

2002 No. 2860

ANIMALS, ENGLAND ANIMAL HEALTH

The TSE (England) (Amendment) (No. 2) Regulations 2002

Made - - - - - 18th November 2002

Laid before Parliament 20th November 2002

Coming into force - - 11th December 2002

The Secretary of State for Environment, Food and Rural Affairs, being 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, in exercise of the powers conferred on her by that section, makes the following Regulations—

Title, extent and commencement

1. These Regulations may be cited as the TSE (England) (Amendment) (No. 2) Regulations 2002, shall extend to England and shall come into force on 11th December 2002.

Amendment of the TSE (England) Regulations 2002

2.—(1) The TSE (England) Regulations 2002^(c) shall be amended in accordance with this regulation.

(2) In regulation 28 (Powers of inspectors)—

(a) in paragraph (2)(g) for the words “animal of the carcase” there shall be substituted the words “animal, or the carcase”;

(b) for paragraph (2)(k) there shall be substituted the following—

“(k) serve any notice in connection with the seizure or give any direction under regulation 29D;”.

(3) After regulation 29 there shall be inserted the following regulations—

“Movement prohibitions and restrictions of animals

29A.—(1) Where an inspector is satisfied he has reasonable grounds for supposing that any TSE susceptible animal has been fed mammalian meat and bone meal or mammalian protein in breach of these Regulations or has had access to mammalian meat and bone meal or mammalian protein which is prohibited to be fed to it under these Regulations, he shall by notice in writing served on the owner or person in charge of the animal prohibit or restrict the movement of the animal from the premises described in the notice.

(2) The notice may be subject to conditions and may be amended, suspended or revoked by further notice at any time.

(a) S.I. 1972/1811.

(b) 1972 c. 68.

(c) S.I. 2002/843 as amended by S.I. 2002/1253.

(3) Where a notice is in force under this regulation the conditions of which allow movement of any animal from premises on the authority of a licence issued by an inspector, an inspector may issue a licence for this purpose subject to such conditions as he considers necessary.

(4) Where an animal is being moved under the authority of a licence issued under this regulation the person in charge of the animal being moved shall carry the licence during the authorised movement and shall, on demand made by an inspector, produce the licence and allow a copy to be taken, and shall also, on demand, give his name and address.

Slaughter of animals

29B.—(1) Where an inspector is satisfied he has reasonable grounds for supposing that any TSE susceptible animal has been fed mammalian meat and bone meal or mammalian protein in breach of these Regulations or has had access to mammalian meat and bone meal or mammalian protein which is prohibited to be fed to it under these Regulations, he may serve a notice on the owner or person in charge of the animal requiring him—

- (a) to slaughter and dispose of the animal within 28 days of the date of the notice and in such manner as the notice provides; or
- (b) to keep the animal in such manner as the notice provides.

(2) The notice shall specify that representations from the owner or person in charge of the animal as to the requirements of that notice, may be made to the Secretary of State within 21 days of the date of the notice.

(3) After considering any representations received during this period from the owner or person in charge of the animal, the Secretary of State shall either withdraw or confirm the notice.

(4) If any person on whom a notice is served under paragraph (1) fails to comply with the requirements of the notice, an inspector may, without prejudice to any proceedings arising out of such default, carry out or cause to be carried out the requirements of the notice at the expense of the person on whom the notice is served.

Compensation for slaughtered animals

29C.—(1) Where an animal is slaughtered under regulation 29B the Secretary of State may pay compensation to the owner of the animal if she considers it appropriate in all the circumstances and shall—

- (a) by notice served on the owner or person in charge of the animal confirm whether such compensation will be payable; and
- (b) if not so payable, specify that representations from the owner or person in charge of the animal as to the notice, may be made to the Secretary of State within 21 days of the date of the notice.

(2) In considering whether to pay compensation to the owner of the animal, the Secretary of State shall have regard, in particular, to whether the owner of the animal—

- (a) kept records of the source and derivation of the material which the animal has been fed or had access to; and
- (b) made reasonable enquiries as to the composition of such material.

(3) After considering any representations received pursuant to paragraph 1 (b) from the owner or person in charge of the animal, the Secretary of State shall either withdraw or confirm the notice.

(4) Where the Secretary of State confirms that compensation shall be payable for the animal, the compensation shall be an amount equal to the market value of the animal.

(5) The market value shall be determined—

- (a) by agreement between the Secretary of State and the owner of the animal; or
- (b) in the absence of such agreement by a valuer appointed by the Secretary of State.

(6) A valuer appointed for the purpose of this regulation shall be paid by the Secretary of State.

(7) The valuer shall give to the Secretary of State and the owner a certificate in writing of the value he has determined.

(8) Without prejudice to the discretion of the Secretary of State in paragraph 1(a) to pay compensation, where an animal was certified by a veterinary surgeon before slaughter as—

- (a) requiring slaughter for emergency reasons relating to the welfare of the animal; and
- (b) having no market value as a consequence,

there shall be no compensation payable for the animal.

Retention, seizure and disposal of carcases

29D.—(1) Where an inspector is satisfied that he has reasonable grounds for supposing that any carcase is from a TSE susceptible animal that has been fed mammalian meat and bone meal or mammalian protein in breach of these Regulations or has had access to mammalian meat and bone meal or mammalian protein which is prohibited to be fed to it under these Regulations he may—

- (a) direct an occupier of premises to retain on the premises the carcase of the animal, any part of such a carcase or any blood derived from any such carcase or part; or
- (b) seize or dispose of—
 - (i) any carcase of the animal, or any part of such a carcase, whether or not it is a carcase which the occupier has been required to be retained under the direction of an inspector; or
 - (ii) any blood derived from a carcase of the animal or any part of such carcase, whether or not the carcase or part of the carcase from which the blood is derived has been required to be retained under the direction of an inspector or has been seized by an inspector.

(2) Directions from an inspector to an occupier under paragraph 1(a) may include directions in relation to the treatment, storage and disposal of the carcase, part of a carcase or blood.

(3) If a direction under this regulation is not complied with an inspector may, without prejudice to any proceedings arising out of such default, arrange for it to be complied with at the expense of the person who has failed to comply with the direction.

(4) Directions under these Regulations shall be in writing, may be subject to conditions and may be amended or revoked by a further direction at any time.

Compensation for carcases, parts of carcases or blood seized or disposed of

29E.—(1) Where a carcase, part of any carcase or any blood is seized or disposed of under regulation 29D the Secretary of State may pay compensation to the owner of the carcase, part or blood if she considers it appropriate in all the circumstances and shall—

- (a) by notice served on the owner of the carcase, part or blood confirm whether such compensation will be payable; and
- (b) if not so payable, specify that representations from the owner or person in charge of the animal as to the requirements of the notice, may be made to the Secretary of State within 21 days of the date of the notice.

(2) In considering whether to pay compensation to the owner of the animal, the Secretary of State shall have regard, in particular, to whether the owner of the animal—

- (a) kept records of the source and derivation of the material which the animal has been fed or had access to; and
- (b) made reasonable enquiries as to the composition of such material.

(3) After considering any representations received pursuant to paragraph 1(b) from the owner, the Secretary of State shall either withdraw or confirm the notice.

(4) Where the Secretary of State confirms that compensation shall be payable for the animal, the compensation shall be determined—

- (a) by agreement between the Secretary of State and the owner of the carcase, part or blood seized or disposed of; or
- (b) by arbitration.

Slaughter or sale for human consumption

29F. No person shall slaughter, sell, supply for sale or allow to be sold for human consumption, any TSE susceptible animal or the meat of any TSE susceptible animal which he knows or has reason to suspect has been fed mammalian meat and bone meal or mammalian protein in breach of these Regulations or has had access to mammalian meat and bone meal or mammalian protein which is prohibited to be fed to it under these Regulations.”

Elliot Morley

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

18th November 2002

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the TSE (England) Regulations 2002, (S.I.2002/843, as amended by S.I.2002/1253– “the Principal Regulations”). Part III of the Principal Regulations makes provision in relation to animal feeding, continuing the implementation of Council Decision 2000/766/EC (OJ No. L306, 7.12.2000, p.32) concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein, and Commission Decision 2001/9/EC (OJ No. L2, 5.1.2001, p.32) concerning control measures required for the implementation of Council Decision 2000/766/EC.

The effect of the amendments in regulation 2 is to provide for further measures where any TSE susceptible animal has been fed mammalian meat and bone meal or mammalian protein in breach of the Principal Regulations or has had access to mammalian meat and bone meal or mammalian protein which is prohibited to be fed to it under those Regulations:

- An inspector shall by notice restrict or prohibit movement of the animal (Regulation 29A);
- An inspector may serve a notice of intended slaughter of the animal requiring such slaughter (Regulation 29B);
- Where such an animal is slaughtered the Secretary of State may pay compensation to the owner (Regulation 29C);
- An inspector may also direct the retention or seize or dispose of any carcase or part of a carcase or blood derived from any carcase or part (Regulation 29D) and may pay compensation (Regulation 29E);
- It is an offence to slaughter, sell, supply for sale or allow to be sold for human consumption any TSE susceptible animal or the meat of such animal which he knows or has reason to suspect has been fed mammalian meat and bone meal or mammalian protein in breach of the Principal Regulations or has had access to mammalian meat and bone meal or mammalian protein which is prohibited to be fed to it under these Regulations (Regulation 29F).

Regulation 2(2)(a) corrects an error in the Principal Regulations.

A Regulatory Impact Assessment has not been prepared for these Regulations.

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