WELSH STATUTORY INSTRUMENTS

2004 No. 2735 (W.242)

ANIMALS, WALES

The TSE (Wales) (Amendment) Regulations 2004

Made - - - -	*19 October 2004*
Coming into force - -	*1 November 2004*

The National Assembly for Wales, being designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to measures in the veterinary and phytosanitary fields for the protection of public health, in exercise of the powers conferred on it by that section, makes the following Regulations—

Citation and commencement

1. These Regulations may be cited as the TSE (Wales) (Amendment) Regulations 2004 and come into force on 1 November 2004.

Amendments to the TSE (Wales) Regulations 2002

2. The TSE (Wales) Regulations 2002(**3**) are amended in accordance with these Regulations.

3. After regulation 86 there is inserted—

"**Enforcement of Annex VII to the Community TSE Regulation**

86A. Schedule 6A (enforcement of Annex VII to the Community TSE Regulation) will have effect.".

4. After Schedule 6 there will be inserted the following Schedule—

(**1**) S.I. 1999/2027 as amended by S.I 2002/794.
(**2**) 1972 c. 68.
(**3**) S.I. 2002/1416 (W.142) as amended by S.I. 2003/2756

"SCHEDULE 6A regulation 86A

Enforcement of Annex VII to the Community TSE Regulation (**4**)

PART I

Competent authority

1. The Secretary of State will be the competent authority for the purposes of Annex VII (other than paragraph 1(a) and 2(a)) to Regulation (EC) No. 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies ("Annex VII") and will exercise all powers and duties imposed on the Member State in that Annex.

Confirmation of TSE in sheep

2.—(1) Following the confirmation of TSE in sheep on a holding under Article 13 of Regulation (EC) No. 999/2001, the Secretary of State, after —

(a) carrying out the inquiry specified in Article 13(1)(b) of that Regulation and in paragraph 1 of Annex VII, and

(b) sampling the animals in accordance with Part V of these Regulations to establish their genotype (if this is necessary),

will decide which of the options set out in paragraphs 2(b)(i) and (ii) of Annex VII the Secretary of State intends to exercise.

(2) The Secretary of State must then serve a notice on the occupier of the holding informing the occupier of which of the options in those paragraphs the Secretary of State intends to exercise.

(3) The notice must specify—

(a) the identity of the animals to be killed and destroyed;

(b) the identity of the animals (if any) to be slaughtered for human consumption;

(c) the identity of the animals (if any) that may be retained;

(d) the identity of any ova and embryos that must be destroyed;

(e) the time limit for complying with the notice; and

(f) the right to apply for a derogation in accordance with paragraph 14.

Confirmation of TSE in goats

3. Following the confirmation of TSE in goats on a holding under Article 13 of Regulation (EC) No. 999/2001, the Secretary of State, after carrying out the inquiry specified in Article 13(1)(b) of that Regulation and in paragraph 1 of Annex VII, will serve a

(**4**) This Schedule enforces Annex VII (other than paragraphs 1(a) and 2(a)) to Regulation (EC) No. 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ No. L 147, 31.5.2001, p. 1). Annex VII to that Regulation was first replaced in respect of ovine and caprine animals by Commission Regulation (EC) No 260/2003 amending Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards the eradication of transmissible spongiform encephalopathies in ovine and caprine animals and rules for the trade in live ovine and caprine animals and bovine embryos (OJ No. L 37, 13/02/2003, p.7) and replaced again by Commission Regulation (EC) No. 1915/2003 as regards the trade and import of ovine and caprine animals and the measures following the confirmation of transmissible spongiform encephalopathies in bovine, ovine and caprine animals (OJ No. L 283, 31.10.2003, p. 29).

notice on the occupier of the holding informing the occupier of the holding that the Secretary of State intends to kill and destroy all the goats on the holding and all caprine embryos and ova from those animals in accordance with paragraph 2(b)(i) of Annex VII.

Infected animals from another holding

4. In the case of infected animals introduced from another holding, the Secretary of State may act in accordance with paragraphs 2 and 3 above in relation to the holding of origin in addition to, or instead of, the holding on which infection was confirmed.

Common grazing

5. In the case of infected animals on common grazing, the Secretary of State may limit a notice under paragraph 2 or 3 above to an individual flock in accordance with paragraph 2(b)(iii), second sentence of Annex VII.

Confirmation of BSE in sheep or goats

6. Following the confirmation of BSE in sheep or goats on a holding, the Secretary of State, after carrying out the inquiry specified in Article 13(1)(b) of Regulation (EC) No. 999/2001 and paragraph 1 of Annex VII, will serve a notice on the occupier of the holding informing the occupier of the Secretary of State's intention to kill and destroy the animals, embryos and ova in accordance with paragraph 2(c) of Annex VII.

Time for appeals

7. The Secretary of State must not proceed with a notice served under this part until after the 21day period for the appeal under Part III is completed or, if there is an appeal, until the appeal is determined.

Subsequent occupiers

8. If there is a change in occupation of the holding, the previous occupier must ensure that the subsequent occupier is made aware of the existence and contents of the notice, and failure to do so will be an offence.

PART II

MOVEMENT OF ANIMALS

Scope

9. This Part will have effect as soon as a notice has been served under Part I of this Schedule, irrespective of any appeal against the notice.

Introduction of animals on to a holding

10. Any person who introduces an animal on to a holding in contravention of paragraph 3.1 of Annex VII will be guilty of an offence, and liable on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or to both; or on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or to both.