STATUTORY RULES OF NORTHERN IRELAND

2010 No. 406

ANIMAL HEALTH

The Transmissible Spongiform Encephalopathies Regulations (Northern Ireland) 2010

Made - - - -	*6th December 2010*
Coming into operation	*31st December 2010*

The Department of Agriculture and Rural Development under the powers conferred by section 2(2) of, as read with paragraph 1A of Schedule 2 to, the European Communities Act 1972(**1**) makes the following Regulations.

It is designated(**2**) for the purposes of that section in relation to measures in the veterinary and phytosanitary fields for the protection of public health.

It has carried out the consultation required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(**3**).

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Department that it is expedient for references to EU instruments referred to in Schedule 1 to be construed as references to those instruments as amended from time to time.

PART I

GENERAL PROVISIONS

Citation and commencement

1. These Regulations may be cited as the Transmissible Spongiform Encephalopathies Regulations (Northern Ireland) 2010 and come into operation on 31st December 2010.

(**1**) 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51)
(**2**) S.I. 1999/2027
(**3**) O.J. No. L 31, 1.2.2002, p.1, as last amended by Regulation (EC) No. 596/2009 (O.J. No. L 188, 18.7.2009, p.14)

Interpretation

2.—(1) In these Regulations—

"approved TSE sampling site" has the meaning given to it in paragraph 12(2) of Part 1 of Schedule 2;

"approved testing laboratory" has the meaning given to it in paragraph 11(2) of Part I of Schedule 2;

"bovine animal" includes bison and buffalo (including water buffalo);

"BSE" means bovine spongiform encephalopathy;

"cattle passport" has the same meaning as in the Cattle Passport Regulations (Northern Ireland) 1999(**4**);

"Commission Decision 2007/411/EC" means Commission Decision 2007/411/EC prohibiting the placing on the market of products derived from bovine animals born or reared within the United Kingdom before 1st August 1996 for any purpose and exempting such animals from certain control and eradication measures laid down in Regulation (EC) No. 999/2001 and repealing Decision 2005/598/EC(**5**);

"cutting plant" (except in Schedule 7, paragraph 9(3)(b)(iii)) has the meaning given to it in paragraph 1(17) of Annex I to Regulation (EC) No. 853/2004, and is an establishment which is—

(a) approved or conditionally approved as such by the Food Standards Agency(**6**) under Article 31(2) of Regulation (EC) No. 882/2004(**7**); or

(b) operating as such under Article 4(5) of Regulation (EC) No. 853/2004, pending such approval;

"the Department" means the Department of Agriculture and Rural Development;

"EU TSE Regulation" means 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(**8**), as read with—

(a) Commission Decision 2007/411/EC;

(b) Commission Decision 2007/453/EC establishing the BSE status of member States or third countries or regions thereof according to their BSE risk(**9**);and

(c) Commission Decision 2009/719/EC authorising certain member States to revise their annual BSE monitoring programmes.(**10**);

"inspector" means an inspector appointed under regulation 12, and includes a veterinary inspector;

"market value" means—

(**4**) S.R. 1999 No. 324 as amended by S.R. 2004 No. 420
(**5**) O.J. No. L 155, 15.6.2007, p. 74
(**6**) Established by the Food Standards Act 1999 c. 28
(**7**) O.J. No L 165, 30.4.2004, p 1. The revised text of Regulation (EC) No 882/2004 is now set out in a Corrigendum (OJ No L 191, 28.5.2004, p 1), which should be read with a further Corrigendum (OJ No L 204, 4.8.2007, p 29). Regulation (EC) No 882/2004 was last amended by Commission Regulation (EC) No 1029/2008 amending Regulation (EC) No 882/2004 of the European Parliament and of the Council to update a reference to certain European standards (OJ No L 278, 21.10.2008, p. 6)
(**8**) O.J. No. L 147, 31.5.2001, p.1, as last amended by Commission Regulation (EC) No. 220/2009 (O.J. No. L 87, 31.3.2009, p.155)
(**9**) O.J. No. L 172, 30.6.2007, p.84, as last amended by Commission Regulation (EC) No. 830/2009 (O.J. No. L 295, 12.11.2009, p.11)
(**10**) O.J. No. L 256, 29.9.2009, p. 35, as last amended by Commission Decision 2010/66/EU (O.J. No. L 35, 6.2.2010, p. 21)

(a) in the case of a bovine animal, the price which might reasonably have been obtained for the animal at the time of valuation from a purchaser in the open market if the animal was not required to be killed under Schedule 3, and

(b) in the case of a sheep or goat the price which might reasonably have been obtained for the animal at the time of valuation from a purchaser in the open market if the animal was not from a flock or herd affected by a TSE;

"official document" must be construed in accordance with regulation 6(1);

"offal" has the meaning given to it in point 1.11 of Annex I to Regulation (EC) No. 853/2004;

"premises" includes—

(a) domestic premises if they are being used for any purpose in connection with the EU TSE Regulation or these Regulations;

(b) land and outbuildings;

(c) a slaughterhouse;

(d) a place that is, for the purposes of point 4(1)(a) of Annex V to the EU TSE Regulation, another place of slaughter; and

(e) any vehicle, container or structure (moveable or otherwise);

"Regulation (EC) No. 1774/2002" means Regulation (EC) No. 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption(**11**), as read with—

(a) Commission Regulation (EC) No. 811/2003 implementing Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the intra-species recycling ban for fish, the burial and burning of animal by-products and certain transitional measures(**12**);

(b) Commission Regulation (EC) No. 878/2004 laying down transitional measures in accordance with Regulation (EC) No. 1774/2002 for certain animal by-products classified as Category 1 and 2 materials and intended for technical purposes(**13**); and

(c) Commission Regulation (EC) No. 92/2005 implementing Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards means of disposal or uses of animal by-products and amending its Annex VI as regards biogas transformation and processing of rendered fats(**14**);

"Regulation (EC) No. 853/2004" means Regulation (EC) No. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin(**15**), as read with—

(a) Directive 2004/41/EC of the European Parliament and of the Council repealing certain directives concerning food hygiene and health conditions for the production and placing on the market of certain products of animal origin intended for human consumption and amending Council Directives 89/662/EEC and 92/118/EEC and Council Decision 95/408/EC(**16**);

(**11**) O.J. No. L 273, 10.10.2002, p.1, as last amended by Commission Regulation (EC) No. 790/2010 (O.J. No. L 237, 8.9.2010, p.1)
(**12**) O.J. No. L 117, 13.5.2003, p.14
(**13**) O.J. No. L 162, 30.4.2004, p.62, as amended by Regulation (EC) No. 1877/2006 (O.J. No. L 360, 19.12.2006, p.133)
(**14**) O.J. No. L 19, 21.1.2005, p.27, as last amended by Regulation (EC) No. 1576/2007 (O.J. No. L 340, 22.12.07, p.89)
(**15**) O.J. No. L 139, 30.04.2004, p.55. The revised text of Regulation (EC) No. 853/2004 is now set out in a Corrigendum (O.J. No. L 226, 25.6.2004, p.22) which should be read with a further Corrigendum (O.J. No. L 204, 4.8.2007, p.26). Regulation (EC) No. 853/2004 is last amended by Commission Regulation (EC) No. 558/2010 (O.J. No. L 159, 25.6.2010, p. 18)
(**16**) O.J. No. L 157, 30.4.2004, p.33. The revised text of Directive 2004/41/EC is now set out in a Corrigendum (O.J. No. L 195, 2.6.2004, p.12)

(b) Commission Regulation (EC) No. 1688/2005 implementing Regulation (EC) No. 853/2004 of the European Parliament and of the Council as regards special guarantees concerning salmonella for consignments to Finland and Sweden of certain meat and eggs(**17**);

(c) Commission Regulation (EC) No. 2074/2005 laying down implementation measures for certain products under Regulation (EC) No. 853/2004 of the European Parliament and of the Council and for the organisation of official controls under Regulation (EC) No. 854/2004 of the European Parliament and of the Council and Regulation (EC) No. 882/2004 of the European Parliament and of the Council derogating from Regulation (EC) No. 852/2004 of the European Parliament and of the Council and amending Regulations (EC) No. 853/2004 and (EC) No. 854/2004(**18**); and

(d) Commission Regulation (EC) No. 2076/2005 laying down transitional arrangements for the implementation of Regulations (EC) No. 853/2004, (EC) No. 854/2004 and (EC) No. 882/2004 of the European Parliament and of the Council and amending Regulations (EC) No. 853/2004 and (EC) No. 854/2004(**19**);

"Regulation (EC) No. 882/2004" means Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules(**20**), as read with—

(a) Commission Regulation (EC) No. 2074/2005; and

(b) Commission Regulation (EC) No. 2076/2005;

"restriction" includes any prohibition under these Regulations;

"slaughterhouse" has the meaning given to it in paragraph 1(16) of Annex I to Regulation (EC) No. 853/2004, and is an establishment which is approved or conditionally approved as such by the Food Standards Agency under Article 31(2) of Regulation (EC) No. 882/2004;

"specified risk material" has the meaning given to it in Article 3.1(g) to the EU TSE Regulation;

"TSE" means transmissible spongiform encephalopathy; and

"veterinary inspector" means a person appointed by the Department as a veterinary inspector.

(2) Expressions that are not defined in these Regulations and occur in the EU TSE Regulation have the same meaning in these Regulations as they have for the purposes of the EU TSE Regulation.

(3) References in these Regulations to the EU instruments identified in Schedule 1 are references to those instruments as amended from time to time.

(4) The Interpretation Act (Northern Ireland) 1954(**21**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(**17**) O.J. No. L 271, 15.10.2005, p.17

(**18**) O.J. No. L 338, 22.12.2005, p.27, as last amended by Commission Regulation (EC) No. 1250/2008 of 12 December 2008 amending Regulation (EC) No 2074/2005 as regards certification requirements for import of fishery products, live bivalve molluscs, echinoderms, tunicates and marine gastropods intended for human consumption (O.J. No. L 337, 16.12.2008, p.31)

(**19**) O.J. No. L 338, 22.12.2005, p.83, as last amended by Commission Regulation (EC) No. 1162/2009 of 30 November 2009 laying down transitional measures for the implementation of Regulations (EC) No. 853/2004, (EC) No. 854/2004 and (EC) No. 882/2004 of the European Parliament and of the Council (O.J. No. L 314, 1.12.2009, p.10)

(**20**) O.J. No. L 165 , 30.4.2004, p.1. The revised text of Regulation (EC) No. 882/2004 is now set out in a Corrigendum (O.J. No. L 191, 28.5.2004, p.1), which should be read with a further Corrigendum (O.J. No. L 204, 4.8.2007, p29). Regulation (EC) No. 882/2004 was last amended by Commission Regulation (EC) No. 1162/2009 of 30 November 2009 laying down transitional measures for the implementation of Regulations (EC) No. 853/2004, (EC) No. 854/2004 and (EC) No. 882/2004 of the European Parliament and of the Council (O.J. No. L 314, 1.12.2009, p.10)

(**21**) 1954 c.33 (N.I.)

Appointment of competent authority

3. The Department is the competent authority for the purposes of the EU TSE Regulation except as otherwise specified in these Regulations.

Exception for research

4.—(1) The provisions of Schedules 2 to 8 do not apply in relation to an animal, a carcase or a sample kept for the purposes of research in premises approved for that purpose under this regulation by the Department.

(2) If a bovine animal, sheep or goat kept in approved research premises under this regulation or its progeny dies or is killed, the occupier must dispose of it as a Category 1 animal by-product in accordance with Regulation (EC) No. 1774/2002 and failure to do so is an offence.

PART II

INTRODUCTION OF SCHEDULES

The Schedules

5. The following Schedules have effect—

(a) Schedule 2 (TSE monitoring);

(b) Schedule 3 (control and eradication of TSE in bovine animals);

(c) Schedule 4 (control and eradication of TSE in sheep and goats);

(d) Schedule 5 (control and eradication of TSE in animals other than bovine, ovine or caprine animals);

(e) Schedule 6 (feedingstuffs);

(f) Schedule 7 (specified risk material, mechanically separated meat and slaughtering techniques); and

(g) Schedule 8 (restrictions on placing on the market and export).

PART III

ADMINISTRATION AND ENFORCEMENT

Approvals, authorisations, licences and registrations

6.—(1) The Department must grant an approval, authorisation, licence or registration under these Regulations ("an official document") if it is satisfied that the provisions of the EU TSE Regulation and these Regulations will be complied with.

(2) An official document must be in writing, and must specify—

(a) the address of the premises to which it relates;

(b) the name of the occupier; and

(c) the purpose for which it is granted.

(3) An official document may be made subject to such conditions as are necessary to—

(a) ensure that the provisions of the EU TSE Regulation and these Regulations will be complied with; or