

1999 No. 882

ANIMALS

ANIMAL HEALTH

The Bovine Spongiform Encephalopathy (Feeding Stuffs and Surveillance) Regulations 1999

Made - - - - - *17th March 1999*

Laid before Parliament *22nd March 1999*

Coming into force *15th April 1999*

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated **(a)** for the purposes of section 2(2) of the European Communities Act 1972 **(b)** in relation to the common agricultural policy of the European Community, acting jointly in exercise of the powers conferred on them by that section, now make the following Regulations:

Title, extent and commencement

1. These Regulations may be cited as the Bovine Spongiform Encephalopathy (Feeding Stuffs and Surveillance) Regulations 1999, shall extend to Great Britain and shall come into force on 15th April 1999.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the appropriate Minister” means—

- (a) in relation to England, the Minister of Agriculture, Fisheries and Food;
- (b) in relation to Scotland, the Secretary of State for Scotland; and
- (c) in relation to Wales, the Secretary of State for Wales;

“authorised officer” means an officer appointed by the appropriate Minister or by the local authority in accordance with regulation 9 below;

“the Commission Decision” means Commission Decision 98/272/EC on epidemio-surveillance for transmissible spongiform encephalopathies **(c)**;

“the disease” means bovine spongiform encephalopathy;

“feeding stuff” has the meaning given by section 66(1) of the Agriculture Act 1970 **(d)**;

(a) S.I. 1972/1811.

(b) 1972 c. 68.

(c) OJ No. L122, 24.4.98, p. 59.

(d) 1970 c. 40; the definition of feeding stuff in section 66(1) was substituted by regulation 20(1) of the Feeding Stuffs Regulations 1995 (S.I. 1995/1412), and regulation 3 of those Regulations prescribes descriptions of animals for the purpose of the definition.

“local authority” means—

(a) in England—

(i) as respects—

(aa) each local government area in respect of which there is a unitary authority established by an order under section 17 of the Local Government Act 1992^(a), or

(bb) each London borough, metropolitan district or non-metropolitan county,

that authority or as the case may be the council of the London borough, metropolitan district or non-metropolitan county, except in relation to any part of the local government area or as the case may be London borough, metropolitan district or non-metropolitan county concerned which falls within the London Port Health District,

(ii) as respects the London Port Health District and the City of London, the Common Council of that City,

(iii) as respects the Isles of Scilly, the Council of the Isles of Scilly;

(b) as respects Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994^(b);

(c) as respects Wales, the council of each county or county borough;

“the London Port Health District” has the same meaning as in section 7(1) of the Public Health (Control of Disease) Act 1984^(c);

“the Minister” means the Minister of Agriculture, Fisheries and Food;

“premises” includes premises occupied as or contiguous with a dwelling;

“protein” means any proteinaceous material derived from a carcase, except—

(a) milk or any milk product;

(b) dicalcium phosphate derived from bones;

(c) dried plasma or any other blood product;

(d) gelatin; or

(e) amino acids produced from hides and skins by a process which involves exposure of the material to acid of a pH lower than 2 followed by alkali of a pH greater than 11 and heat treatment at a minimum of 140°C for 30 minutes at a pressure of 3 bar; and

“veterinary inspector” means a veterinary inspector appointed by the Minister for the purposes of the Animal Health Act 1981^(d).

(2) Any expression used in these Regulations which is not defined in paragraph (1) above and which appears in the Commission Decision or in Commission Decision 95/287/EC amending Decision 94/474/EEC concerning certain protection measures relating to BSE^(e) has the same meaning in these Regulations as it does in that Decision.

(3) With effect from 1st July 1999, any reference in these Regulations (however expressed) to the Secretary of State for Wales shall be construed as a reference to the National Assembly for Wales.

Powers of authorised officers in relation to samples

3.—(1) An authorised officer shall, on producing, if so required, a duly authenticated document showing his authority, have the right at all reasonable hours to enter any premises and there take such samples as are necessary to enable the Official ELISA tests for the identification of ruminant protein in feeding stuff intended for ruminants to be carried out.

(a) 1992 c. 19.

(b) 1994 c. 39.

(c) 1984 c. 22.

(d) 1981 c. 22.

(e) OJ No. L181, 1.8.95, p. 40.

(2) An authorised officer may send any sample taken in accordance with paragraph (1) above direct to a laboratory for testing.

(3) An authorised officer entering any premises in accordance with paragraph (1) above may take with him such other persons acting under his instructions as he considers necessary.

Investigation of the disease in bovine animals

4.—(1) When carrying out an investigation of the disease as part of a programme of monitoring by the appropriate Minister under Article 4(1) of the Commission Decision, a veterinary inspector may—

- (a) inspect and examine any bovine animal or any carcase of a bovine animal on any premises;
- (b) make such tests in relation to, and take such samples from, any bovine animal or a carcase of any bovine animal on any premises as he may consider necessary for the purpose of diagnosis or research in relation to the disease;
- (c) mark for identification purposes any bovine animal or any carcase of a bovine animal on any premises; and
- (d) examine any record in whatever form on the premises, and take copies of those records, which he believes may be relevant to any such inspection, examination, test, sampling or marking.

(2) The occupier of any premises, any employee of such a person and any person who is or has been in possession or charge of any bovine animal or carcase which is or has been on any premises, shall—

- (a) provide such reasonable facilities and comply with such reasonable requirements as are necessary for an investigation of the disease as part of a programme of monitoring carried out by the appropriate Minister under Article 4(1) of the Commission Decision; and
- (b) if so required by an authorised officer give such information as he possesses as to—
 - (i) any bovine animal or carcase which is or has been on the premises,
 - (ii) any other animal or carcase with which any bovine animal or carcase which is or has been on the premises may have come into contact, and
 - (iii) the location and movement of any bovine animal or carcase which is or has been in his possession or charge.

(3) An authorised officer shall, on producing, if so required, a duly authenticated document showing his authority, have a right at all reasonable hours—

- (a) to enter any premises—
 - (i) for the purpose of ascertaining whether any bovine animal is being or has been kept on the premises, or
 - (ii) for any other purpose connected with an investigation of the disease as part of a programme of monitoring by the appropriate Minister under Article 4(1) of the Commission Decision; or
- (b) to enter any premises for the purpose of ascertaining whether there is on the premises any evidence of a contravention of the provisions of this regulation.

(4) If a justice of the peace, on sworn information in writing, is satisfied that there is reasonable ground for entry onto any premises for any of the purposes mentioned in paragraph (3) above, and that either—

- (a) admission to the premises has been refused or a refusal is likely, and notice of the intention to apply for a warrant has been given to the occupier; or
- (b) an application for admission, or the giving of such a notice, would defeat the object of the entry, the case is one of urgency, the premises are unoccupied or the occupier is temporarily absent,

the justice may by warrant signed by him authorise an authorised officer to enter the premises, if need be by reasonable force.

(5) In the application of this regulation to Scotland any reference to a justice of the peace includes a reference to the sheriff and to a magistrate.

(6) An authorised officer, when entering any premises for any of the purposes mentioned in paragraph (3) above, or when on any premises for any such purpose, may—

- (a) examine any record in whatever form on the premises, and take copies of those records;
- (b) have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with any records, and may require any person having charge of, or who is otherwise concerned with the operation of the computer, apparatus or material to afford him such assistance as he may reasonably require;
- (c) where records are kept by means of a computer, require the records to be produced in a form in which they can be taken away;
- (d) take with him such other person as he considers necessary—
 - (i) to carry out any checks and examinations for the purposes of this regulation, or
 - (ii) for any purpose in relation to the execution of this regulation; and
- (e) take with him a representative of the European Commission acting for any purposes in relation to the Commission Decision.

Obstruction

5.—(1) No person shall—

- (a) intentionally obstruct a veterinary inspector or an authorised officer acting in the execution of these Regulations;
- (b) without reasonable cause, fail to give to any veterinary inspector or authorised officer acting in the execution of these Regulations any assistance or information which the inspector or officer may reasonably require of him for the purpose of carrying out his functions under these Regulations; or
- (c) furnish to any veterinary inspector or authorised officer acting in the execution of these Regulations any information which he knows to be false or misleading.

(2) Nothing in paragraph (1)(b) above shall be construed as requiring any person to answer any question or give any information if to do so might incriminate him.

Offences and penalties

6.—(1) Any person who, without reasonable excuse—

- (a) intentionally or recklessly defaces, obliterates or removes any mark applied to any bovine animal or carcass under regulation 4(1)(c) above;
- (b) intentionally or recklessly contravenes regulation 4(2) above; or
- (c) contravenes regulation 5(1) above,

shall be guilty of an offence.

(2) A person guilty of an offence under paragraph (1)(a) or (b) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding three months or to both.

(3) A person guilty of an offence under paragraph (1)(c) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Offences by bodies corporate

7.—(1) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar person of the body corporate, or
- (b) any person who was purporting to act in any such capacity,

he, as well as the body corporate, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) For the purposes of paragraph (1) above, “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(3) Where an offence under these Regulations which has been committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Enforcement

8.—(1) Subject to paragraph (2) below, these Regulations shall be enforced by the local authority.

(2) The appropriate Minister may direct, in relation to a particular case or a particular class of case, that the duty imposed on a local authority by paragraph (1) above shall be discharged by him and not by the local authority.

Appointment of authorised officers

9.—(1) Subject to the following paragraphs of this regulation—

(a) the appropriate Minister; and

(b) the local authority (in the latter case to act in relation to that authority),

may appoint any person to be an authorised officer for the purposes of these Regulations, and may suspend or revoke such an appointment if it appears to that Minister or, in the case of an officer appointed by a local authority, to that local authority, that the person so appointed is unfit or unable to carry out the duties of an authorised officer.

(2) Any appointment, suspension or revocation made pursuant to paragraph (1) above shall be in writing.

(3) Any person appointed by the Minister to be an inspector for the purposes of the Animal Health Act 1981 shall be deemed to have been separately appointed by each of the Ministers of the Crown specified in the definition of “the appropriate Minister” in paragraph (1) of regulation 2 above to be an authorised officer under paragraph (1) above.

(4) Any person appointed by the appropriate Minister to be an inspector for the purposes of the Animal Health Act 1981 shall be deemed to have been appointed by that Minister to be an authorised officer under paragraph (1) above.

(5) Any person appointed by a local authority to be an inspector for the purposes of the Animal Health Act 1981 shall be deemed to be a person appointed by that local authority to be an authorised officer under paragraph (1) above.

17th March 1999

Jeff Rooker
Minister of State,
Ministry of Agriculture, Fisheries and Food

17th March 1999

Calum MacDonald
Parliamentary Under Secretary of State,
Scottish Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations, which extend to Great Britain, give effect in part to Commission Decision 95/287/EC amending Commission Decision 94/474/EEC concerning certain protection measures relating to bovine spongiform encephalopathy (OJ No. L181, 1.8.95, p. 40) and in part to Article 4(1) of Commission Decision 98/272/EC on epidemio-surveillance for bovine spongiform encephalopathy (OJ No. L122, 24.4.98, p. 59).

2. These Regulations—

- (a) enable samples to be taken for the purpose of enabling the Official ELISA tests for the identification of ruminant protein in feed intended for ruminants to be carried out (*regulation 3*). The obligation to carry out those tests is contained in the text added to Article 3(3)(c) of Decision 94/474/EEC by Article 1(1) of Decision 95/287/EC;
- (b) make provision for the investigation by veterinary inspectors of bovine spongiform encephalopathy as part of a programme of monitoring carried out by the appropriate Minister under Article 4(1) of Commission Decision 98/272/EC (*regulation 4(1)*). This includes the inspection, examination and testing of bovine animals and carcasses, the taking of samples, marking the animals and their carcasses and examining records;
- (c) require that people in charge or in possession of bovine animals and carcasses of bovine animals co-operate with any such investigation (*regulation 4(2)*);
- (d) make provision for the entry onto premises by authorised officers in connection with any such investigation (*the remaining provisions of regulation 4*);
- (e) prohibit the obstruction of and other activities in relation to veterinary inspectors and authorised officers who are acting in the execution of these Regulations (*regulation 5*);
- (f) provide for offences and penalties (*regulations 6 and 7*);
- (g) provide that the Regulations are to be enforced by the local authority, subject to a power of the appropriate Minister to direct (in relation to a particular case or class of case) that the enforcement of the Regulations is to be undertaken by him and not by the local authority (*regulation 8*);
- (h) make provision for the appointment of authorised officers by the appropriate Minister and the local authority for the purpose of the Regulations (*regulation 9*).

3. A regulatory impact assessment has been prepared for these Regulations and placed in the library of each House of Parliament. Copies can be obtained from Animal Health (BSE) Division, Ministry of Agriculture, Fisheries and Food, Government Buildings, Hook Rise South, Tolworth, Surbiton, Surrey KT6 7NF.

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