STATUTORY RULES OF NORTHERN IRELAND

2006 No. 202

ANIMAL HEALTH

The Transmissible Spongiform Encephalopathies Regulations (Northern Ireland) 2006

Made - - - -	*2nd May 2006*
Coming into operation	*3rd May 2006*

The Department of Agriculture and Rural Development, under the powers conferred by section 2(2) of the European Communities Act 1972(**1**) makes the following Regulations in exercise of the powers conferred on it by that section.

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**).

PART I

GENERAL PROVISIONS

Citation and commencement

1. These Regulations may be cited as the Transmissible Spongiform Encephalopathies Regulations (Northern Ireland) 2006 and come into operation on 3rd May 2006.

Interpretation

2.—(1) In these Regulations—

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

"BSE" means bovine spongiform encephalopathy;

(**1**) 1972 c. 68
(**2**) S.I.1999/2027
(**3**) O.J. No. L 31, 1.2.2002, p.1, as last amended by Regulation (EC) No. 1642/2003 (O.J. No. L 245, 29.9.2003, p. 4)

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

"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(**5**), as amended by, and as read with the instruments set out in Schedule 1;

"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, either—

(i) 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; or

(ii) the price which would have applied had the animal been slaughtered in accordance with Commission Regulation (EC) No. 716/96 adopting exceptional support measures for the beef market in the United Kingdom(**6**).

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

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

"restriction" includes any prohibition under these Regulations;

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

"slaughterhouse" and (except in Schedule 6, paragraph 10(2)(c)) "cutting plant" mean premises —

(c) approved or conditionally approved as such by the Food Standards Agency under Article 31(2) of 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(**7**); or

(d) operating as such under Article 4(5) of Regulation (EC) No. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin(**8**) pending such approval;

"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) The Interpretation Act (Northern Ireland) 1954(**9**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(**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 147, 31.5.2001, p. 1
(**6**) O.J. No. L 99, 20.4.1996, p. 14, as last amended by Commission Regulation (EC) No. 2109/2005 (O.J. No. L 337, 22.12.2005, p.25)
(**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 (O.J. No. L191, 28.5.2004, p.1)
(**8**) O.J. No. L 139, 30.4.2004, p. 55. The revised text of Regulation (EC) No. 853/2004 is now set out in a Corrigendum (O.J. No. L226, 25.6.2004, p.22)
(**9**) 1954 c. 33 (N.I.)

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 6 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 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 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption(**10**), 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 (feedingstuffs);

(e) Schedule 6 (specified risk material, mechanically recovered meat and slaughtering techniques); and

(f) Schedule 7 (restrictions on dispatch to member States and to third countries).

PART III

ADMINISTRATION AND ENFORCEMENT

Approvals, authorisations, licences and registrations

6.—(1) The Department shall 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—

(**10**) O.J. No. L273, 10.10.2002, p. 1 as last amended by Commission Regulation (EC) No. 208/2006, O.J. No. L36, 8.2.2006, p. 25

(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 the right of the applicant 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 he does not ensure that—

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

(i) any condition of the approval, authorisation, licence or registration; and

(ii) the requirements of the Community TSE Regulation and these Regulations; and

(b) any person employed by him, and any person permitted to enter the premises, complies with those conditions and requirements.

Suspension and amendment

8.—(1) The Department may suspend or amend an official document if—

(a) any condition under which it was granted is not fulfilled; or

(b) it is satisfied that the provisions of the Community TSE Regulation or of these Regulations are not being complied with.

(2) A suspension or amendment under this regulation shall have immediate effect if the Department considers it necessary for the protection of public or animal health, otherwise it shall not have effect for at least 21 days.

(3) A suspension or amendment of an official document under this regulation shall be notified to the holder thereof and shall—

(a) be in writing;

(b) state its effective date;

(c) give the reasons for issue; and

(d) explain the right of the person who has been notified to make written representations to a person appointed by the Department.

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

(5) If a suspension or amendment under this regulation does not have immediate effect and representations are made under regulation 10, it shall not have effect until the final determination of the appeal is given by the Department unless it considers that it is necessary for the protection of public or animal health for the amendment or suspension to have effect before then.

Revocations of approvals, etc.

9.—(1) The Department may revoke an official document if it is satisfied that the premises to which it relates will not be operated in accordance with the Community TSE Regulation or these Regulations and if—

(a) the document is currently suspended and the period for appeal under regulation 10 has expired or the Department has upheld the suspension following such appeal;

(b) the Department has previously suspended it and there is further non-compliance with the Community TSE Regulation or these Regulations; or

(c) the Department is satisfied that the occupier no longer uses the premises for the purpose for which the document was granted.

(2) If the Department revokes an official document under paragraph (1)(b) or (1)(c) the appeals procedure in regulation 10 applies but the revocation remains in force during that appeals procedure.

Appeals procedure

10.—(1) A person may, within 21 days of notification of a decision to which this regulation applies, make written representations concerning the decision to a person appointed for the purpose by the Department.

(2) The appointed person shall report in writing to the Department which shall make a final determination in relation to the decision to which the report relates.

(3) That final determination may affirm, vary or revoke the decision to which the report relates.

(4) The Department shall give to the appellant written notification of its final determination and the reasons for it.

Valuations

11.—(1) This regulation applies when a valuation is necessary under these Regulations.

(2) The value of anything for the purposes of these Regulations shall be initially assessed by the Department and notified, in writing, to the owner. Value shall be determined by agreement between the owner and the Department and that agreement shall be final and binding on both the owner and the Department.

(3) If the owner and the Department fail to agree the value, the owner shall select a valuer ("the nominated valuer") from a list of approved valuers provided by the Department and notify the Department of the name and address of the nominated valuer within 2 working days of receipt of the list.

(4) The owner shall, within 5 working days of notification to the Department under paragraph (3), arrange for the nominated valuer to determine the value of the thing in question and shall be liable for any fees or other expenses incurred by the valuer in carrying out the valuation.

(5) The nominated valuer shall carry out the valuation within 5 working days of appointment and give to the owner and the Department a statement in writing of that valuation.

(6) The valuation is binding on both the owner and the Department.

(7) Where the owner or the nominated valuer fails to comply with paragraph (3), (4) or (5) as the case may be, the Department shall determine the value of the thing in question.

Appointment of inspectors

12. The Department shall appoint inspectors for the purposes of the enforcement of these Regulations except as otherwise provided in Schedule 6.

Powers of entry

13.—(1) An inspector shall, on producing, if so required, some duly authenticated document showing his authority, have a right at all reasonable hours, to enter any premises (including any