STATUTORY RULES OF NORTHERN IRELAND

2008 No. 508

ANIMAL HEALTH

The Transmissible Spongiform Encephalopathies Regulations (Northern Ireland) 2008

Made - - - -	*22nd December 2008*
Coming into operation	*1st January 2009*

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 EC 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) 2008 and come into operation on 1st January 2009.

(**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. 202/2008 (O.J. No. L 60, 5.3.2008, p.17)

Interpretation

2.—(1) In these Regulations—

"approved testing laboratory" has the meaning given to it in paragraph 4(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 1 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**);

"Commission Decision 2008/908/EC" means Commission Decision 2008/908/EC authorising certain member States to revise their annual BSE monitoring programme(**6**);

"Community 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(**7**), 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(**8**);and

(c) Commission Decision 2008/908/EC;

"cutting plant" (except in Schedule 7, paragraph 9(2)(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 under Article 31(2) of Regulation (EC) No. 882/2004; 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;

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

"market value" means—

(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 it 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);

(**4**) S.R. 1999 No. 324 as amended by S.R. 2001 No. 292 and S.R. 2004 No. 420
(**5**) O.J. No. L 155, 15.6.2007, p. 74
(**6**) O.J. No. L 327, 5.12.2008, p. 24
(**7**) O.J. No. L 147, 31.5.2001, p.1, as last amended by Commission Regulation (EC) No. 956/2008 (O.J. No. L 260, 30.9. 2008, p.8)
(**8**) O.J. No. L 172, 30.6.2007, p.84

"premises" includes any holding for the purposes of the Community TSE Regulations;

"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(**9**), 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(**10**);

(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(**11**); 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(**12**);

"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(**13**), 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(**14**);

(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(**15**);

(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(**16**); 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)

(**9**) O.J. No. L 273, 10.10.2002, p.1, as last amended by Commission Regulation (EC) No. 523/2008 (O.J. No. L 153, 12.6.2008, p.23)
(**10**) O.J. No. L 117, 13.5.2003, p.14
(**11**) 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)
(**12**) 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)
(**13**) 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. L204, 4.8.2007, p.26), as last amended by Commission Regulation (EC) No.1243/2007 (O.J. No. L 281, 25.10.2007, p.8)
(**14**) 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)
(**15**) O.J. No. L 271, 15.10.2005, p.17
(**16**) O.J. No. L 338, 22.12.2005, p.27, as last amended by Commission Regulation (EC) No. 1244/2007 (O.J. No. L 281, 25.10.2007, p.12)

No. 882/2004 of the European Parliament and of the Council and amending Regulations (EC) No. 853/2004 and (EC) No. 854/2004(**17**);

"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(**18**), 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—

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

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

"specified risk material" has the meaning given to it in Article 3.1(g) of the Community 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 Community TSE Regulation have the same meaning in these Regulations as they have for the purposes of the Community TSE Regulation.

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

(4) The Interpretation Act (Northern Ireland) 1954(**19**) must apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Appointment of competent authority

3. The Department is the competent authority for the purposes of the Community 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 research premises approved under this regulation or it's 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.

(**17**) O.J. No. L 338, 22.12.2005, p.83, as last amended by Commission Regulation (EC) No. 1246/2007 (O.J. No. L 281, 25.10.2007, p.21)
(**18**) 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), as last amended by Council Regulation (EC) No. 1791/2006 (O.J. No. L 363, 20.12.2006, p.1)
(**19**) 1954 c.33 (N.I.)

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 that are not bovine, ovine or caprine);

(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 Community 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 Community TSE Regulation and these Regulations will be complied with; or

(b) protect public or animal health.

(4) If the Department refuses to grant an official document, or grants one subject to conditions, it must—

(a) give its reasons in writing; and

(b) explain that the applicant has the right to make written representations to a person appointed by the Department.

(5) The appeals procedure in regulation 10 then applies.

Occupier's duty

7. The occupier of any premises approved, authorised, licensed or registered under these Regulations commits an offence if they do not ensure that—

(a) the premises are maintained and operated in accordance with—