STATUTORY RULES OF NORTHERN IRELAND

1998 No. 442

ANIMALS

Diseases of Animals (Modification) (No. 2) Order (Northern Ireland) 1998

Made - - - -	*14th December 1998*
Coming into operation	*29th January 1999*

The Department of Agriculture, being satisfied that the modifications of Schedule 2 to the Diseases of Animals (Northern Ireland) Order 1981(**1**) set out in Article 2 are necessary or expedient for the purposes of that Order, in exercise of the powers conferred on it by Article 16(2) of that Order and of every other power enabling it in that behalf, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Diseases of Animals (Modification) (No. 2) Order (Northern Ireland) 1998 and shall come into operation on 29th January 1999.

(2) In this Order "the principal Order" means the Diseases of Animals (Northern Ireland) Order 1981.

Modification of the Diseases of Animals (Northern Ireland) Order 1981

2.—(1) Subject to Article 4, in Part I of Schedule 2 to the principal Order, for paragraph 10A(**2**) there shall be substituted the following paragraph—

"**Bovine spongiform encephalopathy**

10A.—(1) The Department may in any case cause to be slaughtered—

(a) any cattle affected with bovine spongiform encephalopathy or suspected of being so affected;

(b) any cattle which are or have been in contact with cattle affected with bovine spongiform encephalopathy or which appear to the Department to have been in any way exposed to the infection of bovine spongiform encephalopathy; and

(c) any cattle which are offspring animals.

(**1**) S.I.1981/1115 (N.I. 22); the relevant amending Orders are S.R. 1990 No. 135, S.R. 1995 No. 273, S.R. 1996 No. 238, S.R. 1996 No. 592 and S.R. 1997 No. 181

(**2**) Paragraph 10A was inserted by S.R. 1990 No. 135

(2) In this paragraph and paragraph 12A of Part II "offspring animal" means a bovine animal born on or after 1st August 1996 to a female bovine animal which was affected or suspected of being affected with bovine spongiform encephalopathy when it gave birth to the animal or which has subsequently become affected or suspected of being affected with bovine spongiform encephalopathy.".

(3) Subject to Article 4, in Part II of Schedule 2 to the principal Order, for paragraph 12A(**3**) there shall be substituted the following paragraph—

"**Bovine spongiform encephalopathy**

12A.—(1) The compensation shall—

(a) where examination by the Department of tissues taken from a suspected animal confirms that it was affected with bovine spongiform encephalopathy, be either—

(i) the market value of the animal; or

(ii) the indicative market price in respect of the month of the year in which the market value of the animal was determined rounded down to the nearest £1,

whichever is the less;

(b) where examination by the Department of tissues taken from a suspected animal does not confirm that it was affected with bovine spongiform encephalopathy, be either—

(i) the market value of the animal; or

(ii) 125% of the amount referred to in head (*a*)(ii),

whichever is the less;

(c) where an exposed animal (other than an offspring animal) is slaughtered, be an amount equal to—

(i) in the case of a female animal, the market value, or 90% of the replacement value of the animal, whichever is the greater; and

(ii) in the case of a male animal, the market value of that animal; and

(d) where an offspring animal is slaughtered, be an amount equal to the market value of the animal.

(2) Where the Department causes 10% or more of the animals in a herd to be slaughtered as exposed animals (other than offspring animals), there shall be added to any compensation payable under sub-paragraph (1)(*c*), an amount equal to—

(a) the appropriate percentage of the appropriate sum; or

(b) 25% of that sum,

whichever is the less.

(3) For the purposes of sub-paragraph (2), the appropriate sum in the case of any animal is the amount of compensation payable under sub-paragraph (1)(*c*) or £1,000, whichever is the less.

(4) For the purposes of sub-paragraph (2)(*a*)—

(a) where 10% or more of the animals in a closed herd are slaughtered, the appropriate percentage is (10+E×1.5)%; and

(b) where 10% or more of the animals in any other herd are slaughtered, the appropriate percentage is (10+E)%,

(**3**) Paragraph 12A was substituted by S.R. 1995 No. 273 and modified by S.R. 1996 No. 238, S.R. 1996 No. 592 and S.R. 1997 No. 181

where E equals half of the percentage by which the number of animals slaughtered exceeds 10% of the number of animals in the herd.

(5) For the purposes of this paragraph—

(a) the indicative market price in respect of each month of the year shall be calculated in accordance with the following formula:

$$\frac{(A \times B) + (C \times D)}{(A + C)}$$

where

A is either 1 or the number of cattle aged less than 7 years when their market value was determined which were slaughtered in Northern Ireland in pursuance of paragraph 10A of Part I during the month of the year ("the calculation month") occurring two such months before the month for which the indicative market price is being calculated, whichever is the greater;

B is the average price paid during the calculation month for commercial grade cows and in-calf heifers both of which are intended for use in the production of milk, such price to be calculated by dividing the total of the sales prices paid for such animals in the returns for a 4 week period ending on the last Saturday of the calculation month by the total number of such animals shown in those returns to have been sold;

C is either 1 or the number of cattle aged 7 years or more when their market value was determined which were slaughtered in Northern Ireland in pursuance of paragraph 10A of Part I during the calculation month, whichever is the greater; and

D is the average price paid during the calculation month for cull cows slaughtered in accordance with Commission Regulation (EC) No. 716/96 adopting exceptional support measures for the beef market in the United Kingdom(**4**),

the final figure being rounded down to the nearest £1;

(b) where, in respect of any calculation month, returns in respect of all the markets listed in Article 16 of the Bovine Spongiform Encephalopathy Order (Northern Ireland) 1997(**5**) have not been furnished to the Department by the 15th day of the following month of the year—

(i) if returns have been so furnished in respect of 3 or more of those markets, the average price for commercial grade cows and in-calf heifers in respect of that calculation month shall be calculated in accordance with head (*a*) from the information shown in those returns;

(ii) in any other case, the average price for commercial grade cows and in-calf heifers in respect of that calculation month shall be the same as that for the most recent previous calculation month for which such an average price was calculated in accordance with head (*a*).

(6) The Department shall take such steps as it considers appropriate for the purposes of bringing to the notice of persons concerned the indicative market price in respect of each month of the year and the total number of animals and the total sale price (and, in the case of cull cows, the average price) on which the calculation of such indicative market was based.

(**4**) O.J. No. L99, 19.4.96, p. 14 as amended by Commission Regulations (EC) Nos. 774/96 (O.J. No. L104, 27.4.96, p. 21), 1974/96 (O.J. No. L262, 16.10.96, p. 2) 2149/96 (O.J. No. L288, 9.11.96, p. 14) and 1365/97 (O.J. No. L188, 17.7.97, p. 6)
(**5**) S.R. 1997 No. 553