham, Wiltshire SN15 3HG.
Gisburn:	Gisburn Auction Market Ltd., Gisburn Road, Gisburn, Clitheroe, Lancs BB7 4ES.
Lanark:	Muirglen, Hyndford Road, Lanark ML11 9AX.
Oswestry:	The New Smithfield, Shrewsbury Road, Oswestry, Shropshire SY11 4QA.

2.—(1) Subject to sub-paragraph (2) below, the average price in respect of a month shall be the amount obtained by dividing the total of the sale prices shown in the returns by the total number of animals shown in those returns to have been sold.

(2) Where in respect of any month, returns in respect of all the markets specified in paragraph 1 above have not been furnished to the Minister by the fifteenth day of the following month –

- (a) where returns have been so furnished in respect of five or more of the specified markets the average price in respect of the month shall be the amount obtained by dividing the total of the sale prices shown in the returns by the total number of animals shown in those returns to have been sold;
- (b) in any other case the average price in respect of that month shall be the most recent average price calculated in accordance with this paragraph.

(3) The Minister shall take such steps as he considers appropriate for the purpose of bringing to the notice of persons concerned the average price in respect of each month and the total number of animals and the total sale price on which the calculation of such average price was based.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prescribes the amount of compensation payable for bovine animals caused to be slaughtered by the Minister of Agriculture, Fisheries and Food under section 32 of the Animal Health Act 1981 because they are affected, or suspected of being affected, with bovine spongiform encephalopathy.

The compensation payable is an amount equal to the lower of either (i) the market value of the animal (determined in accordance with the provisions of the Order and on the basis that the animal was not an affected or a suspected animal at the time of valuation) or (ii) the average price for the month which occurred two months prior to the month in which the market value of the animal was determined under the Order, rounded down to the nearest multiple of £1 except that, where a subsequent laboratory examination of tissues taken from the animal does not confirm that it was an affected animal, the compensation payable shall be an amount equal to the lower of such market value or 125 per cent of such average price rounded down in a similar manner (article 3).

The "average price" of a bovine animal for the purpose of such compensation is to be calculated in accordance with the Schedule to the Order and is based upon information concerning sales of bovine animals contained in returns made every month to the Minister in respect of the various markets listed in paragraph 1 of that Schedule.

The Order revokes the Bovine Spongiform Encephalopathy Compensation Order 1988 which prescribed a lower level of compensation for affected animals (article 4).

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