



## SCOTTISH EXECUTIVE

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Environment and Rural Affairs Department  
Agriculture Group

Pentland House  
47 Robb's Loan  
Edinburgh EH14 1TY

All Interested Parties on the Attached List

Telephone: 0131-244 6412  
Fax: 0131-244 6297  
E-mail: [Martin.Morgan@scotland.gsi.gov.uk](mailto:Martin.Morgan@scotland.gsi.gov.uk)  
<http://www.scotland.gov.uk>

Your ref:  
Our ref:

11 February 2002

Dear Sir/Madam

### **THE TRANSMISSIBLE SPONGIFORM ENCEPHALOPATHY (SCOTLAND) REGULATIONS 2002**

1. This letter seeks your views on proposals for new domestic legislation to implement in Scotland EU-wide measures on Transmissible Spongiform Encephalopathies (TSEs). Parallel measures are proposed for the rest of the UK. This is a joint Scottish Executive/Food Standards Agency (Scotland) consultation.

#### Background

2. New EU legislation for the prevention, control and eradication of certain TSEs has been in force since 1 July 2001 (EC Regulation 999/2001). This Regulation ("the Community TSE Regulation") was the subject of a consultation letter from this Department, which was sent to interested parties on 24 November 2000. Essentially, the Community TSE Regulation relates to all animal and public health risks resulting from animal TSEs, covering the whole chain of production and the placing on the market of live animals and products of animal origin. Its effect is to introduce measures to ensure that the full extent of the disease situation in all Member States is reliably ascertained, and that appropriate control measures are in place right across the Community.

3. The Community TSE Regulation is directly applicable in all Member States. Most of its provisions are already in force under current UK legislation. For the sake of clarity, however, we wish to consolidate and, where appropriate, amend UK legislation, ensuring that provisions for the administration and enforcement of the Community TSE Regulation are fully reflected in Scottish legislation. This will be achieved through the introduction of new Regulations under the European Communities Act 1972. In some respects the new Community rules go further than existing UK legislation and the proposed new domestic Regulations will deal with these aspects too.

4. The Community TSE Regulation specifies five categories into which Member States and third countries wishing to export into the Community will be placed, depending on their BSE risk.



Until the categories of Member States are decided on, controls on animal feeding and on SRM are covered by transitional measures. The new Regulations make provision for the Community TSE Regulation and the Community Transitional Measures.

5. The new Regulations do not address those parts of the Community TSE Regulation, which relate to trade and exports of live animals or trading in products of animal origin. These aspects will be covered by separate legislation to be issued shortly.

6. As a result of the introduction of the new Regulations, many of the existing UK or Scottish legal instruments relating to BSE will be revoked. This is a formality designed to avoid duplication of legislation, and will not, of itself, lead to substantive changes in the control regime.

#### Draft legislation

7. Enclosed is a copy of the draft Transmissible Spongiform Encephalopathy (Scotland) Regulations 2002.

8. In these draft Regulations, Part II sets out the arrangements for monitoring TSEs in bovine, ovine and caprine animals. There are requirements, in addition to current cattle testing arrangements, to test for TSEs a number of sheep and goats over the age of 18 months which would have been suitable for human consumption. There are further requirements in relation to testing a random sample of sheep and goats that have fallen on farm. The new Regulations provide enforcement powers to undertake this testing, which is currently underway on a voluntary basis.

9. Part III of the Regulations covers the Community transitional measures on animal feeding. When the Community Transitional measures lapse, after a maximum period up until July 2003, the restrictions will be limited to feeding mammalian protein to farmed animals, and to any mammal apart from cats and dogs. There will also then be a ban on feeding rendered ruminant fats to any ruminant. Meanwhile, the draft Regulations continue the controls currently set out in the Processed Animal Protein (Scotland) Regulations 2001 and the BSE (No. 2) Order 1996 (as amended). Extended controls are being introduced on the transport of feed materials, and there are additional enforcement powers which will enable officials to recall and dispose of processed animal proteins and feed containing them (similar to those in the BSE (No. 2) Order 1996 (as amended) which apply to mammalian meat and bonemeal).

10. Also, we are looking to implement Community requirements for premises manufacturing feed using fishmeal to be individually authorised. The draft SSI provides an opportunity to re-visit this issue: rather than visiting and authorising individual premises, a registration scheme is proposed. This will apply to those buying in fishmeal as a 'straight' ingredient to manufacture feed (i.e. mills/home-mixers).

11. Finally, part III of the Regulations makes provision for appeals against suspension and withdrawal of approvals of any premises (see paragraph 14 for further details).

12. Part IV of the draft Regulations deal with Specified Risk Material, largely mirroring the arrangements currently laid down in the Specified Risk Material Regulations 1997 (as amended) and



the Specified Risk Material Order 1997 (as amended). A new prohibition is included here, requiring the collection and transport of SRM in separate vehicles from non-SRM material. Also, there are new licensing provisions to ensure the separation of live animals and products of animal origin in premises which are permitted to use SRM in production and live animals for research.

13. There is a continuing requirement that vertebral column from cattle over thirty months must be treated as SRM and removed in licensed cutting plants specifically designated for the purpose. This only affects members of the Beef Assurance Scheme (BAS), who can sell cattle for human consumption up to 42 months. Community law permits vertebral column removal at licensed cutting plants or, at the discretion of Member States, at licensed butchers' shops. However, there are clear problems with enforcement of such rules at these premises. We propose therefore that removal can only take place in licensed cutting plants specifically designated for the purpose, as is currently the case with imported carcasses. We would not insist on 100% MHS supervision, although MHS visits to cutting plants would check compliance with the legislation. Any additional costs associated with MHS supervision would be met by the FSA. The FSA will be writing separately to BAS producers to set out the proposed designation procedure.

14. This part of the Regulations also includes provisions for appeals to be made against suspension or revocation of licences of any premises. Although we are still considering the precise arrangements under which appeals should be heard, the aim is to develop an open, transparent and genuinely independent process. It is intended that decisions of the appeal tribunal (or other relevant body) should be binding on all parties. This approach is in line with expectations under the Human Rights Act 1998.

15. Part V sets out the measures for dealing with animals suspected of being affected by a TSE, including notification of animals, movement restrictions and compensation. These provisions largely mirror the existing UK rules.

16. Part VI of the Regulations deal with the placing on the market of first generation progeny, semen, embryos and ova of TSE suspect or confirmed animals.

17. The remaining provisions of the draft Regulations cover powers of entry, powers to take samples and other enforcement provisions, generally following the measures currently in force in the UK.

## **Timing**

18. It is intended that the new Transmissible Spongiform Encephalopathy (Scotland) Regulations should come into force in April 2002.

## **Impact on business**

19. A draft Regulatory Impact Assessment (RIA) is also enclosed. Your comments on this would also be particularly welcome.

20. The RIA explains that the compliance costs for the new Regulations in Scotland should be relatively modest. This is because many of the measures involved are already in place under existing UK or Scottish legislation. We would welcome views on any additional burdens on businesses.



## England, Wales and Northern Ireland

21. The attached draft legislation would only apply to Scotland. Agriculture Departments in England, Wales and Northern Ireland will be consulting separately on proposals for equivalent legislation.

### Deadline for comments

22. Normally twelve weeks is allowed for written consultation exercises, but certain exceptional circumstances may unavoidably require a shorter period. In this case we are driven by a timetable dictated by the EU, and we will need to have your comments by 14 March 2002.

### The consultation process

23. We intend to make available, at the end of the consultation process, copies of all the comments received. It will be assumed that your reply can be made publicly available in this way, unless you indicate clearly that you wish all or part of it to be excluded from this arrangement.

### Other information

24. A copy of this consultation letter has been put on the Scottish Executive website. The address is [<http://www.scotland.gov.uk>]. Further information about BSE can be viewed at the following address: <http://www.defra.gov.uk/animalh/bse/index.html>.

25. If you are aware of any organisations or individuals who might be interested in seeing this letter but have inadvertently been left off the circulation list, please contact Ian Murdoch (see contact details below) who will arrange for a copy to be sent to them.

Contact point for responses and enquiries

26. **Please send your comments to Mr Ian Murdoch, Scottish Executive, Environment and Rural Affairs Department, BSE, Scrapie and Animal Waste Branch, Pentland House, 47 Robb's Loan, Edinburgh, EH14 1TY (e-mail: [Ian.Murdoch2@Scotland.gsi.gov.uk](mailto:Ian.Murdoch2@Scotland.gsi.gov.uk) by no later than Thursday, 14 March 2002.** If you have any questions relating to this consultation exercise, please contact Ian at this address, or telephone him on 0131-244-6005.

Yours faithfully

M M Morgan  
BSE, Animal Waste & Beef Exports Branch



## CONSULTATION LIST

All ABPO Approved Waste Food Processors in Scotland  
All Churches and Faith Groups  
All Local Authorities  
All Political Parties in Scotland  
All Scottish Hunt Kennels  
All Scottish Renderers  
All Scottish XAP Approved Plants  
All SRM Collection Centres in Scotland  
Association of Deer Management Group  
Association of Public Analysts  
Association of Scottish Chambers of Commerce  
Blackface Sheep Breeders Association  
Blair Drummond Safari Park  
Blue Faced Leicester Sheep Breeders Association  
Border Leicester sheep Breeders Association  
British Deer Society  
British Goat Society  
British Hospitality Association  
British Medical Association (Scottish Branch)  
British Veterinary Association  
British Veterinary Association (Scottish Branch)  
CBI Scotland  
Central Framers (2000) Ltd  
Central Framers Ltd  
Cheviot Sheep Society  
Convention of Scottish Local Authorities  
Crofters' Commission  
Deer Commission of Scotland  
East of Scotland Farmers Ltd  
East of Scotland Water Authority  
Edinburgh Zoo  
Environment Services Association c/o Shanks and McEwan (Waste Services Limited)  
Falkirk College (1)  
Federation of Small Businesses  
Federation of Wholesale Distributors  
Food and Drink Federation  
Glasgow Zoo  
Hannah Research Institute  
Health & Safety Executive  
Highlands and Islands Enterprise  
Highlands and Islands Livestock Ltd  
Hillend Horncraft  
Hospital Caterers Association (Scotland)  
Independent Farming Group  
Institute of Auctioneers and Appraisers in Scotland  
Institute of Waste Management (Scottish Contact)  
MacSweens of Edinburgh  
McCauly Land Use Research  
Meat and Livestock Commission



Meat and Livestock Commission (Scotland)  
Moredun Research Institute  
Mr B Flynn (Pakistan Society Edinburgh)  
National Cattle Association  
National Farmers Union of Scotland  
National Livestock Traders and Producers Association  
National Sheep Association (Scottish Branch)  
North Country Cheviot Sheep  
North County Cheviot Sheep Society  
North Eastern Farmers Ltd  
North of Scotland Water Authority  
NUFS Pig and Poultry Rep.  
Quality Meat Scotland  
R H Miller (Agricultural) Ltd  
Road Haulage Association Ltd (Scottish Branch)  
Rowett Research Institute  
Royal Dick Veterinary College  
Royal Environmental Health Institute of Scotland  
Royal Highland and Agricultural Society of Scotland  
Royal Zoological Society  
Scotch Quality Beef & Lamb Association  
Scottish Agricultural Organisation Society Ltd  
Scottish Agriculture Colleges Central Office  
Scottish Association of Master Bakers  
Scottish Association of Meat Wholesalers  
Scottish Beef Council  
Scottish Centre for Inspection and Environmental Health  
Scottish Chambers of Commerce  
Scottish Consumer Council  
Scottish Consumers Association  
Scottish Consumers Association for Natural Food  
Scottish Co-operative Wholesale Society Ltd  
Scottish Crofting Foundation  
Scottish Crookmakers Association  
Scottish Dairy Association  
Scottish Egg Producer Retailers Association  
Scottish Enterprise  
Scottish Environment Protection Agency  
Scottish Federation of Fishmongers  
Scottish Federation of Meat Traders Association  
Scottish Fish Merchants Federation  
Scottish Food and Drink Federation  
Scottish Food Trade Association  
Scottish Grocers Federation  
Scottish Knackery Representative – Douglasbrae Knackery  
Scottish Landowners Federation  
Scottish Licensed Trade Association  
Scottish Meat Industry Liaison Group  
Scottish Natural Heritage  
Scottish Quality Salmon  
Scottish Salmon Growers Association  
Scottish Trout Salmon Ltd  
Sheep Veterinary Society



Shetland Agricultural Association  
Shetland Fish Products  
Shetland Flock Book Society  
Shetland Sheep Breeders Group  
Stackpole Farms Ltd  
UKASTA (Scotland)  
UKASTA (Scottish Representative)  
UKASTA Scottish Council  
United Fish Products  
United Molasses  
Waste Reduction Europe Ltd  
West of Scotland Water  
Wholesale Grocers' Association  
Women's Food and Farming Union



# **PARTIAL REGULATORY IMPACT ASSESSMENT**

## **1. Title**

Regulatory impact assessment of the Transmissible Spongiform Encephalopathy (Scotland) Regulations 2002.

## **2. Purpose and intended effect**

Regulation (EC) No. 999/2001 of the European Parliament and of the Council (the Community TSE Regulation) lays down rules for the prevention, control and eradication of certain Transmissible Spongiform Encephalopathies (TSEs) on an EU-wide basis. The Community TSE Regulation, which came into force on 1 July 2001, largely mirrors existing domestic controls.

## **3. Objective**

Against this background, and as part of its ongoing commitment to the eradication of BSE and the protection of human and animal health, the Executive wishes to ensure that the Community TSE Regulation is fully reflected in Scottish legislation. The proposed Transmissible Spongiform Encephalopathy (Scotland) Regulations 2002 would revoke and replace much of the existing legislation dealing with BSE issues and provide powers and penalties in order to effectively administer and enforce the Community TSE Regulation in Scotland. The proposed SSI does not cover trade aspects of the Community TSE Regulation, which will be addressed separately in the coming weeks.

## **4. Risk**

BSE in cattle is a terrible disease which has already cost the UK around £4.5 billion and, as a result of variant CJD, has led to the loss of over 100 lives. It has caused large-scale disruption in the livestock industry and loss of export markets, as well as major concern to consumers and in relation to the environment. And there is an acknowledged theoretical risk that BSE could be found in sheep. The incidence of BSE is increasing in other Member States, and it is clearly in the interests of the Community as a whole to put in place measures to ensure that appropriate measures to tackle TSEs are taken across the EU. The Executive needs to take powers to ensure that the new Community rules are fully implemented in this country.

## **5. Options**

EC Regulations are directly applicable and therefore Scottish Ministers have no other option but to implement them in full.

## **6. Costs and benefits**

The conditions set out in the Community TSE Regulation largely reflects the regime already in place in the UK, either under Community rules or under national legislation. This includes controls on animal feeding, removal and disposal of Specified Risk Material (SRM), notification and handling of

TSE suspect cases (including compensation) and rules for placing on the national market meat and other animal products. Accordingly, the introduction of the Transmissible Spongiform Encephalopathy (Scotland) Regulations 2002 should, in most cases, impose no further costs on businesses.

The Community TSE Regulation introduces extended active TSE surveillance requirements (see paragraph 7, below), which will generate important information on the declining BSE epidemic in cattle. If the results of testing indicate that the measures put in place in 1996 (i.e. to make the feed ban fully effective) have largely been successful in controlling the disease, this will strengthen the case in seeking export markets with countries that at present refuse to import UK beef and beef products. Such benefits would, however, be longer term.

However, we might also discover more cases of BSE than anticipated. The number of cases of BSE in cattle born after the feed ban is particularly important. Whatever the results, they will provide useful information about the true levels of BSE in the UK and Scottish herds and will guide future decisions about maintaining and as necessary developing policies to ensure the continued reduction and eventual eradication of BSE in cattle. They will also provide important information for the Food Standards Agency's proposed review of the Over Thirty Month rule – due to be carried out later this year.

Requirements for additional testing of small ruminants will help us in applying measures under the National Scrapie Plan designed specifically to eradicate scrapie from scrapie-affected flocks.

## **7. Compliance costs**

As discussed, the domestic compliance costs for the Transmissible Spongiform Encephalopathy (Scotland) Regulations 2002 as currently drafted are expected to be relatively modest since the measures required are already in place under existing national legislation. This is due to the fact that, in response to the BSE epidemic, we have already introduced many of the measures that are now included in the Community TSE Regulation.

The following parts of the Transmissible Spongiform Encephalopathy (Scotland) Regulations 2002 are those which are likely to entail additional compliance costs:

- i). Part II of the Regulations consolidate and extend the existing major active TSE surveillance programme. There is a requirement additionally to test for TSEs a number of sheep and goats over the age of 18 months which would have been suitable for human consumption, as well as the extension of existing cattle testing requirements to fallen stock and casualty animals aged over 24 months, which was introduced last month. The Regulations provide enforcement powers to undertake this testing: including a requirement for abattoirs to co-operate with the testing requirements, and powers to identify, seize and slaughter animals for testing. There is also a requirement to test a random sample of sheep and goats that have fallen on farm. We are therefore proposing to introduce legal powers to allow us to require randomly selected keepers of sheep and goats to provide a fallen animal within a time limit (if available).



The compliance costs for a typical business, as a direct result of the Regulations, would be very small or negligible. The benefit of not having to pay for the collection of fallen animals will more than compensate. A typical business would be a farm. The only direct costs are the time it takes to telephone to notify SEERAD or its agents of fallen stock and, in the case of fallen sheep, the cost of the phone call (fallen cattle can be notified via a freephone helpline). There will also be the time it takes to accompany the haulier to the fallen animal(s) and to supply the necessary identification documents. This time equates to a few pounds per case and is not a regular cost.

The extended testing requirements will affect some businesses since carcasses that would normally be collected and retained by, say, a knackers' yard or hunt kennel, will be tested by SEERAD agents and incinerated. The requirement on farmers, if randomly selected, to supply a fallen animal may also involve limited and irregular costs. *What are these costs likely to be?*

The requirement on slaughterhouses to co-operate in the TSE surveillance programme may also give rise to limited compliance costs. These are likely to be associated with the loss of carcasses, disruption to the production line, disposal of SRM and blood. *Can the costs be estimated?*

ii). Under existing controls, SRM must be conveyed either in an impervious container that holds nothing but SRM, or in a part of the vehicle that is impervious and holds nothing but SRM. Provided these conditions are satisfied it is therefore currently permissible for an SRM load to be carried in the same vehicle as a non-SRM load.

The Community TSE Regulation requires that SRM is completely separated from other waste, and is collected separately. Part IV of the draft Transmissible Spongiform Encephalopathy (Scotland) Regulations 2002 therefore provides that SRM must be collected and transported in separate vehicles from non-SRM material. This will safeguard against any possible risk of cross-contamination. Separation of the material must be maintained at all times. The only exception to this rule is in a rendering plant, where non-SRM may be mixed with SRM providing that the entire mixture is treated to SRM specifications. Mixing at the rendering plant does not derogate from the requirement to transport SRM and non-SRM separately. *What are the costs likely to be for transporters, slaughterhouses, knacker's yards, hunt kennels and incinerators? What benefits is the permission to mix SRM and non-SRM at rendering plants likely to bring?*

iii) There is a continued requirement that vertebral column from cattle over thirty months must be treated as SRM and be removed in licensed cutting plants. This only involves members of the Beef Assurance Scheme (BAS). Member States have the option of allowing removal in licensed butchers' shops, but this option is not favoured in the UK for enforcement reasons. These continued measures, in place since April 2001 are not expected to involve additional compliance costs for members of the BAS.

iv). The TSE Regulation does not apply to cosmetic or medicinal products; products not destined for use in human food, animal feed or fertilisers; or products destined for exhibition,



teaching, scientific research, special studies or analysis; or live animals used or intended for research.

The Community TSE Regulation (Article 2), however, requires that these products and animals are kept separate from products of animal origin and animals that are within its scope, in order to avoid cross-contamination or substitution. The draft Transmissible Spongiform Encephalopathy (Scotland) Regulations 2002 enforce this requirement by introducing licensing for premises on which there are specified risk materials or infected animals for the purposes listed above. This continues and extends licensing requirements for technical uses in the SRM Order 1997 and, for exemptions from the feed ban for research purposes as outlined under the BSE (No. 2) Order 1996 (as amended). The conditions for the issue of a licence are strictly limited to demonstrating separation from animals and animal products that are not subject to the TSE Regulation from those which are. *Can the costs of fulfilling the separation requirement and demonstrating separation be quantified?*

v). If adopted as proposed, the Transmissible Spongiform Encephalopathy (Scotland) Regulations 2002 will extend the enforcement powers available in the current BSE (No.2) Order 1996 (as amended) to recall and dispose of feed contaminated with meat and bonemeal. In the new legislation these powers will also apply to processed animal proteins and feed containing them. There will be no cost implications for those complying with the legislation.

The draft Transmissible Spongiform Encephalopathy (Scotland) Regulations 2002 also include provision for a scheme to register those premises which manufacture feed using fishmeal. The costs of a registration scheme to the 3-4,000 premises across GB involved should be minimal. This will address an existing Community requirement not included in the Processed Animal Protein (Scotland) Regulations 2001.

The draft regulations extend controls on transport of feedingstuffs covered by the Processed Animal Protein (Scotland) Regulations 2001. This is designed to ensure that the measures apply throughout the support network, to transport from intermediaries such as merchants and storage depots, rather than only to the premises of production or manufacture. The feed manufacturers' trade associations have already adopted a Code of Practice on, for example, separation of feedingstuffs during transport, and have assured us that their members are complying with the Code. Therefore, the impact on industry should be minimal.

## **8. Other costs**

The enhanced TSE testing programme for Great Britain will cost around £50 million annually.

## **9. Impact on small businesses**

If the Transmissible Spongiform Encephalopathy (Scotland) Regulations 2002 are adopted, they will apply across the industry, which includes small businesses. However, there will be no discrimination against small businesses.



## 10. Consultation

*A summary of replies received in response to the consultation exercise will be included here.*

This Department conducted an extensive public consultation during November 2000 on proposals for a Community TSE Regulation. It was made clear as part of this consultation exercise that the Community measures would have to be transposed into domestic legislation to allow us to enact national enforcement measures. Those consulted did not actively oppose this point.

## 11. Enforcement, sanctions, monitoring and review

The Transmissible Spongiform Encephalopathy (Scotland) Regulations 2002 apply to Scotland only. Parallel legislation is being introduced in England, Wales and Northern Ireland.

In premises licensed under the Fresh Meat (Hygiene and Inspection) Regulations 1995, enforcement will continue to be carried out by the Meat Hygiene Service. In relation to other premises, enforcement will remain the responsibility of Local Authorities. Inspections will be carried out to ensure compliance with the Regulations and in addition to carrying out the ad hoc inspections to meet EU requirements, complaints and allegations of irregularities will be followed-up.

In most instances it is anticipated that advice and warnings, with a time scale for compliance (followed-up as necessary), would be given before a decision was taken to initiate prosecution action. The offences and penalties under the Regulations are the maximum allowed under the parent legislation (the European Communities Act 1972). These penalties reflect the potentially serious nature of the offences. Failure to comply with the Regulations could have serious implications for human or animal health.

This legislation will be reviewed when necessary as it forms an integral part of the Executive's general policy on Transmissible Spongiform Encephalopathies.

## 12. Regulatory quality

**Declaration: I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.**

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**Ross Finnie**

**Environment and Rural Development Minister**



## **Contact**

If you have any questions relating to this consultation exercise, please contact Mr Ian Murdoch, Scottish Executive, Environmental Rural Affairs Department, BSE, Scrapie and Animal Waste Branch, Pentland House, 47 Robb's Loan, Edinburgh, EH14 1TY, telephone him on 0131-244-6005 or e-mail him at [Ian.Murdoch2@Scotland.gsi.gov.uk](mailto:Ian.Murdoch2@Scotland.gsi.gov.uk)



DRAFT SCOTTISH STATUTORY INSTRUMENTS

**2002 No.**

**AGRICULTURE**

The TSE (Scotland) Regulations 2002

**Arrangement of regulations**

**Part I**

**Introductory provisions**

1. Title, extent and commencement
2. Purpose and application
3. Interpretation

**Part II**

**Prevention of TSE**

4. TSE monitoring
5. Movement prohibitions and restrictions of TSE susceptible animals
6. Slaughter of TSE susceptible animals at slaughterhouses
7. Slaughter of TSE susceptible animals at other premises
8. Retention and seizure of carcasses etc. of TSE susceptible animals
9. Compensation for slaughtered TSE susceptible animals
10. Notifications

**Part III**

**Animal feeding**

*Mammalian protein and mammalian meat and bone meal*

11. Mammalian protein
12. Mammalian meat and bone meal
13. Mammalian meat and bone meal for use in fertilisers on agricultural land

*Processed animal protein*

14. Feeding of processed animal protein to farmed animals
15. Sale or supply of processed animal protein intended for the feeding of farmed animals
16. Production of fishmeal for feeding to farmed animals other than ruminants
17. Production of dicalcium phosphate and hydrolysed protein for feeding to farmed animals
- 17A. Transport and storage of processed animal protein

*Approvals of premises*

18. Applications for approval and approvals of premises
19. Suspension and withdrawal of approvals
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*Feedingstuffs*

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22. Production of feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants
23. Production of feedingstuffs containing dicalcium phosphate and hydrolysed protein for feeding to farmed animals
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*Administration and enforcement*

- 24A. Application of transport requirements
25. Records relating to mammalian meat and bone meal and processed animal protein
26. Cleansing and disinfection
27. Powers of inspectors
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29. Interpretation of expressions used in this Part
30. Extended meaning of sale etc.
31. Presumptions that food intended for human consumption

*Carcases and specified risk material*

32. Removal of specified risk material from carcasses in slaughterhouses
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34. Inspection and marking of carcasses in a slaughterhouse
35. Removal of vertebral column of bovine animals in cutting premises
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37. Young lamb stamp
38. Staining of specified risk material
39. Consignment of specified risk material after removal from carcasses
40. Presence of an OVS

*Prohibitions: slaughter and carcasses*

41. Pithing
42. Prohibition on sale of non-compliant carcasses for human consumption
43. Prohibition on the removal of brain and eyes
44. Prohibition on the removal of spinal cord
45. Transport of unmarked carcasses of sheep and goats
46. Possession of unmarked carcasses of sheep and goats

*Prohibitions on sale and use of specified risk material*

47. Prohibition on sale of specified risk material for human consumption
48. Prohibition on feeding specified risk material to animals
49. Specified risk material for use in cosmetic, pharmaceutical and medical products
50. Mechanically recovered meat

*Prohibitions on collection, transport, rendering, incineration etc. and storage of specified risk material*

51. Use of premises for collection, transport, rendering, incineration etc. of specified risk material
52. Storage of specified risk material
53. Transport of specified risk material
54. Procedure for bringing in specified risk material from England, Wales or Northern Ireland

*Licensing*

55. Licensing of premises
56. Licensing of premises for the use of specified risk material in production or research
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58. Requirements of use of licensed premises
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- 60. Revocation of licences
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*Collection centres and incinerators*

- 62. Collection centres
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*Rendering plants*

- 64. Delivery of specified risk material to rendering plants
- 65. Storage etc. of specified risk material at rendering plants
- 66. Rendering of specified risk material
- 67. Protein and tallow

*Administration and enforcement*

- 68. Records
- 69. Cleansing and disinfection
- 70. Powers of inspectors
- 71. Recall, seizure and destruction of feeding stuffs
- 72. Directions
- 73. Compliance with notices
- 74. Slaughterhouse staff training
- 75. Offences
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**Part V**

**Control and eradication of TSEs**

- 77. Notifications of animals suspected of being affected by a TSE
- 78. Measures for the purposes of chapter IV of the Community TSE Regulation
- 79. Movement prohibitions and restrictions of any TSE susceptible animals for the purposes of chapter IV of the Community TSE Regulation
- 80. Slaughter of TSE susceptible animals at slaughterhouses for the purposes of chapter IV of the Community TSE Regulation
- 81. Slaughter of TSE susceptible animals at other premises for the purposes of chapter IV of the Community TSE Regulation
- 82. Retention and seizure of carcasses etc. of TSE susceptible animals for the purposes of chapter IV of the Community TSE Regulation
- 83. Compensation
- 84. Prohibition of sale, supply and use of milk from affected or suspected animals

## **Part VI**

### **Placing on the market**

- 85. Notification first generation progeny etc. of TSE suspect and confirmed animals
- 86. Measures to administer and enforce article 15(2) of, and chapter B of annex VIII to, the Community TSE Regulation
- 87. Movement prohibitions and restrictions: article 15(2) of, and chapter B of annex VIII to, the Community TSE
- 88. Slaughter at slaughterhouses: article 15(2) of, and chapter B of annex VIII to, the Community TSE Regulation
- 89. Slaughter at other premises: article 15(2) of, and chapter B of annex VIII to, the Community TSE Regulation
- 90. Retention and seizure of carcasses etc.: article 15(2) of, and chapter B of annex VIII to, the Community TSE Regulation
- 91. Compensation
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## **Part VII**

### **Sampling and laboratory methods**

- 93. Sampling and laboratory methods

## **Part VIII**

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- 94. Community controls: powers of inspectors
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- 97. Offences due to fault of another person and defence of due diligence
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## **Part IX**

### **Supplementary provisions**

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- 100. Amendments
- 101. Revocations, savings and transitional provisions

## **Schedules**

- Schedule 1 Compensation

Part I	Compensation for TSE susceptible animals slaughtered under regulations 6 or 7
Part II	Compensation for carcasses, parts of carcasses or blood of TSE susceptible animals retained, seized or disposed of under regulation 8
Part III	Compensation for TSE susceptible animals slaughtered under regulations 80 or 81
Part IV	Compensation for carcasses, parts of carcasses or blood of TSE susceptible animals retained, seized or disposed of under regulation 82
Part V	Compensation for TSE suspect or confirmed animal or a first generation progeny of any such animal slaughtered under regulations 88 or 89
Part VI	Compensation for retention, seizure or disposal under regulation 90
Schedule 2	Conditions for the transport of fishmeal for feeding to farmed animals other than ruminants
Schedule 3	Conditions for the production of dicalcium phosphate for feeding to farmed animals
Schedule 4	Conditions for the production of hydrolysed protein for feeding to farmed animals
Schedule 5	Rendering requirements
Schedule 6	Application of Part IV of these Regulations to Scheme animals
Schedule 7	Offspring slaughter
Schedule 8	Amendments
Schedule 9	Revocations, savings and transitional provisions

## **Part I**

### **Introductory provisions**

#### **Title, extent and commencement**

1.—(1) These Regulations may be cited as the TSE (Scotland) Regulations 2002.

(2) These Regulations shall extend to Scotland.

(3) These Regulations shall come into force on [ ] 2002.

#### **Purpose and application**

2.—(1) These Regulations make provision for the administration and enforcement of the Community TSE Regulation and the Community Transitional Measures otherwise than in relation to trade.

- (2) For this purpose these Regulations–
- (a) apply to the production and placing on the market of live animals and products of animal origin; and
  - (b) in accordance with article 1(1) of Commission Regulation (EC) No 1326/2001, and section D of Annex XI to the Community TSE Regulation (added by Article 3(3) of, and Annex IV to, Commission Regulations (EC) No. 1326/2001), continue the implementation of Council Directive 98/256/EC<sup>(a)</sup> (concerning emergency measures to protect against bovine spongiform encephalopathy, amending Decision 94/474/EC and repealing Decision 96/239/EC) in relation to offspring of bovine animals previously provided by the Offspring Slaughter Regulations 1998, S.I. 1998/3070; and
  - (c) in accordance with Article 1(2) of Commission Regulation (EC) No. 1326/2001, continue the implementation of the Council Decision and the Commission Decision previously provided by the Processed Animal Protein (Scotland) Regulations 2001<sup>(b)</sup>.
- (3) Subject to paragraph (4) below, these Regulations do not apply to the production or placing on the market of the products, medical devices, starting materials, intermediate products and live animals referred to in article 1(2) of the Community TSE Regulation.
- (4) In so far as necessary to avoid the cross-contamination or substitution referred to in article 2 of the Community TSE Regulation, these Regulations apply to the use of specified risk material in the production or placing on the market of any product, medical device, starting material or intermediate product referred to in article 1(2) of the Community TSE Regulation.
- (5) Part III of these Regulations applies in relation to mammalian protein, mammalian meat and bone meal meat and processed animal protein intended for the feeding of animals (excluding humans).
- (6) Part III of these Regulations does not apply in relation to–
- (a) catering waste; or
  - (b) eggs and egg products.
- (7) Provision as respects Scotland for the administration and enforcement of the Community TSE Regulation and the Community Transitional Measures in relation to trade is made by the TSE (Scotland) (Trade) Regulations 2002.

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<sup>(a)</sup> O.J. No. L 113, 15.4.98, p.32.

<sup>(b)</sup> S.I. 2001/[276].

## Interpretation

3.—(1) In these Regulations, unless the context otherwise requires–

“Agency” means the Food Standards Agency;

“animal by-product” has the same meaning as in the Animal By-Products Order 1999<sup>(a)</sup>;

“ABPO approved”, in relation to premises, means approved under article 7 of the Animal By-Products Order 1999, in accordance with article 5(2) of Council Directive 90/667/EEC<sup>(b)</sup> laying down the veterinary rules for the disposal and processing of animal waste, for its placing on the market and for the prevention of pathogens in feedingstuffs of animal or fish origin and amending Directive 90/425/EEC, for the purpose of rendering low risk animal by products; and “ABPO approval” shall be construed accordingly;

“animal waste” has the same meaning as in Council Directive 90/667/EEC;

“catering waste” has the same meaning as in the Animal By-Products Order 1999;

“the Commission Decision” means Commission Decision 2001/9/EC<sup>(c)</sup> concerning control measures required for the implementation of Council Decision 2000/766/EC concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein;

“the Community TSE Regulation” means Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies<sup>(d)</sup>;

“the Community Transitional Measures” means–

- (a) Commission Regulation (EC) No 1248/2001 of 22 June 2001 amending Annexes III, X and XI to Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards epidemiological surveillance and testing of transmissible spongiform encephalopathies<sup>(e)</sup>;
- (b) Commission Regulation (EC) No 1326/2001 of 29 June 2001 laying down transitional measures to permit the changeover to the Regulation

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<sup>(a)</sup> S.I. 1999/646.

<sup>(b)</sup> OJ No. L 363, 27.12.1990, p.51.

<sup>(c)</sup> OJ No. L 2, 5.1.2001, p.32.

<sup>(d)</sup> OJ No. L 147, 31.5.2001, p.1.

<sup>(e)</sup> OJ No. L 173, 27.6.2001, p.12.

of the European Parliament and of the council (EC) No 999/2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies, and amending Annexes VII and XI to that Regulation<sup>(a)</sup>; and

- (c) Commission Regulation (EC) No /2001 of [ ] 2001 amending Annex XI to Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards bovine vertebral column and amending Regulation (EC) No 1326 as regards animal feeding<sup>(b)</sup>;

“the Council Decision” means Council Decision 2000/766/EC<sup>(c)</sup> concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein;

“cutting premises” means cutting premises as defined in the Fresh Meat (Hygiene and Inspection) Regulations 1995<sup>(d)</sup> which are licensed cutting premises under those Regulations;

“farmed animal” means an animal which is kept, fattened or bred for the production of food;

“feeding stuff” has the meaning given to it by section 66(1) of the Agriculture Act 1970, save that it shall apply to products and substances for oral feeding to any creature except a human being, and section 66(2)(b) of that Act shall have effect for the purposes of these Regulations as it does for the purposes of that Act;

“food” has the same meaning as in the Food Safety Act 1990;

“inspector” means–

- (a) a person appointed as such for the purposes of these Regulations by the Scottish Ministers, including a veterinary inspector;
- (b) a person appointed as such for the purposes of these Regulations by the Agency, including an OVS;
- (c) a person appointed as such for the purposes of these Regulations by a local authority in relation to its enforcement responsibilities under these Regulations; and

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<sup>(a)</sup>OJ No. L 177, 30.6.2001, p.61.

<sup>(b)</sup>OJ No. L [ ], [ ] 2001, p.[ ].

<sup>(c)</sup> OJ No. L 306, 7.12.2000, p.32.

<sup>(d)</sup> S.I. 1995/539, as amended by S.I. 1995/731, S.I. 1995/1763, S.I. 1995/2200, S.I. 1995/2148, S.I. 1995/3124, S.I. 1995/3189, S.I. 1996/1148, S.I. 1996/2235, S.I. 1997/1729, S.I. 1997/2074; and as amended in relation to Scotland by S.I. 2000/225 and in relation to Scotland and Wales by S.I. 2000/656.

- (d) in relation to Part IV of these Regulations, a person designated as such in accordance with regulation 8(2) of the Fresh Meat (Hygiene and Inspection) Regulations 1995.

“listed premises” means those premises notified to the Agency as being listed premises for the purposes of these Regulations and published by notice in the London Gazette;

“MBM product” means any product containing mammalian meat and bone meal;

“mammalian meat and bone meal” means–

- (a) any mammalian protein (including greaves) derived from the whole or part or any part of any dead mammal by–
  - (i) the process of rendering; or
  - (ii) in the case of a product originating outside of Scotland, by an equivalent process; or
- (b) any material derived from any such protein;

“mechanically recovered meat” means meat which–

- (a) is derived from residual meat on animal bones; and
- (b) has been obtained by mechanical means;

and for this purpose “protein” means any proteinaceous material which is derived from a carcase but does not include milk or any milk product;

“monitoring notification”, in respect of any category of notifiable animal, means a notification of the death of the animal to the Scottish Ministers;

“a notifiable animal” means an animal of a description specified in the Community TSE Regulation or the Community Transitional Measures in relation to which the annual programme of monitoring under article 6 of the Community TSE Regulations applies;

“OVS” means an official veterinary surgeon designated as such in accordance with regulation 8(1) of the Fresh Meat (Hygiene and Inspection) Regulations 1995;

“occupier”, in relation to any premises, means any person carrying on a business there;

“premises” means any place, including any land, building, structure (moveable or otherwise), tent or vehicle, in which TSE susceptible animals may be bred, handled, held, kept, marketed or shown to the public, including any place occupied as a private dwelling and any place, whether or not a private dwelling, where blood, carcasses or parts of the carcasses derived from TSE susceptible animals may be kept;

“processed animal protein” means meat and bone meal, meat meal, bone meal, blood meal, dried plasma and other blood products, hydrolysed protein, hoof meal, horn meal, poultry offal meal, feather meal, dry greaves, fishmeal, dicalcium phosphate, gelatin and any other similar products, including mixtures, feedingstuffs, feed additives and premixtures, containing these products; but does not include mammalian meat and bone meal;

“production includes the manufacture, mixing or packaging of any product, together with ancillary storage and transport operations;

“rendering” means subjecting any material at a rendering, fishmeal or other plant to any of the systems of treatment or procedures mentioned in Schedule 2 to Animal By-Products Order 1999;

“ruminant animal” means a bovine animal, a sheep or a goat;

“scheme animal” means a bovine animal–

- (a) which has been slaughtered pursuant to the purchase scheme introduced under Commission Regulation (EC) No 716/96 adopting exceptional support measures for the beef market in the United Kingdom; or
- (b) which the Minister has caused to be slaughtered under the Animal Health Act 1981 for the prevention of bovine spongiform encephalopathy;

“sealed vehicle” means a vehicle sealed in accordance with regulation 39(3) below;

“slaughterhouse” means a slaughterhouse as defined in the Fresh Meat (Hygiene and Inspection) Regulations 1995 which is a licensed slaughterhouse under those Regulations;

“specified risk material” includes–

- (a) any part of–

(i) a bovine animal, other than a carcase of a bovine animal containing vertebral column which has been imported in accordance with the TSE (Scotland) (Trade) Regulations 2002;

(ii) a sheep or a goat,

remaining attached to specified risk material after dissection of the carcase of the animal;

(b) any animal material which comes into contact with specified risk material or specified sheep or goat material after it has been removed from the carcase; and

(c) specified solid waste;

“specified solid waste” means any solid matter resulting from the slaughter or death of bovine animals, sheep or goats, or from the subsequent processing of their carcasses, which is found in any part of the drainage system for any premises at which specified risk material is handled;

“stained blue” has the meaning given in [equivalent in these Regulations to regulation 5(1) of the SRM Regulations 1997];

“stained yellow” has the meaning given in [equivalent in these Regulations to regulation 5(2) of the SRM Regulations 1997];

“TSE susceptible animal means any animal (whether farmed not) capable of being affected by a TSE;

“tallow” means fat derived from animal tissues by a process of rendering;

“UK specified risk material” means specified risk material derived from an animal which has died or was slaughtered in the United Kingdom;

“vertebral column” excludes the vertebrae of the tail and the transverse process of the lumbar vertebrae but includes dorsal root ganglia;

“veterinary inspector” means a person appointed by the Scottish Ministers as a veterinary inspector; and

“young lamb stamp” means the stamp described in regulation 16(2) below.

(2) Expressions in these Regulations which are not defined in paragraph (1) above and which appear in the Community TSE Regulation or in the Community Transitional Measures

have the same meaning in these Regulations as they have for the purposes of the Community TSE Regulation or the Community Transitional Measures.

(3) Expressions in Part III of these Regulations which are not defined in paragraph (1) above and which appear in the Council Decision or the Commission Decision have the same meaning in these Regulations as they have for the purposes of those Decisions.

(4) For the purposes of these Regulations and their application, material shall be treated as a feedingstuff whether it is used or intended to be used as a feedingstuff by itself or as an ingredient in something which is so used or intended for such use.

(5) Regulations 28 and 29 in Part IV of these Regulations make further provision for the interpretation of expressions used in that Part.

(6) Any person appointed by the Scottish Ministers or a local authority to be an inspector for the purposes of the Animal Health Act 1981 or the Processed Animal Protein (Scotland) Regulations 2001<sup>(a)</sup> shall be deemed to have been appointed by the Scottish Ministers or that authority to be an inspector for the purposes of these Regulations.

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<sup>(a)</sup> S.I. 2001/[276 ].

## Part II

### Prevention of TSE

#### TSE monitoring

4.—(1) An inspector may make such enquiries and carry out such investigations as he considers necessary for any purpose connected with the administration or enforcement of the annual programme of monitoring under in article 6 of the Community TSE Regulation.

(2) For any such purpose an inspector shall, on producing, if required to do so, some duly authenticated document showing his authority, have the right at all reasonable times to enter any premises (excluding premises used only as a dwelling) to—

- (a) ascertain whether any TSE susceptible animal is being or has been kept on the premises;
- (b) ascertain whether—
  - (i) any TSE exists or has existed on the premises or any other premises; or
  - (ii) any animal which is being kept on the premises or has been kept on the premises is, or was at the time it was kept there, affected with any TSE;
- (c) collect, pen, inspect and examine any TSE susceptible animal and for this purpose may require the keeper of any such animal to arrange for the collection and penning of the animal;
- (d) inspect and examine the carcase of such an animal;
- (e) make such tests and take such samples from any TSE susceptible animal, or the carcase of such an animal, as he considers necessary;
- (f) mark for identification purposes any TSE susceptible animal, or the carcase of such an animal, or administer or otherwise attach to any TSE susceptible animal an electronic identification device;
- (g) serve a notice to restrict or prohibit the movement of any TSE susceptible animal or the carcase or such an animal;
- (h) issue a licence in connection with the movement of any TSE susceptible animal or the carcase or such an animal;
- (i) seize any TSE susceptible animal or the carcase of such an animal;

- (j) serve any notice in connection with the slaughter of any TSE susceptible animal;
- (k) slaughter any TSE susceptible animal;
- (l) examine any record, in whatever form the record may be held, and take copies of the record;
- (m) have access to, and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with any record; and for this purpose may require any person who has charge of or who is otherwise concerned with the operation of the computer, apparatus or material to afford to him such assistance as he may reasonably require and, where a record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away; or
- (n) ascertain whether there is or has been any contravention of, or failure to comply with, this Part of these Regulations or any evidence of any such contravention or failure.

(3) No person except a veterinary inspector shall remove or otherwise interfere with any mark applied to a TSE susceptible animal or the carcass of such an animal under paragraph (2)(f) above or any electronic identification device attached to or otherwise administered to such an animal under that paragraph.

(4) If a justice of the peace is satisfied on sworn information in writing that there are reasonable grounds for an inspector to enter any premises (excluding premises used only as a dwelling) for any purpose mentioned in paragraph (2) above and that either–

- (a) admission to the premises has been refused, or a refusal is expected, and that notice of the intention to apply for a warrant has been given to the occupier of the premises; or
- (b) an application for admission, or the giving of such a notice, would defeat the object of entering the premises, or that the case is one of urgency, or that the premises are unoccupied or the occupier is absent,

he may issue a warrant authorising an inspector to enter the premises for that purpose if necessary using reasonable force.

(5) The occupier of premises entered by an inspector under this regulation or by virtue of a warrant issued it, and his employees and any person on the premises who is or has been in possession or charge of any animal or carcass which is or has been on the premises, shall–

- (a) provide such reasonable facilities to the inspector and comply with such reasonable requirements as the inspector considers necessary for any purpose

connected with the administration or enforcement of the annual programme of monitoring referred to in article 6 of the Community TSE Regulation; and

- (b) if required by an inspector, give such information as he possesses as to—
  - (i) any animal or carcase which is or has been on the premises;
  - (ii) any other animal or carcase with which any animal or carcase which is or has been on the premises may have come into contact; and
  - (iii) the location and movement of any animal or carcase which is or has been in his possession or charge.

(6) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it may take with him—

- (a) such other persons as he considers necessary to give him such assistance as he considers necessary; and
- (b) a representative of the European Commission acting for the purpose of the Community TSE Regulation or the Community Transitional Measures; and

(7) If an inspector enters any unoccupied premises he shall leave them as effectively secured against unauthorised entry as he found them.

### **Movement prohibitions and restrictions of TSE susceptible animals**

**5.—**(1) This regulation applies where an inspector is satisfied that for any purpose connected with the administration or enforcement of the annual programme of monitoring under article 6 of the Community TSE Regulation it is necessary to prohibit or restrict the movement of any TSE susceptible animal from or to any premises.

(2) By notice in writing served on the owner or person in charge of the animal an inspector may prohibit or restrict the movement of the animal or carcase from or to any premises described in the notice for such period, and subject to such conditions, as he considers necessary for that purpose and specifies in the notice.

(3) During the period in which the notice is in force a veterinary inspector may renew it subject to such conditions as he considers necessary for the same or a shorter period.

(4) A notice which is renewed may be renewed from time to time in a similar manner by a veterinary inspector.

(5) Where a notice is in force under this regulation the conditions of which allow movement of any animal or carcase from premises on the authority of a licence issued by a

veterinary inspector, a veterinary inspector may issue a licence for this purpose subject to such conditions as he considers necessary.

### **Slaughter of TSE susceptible animals at slaughterhouses**

6.—(1) This regulation and regulation 7 apply where the Scottish Ministers are satisfied it is necessary to slaughter any TSE susceptible animal for any purpose connected with the administration or enforcement of the annual programme of monitoring under article 6 of the Community TSE Regulation.

(2) Where the Scottish Ministers are satisfied that it is necessary to slaughter a TSE susceptible animal at premises licensed under the Fresh Meat (Hygiene and Inspection) Regulations 1995 an inspector shall so inform the occupier of the premises concerned and direct the occupier to slaughter the animal in such manner and period as the inspector directs.

(3) Before an inspector gives an occupier a direction to slaughter an animal under this regulation he shall consider the hygiene, specified risk material or animal welfare requirements with which the occupier must comply at the slaughterhouse in relation to—

- (a) the slaughter of the animal; and
- (b) any related operation, including—
  - (i) the handling of the animal before and at slaughter, or the handling, storage, treatment and disposal of the carcase, any part of the carcase or any blood derived from the carcase or any part of the carcase; or
  - (ii) any operation in relation to any other animal or the slaughter of any other animal at the slaughterhouse, including the handling of any other animal before and at slaughter, or the handling, storage, treatment and disposal of the carcase, any part of the carcase or any blood derived from the carcase or any part of the carcase of any other animal.

(4) Where the inspector is satisfied that for the purpose of complying with any of these requirements the occupier must—

- (a) slaughter any other animal at the slaughterhouse; or
- (b) carry out any such related operation,

the inspector shall direct the occupier to slaughter the other animal or carry out the related operation in such manner and within such period as the inspector directs.

(5) Directions from an inspector to an occupier under this regulation may include directions in relation to—

- (a) the keeping and handling before and at slaughter of any animal at the slaughterhouse, whether or not it is to be slaughtered under a direction given under this regulation;
- (b) the arrangements for the slaughter at the slaughterhouse of any animal slaughtered under a direction given under this regulation; and
- (c) the treatment, storage and disposal of the carcase of any animal slaughtered at the slaughterhouse or any part of the carcase or any blood derived from the carcase or any part of the carcase.

(6) Any direction under this regulation shall be complied with at the expense of the person to whom the direction is given except where the Scottish Ministers are satisfied that it is not proportionate for that person to bear some or all of that expense.

(7) Where the Scottish Ministers are satisfied that it is not proportionate for a person to whom a direction is given to bear some or all of the expense of complying with it they shall give notice to that person of the proportion of the expense, if any, which they are satisfied the person should bear.

(8) If a direction under this regulation is not complied with, an inspector may arrange for it to be complied with at the expense of the person to whom the direction is given.

#### **Slaughter of TSE susceptible animals at other premises**

7.—(1) Where the Scottish Ministers are satisfied that it is necessary to slaughter a TSE susceptible animal at premises other than a slaughterhouse a veterinary inspector shall serve a notice of intended slaughter on the owner or person in charge of the animal—

- (a) informing him of that intention; and
- (b) specifying the period within which representations from the owner or person in charge of the animal may be made to the Scottish Ministers.

(2) After considering any representations received during this period from the owner or person in charge of the animal, the Scottish Ministers shall either—

- (a) withdraw the notice of intended slaughter; or
- (b) serve a notice on the owner or person in charge of the animal to confirm the intended slaughter of the animal.

(3) After service of the notice to confirm the intended slaughter of the animal the Scottish Ministers shall cause the animal to be slaughtered as soon as possible having regard to the requirements of the annual programme of monitoring referred to in article 6 of the Community TSE Regulation.

### **Retention and seizure of carcasses etc. of TSE susceptible animals**

8.—(1) This regulation applies where the Scottish Ministers are satisfied that for any purpose connected with the administration or enforcement of the annual programme of monitoring under article 6 of the Community TSE Regulation it is necessary—

- (a) to require an occupier of premises to retain on the premises under the direction of the Scottish Ministers a carcase of a TSE susceptible animal, any part of such a carcase or any blood derived from any such carcase or part; or
- (b) to seize from any premises the carcase of a TSE susceptible animal, any part of such a carcase or any blood derived from any such carcase or part.

(2) For any such purpose an inspector may—

- (a) direct the occupier of the premises to retain on the premises a carcase of a TSE susceptible animal on the premises, any part of such a carcase or any blood derived from any such carcase or part; or
- (b) seize or dispose of—
  - (i) any carcase of a TSE susceptible animal from any premises, or any part of such a carcase, whether or not it is a carcase or part of a carcase which the occupier has been required to be retained under the direction of an inspector; or
  - (ii) any blood derived from a carcase of a TSE susceptible animal or any part of such a carcase, whether or not the carcase or part of the carcase from which the blood is derived has been required to be retained under the direction of an inspector or has been seized by an inspector.

(3) Directions from an inspector to an occupier under this regulation to retain a carcase, part of a carcase or blood derived from any carcase or part may include directions in relation to the treatment, storage and disposal of the carcase, part or blood.

(4) Any direction under this regulation shall be complied with at the expense of the person to whom the direction is given except where the Scottish Ministers are satisfied that it is not proportionate for that person to bear some or all of that expense.

(5) Where the Scottish Ministers is satisfied that it is not proportionate for a person to whom a direction is given to bear some or all of the expense of complying with it they shall give notice to that person of the proportion of the expense, if any, which they are satisfied the person should bear.

(6) If a direction under this regulation is not complied with, an inspector may arrange for it to be complied with at the expense of the person to whom the direction is given.

### **Compensation**

**9.—**(1) Where a TSE susceptible animal is slaughtered under regulation 6 or 7 above the Scottish Ministers shall pay compensation to the owner of the animal in accordance with the provisions of Part I of Schedule 1 below.

(2) Subject to paragraph (3) below, the Scottish Ministers may pay compensation in accordance with the provisions of Part II of Schedule 1 below to the owner of any carcase, part of a carcase or blood seized or disposed of under regulation 8 above.

### **Notifications**

**10.—**(1) For any purpose connected with the administration or enforcement of the annual programme of monitoring referred to in Article 6 of the Community TSE Regulation, the Scottish Ministers may certify in respect of any category of notifiable animal that a monitoring notification in respect of animals in that category is required.

(2) Where in respect of a category of notifiable animal the Scottish Ministers have certified that a monitoring notification in respect of animals in that category is required—

(a) a person who has in his possession or under his charge an animal of that category, or the carcase of an animal of that category, shall, within 24 hours from the time when the animal dies or was killed or the carcase comes into his possession or charge, notify the fact, and such other information as may be required by virtue of the monitoring notification, to the Scottish Ministers or, where the Scottish Ministers have appointed an agent to receive notifications under this regulation on his behalf, to that agent; and

(b) any veterinary surgeon or other person who, in the course of his duties examines or inspects an animal of that category which dies during the course of those duties, or examines or inspects the carcase of such an animal, shall within 24 hours from the time when the animal dies or the carcase is examined or inspected, notify the fact, and such other information as may be required by virtue of the monitoring notification, to the Scottish Ministers or, where the Scottish Ministers have appointed an agent to receive notifications under this regulation on his behalf, to that agent.

(3) Where—

(a) in respect of a category of notifiable animal the Scottish Ministers has certified that a monitoring notification is required; or

- (b) the Scottish Ministers appoints an agent for the purposes of receiving notifications under this regulation on her behalf,

The Scottish Ministers shall publish by such means as he thinks fit, including by notice in the London Gazette, the details of the certificate or the name of the agent, his address and other relevant contact information and the date on and after which notifications under this regulation shall be made to the agent instead of the Scottish Ministers.

- (4) A person who has in his possession or under his charge on any premises any animal or carcase in respect of which the Scottish Ministers have certified that a monitoring notification is required shall detain it on the premises until it has been collected by or on behalf of the Scottish Ministers.

### **Part III**

#### **Animal feeding**

##### *Mammalian protein and mammalian meat and bone meal*

#### **Mammalian protein**

**11.**—(1) Subject to paragraph (2) below, no person shall—

- (a) knowingly sell or supply for feeding to ruminant animals; or
- (b) feed to a ruminant animal,

any feedingstuff in which he knows or has reason to suspect that any mammalian protein has been incorporated.

(2) The prohibitions in paragraph (1) above shall not apply to the feeding to an animal of any feedingstuff for research purposes in a research establishment under the authority of a licence issued by a veterinary inspector and in accordance with any conditions subject to which the licence is issued, or to the sale or supply of any feedingstuff to a research establishment for such purposes

#### **Mammalian meat and bone meal for use in feedingstuffs for livestock**

**12.**—(1) Subject to paragraphs (5) and (6) below, no person shall—

- (a) sell or supply for incorporation into any feedingstuff for livestock any mammalian meat and bone meal;
- (b) use any mammalian meat and bone meal in the production of any feedingstuff for livestock;
- (c) sell or supply for feeding to livestock any feedingstuff in which any mammalian meat and bone meal has been incorporated; or
- (d) feed to livestock any feedingstuff in which any mammalian meat and bone meal has been incorporated.

(2) Subject to paragraph (6) below, no person shall undertake any production using any mammalian meat and bone meal or any MBM product on premises where any feedingstuff for livestock is produced, and no person shall sell any mammalian meat and bone meal or MBM product there, unless (in each case)—

- (a) the ingredients of the feedingstuff for livestock are stored, and the feedingstuff is produced, in a separate building from that in which any mammalian meat and bone meal or MBM product is stored, used or sold;
  - (b) (except as provided by sub-paragraph (d) below) all feedingstuff for livestock is stored in a separate building from that in which any mammalian meat and bone meal or MBM product is stored, used or sold;
  - (c) no equipment or vehicle used in the production of the feedingstuff for livestock comes into contact with any mammalian meat and bone meal, any MBM product or any ingredient or equipment used with mammalian meat and bone meal or an MBM product; and
  - (d) where mammalian meat and bone meal or an MBM product is sold, any feedingstuff for livestock stored in the same building as the mammalian meat and bone meal or MBM product is stored there solely for the purpose of being sold in that building and either–
    - (i) the mammalian meat and bone meal or MBM product is stored in a place which is physically separated from any place where the feedingstuff for livestock is stored; or
    - (ii) both the feedingstuff for livestock and the mammalian meat and bone meal or MBM product are securely packaged with no spillage or leakage taking place.
- (3) Subject to paragraphs (5) to (8) below, no person shall have in his possession any mammalian meat and bone meal or any MBM product on any premises where–
- (a) any livestock is kept;
  - (b) any feedingstuff for livestock is produced, except as permitted under paragraph (2) above; or
  - (c) any feedingstuff for livestock is stored but not produced and no livestock are kept.
- (4) Subject to paragraphs (6) and (8) below, no person shall transport any mammalian meat and bone meal or any MBM product in any vehicle in which any feedingstuff for livestock is being transported.
- (5) The prohibitions in paragraphs (1) and (3) above shall not apply to the feeding to an animal of any feedingstuff for research purposes in a research establishment under the authority of a licence issued by a veterinary inspector of the Scottish Ministers and in accordance with any conditions subject to which the licence is issued, or to the sale or supply

of any feedingstuff to a research establishment for such purposes or to the possession of a feedingstuff at such an establishment for such purposes.

(6) In any proceedings for an offence under paragraphs (1) to (4) above it shall be a defence for any person charged to prove–

- (a) that he did not know or have reason to suspect that the material in question was mammalian meat and bone meal or contained mammalian meat and bone meal; and
- (b) that he had taken all reasonable steps to ensure that it was not and did not contain mammalian meat and bone meal.

(7) In any proceedings for an offence under paragraph (3)(a) or (c) above in relation to any MBM product it shall be a defence for any person charged to prove–

- (a) in the case of an offence under paragraph (3)(a), that the MBM product was in his possession solely for feeding to a pet of a species which is not commonly used as livestock in the United Kingdom or to a working dog or for use as a fertiliser on a domestic garden or for house plants;
- (b) in the case of an offence under paragraph (3)(c), that both the MBM product and the feedingstuff for livestock were offered for sale on those premises;
- (c) that the MBM product was stored and used in a place which was physically separated from any place where feedingstuff for livestock was stored or to which such animals had access; and
- (d) that adequate precautions were taken to ensure that no equipment used with the MBM product was used with the feedingstuff for livestock.

(8) In any proceedings for an offence under paragraph (3)(a) or (c) or (4) above it shall be a defence for any person charged to prove that at all material times both the mammalian meat and bone meal or MBM product (as the case may be) and the feedingstuff for livestock were securely packaged and that no spillage or leakage took place.

### **Mammalian meat and bone meal for use in fertilisers on agricultural land**

**13.—**(1) No person shall sell or have in his possession with a view to sale, for use as a fertiliser on agricultural land, any mammalian meat and bone meal or any material derived from or containing any mammalian meat and bone meal.

(2) No person shall use on agricultural land as a fertiliser any mammalian meat and bone meal or any material derived from or containing any mammalian meat and bone meal.

(3) Subject to paragraph (4) below, no person shall–

- (a) sell or have in his possession with a view to sale, for use as a fertiliser on any land other than agricultural land; or
- (b) use as a fertiliser on any such land,

any mammalian meat and bone meal or any material derived from or containing any mammalian meat and bone meal unless the mammalian meat and bone meal concerned was manufactured in accordance with paragraph (5) below.

- (4) Nothing in paragraph (3) above shall prevent–
  - (a) the sale for use on any land other than agricultural land;
  - (b) the possession with a view to such sale; or
  - (c) the use on any such land,

of any fertiliser consisting solely of mammalian meat and bone meal or derived from or containing mammalian meat and bone meal if that mammalian meat and bone meal was manufactured before 30th April 1998, the date of coming into force of the Fertilisers (Mammalian Meat and Bone Meal) Regulations 1998<sup>(a)</sup>, and the contract for its purchase by the manufacturer of that fertiliser was made before that date.

- (5) No person shall manufacture mammalian meat and bone meal for use as or in any fertiliser except by a rendering process in which–
  - (a) the particle size of the raw material prior to processing is reduced so that the maximum dimension of no particle exceeds 50 mm; and
  - (b) the material is heated to a core temperature of more than 133°C for at least 20 minutes at a pressure of at least 3 bar.

(6) In this regulation, the references to mammalian meat and bone meal being “manufactured” are references to the rendering process by which the mammalian meat and bone meal concerned was derived.

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<sup>(a)</sup> S.I. 1998/954; the Regulations came into force on .

*Processed animal protein*

**Feeding of processed animal protein to farmed animals**

**14.**—(1) Subject to paragraph (2) below, no person shall feed any processed animal protein to a farmed animal.

(2) The prohibition in paragraph (1) above shall not apply to—

(a) the feeding to farmed animals other than ruminants of fishmeal—

(i) produced in Scotland in premises approved under regulation 15 below, which are used in accordance with the conditions of the approval, and transported and intermediately stored in accordance with the conditions specified in paragraphs 1, 2 and 3 of Schedule 2;

(ii) produced in another part of the United Kingdom in premises approved by the competent authority of that part in accordance with Annex I to the Commission Decision, which are used in accordance with the conditions of the approval, and transported and intermediately stored in accordance with the conditions specified in that Annex;

(iii) produced in another member State in premises approved by the competent authority of that member State in accordance with Annex I to the Commission Decision, which are used in accordance with the conditions of the approval, and transported and intermediately stored in accordance with the conditions specified in that Annex; or

(iv) produced in a third country which—

- before being sold or supplied in Scotland, has been analysed in accordance with Commission Directive 98/88/EC<sup>(a)</sup>;
- is transported directly from the border inspection post in accordance with the conditions specified in paragraphs 4 and 5 of Schedule 2; and
- is not intermediately stored otherwise than in accordance with the conditions of paragraph 3 of that Schedule;

(b) the feeding to farmed animals of gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive 70/524/EEC<sup>(b)</sup> concerning additives in feedingstuffs;

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<sup>(a)</sup> OJ No. L318, 27.11.1988, p.45.

<sup>(b)</sup> OJ No. L 270, 14.12.1970, p.1, as last amended by Directive 1999/70/EC (OJ No. L 80, 25.3.1999, p.20).

- (c) the feeding to farmed animals of dicalcium phosphate–
  - (i) produced in Scotland in premises approved and used as mentioned in regulation 16(1) and (3) below;
  - (ii) produced in another part of the United Kingdom in premises approved by the competent authority of that part in accordance with the Commission Decision and used in accordance with that approval; or
  - (iii) produced in another member State in premises approved by the competent authority of that member State in accordance with the Commission Decision and used in accordance with that approval;
- (d) the feeding to farmed animals of hydrolysed protein–
  - (i) produced in Scotland in premises approved and used as mentioned in regulation 16(2) and (3) below;
  - (ii) produced in another part of the United Kingdom in premises approved by the competent authority of that part in accordance with the Commission Decision and used in accordance with that approval; or
  - (iii) produced in another member State in premises approved by the competent authority of that member State in accordance with the Commission Decision and used in accordance with that approval; or
- (e) the feeding to farmed animals of milk and milk products.

**Sale or supply of processed animal protein intended for the feeding of farmed animals**

**15.—**(1) Subject to paragraph (2) below, no person shall sell or supply any processed animal protein intended for the feeding of any farmed animal.

- (2) The prohibitions in paragraph (1) above shall not apply to the sale or supply of–
  - (a) fishmeal referred to in regulation 13(2)(a) above for feeding to farmed animals other than ruminants;
  - (b) gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive 70/524/EEC concerning additives in feedingstuffs;
  - (c) dicalcium phosphate referred to in regulation 13(2)(c) above for feeding to farmed animals;

- (d) hydrolysed protein referred to in regulation 13(2)(d) above for feeding to farmed animals; or
- (e) milk and milk products.

**Production of fishmeal for feeding to farmed animals other than ruminants**

**16.—(1)** No person shall use any premises for the production of fishmeal for feeding to farmed animals other than ruminants unless—

- (a) the premises are approved for this purpose by the Scottish Ministers under this regulation; and
- (b) transport and intermediate storage of fishmeal from the premises is in accordance with the conditions specified in paragraphs 1, 2 and 3 of Schedule 2.

(2) On an application made to her under this regulation for the approval of premises for the production of fishmeal for feeding to farmed animals other than ruminants, the Scottish Ministers shall approve the premises for this purpose if, following an inspection of the premises by a veterinary inspector, they are satisfied that—

- (a) the premises will be dedicated only to fishmeal production;
- (b) the premises are ABPO approved; and
- (c) the occupier of the premises will be able to maintain and use the premises in accordance with the ABPO approval;
- (d) the occupier of the premises will be able to ensure that fishmeal is transported from the premises and intermediately stored in accordance with the conditions specified in paragraphs 1, 2 and 3 of Schedule 2.

(3) The person carrying on any business at premises approved under this regulation shall ensure that—

- (a) the production of fishmeal at the premises is in accordance with the approval and in compliance with the provisions of this regulation subject to which the approval is granted;
- (b) any person employed by him, and any person invited to the premises, complies with those provisions; and
- (c) any inspector, and any person acting under the authority of an inspector, is provided with adequate facilities so as to enable him to carry out his functions under these Regulations in relation to the premises and that he is given such

reasonable assistance and access to such records (including any records held in electronic form) as he may at any reasonable time require for that purpose.

**Production of dicalcium phosphate and hydrolysed protein for feeding to farmed animals**

**17.—(1)** No person shall use any premises for the production of dicalcium phosphate for feeding to farmed animals unless—

- (a) the premises are approved for this purpose by the Scottish Ministers under this regulation; and
- (b) the premises are used for this purpose in accordance with the conditions specified in Schedule 3.

(2) No person shall use any premises for the production of hydrolysed protein for feeding to farmed animals unless—

- (a) the premises are approved for this purpose by the Scottish Ministers under this regulation; and
- (b) the premises are used for this purpose in accordance with the conditions specified in Schedule 4.

(3) On an application made to her for the approval of premises for the production of dicalcium phosphate or hydrolysed protein the Scottish Ministers shall approve the premises for the production concerned if, following an inspection of the premises by a veterinary inspector, they are satisfied that—

- (a) the premises are ABPO approved;
- (b) the occupier of the premises will be able to maintain and use the premises in accordance with the ABPO approval;
- (c) in respect of an application for approval of the premises for production of dicalcium phosphate, the occupier of the premises will be able to comply with the conditions specified in Schedule 3; and
- (d) in respect of an application for approval of the premises for production of hydrolysed protein, the occupier of the premises will be able to comply with the conditions specified in Schedule 4.

(4) The occupier of premises approved under this regulation shall ensure that—

- (a) in respect of the production of dicalcium phosphate at the premises, the production is in accordance with the approval and complies with the

provisions of this regulation and Schedule 3 subject to which the approval is granted;

- (b) in respect of the production of hydrolysed protein at the premises, the production is in accordance with the approval and complies with the provisions of this regulation and Schedule 4 subject to which the approval is granted;
- (c) any person employed by him, and any person invited to the premises, complies with those provisions; and
- (d) any inspector, and any person acting under the authority of an inspector, is provided with adequate facilities so as to enable him to carry out his functions under these Regulations in relation to the premises and that he is given such reasonable assistance and access to such records (including any records held in electronic form) as he may at any reasonable time require for that purpose.

### **Transport and storage of processed animal protein**

**17A.**—(1) No person shall transport from or to any premises, or store in bulk at any premises, any processed animal protein the sale or supply of which is prohibited by regulation 15 above, unless—

- (a) the premises are not used for the preparation of feedingstuffs for ruminant animals; and
- (b) the premises are registered for the purpose of the Commission Decision by the Secretary of State.

(2) The Secretary of State shall register premises under this regulation where the occupier declares the premises are capable of being used in accordance with the Commission Decision.

(3) Where a vehicle used for the transport of any dicalcium phosphate, or hydrolysed protein, for feeding to farmed animals other than ruminants, is subsequently used for the transport of any other product, the person using the vehicle for the transport of such dicalcium phosphate or hydrolysed protein shall ensure the vehicle is thoroughly cleaned and inspected before and after the transport of such dicalcium phosphate or hydrolysed protein

*Approvals of premises*

**Applications for approvals and approvals of premises**

**18.—**(1) An application for approval of premises under regulations 15 or 16 above shall be made in writing to the Scottish Ministers by or on behalf of the person carrying on or proposing to carry on the business at the premises to which the application relates.

(2) The Scottish Ministers shall notify the applicant in writing of their decision on an application made to them in accordance with this regulation; and, if they refuse to approve the premises in respect of which an application is made, they shall notify the applicant in writing of her reasons for the refusal.

(3) An approval of premises under regulations 15 or 16 above shall specify–

(a) the name and address of the person to whom the approval is granted and the address of the approved premises;

(b) the use of the premises for the description of production for which the approval is granted; and

(c) the conditions subject to which the approval is granted.

(4) If the Scottish Ministers refuse to approve the premises or grants an approval subject to any condition they shall give to the applicant a statement of–

(a) the reasons for the refusal or the condition; and

(b) the right of the applicant under this Part of these Regulations to appeal against the refusal or the condition and the period within which and the person to whom an appeal may be made.

**Suspension and withdrawal of approvals**

**19.—**(1) The Scottish Ministers may suspend or withdraw an approval of any premises approved under this Part of these Regulations if it appears to them that–

(a) the premises are being used otherwise than in accordance with the approval;

(b) any condition specified in a Schedule to these Regulations which relate to the approval of the premises has not been complied with;

(c) the premises are not ABPO approved;

(d) inspection of the premises for the purposes of these Regulations is being hampered or denied;

- (e) a notice has been served on the occupier in relation to the use of the premises under this Part of these Regulations and–
    - (i) the Scottish Ministers are not satisfied that the action required by the notice to be taken by the occupier has been taken within the time required; and
    - (ii) as a result the premises are being used otherwise than in accordance with the approval, any condition specified in the approval has not been complied with or inspection of the premises for the purposes of these Regulations is being hampered or denied;
  - (f) the person using the premises for the use for which they are approved no longer wishes to carry on that use of the premises; or
  - (g) the premises are not being used for the use for which they are approved.
- (2) Before suspending or withdrawing an approval the Scottish Ministers shall–
- (a) give notice of the intended suspension or withdrawal to the occupier of the premises (or, in the case of a suspension or withdrawal under paragraph (1)(g) above, to the person known to the Scottish Ministers as the last person to use the premises for the use for which they are approved and to any other person who appears to them to be in current occupation of the premises); and
  - (b) have regard to any representations made to them by that person in relation to the intended suspension or withdrawal.
- (3) A notice of suspension or withdrawal of an approval shall include the following information–
- (a) a summary of the decision of the Scottish Ministers to suspend or withdraw the approval and a description of the use of the premises for which the approval is suspended or withdrawn;
  - (b) the reason for the suspension or withdrawal;
  - (c) the date on which the suspension or withdrawal takes effect, which–
    - (i) in respect of a suspension, may be the same date as the date on which the notice is issued; and
    - (ii) in respect of a withdrawal, must be at least 21 days after the date on which the notice is given;

- (d) in respect of a suspension, the matters which must be remedied for the suspension to be lifted;
  - (e) a statement of the right of the person to whom the notice of is given to appeal under this Part of these Regulations against the suspension or withdrawal and the period within which and the person to whom an appeal may be made; and
  - (f) in respect of a withdrawal, any conditions for the protection of public or animal health to which any continued use of the premises for an approved use after the withdrawal takes effect is subject pending an appeal.
- (4) Where a suspension of an approval of premises under this regulation has taken effect the premises shall be treated as if they were not approved for the use for which the approval is suspended.
- (5) The Scottish Ministers shall lift a suspension of an approval where–
- (a) they are satisfied that–
    - (i) the reason for the suspension no longer applies; and
    - (ii) the person who would use the premises for the use for which they are approved will use the premises in accordance with the approval and the conditions of the approval; or
  - (b) the determination of an appeal under this Part of these Regulations against the suspension is that the approval should not have been suspended.
- (6) Where the Scottish Ministers lifts a suspension they shall give notice of this to the person to whom it gave notice of the suspension.
- (7) Premises may continue to be used by the occupier for a use for which an approval is withdrawn during the period of 21 days after the notification to the occupier of the withdrawal.
- (8) After the expiry of this period the premises may not be used for the use for which the approval is withdrawn unless before the period expired an appeal was made in accordance with regulation 21 below and the appeal has not been finally disposed of or abandoned.
- (9) Where the Scottish Ministers have given notice of a decision to withdraw the approval of premises the occupier of the premises shall not use the premises for that use except in accordance with any conditions for the protection of public or animal health included in the notice of withdrawal.

**Appeals against/review in relation to suspension and withdrawal of approvals**

**20.—(1)** Where in respect of any premises the Scottish Ministers have given notice of a decision under this Part of these Regulations—

- (a) to refuse to approve any premises; or
- (b) to grant an approval of any premises subject to conditions;
- (c) to suspend the approval of any premises; or
- (d) to withdraw the approval of any premises,

the person to whom the notice is given may, within 21 days of being notified of the decision, appeal against the decision to [an appeal panel].

(2) An appeal under this regulation shall be made by written statement given to the [ appeal panel ] accompanied by a brief explanation of the ground of the appeal and such other information and documents as [ the appeal panel ] may require.

(3) Where on an appeal under this regulation [the appeal panel] determines that—

- (a) the grant of an approval should not have been refused; or
- (b) unreasonable conditions have been attached to the grant of an approval; or
- (c) an approval should not have been suspended or withdrawn,

the Scottish Ministers shall give effect to the determination of the [ ].

*Feedingstuffs*

**Manufacture of feedingstuffs containing processed animal protein**

**21.**—(1) Subject to paragraph (2) below, no person shall manufacture any feedingstuff, including petfood, which is destined for animals other than farmed animals, and which contains processed animal protein, in premises which prepare feed for farmed animals.

(2) If any feedingstuff is produced with no processed animal protein other than fishmeal, dicalcium phosphate or hydrolysed protein, it may be manufactured in premises which prepare feed for farmed animals other than ruminants.

**Production of feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants**

**22.**—(1) Subject to paragraph (3) below, no person shall use any premises for the production of feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants unless—

- (a) the premises are not used for the preparation of feedingstuffs for ruminant animals; and
- (b) the premises are registered for the purpose of paragraph 6 of Annex I of the Commission Decision by the Scottish Ministers.

(2) The Scottish Ministers shall register premises under this regulation where the occupier declares the premises are capable of being used for the production of feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants in accordance with paragraph 6 of Annex I to the Commission Decision.

(3) The prohibition in paragraph (1) above shall not apply to the use of premises for the production of feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants and for the preparation of feedingstuffs for ruminant animals if—

- (a) the fishmeal satisfies the requirements of regulation 13(2)(a) above;
- (b) the transport and storage of feed material destined for ruminant animals is completely separate from feed material prohibited for feeding to ruminant animals;
- (c) the storage, transport, manufacturing and packaging facilities for compound feedingstuffs destined for ruminant animals is completely separate; and
- (d) the person using the premises for the preparation of feedingstuffs for ruminant animals which are used for the production of feedingstuffs containing fishmeal for feeding to other animal species carries out routine tests on the

feedingstuffs destined for ruminant animals to ensure that any processed animal protein the feeding of which to farmed animals is prohibited by regulation 13 above are not present in those feedingstuffs.

(4) No person shall produce any feedingstuff containing fishmeal for feeding to farmed animals other than ruminants unless the packaging of the feedingstuff is labelled clearly to indicate the words “it contains fishmeal– cannot be fed to ruminant animals”.

(5) No person shall use any vehicle for the transport of bulk feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants at the same time as it is used for the transport of any feed for ruminant animals.

(6) Where a vehicle used for the transport of bulk feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants is subsequently used for the transport of other products, the person using the vehicle for the transport of the bulk feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants shall ensure it is thoroughly cleaned and inspected before and after the transport of those bulk feedingstuffs.

#### **Production of feedingstuffs containing dicalcium phosphate and hydrolysed protein for feeding to farmed animals other than ruminants**

**23.**—(1) Subject to paragraph (4) below, no person shall use any premises for the production of feedingstuffs containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants unless—

- (a) the premises are not used for the preparation of feedingstuffs for ruminant animals; and
- (b) the premises are registered for the purpose of paragraph 3 of Annex II to the Commission Decision by the Scottish Ministers.

(2) Subject to paragraph (4) below, no person shall use any premises for the production of feedingstuffs containing hydrolysed protein for feeding to farmed animals other than ruminants unless—

- (a) the premises are not used for the preparation of feedingstuffs for ruminant animals; and
- (b) the premises are registered for the purpose of paragraph 2 of Annex III to the Commission Decision by the Scottish Ministers.

(3) The Scottish Ministers shall register premises under this regulation where the occupier declares the premises are capable of being used for the production of—

- (a) feedingstuffs containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants in accordance with paragraph 3 of Annex II to the Commission Decision; or ;
  - (b) feedingstuffs containing hydrolysed protein for feeding to farmed animals other than ruminants in accordance with paragraph 2 of Annex III to the Commission Decision.
- (4) The prohibitions in paragraphs (1) and (2) above shall not apply to premises used for the preparation of feedingstuffs for ruminant animals which are used for the production of feedingstuffs containing dicalcium phosphate from defatted bones, or hydrolysed protein, for other animal species, if–
- (a) in respect of dicalcium phosphate, it satisfies the requirements of regulation 13(2)(c) above;
  - (b) in respect of hydrolysed protein, it satisfied the requirements of regulation 13(2)(d) above;
  - (c) the transport and storage of feed material destined for ruminant animals is completely separate from feed material prohibited for feeding to ruminant animals;
  - (d) the storage, transport manufacturing and packaging facilities for compound feedingstuffs destined for ruminant animals is completely separate; and
  - (e) the occupier of the premises carries out routine tests on the feedingstuffs destined for ruminant animals to ensure that any processed animal protein the feeding of which to farmed animals is prohibited by regulation 13 above are not present in those feedingstuffs.
- (5) No person shall produce any feedingstuff containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants unless the packaging of the feedingstuff is labelled clearly to indicate the words “it contains dicalcium phosphate from defatted bones – cannot be feed to ruminant animals”.
- (6) No person shall produce any feedingstuff containing hydrolysed protein for feeding to farmed animals other than ruminants unless the packaging of the feedingstuff is labelled clearly to indicate the words “it contains hydrolysed protein – cannot be fed to ruminant animals”.
- (7) No person shall use any vehicle for the transport of bulk feedingstuffs containing dicalcium phosphate from defatted bones, or hydrolysed protein, for feeding to farmed animals other than ruminants, at the same time as the vehicle is used for the transport of any feed for ruminant animals.

(8) Where a vehicle used for the transport of bulk feedingstuffs containing dicalcium phosphate from defatted bones, or hydrolysed protein, for feeding to farmed animals other than ruminants, is subsequently used for the transport of other products, the person using the vehicle for the transport of such bulk feedingstuffs shall ensure the vehicle is thoroughly cleaned and inspected before and after the transport of those bulk feeding stuffs.

### **Use and storage of feedingstuffs containing fishmeal, dicalcium phosphate or hydrolysed protein**

**24.**—(1) Subject to paragraph (2) below, no person shall use or store any feedingstuff, other than petfood referred to by chapter 4 of Annex I to Council Directive 92/118/EEC<sup>(a)</sup>, containing any—

- (a) fishmeal;
- (b) dicalcium phosphate derived from defatted bones; or
- (c) hydrolysed protein,

on a farm where ruminant animals are kept, fattened or bred for the production of food.

(2) Paragraph (1) above shall not apply to the use or storage of any feedingstuff containing any fishmeal, dicalcium phosphate derived from defatted bones or hydrolysed protein on any farm where ruminant animals are kept if measures are implemented on the farm sufficient to prevent the feedingstuff being fed to those ruminant animals.

### **Application of transport requirements**

**24A.** The requirements in regulations 22(3)(b) and (c), 22(5), 23(4)(c) and 23(7) above and in Schedule 2 below which apply in relation to transport of feedingstuffs containing processed animal protein, and transport of processed animal protein, from or to premises used for the preparation, production or intermediate storage of such feedingstuffs shall apply also in relation to the transport of such feedingstuffs and the transport of such processed animal protein from or to other premises.

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<sup>(a)</sup> OJ No. L62, 15.3.1993, p.49.

*Administration and enforcement*

**Records relating to mammalian meat and bone meal and processed animal protein**

**25.—**(1) Any person who consigns mammalian meat and bone meal or processed animal protein shall keep for two years from the date of consignment (or, in the case of mammalian meat and bone meal or processed animal protein produced outside Scotland, for two years from the date on which it was imported into the United Kingdom) a record indicating—

- (a) the date and nature of the material consigned;
- (b) the weight consigned and, unless consigned loose, the number and weight of the packages, pallets or other containers in which it is consigned;
- (c) the destination of the consignment;
- (d) the name and address of the consignee;
- (e) the registration number of the vehicle in which the consignment is transported; and
- (f) the name and address of the operator of that vehicle.

(2) Any person receiving a consignment of mammalian meat and bone meal or processed animal protein shall keep for two years from the date of receipt of the consignment a record indicating—

- (a) the date on which it was received and the nature of the material received;
- (b) its weight on receipt and, unless consigned loose, the number and weight of the packages, pallets or other containers in which it was consigned;
- (c) the place from which it was consigned;
- (d) the name and address of the person by whom it was consigned;
- (e) the registration number of the vehicle in which it was consigned; and
- (f) the name and address of the operator of that vehicle.

(3) Any person receiving a consignment of mammalian meat and bone meal or processed animal protein shall keep for two years from the date of any use, disposal or further consignment of the material used, disposed of or further consigned a record indicating—

- (a) in the case of any use, the nature of the material used and details of each use, the weight of any part of the consignment incorporated into a product and the nature and date of manufacture of any such product;
- (b) in the case of disposal, the weight disposed of, the date of such disposal, and the place in which, method by which and name of the person by whom it was disposed of; and
- (c) in the case of further consignment, the information required by paragraph (1) above.

(4) Any person who controls a vehicle in which mammalian meat and bone meal or processed animal protein is transported shall keep, for two years from the date on which transport of a particular consignment of such protein commenced (or, in the case of an import, from the date on which that material entered Scotland), a record of–

- (a) the person and place from which that consignment was transported and the nature of the material consigned;
- (b) the date on which it was collected from that person;
- (c) the weight consigned and, unless consigned loose, the number and weight of the packages, pallets or other containers in which it is consigned;
- (d) the registration number, and the name and address of the driver, of the vehicle in which it was transported and, if the vehicle includes a trailer, the number of the trailer;
- (e) the person and place to which it was to be or was delivered; and
- (f) the date or intended date of delivery to that person.

(5) The driver of a vehicle in which a consignment of mammalian meat and bone meal or processed animal protein is transported shall have a document recording the information required by paragraph (4) above in his possession at all times when he is in charge of that vehicle.

(6) In relation to a vehicle not having a registration number, the requirement to keep a record of the registration number pursuant to paragraphs (1)(e), (2)(e) and (4)(d) above shall be a requirement to keep such details as permit the identification of the vehicle in which the consignment was transported.

(7) Where a vehicle is used for the transport of bulk feedingstuffs for feeding to farmed animals other than ruminants containing–

- (a) fishmeal for feeding to farmed animals other than ruminants;

- (b) dicalcium phosphate from defatted bones; or
- (c) hydrolysed protein,

the person using the vehicle for the transport of such bulk feedingstuffs shall keep, for two years from the date of such transport, a record of each cleaning and inspection of the vehicle required by regulation 21(6) or 22(7) above.

### **Cleansing and disinfection**

**26.—**(1) Any person who produces mammalian meat and bone meal or any MBM product shall ensure the thorough cleansing and disinfection of any premises or equipment used for such production before they are used for any other purpose except the production of a fertiliser that is not for use on agricultural land within the meaning of the Fertilisers (Mammalian Meat and Bone Meal) Regulations 1996<sup>(a)</sup>.

(2) Subject to paragraphs (3) and (4) below, any person who stores or transports mammalian meat and bone meal or an MBM product, or who makes any arrangement for such storage or transport, shall ensure the thorough cleansing and disinfection of any premises, vehicle or equipment used for such storage or transport as soon as possible after the storage or transport ceases and in any event before they are used for any other purpose.

(3) It shall be a defence for any person charged with an offence under paragraph (2) above to prove that at all material times the mammalian meat and bone meal or MBM product (as the case may be) was securely packaged and that no spillage or leakage took place.

(4) It shall be a defence for any person charged with an offence under paragraph (2) above by virtue of any arrangement made by him to show that he took all reasonable steps to ensure that the premises, equipment or vehicle in question were thoroughly cleansed and disinfected in accordance with that paragraph.

(5) An inspector may serve on the occupier of any premises or on the owner or operator of vehicle or equipment on or in which there is, or has been—

- (a) any mammalian meat and bone meal; or
- (b) any MBM product

a notice requiring him to cleanse and disinfect, at his own expense and in such a manner and within such period as may be specified in the notice, all or any part of the premises or vehicle or any equipment or any other thing used in connection with any such mammalian meat and bone meal or MBM product.

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<sup>(a)</sup> S.I. 1996/1125, amended by S.I. 1996/2473.

(6) If any person on whom a notice is served under paragraph (5) above fails to comply with the requirements of the notice, an inspector may, without prejudice to any proceedings arising out of such default, carry out or cause to be carried out the requirements of the notice, and the amount of any expenses reasonably incurred by the inspector in doing so shall be recoverable from the person in default by the Scottish Ministers or the local authority, as the case may be.

### **Powers of inspectors**

27.—(1) An inspector shall, on producing, if required to do so, some duly authenticated document showing his authority, have the right at all reasonable times to enter any premises (excluding premises used only as a dwelling) to—

- (a) ascertain whether any—
  - (i) TSE susceptible animal; or
  - (ii) any mammalian meat and bone meal or processed animal protein, or any feed or feedingstuff,  
is being or has been kept on the premises;
- (b) ascertain whether—
  - (i) any TSE exists or has existed on the premises or any other premises; or
  - (ii) any animal which is being kept on the premises or has been kept on the premises is, or was at the time it was kept there, affected with any TSE;
- (c) collect, pen, inspect and examine any TSE susceptible animal and for this purpose may require the keeper of any such animal to arrange for the collection and penning of the animal;
- (d) inspect and examine—
  - (i) any mammalian meat and bone meal or processed animal protein;
  - (ii) any feed or feedingstuff;
  - (iii) any production, storage, transport or other operation carried out under this Part of these Regulations and anything used for the marking and identification of any mammalian meat and bone meal or processed animal protein, feed or feedingstuff; or

- (iv) the carcase of TSE susceptible animal;
  - (e) make such tests and take such samples from any mammalian meat and bone meal, processed animal protein, feed or feedingstuff, or TSE susceptible animal, or the carcase of such an animal, as he considers necessary;
  - (f) mark for identification purposes any mammalian meat and bone meal, processed animal protein, feed or feedingstuff, or TSE susceptible animal, or the carcase of such an animal;
  - (g) serve a notice to restrict or prohibit the movement of any mammalian meat and bone meal, processed animal protein, feed or feedingstuff, TSE susceptible animal or the carcase or such an animal;
  - (h) issue a licence in connection with the movement of any mammalian meat and bone meal or processed animal protein, feed or feedingstuff, TSE susceptible animal or the carcase or such an animal;
  - (i) seize any mammalian meat and bone meal or processed animal protein, feed or feedingstuff, TSE susceptible animal or the carcase of such an animal;
  - (j) serve any notice in connection with the seizure;
  - (k) slaughter any TSE susceptible animal or serve any notice in connection with the slaughter of the animal;
  - (l) examine any record, in whatever form the record may be held, and take copies of the record;
  - (m) have access to, and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with any record; and for this purpose may require any person who has charge of or who is otherwise concerned with the operation of the computer, apparatus or material to afford to him such assistance as he may reasonably require and, where a record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away; or
  - (n) ascertain whether there is or has been any contravention of, or failure to comply with, this Part of these Regulations or any evidence of any such contravention or failure.
- (2) If a sheriff or justice of the peace, on sworn information in writing is satisfied that there is reasonable ground for entry into any premises (excluding premises used only as a dwelling) for any purpose as is mentioned in paragraph (1) above and that either–

- (a) admission to the premises has been refused, or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier; or
- (b) an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent,

he may issue a warrant authorising an inspector to enter the premises for that purpose if need be by reasonable force.

(3) The occupier of premises entered by an inspector under this regulation or by virtue of a warrant issued under it, and his employees and any person on the premises who is or has been in possession or charge of any mammalian meat and bone meal or processed animal protein, or any animal or carcase, which is or has been on the premises, shall–

- (a) provide such reasonable facilities to the inspector and comply with such reasonable requirements as the inspector considers necessary for any purpose connected with the administration or enforcement of this Part of these Regulations; and
- (b) if required by an inspector, give such information as he possesses as to–
  - (i) any mammalian meat and bone meal or processed animal protein, or any animal or carcase which is or has been on the premises;
  - (ii) any animal or carcase with which any mammalian meat and bone meal or processed animal protein, or any animal or carcase, which is or has been on the premises may have come into contact; and
  - (iii) the location, transport and movement of any mammalian meat and bone meal or processed animal protein, or any animal or carcase, which is or has been in his possession or charge.

(4) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it may take with him–

- (a) such other persons as he considers necessary to give him such assistance as he considers necessary; and
- (b) a representative of the European Commission acting for the purpose of the Community TSE Regulation or the Community Transitional Measures; and

(5) If an inspector enters any unoccupied premises he shall leave them as effectively secured against unauthorised entry as he found them.

(6) Any notice under this regulation shall be complied with at the expense of the person on whom the notice is served.

(7) If a notice under this regulation is not complied with, an inspector may arrange for it to be complied with at the expense of the person on whom the notice is served.

### **Disposal and recall of mammalian meat and bone meal and MBM products**

**28.—**(1) Paragraph (2) below applies where an inspector finds—

- (a) any mammalian meat and bone meal or any MBM product in contravention of regulation 12(3) or (4) above;
- (b) any bulk feedingstuff containing any fishmeal in contravention of regulation 21(5) above;
- (c) any bulk feedingstuff containing any dicalcium phosphate from defatted bones or hydrolysed protein in contravention of regulation 22(6) above; or
- (d) any feedingstuff containing any fishmeal, dicalcium phosphate derived from defatted bones or hydrolysed protein in contravention of regulation 23 above.

(2) Where this paragraph applies an inspector may serve a notice on the person in possession of the material, product or feedingstuff requiring that person to dispose of it, and any other material, product or feedingstuff with which it has come into contact, in such manner and within such period as may be specified in the notice.

(3) An inspector may serve on any person who has sold or supplied any feedingstuff the sale or supply of which is prohibited by regulation 12(1), or which he reasonably suspects of being so prohibited, a notice requiring that person to collect at his own expense that product from the person to whom he supplied or sold it, or from such other person to whom it may have subsequently been supplied or sold, and to transport it to such place and within such time as may be specified in the notice.

(4) An inspector may serve on any person who has sold or supplied any feedingstuff the sale or supply of which is prohibited by regulation 11 above, or which he reasonably suspects of being so prohibited, a notice requiring that person to collect that product at his own expense from the person to whom he supplied or sold it, or from such other person to whom it may have subsequently been supplied or sold, and to transport it to such place and within such time as may be specified in the notice.

(5) If any person on whom a notice is served under paragraph (2), (3) or (4), above fails to comply with the requirements of the notice, an inspector may, without prejudice to any proceedings arising out of such default, carry out or cause to be carried out the requirements of the notice, and the amount of any expenses reasonably incurred by the inspector in doing

so shall be recoverable from the person in default by the Scottish Ministers or the local authority, as the case may be.

## **Part IV**

### **Specified Risk Material**

#### *Introductory provisions*

#### **Interpretation of expressions used in this Part**

**29.**—(1) For the purposes of this Part of these Regulations material shall be treated as a cosmetic, pharmaceutical or medical product whether it is used or intended for use as such by itself or as an ingredient or additive in something which is so used or intended for such use.

(2) In this Part of these Regulations the expression “mechanical means” does not include the use of hand held powered knives which do not use powered pressure or suction.

(3) In this Part of these Regulations, the word “whole” in each of the phrases “intended for export whole” and “exporting it whole” means without having been longitudinally split through the middle of its vertebral column.

(4) The provisions of this Part of these Regulations shall apply to specified risk material from scheme animals, save that the provisions appearing in column 1 of the Table in Schedule 6 to these Regulations shall apply only to the extent, and subject to the modifications, specified in Column 2 of that Schedule.

#### **Extended meaning of sale etc.**

**30.**—(1) For the purposes of this Part of these Regulations the supply in the course of a business, otherwise than on sale, of—

- (a) food;
- (b) feeding stuffs;
- (c) cosmetic, pharmaceutical or medical products; or
- (d) specified risk material,

shall be deemed to be a sale of the food, feeding stuff, product or material, and references to purchasers and purchasing shall be construed accordingly.

(2) This Part of these Regulations shall apply—

- (a) in relation to any food which is offered as a prize or reward or given away in connection with any entertainment, including any social gathering, amusement, exhibition, performance, game, sport or trial of skill, to which the public are admitted, whether on payment of money or not, as if the food were, or had been, exposed for sale by each person concerned in the organisation of the entertainment;
- (b) in relation to any food which, for the purpose of advertisement or in furtherance of any trade or business, is offered as a prize or reward or given away, as if the food were, or had been, exposed for sale by the person offering or giving away the food; and
- (c) in relation to any food which is exposed or deposited in any premises for the purpose of being so offered or given away as mentioned in sub-paragraph (a) or (b) above, as if the food were, or had been, exposed for sale by the occupier of the premises.

### **Presumptions that food intended for human consumption**

**31.**—(1) For the purposes of this Part of these Regulations any food commonly used for human consumption shall, if sold or offered, exposed or kept for sale, be presumed, until the contrary is proved, to have been sold or, as the case may be, to have been or to be intended for sale, for human consumption.

(2) The following, namely—

- (a) any food commonly used for human consumption which is found on premises used for the preparation, storage or sale of that food; and
- (b) any article or substance commonly used in the manufacture of food for human consumption which is found on premises used for the preparation, storage or sale of that food,

shall be presumed, until the contrary is proved, to be intended for sale, or for manufacturing food for sale, for human consumption; and

(3) Any article or substance capable of being used in the composition or preparation of any food commonly used for human consumption which is found on premises on which that food is prepared shall, until the contrary is proved, be presumed to be intended for such use.

### *Carcases and specified risk material*

### **Removal of specified risk material from carcasses in slaughterhouses**

**32.**—(1) When a bovine animal is slaughtered in a slaughterhouse, or slaughtered elsewhere than in a slaughterhouse but brought immediately to a slaughterhouse to be dressed for

human consumption, the occupier of the slaughterhouse shall ensure that all specified bovine material is removed from the rest of the carcass as soon as is reasonably practicable after the animal was slaughtered and before the carcass is presented for inspection pursuant to regulation 31 below.

(2) When a sheep or goat is slaughtered in a slaughterhouse, or slaughtered elsewhere than in a slaughterhouse but brought immediately to a slaughterhouse to be dressed for human consumption, the occupier of the slaughterhouse shall ensure that–

- (a) subject to regulation 33 below, all specified sheep or goat material is removed from the rest of the carcass at the slaughterhouse as soon as is reasonably practicable after the animal is slaughtered and before the carcass is presented for inspection pursuant to regulation 31 below; or
- (b) in the case of a sheep or goat with one or more permanent incisor teeth erupted, the head, spleen and tonsils are removed at the slaughterhouse as soon as is reasonably practicable after the animal is slaughtered and before the carcass is presented for inspection pursuant to regulation 31 below, and the rest of the carcass is consigned to an licensed slaughterhouse or cutting premises.

(3) Subject to the following provisions of this regulation and to regulation 33 below, the occupier shall ensure that the specified risk material which has been removed is stained blue immediately after removal from the carcass.

(4) Without prejudice to the storage requirements of regulation 49 below, the occupier shall ensure that the specified risk material does not come into contact with any other animal material while in the slaughterhouse and that it is disposed of in accordance with these Regulations.

(5) Material which is not specified bovine material may be separated from intestines which have been removed from the carcass before the intestines are stained.

(6) In the case of specified risk material which is intended to be examined by or on behalf of an inspector or a veterinary surgeon, the specified risk material shall not be stained until after the completion of the examination.

(7) In the case of scheme animals, the occupier shall ensure that, once the specified bovine material has been removed, the remainder of the carcass (excluding the hide), is immediately stained yellow.

(8) Nothing in paragraph (2) above shall require the removal of a spinal cord, being specified risk material, from the carcass of a sheep which has been slaughtered in a slaughterhouse if–

- (a) the carcass is intended for export whole direct to listed premises;

- (b) the occupier of the slaughterhouse concerned provides a written declaration to an official veterinary surgeon—
  - (i) indicating that he believes that the carcase is intended for export whole direct to listed premises; and
  - (ii) specifying the date on which and the place and time at which the carcase was loaded into the particular sealed vehicle by which it is intended that it be moved for the purpose of exporting it whole direct to listed premises; and
- (c) the carcase has been marked in accordance with [regulation [ ] of the TSE (Scotland) (Trade) Regulations 2002 (ex regulation 16A of the SRM Regulations 1997)].
- (9) Nothing in paragraph (1) above shall require the removal of the vertebral column from the carcase of a bovine animal which was accompanied at the time of slaughter by a slaughter certificate under the Beef Assurance Scheme as described in Schedule 1 to the Fresh Meat (Beef Controls)(No 2) Regulations 1996 if the carcase is consigned to a licensed cutting premises.

#### **Removal of specified risk material from carcasses elsewhere**

**33.**—(1) Subject to the following provisions of this regulation, when specified risk material is removed from the carcase of a ruminant animal elsewhere than in a slaughterhouse, the occupier of the premises at which the specified risk material is removed shall ensure that it is removed as soon as is reasonably practicable after the death of the animal and that it is stained blue immediately, and in any event before the carcase is frozen.

(2) Without prejudice to the storage requirements of regulation 49 below, the occupier of those premises shall ensure that the specified risk material does not come into contact with any other animal material while on the premises and that it is disposed of in accordance with these Regulations.

(3) In the case of specified risk material which is intended to be examined by or on behalf of an inspector, the specified risk material shall not be stained until after the completion of the examination.

(4) The provisions of this regulation shall not apply in the case of a post-mortem examination carried out by a veterinary surgeon or a veterinary practitioner at a farm, provided that he makes arrangements for the disposal of the whole of the carcase by burial there.

### **Inspection and marking of carcasses in a slaughterhouse**

**34.**—(1) The occupier of any slaughterhouse shall permit an inspector or official veterinary surgeon, or a person acting under the responsibility of either of them, to—

- (a) inspect the carcase of any ruminant animal slaughtered there, so that he can check whether the requirements of these Regulations have been complied with; and
- (b) mark each carcase which has been so checked and found to comply with the requirements of these Regulations.

(2) The occupier of any slaughterhouse shall give to any inspector or official veterinary surgeon, or a person acting under the responsibility of either of them, such reasonable assistance as he may require.

(3) The occupier of a slaughterhouse or cutting premises shall permit an inspector or official veterinary surgeon, or a person acting under the responsibility of either of them, to inspect the carcase of any sheep or goat consigned there so that he can check whether the specified risk material has been removed from the carcase in accordance with this Part of these Regulations; and the occupier shall give to any such person such reasonable assistance as he shall require

(4) Paragraph (5) below applies where—

- (a) the occupier of any slaughterhouse owes the Agency any sum of money in respect of the charges for any inspections and controls carried out at the slaughterhouse in accordance with paragraph (1) above;
- (b) the Agency has had judgment entered against the occupier for any part of this sum in relation for which the occupier is jointly and severally liable as a debt owed to the Agency under paragraph (2) of regulation 3 of the Specified Risk Material (Inspection Charges) Regulations 1999<sup>(a)</sup>; and
- (c) the occupier has failed within a reasonable time to satisfy the judgment.

(5) Without prejudice to any other legal remedy open to it, the Agency may, until such time as the judgment has been satisfied, refuse to carry out any further inspections and controls at the slaughterhouse in accordance with paragraph (1) above.

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<sup>(a)</sup> S.I. 1999/[ ].

### **Removal of vertebral column of bovine animals in cutting premises**

**35.**—(1) Where a carcase of a bovine animal containing vertebral column which is specified bovine material—

- (a) is consigned as referred to in regulation 29(9) above to cutting premises licensed for the purpose of this Part of these Regulations; or
- (b) is imported and transported in accordance with the Community TSE Regulation or the Community Transitional Measures to cutting premises licensed for the purpose of this Part of these Regulations,

the occupier of that cutting premises shall ensure that the vertebral column is removed from the rest of the carcase at the premises as soon as is practicable after the arrival of the carcase there.

(2) The occupier of cutting premises licensed for the purpose of this Part of these Regulations shall permit an inspector, or a person acting under the responsibility of an inspector, to inspect the carcase of any bovine animal consigned there so that it can be checked whether the specified risk material has been removed from the carcase in accordance with these Regulations; and the occupier shall give to any such person such reasonable assistance as he shall require.

(3) The occupier of cutting premises at which vertebral column is removed in accordance with this regulation shall ensure that it is—

- (a) stained in accordance with regulation 29(3) above; and
- (b) disposed of as specified risk material in accordance with these Regulations.

(4) In this regulation, “carcase” means any whole carcase, half carcase or quarter carcase.

### **Removal of spinal cord of bovine animals, sheep and goats**

**36.**—(1) Where a carcase of a bovine animal, sheep or goat, or bone-in carcase meat from a bovine animal, sheep or goat, is consigned to a slaughterhouse or cutting premises licensed under this Part of these Regulations the occupier of that slaughterhouse or cutting premises shall ensure that the spinal cord is removed from the rest of the carcase or meat.

(2) If the spinal cord is removed in a slaughterhouse or at cutting premises, the occupier shall ensure that it is stained in accordance with regulation 29(3) above, and disposed of as specified risk material in accordance with this Part of these Regulations.

(3) If the spinal cord is removed at any premises other than a slaughterhouse or cutting premises for the purposes of veterinary or scientific examination, after that examination both

the spinal cord and the vertebral column shall be stained blue and disposed of as specified risk material in accordance with this Part of these Regulations.

### **Young lamb stamp**

**37.—**(1) Where a sheep or goat is slaughtered in a slaughterhouse, and at the time of slaughter there were no permanent incisor teeth erupted or it was aged not more than 12 months, the carcass of the animal shall be marked with the young lamb stamp.

(2) The young lamb stamp shall consist of a circular mark 5 centimetres in diameter containing in legible form in letters 1 cm high the words “MHS” and “YL”, and shall be applied by an OVS, or an authorised officer of an enforcement authority, an inspector or a meat technician acting under the responsibility of an OVS, and no other person shall apply the young lamb stamp or possess the equipment for applying the stamp.

(3) No person shall use any stamp so resembling the young lamb stamp, or in such a way, as to be likely to suggest that any carcass other than a carcass of a sheep or goat in which there were no permanent incisors erupted, is such a carcass.

(4) The Agency may, in relation to any slaughterhouse or licensed cutting premises, appoint as meat technicians such number of persons as are necessary to assist the OVS and inspectors in carrying out their functions under paragraph (2) above.

### **Staining of specified risk material**

**38.—**(1) In this Part of these Regulations “stained blue” in relation to any material means being treated (whether by immersion, spraying or other application) with a 0.5% weight/volume solution of the colouring agent Patent Blue V (E131, 1971 Colour Index No 42051<sup>(a)</sup>) in such a way that the colouring is clearly visible—

- (a) in the case of specified risk material other than the head of a sheep or goat, over the whole surface of the material; and
- (b) in the case of the head of a sheep or goat, over the whole of the cut surface and majority of the head,

except that, if the tongue is to be removed, this shall be done immediately after slaughter and the head shall be stained immediately after the removal of the tongue.

(2) In this Part of these Regulations “stained yellow” in relation to any material means being treated (whether by immersion, spraying or other application) with a 0.5% weight/volume solution of the colouring agent Tartrazine (E102, Colour Index No 19140) in such a way that the colouring is clearly visible over the whole surface of the material.

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<sup>(a)</sup> Colour Index is published by the Society of Dyers and Colourists at Perkin House, 82 Grattan Road, Bradford, West Yorkshire BD1 2JB.

(3) The requirement in regulations 29 and 30 above to stain specified risk material shall not apply–

- (a) if the specified risk material is to be sent to a veterinary or medical school, laboratory, hospital or similar institution for instructional, diagnostic or research purposes;
- (b) to specified risk material which is intended to be used at premises licensed under regulation 53 below;
- (c) to specified solid waste.

(4) Where specified risk material has been stained in accordance with regulations 29 or 30 above, the occupier of any premises at which such material is stored or handled and, in the case of a place licensed under this Part of these Regulations, the operator of that place, shall take appropriate measures to ensure that colouring remains visible–

- (a) in the case of stained specified risk material other than the head of a sheep or goat, over the whole surface of the material; and
- (b) in the case of the head of a sheep or goat, over the whole of the cut surface and the majority of the head,

until the stained specified risk material is incinerated or rendered.

### **Consignment of specified risk material after removal from carcasses**

**39.**—(1) Once specified risk material has been removed from the carcase and treated in accordance with this Part of these Regulations, or, in the case of specified solid waste, recovered from the drainage system, the person responsible for its removal or recovery shall, without unreasonable delay, send it directly to–

- (a) a licensed collection centre;
- (b) a licensed rendering plant;
- (c) a licensed incinerator;
- (d) premises licensed under regulation 53 below; or
- (e) a veterinary or medical school, laboratory, hospital or similar institution for instructional, diagnostic or research purpose.

### **Presence of an OVS**

**40.**—(1) An OVS, or an authorised officer of an enforcement authority, an inspector or meat technician acting under the responsibility of an OVS, shall be present at any slaughterhouse where any carcase of a sheep or goat that is not marked with a young lamb stamp is being loaded for delivery to licensed cutting premises, and he shall supervise the loading.

(2) An OVS, or an authorised officer of an enforcement authority, an inspector or meat technician acting under the responsibility of an OVS, shall be present at any cutting premises where any carcase of a sheep or goat that is not marked with a young lamb stamp is being unloaded, and he shall supervise the unloading.

(3) Immediately after the loading referred to in paragraph (1) above the delivery vehicle shall be sealed by an OVS, or an authorised officer, an inspector or meat technician acting under the responsibility of an OVS, and no other person may seal such a vehicle.

(4) On arrival at licensed cutting premises a sealed vehicle shall be unsealed by an OVS, or an authorised officer of an enforcement authority, an inspector or meat technician acting under the responsibility of an OVS, and no other person may unseal such a vehicle.

(5) The Agency may, in relation to any slaughterhouse or licensed cutting premises, appoint as meat technicians such number of persons as are necessary to assist the OVS and inspectors in carrying out their functions under this regulation.

*Prohibitions: slaughter and carcasses*

**Pithing**

**41.**—(1) No person shall pith, prior to slaughter, any animal referred to in point 4 of Part A of Annex XI to the Community TSE Regulation whose meat is intended for human or animal consumption.

(2) No person shall use any meat which is derived from such an animal that has been pithed in the preparation of any food for sale for human consumption of any feedingstuff.

(3) For the purposes of this regulation, “to pith” an animal is to lacerate, after stunning the animal, its central nervous tissue by means of an elongated rod-shaped instrument introduced into the cranial cavity.

**Prohibition on sale of non-compliant carcasses for human consumption**

**42.**—(1) No person shall sell the carcase of any bovine animal, sheep or goat for human consumption unless it has been subjected to the controls specified in regulation 29 above and found to comply with the requirements of these Regulations.

(2) No person shall sell for human consumption the carcase of any sheep or goat consigned to a slaughterhouse or to cutting premises pursuant to regulation 29(2)(b) above, unless it has been subjected to the controls specified in this Part of these Regulations and found to comply with the requirements of these Regulations.

**Prohibition on the removal of brain and eyes**

**43.**—(1) Subject to paragraph (2) below, no person shall remove the brain or eyes—

- (a) from the carcase of a bovine animal which was slaughtered or has died at an age greater than six months; or
- (b) from a carcase of a sheep or goat which at the time it was slaughtered or died had one or more permanent incisor teeth erupted through the gum or was aged more than 12 months.

(2) The prohibitions in paragraph (1) above shall not apply to brain or eyes removed from such carcasses in premises for the purposes of veterinary or scientific examination or research, providing the part of the premises in which the examination or research is carried out is kept free from food, feeding stuffs and any cosmetic, pharmaceutical or medical product.

### **Prohibition on the removal of spinal cord**

**44.**—(1) No person shall remove the spinal cord or any part of it from the vertebral column of a sheep or goat in which there was at least one permanent incisor tooth erupted or which was aged over 12 months at the date of slaughter, except—

- (a) in an licensed slaughterhouse or at an licensed cutting premises by—
  - (i) longitudinally splitting the whole vertebral column; or
  - (ii) removing a longitudinal section of the whole vertebral column containing the spinal cord; or
- (b) in premises for the purposes of veterinary or scientific examination.

(2) No person shall remove the spinal cord or any part of it from the vertebral column of a bovine animal aged six months or more, or longitudinally split the vertebral column of such an animal, except—

- (a) in a slaughterhouse; or
- (b) in premises referred for the purposes of veterinary or scientific examination.

### **Transport of unmarked carcasses of sheep and goats**

**45.**—(1) No person shall transport from a slaughterhouse a carcass of a sheep or goat suitable for human consumption that is not marked with a young lamb stamp, except—

- (a) to licensed cutting premises that are co-located with the slaughterhouse;
- (b) a carcass which has been inspected and health marked in accordance with the Fresh Meat (Hygiene and Inspection) Regulations 1995 and which is moved in a sealed vehicle;
- (c) when all specified risk material has been removed from the carcass; or
- (d) in the case of a sheep carcass, one which—
  - (i) contains its spinal cord (that cord being specified risk material);
  - (ii) is intended for export whole direct to listed premises; and
  - (iii) is moved in a sealed vehicle.

(2) No person shall transport a carcass in accordance with paragraph (1) above unless the carcass is accompanied by a document indicating–

- (a) the name, address and licence number of the slaughterhouse from which the carcass is being transported;
- (b) where the carcass is being transported to licensed cutting premises, the name, address and licence number of those premises; and
- (c) in the case of a sheep carcass transported under sub-paragraph (d) of paragraph (1) above, the name and address of the listed premises to which it is intended the carcass will be exported.

**Possession of unmarked carcasses of sheep and goats**

**46.—**(1) No person shall have in his possession elsewhere than in a slaughterhouse, in a sealed vehicle or at cutting premises a carcass of a sheep or goat intended for sale for human consumption containing spinal cord, unless it is stamped with a young lamb stamp.

(2) No person shall transport a sheep carcass–

- (a) intended for export whole direct to listed premises; and
- (b) containing its spinal cord, that cord being specified risk material,

unless, first, he has in his possession, in addition to the document required by regulation 46(2) above, a copy of the declaration required by regulation 29(8)(b) above and, second, the carcass has been marked with the export mark required by [regulation [ ] of the TSE (Scotland) (Trade) Regulations 2002 (ex regulation 16A of the SRM Regulations 1997)].

(4) Where an authorised officer of the enforcement authority certifies that any sheep carcass has been possessed in contravention of paragraph (1) above or transported in contravention of paragraph (3) above that carcass shall be treated for the purposes of section 9 of the Food Safety Act 1990 as failing to comply with food safety requirements.

*Prohibitions on sale and use of specified risk material*

**Prohibition on sale of specified risk material for human consumption**

47.—(1) No person shall sell or supply any specified risk material, or any food containing specified risk material, for human consumption.

(2) No person shall use any specified risk material in the preparation of food for sale for human consumption.

(3) No person shall sell or supply any specified risk material for use in the preparation of any food for sale for human consumption.

(4) For the purposes of this regulation “specified risk material” includes anything derived from it.

**Prohibition on feeding specified risk material to animals**

48.—(1) Subject to paragraph (2) below, no person shall—

(a) sell or supply any specified risk material for use in the preparation of any feeding stuff; or

(b) use any specified risk material in the preparation of any feeding stuff.

(2) Paragraph (1) above shall not apply to—

(a) the sale or supply of any specified risk material; or

(b) the use of any specified risk material,

in the preparation of any feeding stuff for feeding to any animal for research purposes in a research establishment licensed under these Regulations in accordance with any conditions subject to which the licence is issued.

(3) subject to paragraph (4) below, no person shall sell or supply any specified risk material, or any feeding stuff which he knows or has reason to suspect contains any specified risk material, for feeding to any animal.

(4) paragraph (3) above shall not apply to the sale or supply of any feedingstuff to a research establishment licensed under these Regulations in accordance with any conditions subject to which the licence is issued.

(5) subject to paragraph (6) below, no person shall feed to any animal—

(a) any specified risk material;

- (b) any feeding stuff which he knows or has reason to suspect contains any specified risk material; or
- (c) a whole carcass or any part of a sheep, goat or bovine animal from which specified risk material has not been removed in accordance with these Regulations.

(6) Paragraph (7)(a) and (b) above shall not apply to the feeding to any animal of any specified risk material or feeding stuff for research purposes in a research establishment licensed under these Regulations and in accordance with any conditions subject to which the licence is issued; or

(7) For the purposes of this regulation–

- (a) “specified risk material” includes anything derived from it;
- (b) a feeding stuff shall be treated as containing specified risk material if it contains anything derived from it; and
- (c) “animal” does not include a human being.

(8) It shall be a defence for any person charged with an offence under this regulation to prove that he did not know or have any reason to believe that the material or the feeding stuff in relation to which he is charged contained, specified risk material.

### **Specified risk material for use in cosmetic, pharmaceutical and medical products**

**49.—**(1) No person shall sell any UK specified risk material for use in the preparation or manufacture of any cosmetic, pharmaceutical or medical product.

(2) No person shall use any UK specified risk material in the preparation or manufacture of any ingredient to be sold for use in the preparation or manufacture of a cosmetic, pharmaceutical or medical product.

(3) The prohibitions in paragraphs (1) and (2) above shall apply to anything derived from UK specified risk material as if it were UK specified risk material.

(4) It shall be a defence for any person charged with an offence under paragraph (1) or (2) above to prove that he did not know or have any reason to believe that the material was, or was derived from, UK specified risk material.

### **Mechanically recovered meat**

**50.—**(1) No person shall use the bones referred to in point 3 of Part A of annex XI to of the Community TSE Regulation in the production of mechanically recovered meat.

- (2) No person shall use any mechanically recovered meat which is derived from a bovine, ovine or caprine bone in the preparation of food for sale for human consumption.

*Prohibitions on collection, transport, rendering, incineration etc. and storage of specified risk material*

**Use of premises for collection, transport, rendering, incineration etc. of specified risk material**

51.—(1) No person shall use any premises for any purpose in connection with—

- (a) the collection or transport of specified risk material;
- (b) the rendering or incineration of specified risk material, or any other manner of disposal or destruction of specified risk material,

unless the premises are licensed for the purpose under this Part of these Regulations by the Licensing Authority.

(2) In this Part of these Regulations—

- (a) in relation to premises licensed under—
  - (i) the Fresh Meat (Hygiene and Inspection) Regulations 1995<sup>(a)</sup>;
  - [(ii) premises which are licensed under the Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995<sup>(b)</sup>;
  - premises which are licensed under the Wild Game Meat (Hygiene and Inspection) Regulations 1995<sup>(c)</sup>;
  - combined premises as defined in the Meat Products (Hygiene) Regulations 1994<sup>(d)</sup>; and
  - combined premises as defined in the Minced Meat and Meat Preparations (Hygiene) Regulations 1995<sup>(e)</sup>,]

“the Licensing Authority” is the Agency; and

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<sup>(a)</sup> S.I. 1995/539 as amended by S.I. 1995/731, S.I. 1995/1763, S.I. 1995/2200, S.I. 1995/2418, S.I. 1995/3124, S.I. 1995/3189, S.I. 1996/1148, S.I. 1996/2235, S.I. 1997/1729 and S.I. 1997/2074.

<sup>(b)</sup> S.I. 1995/540 as amended by S.I. 1995/1763, S.I. 1995/2200, S.I. 1995/3205 and S.I. 1997/1729.

<sup>(c)</sup> S. I. 1995/2148 as amended by S.I. 1995/3205.

<sup>(d)</sup> S. I. 1994/3082 as amended by S.I. 1995/1763, S.I. 1995/2200, S.I. 1995/3205 and S.I. 1996/1499.

<sup>(e)</sup> S. I. 1995/3205 as amended by S.I. 1996/3124.

- (b) in relation to any other premises, “the Licensing Authority” is the Scottish Ministers.

### **Storage of specified risk material**

**52.—**(1) Subject to paragraph (2) below, no person shall store specified risk material in the same room on any premises as any food, feeding stuff or any cosmetic, pharmaceutical or medical product.

(2) The requirement in paragraph (1) above shall not apply where an inspector has approved the storage of specified risk material in the same room as any food, feeding stuff or any cosmetic, pharmaceutical or medical product, on being satisfied that the arrangements for storage will ensure the adequate separation of the specified risk material from the food, feeding stuff or product.

(3) No person shall store specified risk material otherwise than in an impervious container which—

- (a) contains nothing but specified risk material;
- (b) is labelled as containing specified risk material;
- (c) is not left uncovered when containing specified risk material; and
- (d) after use for such storage is thoroughly washed and disinfected before being used for any other purpose.

### **Transport of specified risk material**

**53.—**(1) No person shall transport specified risk material unless—

- (a) the specified risk material is in a container marked with the words “specified risk material”, the place of destination and the name of the person to whom it is being sent; and
- (b) he states in writing to the person to whom it is sent the premises from which the specified risk material was collected for delivery.

(2) No person shall transport specified risk material unless it is—

- (a) transported in a vehicle which is not being used at the same time to transport any material other than specified risk material;
- (b) transported in—
  - (i) a vehicle which is impervious; or

- (ii) where the vehicle is not impervious, an impervious container; and
  - (c) kept covered at all times while in the container or vehicle except when necessary for loading into the container or vehicle or examination by an inspector.
- (3) Any person transporting specified risk material shall ensure that the part of the vehicle or the container in which the specified risk material is transported is thoroughly washed and disinfected before being used for any other purpose.
- (4) In this article the expression “vehicle” means, in any case in which specified risk material is conveyed in a bulk container, that container.

**Procedure for bringing in specified risk material from England, Wales or Northern Ireland**

**54.—**(1) No person shall bring specified risk material into Scotland from England, Wales or Northern Ireland unless—

- (a) it is stained in accordance with legislation having effect in, as the case may be Scotland, Wales or Northern Ireland and corresponding to the provisions of this Part of these Regulations relating to staining;
  - (b) it is exempt from the requirement to stain under that legislation by virtue of provisions corresponding to regulation 35 above; or
  - (c) it is transported in a sealed vehicle in accordance with the provisions of legislation having effect in, as the case may be, Scotland, Wales or Northern Ireland corresponding to the provisions of regulation 46 above.
- (2) Any person bringing specified risk material into Scotland from England, Wales or Northern Ireland shall immediately transport it to one of the destinations specified in regulations 36(1) or 45 above.

*Licensing*

**Licensing of premises**

**55.—(1)** The Licensing Authority may—

- (a) license any premises for any use in connection with—
  - (i) the collection or transport of specified risk material; or
  - (ii) the rendering or incineration of specified risk material, or any other manner of disposal or destruction of specified risk material; and
- (b) license any slaughterhouse or cutting premises for any use in connection with—
  - (i) the consignment referred to in regulation 29(2)(b) above;
  - (ii) the removal referred to in regulation 45(1)(a) above of the spinal cord, or any part of the spinal cord, from the vertebral column of a sheep or goat;  
  
the marking with the young lamb stamp referred to in regulation 34(4) above;  
  
the transport of a carcase of a sheep or goat suitable for human consumption that is not marked with a young lamb stamp 46(1)(a); or  
  
the possession of a carcase of a sheep or goat intended for sale for human consumption containing spinal cord referred to in regulation 47(1) above,

subject to such conditions as the Authority believes are necessary to ensure the occupier of the premises is able to comply with the requirements of points 7 to 11 of Part A of annex XI to the Community TSE Regulation which apply to the use concerned.

(2) On an application made to the Licensing Authority for a licence under this regulation, the Authority shall license the premises if, following an inspection of the premises by a veterinary inspector, it is satisfied that—

- (a) the occupier of the premises has in place facilities, procedures and methods of operation sufficient for the occupier to be able to comply with such of the requirements of points 7 to 11 of Part A of annex XI to the Community TSE Regulation which apply to the use to which the application relates;
- (b) in respect of an application for a licence to use premises in connection with rendering of specified risk material, the premises have the facilities specified

in Part I of Schedule 5 to these Regulations sufficient to enable the occupier of the premises to separate the specified risk material into protein and tallow at the premises by one of the methods specified in Part II of that Schedule; and

- (c) there is no significant risk that inspection on behalf of the Authority of the use of the premises will be hampered or denied.

(3) In considering applications for a licence for the purposes of this regulation the Licensing Authority may (in addition to any other relevant matters) have regard to the need for the efficient enforcement of this Part of these Regulations.

### **Licensing of premises for the use of specified risk material in production or research**

**56.**—(1) The Scottish Ministers may license premises for—

- (a) the use of specified risk material in the production referred to in Article 2 of the Community TSE Regulation; or
- (b) the use of specified risk material or other source of TSE infectivity in relation to keeping live animals used in or intended for research,

subject to such conditions as they believe are necessary to ensure the occupier of the premises is able to comply with the separation and production requirements of that Article which apply to the production or the keeping concerned.

(2) On an application made to her under this regulation for a licence the Scottish Ministers shall license the premises if, following an inspection of the premises by a veterinary inspector, they are satisfied that—

- (a) the occupier of the premises has in place facilities and procedures for tracing through the production or keeping to which the application relates to trace all specified risk material delivered to the premises sufficient to be able to show that—
  - (i) all specified risk material delivered to the premises is used for the purpose for which it was delivered or is disposed of in accordance with such conditions as they may specify in the licence; or
  - (ii) no product produced at the premises is used as, or in connection with or in the production of, any food or feeding stuff or any cosmetic, pharmaceutical or medical product; and
- (b) the use of the specified risk material in the production or keeping concerned does not give rise to risk—
  - (i) to human health; or,

- (ii) with the exception of the health of the animals for whose keeping the licence is required, animal health.
- (3) The occupier of premises licensed under this regulation shall–
  - (a) ensure that the use of the premises for the licensed purpose is in accordance with the conditions of the licence;
  - (b) ensure that any person employed by him, and any person invited to the premises, complies with these conditions.
- (4) The occupier of any premises licensed under this regulation shall permit an inspector, or a person acting under the responsibility of an inspector, to–
  - (a) inspect any carcase, part carcase, blood, specified solid waste or specified risk material on the premises to enable the inspector to check whether the requirements of points 7 to 11 of Part A of annex XI to the Community TSE Regulation which apply to the premises are complied with there; and
  - (b) inspect any operation at the premises in connection with the removal, collection, transport, disposal or destruction of specified risk material to enable the inspector to check whether the requirements of points 7 to 11 of Part A of annex XI to the Community TSE Regulation which apply to the operation are complied with there,

and shall give to an inspector, or any person acting under the responsibility of the inspector, such reasonable assistance as he may require.

- (5) No person shall carry out any operation in relation to specified risk material at premises licensed under this regulation except in accordance with any conditions specified in the licence.

### **Applications for licences**

**57.—**(1) An application for a licence of premises under this Part of these Regulations shall be made in writing to the Licensing Authority by or on behalf of the person carrying on or proposing to carry on the business at the premises to which the application relates.

- (2) The Licensing Authority shall notify the applicant in writing of the authority's decision on an application made to it in accordance with this regulation.

- (3) A licence of premises under this Part of these Regulations shall specify–
  - (a) the name and address of the person to whom the licence is granted and the address of the licensed premises;

- (b) the use of the premises for which the licence is granted; and
  - (c) the conditions subject to which the licence is granted.
- (4) If the Authority refuses to licence the premises or grants a licence subject to any condition it shall give to the applicant a statement of–
- (a) the reasons for the refusal or the condition; and
  - (b) his right of under this Part of these Regulations to appeal against the refusal or the condition and the period within which and the person to whom an appeal may be made.

### **Requirements of use of licensed premises**

**58.—**(1) The occupier of premises licensed under this Part of these Regulations shall–

- (a) ensure that the use of the premises for the licensed use is in accordance with the conditions of the licence;
  - (b) ensure that any person employed by him, and any person invited to the premises, complies with these conditions.
- (2) The occupier of any premises licensed under this regulation shall permit an inspector, or a person acting under the responsibility of an inspector, to–
- (a) inspect any carcase, part carcase, blood, specified solid waste or specified risk material on the premises to enable the inspector to check whether the requirements of points 7 to 11 of Part A of annex XI to the Community TSE Regulation which apply to the premises are complied with there; and
  - (b) inspect any operation at the premises in connection with the removal, collection, transport, disposal or destruction of specified risk material to enable the inspector to check whether the requirements of points 7 to 11 of Part A of annex XI to the Community TSE Regulation which apply to the operation are complied with there,

and shall give to an inspector, or any person acting under the responsibility of the inspector, such reasonable assistance as he may require.

- (3) No person shall carry out any operation in relation to specified risk material at premises licensed under this regulation except in accordance with any conditions specified in the licence.

## Suspension of licences

**59.**—(1) The Licensing Authority may suspend a licence of any premises licensed under this Part of these Regulations if it appears to the Authority that—

- (a) the premises are being used otherwise than in accordance with the licence;
- (b) any condition specified in the licence has not been complied with;
- (c) inspection of the premises for the purposes of these Regulations is being hampered or denied;
- (d) a notice has been served on the occupier in relation to the use of the premises under this Part of these Regulations and—
  - (i) the Authority is not satisfied that the action required by the notice to be taken by the occupier has been taken within the time required; and
  - (ii) as a result the premises are being used otherwise than in accordance with the licence, any condition specified in the licence has not been complied with or inspection of the premises for the purposes of these Regulations is being hampered or denied;
- (e) in the circumstances specified in paragraph (2) below;
- (f) the person using the premises for the use for which they are licensed no longer wishes to carry on that use of the premises; or
- (g) the premises are not being used for the use for which they are licensed.

(2) The circumstances referred to in paragraph (1)(e) are—

- (a) the occupier of any slaughterhouse owes the Agency any sum of money in respect of the charges for any inspections and controls carried out at the slaughterhouse in accordance with regulation 31(3) above;
- (b) the Agency has had judgment entered against the occupier for any part of this sum in relation for which the occupier is jointly and severally liable as a debt owed to the Agency under paragraph (2) of regulation 3 of the Specified Risk Material (Inspection Charges) Regulations 1999<sup>(a)</sup>; and
- (c) the occupier has failed within a reasonable time to satisfy the judgment; and

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<sup>(a)</sup> S.I. 1999/[ ].

- (d) the judgment has not been satisfied.
- (3) Before suspending a licence the Licensing Authority shall–
- (a) give notice of the intended suspension to the occupier of the premises (or, in the case of a suspension under paragraph (1)(f) above, to the person known to the Authority as the last person to use the premises for the use for which they are licensed and to any other person who appears to the Authority to be in current occupation of the premises); and
  - (b) have regard to any representations made to the Authority by that person in relation to the intended suspension.
- (4) A notice of suspension of a licence shall include the following information–
- (a) a summary of the decision of the Licensing Authority to suspend the licence and a description of the use of the premises for which the licence is suspended;
  - (b) the reason for the suspension;
  - (c) the date on which the suspension takes effect (which may be the same date as the date on which the notice is issued);
  - (d) the matters which must be remedied for the suspension to be lifted; and
  - (e) a statement of the right of the person to whom the notice of suspension is given to appeal under this Part of these Regulations against the suspension and the period within which and the person to whom an appeal may be made.
- (5) Where a suspension of a licence of premises under this regulation has taken effect the premises shall be treated as if they were not licensed for the use for which the licence is suspended.
- (6) The Licensing Authority shall lift a suspension of a licence where–
- (a) it is satisfied that–
    - (i) the reason for the suspension no longer applies; and
    - (ii) the person who would use the premises for the use for which they are licensed will use the premises in accordance with the licence and the conditions of the licence; or
  - (b) the determination of an appeal under this Part of these Regulations against the suspension is that the licence should not have been suspended.

(7) Where the Licensing Authority lifts a suspension it shall give notice of this to the person to whom it gave notice of the suspension.

### **Revocation of licences**

**60.**—(1) The Licensing Authority may revoke a licence of any premises licensed under this Part of these Regulations if it appears to the Authority that—

- (a) the premises are being used otherwise than in accordance with—
  - (i) the licence; or
  - (ii) this Part of these Regulations;
- (b) any condition specified in the licence has not been complied with;
- (c) inspection of the premises for the purposes of these Regulations is being hampered or denied;
- (d) a notice has been served on the occupier in relation to the use of the premises under this Part of these Regulations and—
  - (i) the Authority is not satisfied that the action required by the notice to be taken by the occupier has been taken within the time required; and
  - (ii) as a result the premises are being used otherwise than in accordance with the licence, any condition specified in the licence has not been complied with or inspection of the premises for the purposes of these Regulations is being hampered or denied;
- (e) the person using the premises for the use for which they are licensed no longer wishes to carry on that use of the premises; or
- (f) the premises are not being used for the use for which they are licensed.

(2) Before revoking a licence the Licensing Authority shall—

- (a) give notice of the intended revocation to the occupier of the premises (or, in the case of a revocation under paragraph (1)(f) above, to the person known to the Authority as the last person to use the premises for the use for which they are licensed and to any other person who appears to the Authority to be in current occupation of the premises); and
- (b) have regard to any representations made to the Authority by that person in relation to the intended revocation.

- (3) A notice of revocation of a licence shall include the following information–
- (a) a summary of the decision of the Licensing Authority to revoke the licence and a description of the use of the premises for which the licence is revoked;
  - (b) the reason for the revocation;
  - (c) the date on which the revocation takes effect, which may not be before the period of 21 days after the date on which the notice is given;
  - (d) a statement of the right of the person to whom the notice of revocation is given to appeal to a Meat Hygiene Appeals Tribunal against the revocation; and
  - (e) any conditions for the protection of public or animal health to which any continued use of the premises for a licensed use is subject pending an appeal.
- (4) Premises may continue to be used by the occupier for a use for which a licence is revoked during the period of 21 days after the notification to the occupier of the revocation.
- (5) After the expiry of this period the premises may not be used for the use for which the licence is revoked unless before the period expired an appeal was made in accordance with regulation 61 below and the appeal has not been finally disposed of or abandoned.
- (6) Where the licensing Authority has given notice of a decision to revoke the licence of premises the occupier of the premises shall not use the premises for that use except in accordance with any conditions for the protection of public or animal health included in the notice of revocation.

### **Appeals against/review in relation to suspension and revocation of licences**

**61.**—(1) Where in respect of any premises the Licensing Authority has given notice of a decision under this Part of these Regulations–

- (a) to refuse to license any premises; or
- (b) to grant a licence of any premises subject to conditions;
- (c) to suspend the licence of any premises; or
- (d) to revoke the licence of any premises,

the person to whom the notice is given may, within 21 days of being notified of the decision, appeal against the decision to an [appeal panel].

(2) An appeal under this regulation shall be made by written statement given to an [ appeal panel] accompanied by a brief explanation of the ground of the appeal and such other information and documents as the [appeal panel] may require.

(3) Where on an appeal under this regulation the [appeal panel] determines that–

- (a) the grant of a licence should not have been refused; or
- (b) unreasonable conditions have been attached to the grant of a licence; or
- (c) a licence should not have been suspended or revoked,

the Licensing Authority shall give effect to the determination of the [appeal panel].

*Collection centres and incinerators*

**Collection centres**

**62.**—(1) Any person delivering specified risk material to a licensed collection centre shall state in writing to the operator of the collection centre concerned the place from which that specified risk material was collected for delivery to that collection centre.

(2) No person shall take delivery of specified risk material at a collection centre, or operate a collection centre for specified risk material, unless it has been licensed and has sufficient facilities for storing and handling specified risk material in a manner which keeps it separate from other animal material.

(3) The operator of a licensed collection centre shall ensure that—

(a) without prejudice to the storage requirements of [ex regulation 28 of the SRM Regulations 1997], all specified risk material in the collection centre is kept separate from all other animal material; and

(b) all equipment used in relation to the collection or storage of specified risk material that comes into contact with such material is thoroughly washed and disinfected before he uses the equipment or allows it to be used in relation to the collection or storage of any other material.

(4) No person shall consign specified risk material from a licensed collection centre except to a licensed incinerator or a licensed rendering plant.

**Incinerators**

**63.**—(1) Any person delivering specified risk material to a licensed incinerator shall state in writing to the operator of the incinerator concerned the place from which that specified risk material was collected for delivery to that incinerator.

(2) No person shall operate an incinerator incinerating specified risk material unless—

(a) the incinerator has been licensed as having suitable facilities to incinerate specified risk material in accordance with paragraph (4) below;

(b) he disposes of the ash in a way that does not pose a risk to human or animal health; and

(c) the incinerator is equipped with a refractory lining.

(3) The operator of a licensed incinerator shall make a consignment record on the arrival of specified risk material at the premises and shall keep that record for two years from the date of arrival.

(4) The operator of a licensed incinerator shall incinerate all specified risk material delivered to him to a standard specified in the licence and in such a way that all moisture is removed, the material is reduced to ash and the ash is disposed of in accordance with the terms of the licence.

(5) No person shall remove specified risk material from a licensed incinerator unless it has been completely incinerated.

*Rendering plants*

**Delivery of specified risk material to rendering plants**

**64.**—(1) Any person delivering specified risk material to a licensed rendering plant shall state in writing to the operator of the rendering plant concerned the place from which that specified risk material was collected for delivery to that rendering plant.

(2) No person shall take delivery of specified risk material at a rendering plant, or operate a rendering plant for specified risk material, unless at the time of the delivery it is licensed under this Part of these Regulations as having the facilities specified in Part I of Schedule 5 to these Regulations sufficient to enable it to separate the specified risk material into protein and tallow by one of the methods specified in Part II of that Schedule.

**Storage etc. of specified risk material at rendering plants**

**65.**—(1) Subject to paragraph (2) below, and without prejudice to the storage requirements of [ex regulation 28 of the SRM Regulations 1997], the operator of a licensed rendering plant shall ensure that all specified risk material in the rendering plant is kept and stored separately from all other material, handled separately from other material and rendered separately from other material.

(2) The operator of a licensed rendering plant may keep, handle, store or render specified risk material at the plant together with other material at the plant provided—

- (a) all of that material is kept, handled, stored and rendered at the plant in accordance with the requirements of these Regulations applying to specified risk material; and
- (b) the operator keeps a record for two years of the exact quantity of the specified risk material and the other material together with which the specified risk material is kept, handled, stored and rendered.

(3) For the purposes of this Part of these Regulations, references to specified risk material shall include references to any—

- (a) specified risk material kept, handled, stored or rendered together with other material; and
- (b) any other material together with which the specified risk material is kept, handled, stored or rendered.

### **Rendering of specified risk material**

**66.**—(1) The operator of a licensed rendering plant shall ensure that specified risk material is processed without undue delay and in any event within seven days of delivery using one of the methods described in Part II of Schedule 5 to these Regulations.

(2) The operator of an approved rendering plant shall ensure (except as provided by paragraph (3) below) that any equipment used for processing specified risk material is used only for that purpose.

(3) Subject to paragraph (4) below, the Scottish Ministers may, on application by the operator of a licensed rendering plant, consent to the use for other purposes of equipment previously used for processing specified risk material.

(4) No consent given under paragraph (3) above shall be effective until the Scottish Ministers has indicated in writing that they are satisfied that the equipment concerned has been cleaned in accordance with any conditions specified in that consent.

### **Protein and tallow**

**67.**—(1) Subject to paragraph (2) below, after any specified risk material has been processed and separated into protein and tallow at a licensed rendering plant the operator of the plant shall ensure that—

- (a) all protein is placed in a container labelled “specified risk material” and disposed of—
  - (i) by burial at a landfill site for which there exists a current waste management licence granted under section 35 of the Environmental Protection Act 1990 or a permit granted under the Pollution Prevention and Control (Scotland) Regulations 2000<sup>(a)</sup>;
  - (ii) as specified in the licence; or
  - (iii) by sending to a licensed incinerator; and
- (b) all tallow is placed in a container labelled “specified risk material” and—
  - (i) disposed of by burial at a landfill site for which there exists a current waste management licence granted under section 35 of the Environmental Protection Act 1990 or a permit granted under the Pollution Prevention and Control (Scotland) Regulations 2000;

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<sup>(a)</sup> S.I. 2000[    ].

- (ii) in the case of tallow derived from the specified risk material referred to in paragraph (2) below, sent to premises licensed under [ex article 10 of the Specified Risk Material Order 1997] either for treatment by thermal hydrolysis at hyperbaric pressure or for use in such other process as is specified in the approval of those premises;
  - (iii) disposed of as specified in the licence; or
  - (iv) sent to a licensed incinerator.
- (2) The specified risk material referred to in paragraph (1)(b)(ii) above is–
  - (a) the head of a bovine animal which was slaughtered or has died in the United Kingdom at an age greater than 6 months except–
    - (i) the skull (including the brains and eyes), and
    - (ii) the tongue; and
  - (b) the material referred to in paragraphs (c) and (d) of the definition of specified risk material in these Regulations.
- (3) An operator of an approved rendering plant shall ensure that no protein or tallow produced from any specified risk material–
  - (a) is consigned from the plant for disposal by burial; or
  - (b) is disposed of by burial,

unless the specified risk material has been processed at the plant in accordance with method 4 prescribed in Part II of Schedule 5 to these Regulations.

- (4) Protein and tallow produced from animal material, other than specified risk material from scheme animals, shall be disposed of by burning in a manner which has been authorised under the Environmental Protection Act 1990 [or the Pollution Prevention and Control (Scotland) Regulations 2000.

*Administration and enforcement*

**Records**

**68.**—(1) Any person who consigns any specified risk material for transport from any premises shall make on consignment a record of each consignment showing—

- (a) the date on which the specified risk material was consigned from the premises;
- (b) the quantity and description of the material;
- (c) the destination to which it was consigned; and
- (d) the name of the haulier transporting it.

(2) Any person who transfers any specified risk material from any part of any premises licensed for the removal, collection, disposal or destruction of any specified risk material to another part of the premises shall make on transfer a record of each transfer showing the date on which the specified risk material was transferred and the quantity and description of the material transferred.

(3) A person who collects any specified risk material from any premises for the purpose of transporting it shall make on collection a record showing—

- (a) the address of the premises from which the material was collected;
- (b) the date on which the material was collected;
- (c) the quantity and description of the material; and
- (d) the destination to which it is to be taken,

and shall ensure this record accompanies the specified risk material during transport.

(4) A person who receives any specified risk material collected from any premises shall make on receipt a record of showing—

- (a) the address of the premises from which the material was collected;
- (b) the date on which the material is received;
- (c) the quantity and description of the material; and
- (d) name and address of the haulier who transported it.

(5) In addition to any records he is required to make under paragraph (1) and (4) above, an occupier of rendering premises (other than part-rendering premises) shall make a record of any specified risk material he renders at the premises showing–

- (a) the weight rendered and the date of rendering;
- (b) the temperature of the material achieved during rendering;
- (c) in a batch system, the period during which the material was rendered;
- (d) the particle size to which the material was reduced before rendering;
- (e) if appropriate, the pressure to which the by-products is subjected during rendering;
- (f) if appropriate, the feed rate of the material;
- (g) if appropriate, the fat re-cycling rate;
- (h) the quantity and description of rendered material produced;
- (i) in the case of all rendered material–
  - (i) the method of disposal;
  - (ii) the quantity disposed of;
  - (iii) the date of disposal;
  - (iv) the name of the haulier; and
  - (v) the address of the disposal premises.

(6) In addition to any records he is required to make under paragraph (1) and (4) above, an occupier of part-rendering premises shall make a record of any specified risk material he part-renders at the premises showing–

- (a) the weight part-rendered and the date of part-rendering; and
- (b) the quantity and description of part-rendered material produced.

(7) Any record required to be made under this regulation shall be kept by or on behalf of the person who is required to make it for a period of two years from the date on which the record is made.

### **Cleansing and disinfection**

**69.**—(1) If an inspector suspects that any vehicle, container or premises constitute a disease risk, he may serve a notice on the person in charge of the vehicle or container, or on the occupier of the premises, requiring the vehicle, container or premises to be cleansed and disinfected.

(2) The notice may—

- (a) specify the method of cleansing and disinfection;
- (b) specify the method of disposal of any specified risk material remaining in the vehicle, container or premises; and
- (c) prohibit the movement of specified risk material into the vehicle or container or on to the premises until such time as the required cleansing and disinfection has been satisfactorily completed;

### **Powers of inspectors**

**70.**—(1) An inspector shall, on producing, if required to do so, some duly authenticated document showing his authority, have the right at all reasonable times to enter any premises (excluding premises used only as a dwelling) to—

- (a) ascertain whether any—
  - (a) TSE susceptible animal; or
  - (b) any specified risk material,

is being or has been kept on the premises;

- (b) ascertain whether—
  - (i) any TSE exists or has existed on the premises or any other premises; or
  - (ii) any animal which is being kept on the premises or has been kept on the premises is, or was at the time it was kept there, affected with any TSE;
- (c) collect, pen, inspect and examine any TSE susceptible animal and for this purpose may require the keeper of any such animal to arrange for the collection and penning of the animal;
- (d) inspect and examine—

- (a) specified risk material; or
- (b) the carcase of TSE susceptible animal;
- (e) take such samples from, and make such tests in relation to, any–
  - (i) TSE susceptible animal;
  - (ii) carcase of such an animal;
  - (iii) specified risk material or any other material appearing to him to be derived from an animal;  
food or feeding stuff;  
cosmetic, pharmaceutical or medical product,  
as he considers necessary;
- (f) mark for identification purposes any specified risk material or TSE susceptible animal, or the carcase of such an animal;
- (g) serve a notice to restrict or prohibit the movement of any specified risk material, TSE susceptible animal or the carcase or such an animal;
- (h) issue a licence in connection with the movement of any specified risk material, TSE susceptible animal or the carcase or such an animal;
- (i) seize any specified risk material, TSE susceptible animal or the carcase of such an animal;
- (j) serve any notice–
  - (i) in connection with the seizure any specified risk material, TSE susceptible animal or the carcase of such an animal; or
  - (ii) under regulation 69 below;inspect–  
the premises; or  
any equipment at the premises;  
inspect any facility, operation or procedure at the premises, including–

any means of preparing, manufacturing, treating (including subjecting to heat or cold) food or specified risk material; or

any facility, operation or procedure at the premises in connection with the removal, collection, transport, disposal or destruction of specified risk material;

- (m) serve any licence, suspension of a licence, withdrawal of a licence or revocation of a licence under this Part of these Regulations;
- (n) serve any direction under regulation 70 below;
- (o) slaughter any TSE susceptible animal or serve any notice in connection with the slaughter of the animal;
- (p) examine any record, in whatever form the record may be held, and take copies of the record;
- (q) have access to, and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with any record; and for this purpose may require any person who has charge of or who is otherwise concerned with the operation of the computer, apparatus or material to afford to him such assistance as he may reasonably require and, where a record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away; or
- (r) ascertain whether there is or has been any contravention of, or failure to comply with, this Part of these Regulations or any evidence of any such contravention or failure.

(2) If a justice of the peace, on sworn information in writing is satisfied that there is reasonable ground for entry into any premises (excluding premises used only as a dwelling) for any purpose as is mentioned in paragraph (1) above and that either–

- (a) admission to the premises has been refused, or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier; or
- (b) an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent,

the justice may by warrant signed by him authorise an inspector to enter the premises, if need be by reasonable force.

(3) The occupier of premises entered by an inspector under this regulation or by virtue of a warrant issued it, and his employees and any person on the premises who is or has been in possession or charge of any mammalian meat and bone meal or processed animal protein, or any animal or carcase, which is or has been on the premises, shall–

- (a) provide such reasonable facilities to the inspector and comply with such reasonable requirements as the inspector considers necessary for any purpose connected with the administration or enforcement of this Part of these Regulations; and
- (b) if required by an inspector, give such information as he possesses as to–
  - (i) any mammalian meat and bone meal or processed animal protein, or any animal or carcase which is or has been on the premises;
  - (ii) any animal or carcase with which any mammalian meat and bone meal or processed animal protein, or any animal or carcase, which is or has been on the premises may have come into contact; and
  - (iii) the location, transport and movement of any mammalian meat and bone meal or processed animal protein, or any animal or carcase, which is or has been in his possession or charge.

(4) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it may take with him–

- (a) such other persons as he considers necessary to give him such assistance as he considers necessary; and
- (b) a representative of the European Commission acting for the purpose of the Community TSE Regulation or the Community Transitional Measures; and

(5) If an inspector enters any unoccupied premises he shall leave them as effectively secured against unauthorised entry as he found them.

### **Recall, seizure and destruction of feeding stuffs**

**71.—**(1) An inspector may serve on any person in whose possession is found any feeding stuff containing specified risk material, except a feeding stuff prepared for use in accordance with regulation [the equivalent in these Regulations to article 8(5) of the SRM Order], a notice requiring that person to dispose of the material, and any other material with which it has come into contact, in such manner and within such period as may be specified in the notice.

(2) An inspector may serve on any person who has sold or supplied any feeding stuff containing specified risk material a notice requiring that person to collect at his own expense

that product from the person to whom he supplied or sold it, or from such other person to whom it may have subsequently been supplied or sold, and to transport it to such place and within such time as may be specified in the notice.

(3) If any person on whom a notice is served under paragraph (1) or (2) above fails to comply with the requirements of the notice, an inspector may, without prejudice to any proceedings arising out of such default, carry out or cause to be carried out the requirements of the notice.

(4) The amount of any expenses reasonably incurred by or on behalf of an inspector acting pursuant to paragraph (3) above shall be recoverable as a debt by him or by any person under whose authority he is acting from the person who was in default of the notice, unless he took all reasonable steps to comply with the notice.

### **Directions**

**72.**—(1) If the Scottish Ministers or the Agency is satisfied that specified risk material cannot be disposed of under the provisions of these Regulations, whether for reasons of mechanical breakdown of equipment or otherwise, they may give written directions to the owner or person in control of the specified risk material for its disposal in a safe manner.

(2) In the event of any person not complying with those directions, the Scottish Ministers or the Agency may make arrangements for the disposal of the specified risk material at the expense of the owner.

### **Compliance with notices**

**73.**—(1) Any notice served under this Part of these Regulations shall be complied with at the expense of the person on whom the notice is served.

(2) If a notice served under this Part of these Regulations is not complied with, an inspector may arrange for it to be complied with at the expense of the person on whom the notice is served.

### **Slaughterhouse staff training**

**74.** The occupier of any slaughterhouse where specified risk material is removed from carcasses pursuant to this regulation shall arrange or establish in consultation with an OVS a staff training programme to train staff to comply with those requirements of this Part of these Regulations which they perform on those premises.

### **Offences**

**75.**—(1) An occupier of any premises used for the purposes of a business in course of which any commercial operation with respect to food or food sources is carried out shall take all

practicable steps to secure compliance by any of his employees with the provisions of these Regulations which apply to those operations in relation to those premises.

- (2) If any person contravenes or fails to comply with–
- (a) paragraph (1) above;
  - (b) a direction of the Scottish Ministers or the Agency under regulation 72 above;  
or
  - (c) any other provision of this Part of these Regulations,

he shall be guilty of an offence.

- (3) A person guilty of an offence under this regulation shall be liable–
- (a) 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
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.
- (4) No prosecution for an offence under any of the provisions mentioned in paragraph (2) above shall be begun after the expiry of–
- (a) three years from the commission of the offence; or
  - (b) one year from its discovery by the prosecutor,

whichever is the earlier.

- (5) In this regulation “commercial operation” and “food source” have the same meanings as in the Food Safety Act 1990.

### **Inspection and seizure of suspected food**

**76.—**(1) The following provisions of the Food Safety Act 1990 shall apply for the purposes of this Part of these Regulations as they apply for the purposes of sections 8, 14 or 15 of that Act and, unless the context otherwise requires, any reference in them to the Act shall be construed as a reference to this Part of these Regulations–

- (a) section 9 (inspection and seizure of suspected food), subject to the modification that it shall apply to an inspector as it applies to an authorised officer of a food authority;
- (b) section 30(8) (evidence of certificate of analysis or examination; and

- (c) section 44 (protection of officers acting in good faith), subject to the modifications that it shall apply to a person–
  - (i) appointed as an inspector for the purpose of these Regulations by a local authority or the Agency; or
  - (ii) designated as an inspector in accordance with regulation 8(2) of the Fresh Meat (Hygiene and Inspection) Regulations 1995, and

as it applies to an authorised officer of a food authority.

(2) On an inspection for the purposes of this Part of these Regulations of any food intended for human consumption an inspector may certify that the food fails to comply with a provision of this Part.

(3) Where any food is certified as mentioned in paragraph (2) above it may be treated for the purposes of section 9 of the Food Safety Act 1990 as failing to comply with food safety requirements.

## **Part V**

### **Control and eradication of TSEs**

#### **Notification of animals suspected of being affected by a TSE**

**77.—**(1) A person who has in his possession or under his charge an animal suspected of being affected by a TSE, and any veterinary surgeon or other person who, in the course of his duties, examines or inspects any such animal, shall, with all practicable speed, notify the fact to the Divisional Veterinary Manager.

(2) A person who has in his possession or under his charge on any premises an animal suspected of being affected by a TSE, shall detain it on the premises until it has been examined by a veterinary inspector.

(3) A person who, in the course of a laboratory examination of the carcass of an animal, reasonably suspects the presence of a TSE, shall—

- (a) with all practicable speed, notify the fact to the Divisional Veterinary Manager;
- (b) retain the sample examined and the remainder of the carcass until its disposal has been authorised in writing by a veterinary inspector; and
- (c) if required in writing to do so by a veterinary inspector, surrender any samples, in whatever form, to such an inspector.

(4) Paragraph (3) above shall not apply to any TSE which has been introduced deliberately into an animal, a carcass or a sample—

- (a) in any laboratory; or
- (b) on any premises, whether or not a laboratory, licensed by the Scottish Ministers under regulation 55 above.

#### **Measures for the purposes of chapter IV of the Community TSE Regulation**

**78.—**(1) An inspector may make such enquiries and carry out such investigations as he considers necessary for any purpose connected with the administration or enforcement of chapter IV of the Community TSE Regulation.

(2) For any such purpose an inspector shall, on producing, if required to do so, some duly authenticated document showing his authority, have the right at all reasonable times to enter any premises (excluding premises used only as a dwelling) to—

- (a) ascertain whether any TSE susceptible animal is being or has been kept on the premises;
- (b) ascertain whether–
  - (i) any TSE exists or has existed on the premises or any other premises; or
  - (ii) any animal which is being kept on the premises or has been kept on the premises is, or was at the time it was kept there, affected with any TSE;
- (c) collect, pen, inspect and examine any TSE susceptible animal and for this purpose may require the keeper of any such animal to arrange for the collection and penning of the animal;
- (d) inspect and examine the carcass of such an animal;
- (e) make such tests and take such samples from any TSE susceptible animal, or the carcass of such an animal, as he considers necessary;
- (f) mark for identification purposes any TSE susceptible animal, or the carcass of such an animal, or administer or otherwise attach to any TSE susceptible animal an electronic identification device;
- (g) serve a notice to restrict or prohibit the movement of any TSE susceptible animal or the carcass of such an animal;
- (h) issue a licence in connection with the movement of any TSE susceptible animal or the carcass of such an animal;
- (i) seize any TSE susceptible animal or the carcass of such an animal;
- (j) serve any notice in connection with the slaughter of any TSE susceptible animal;
- (k) slaughter any TSE susceptible animal;
- (l) examine any record, in whatever form the record may be held, and take copies of the record;
- (m) have access to, and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with any record; and for this purpose may require any person who has charge of or who is otherwise concerned with the operation of the computer, apparatus or material to afford to him such assistance as he may reasonably require and, where a

record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away; or

- (n) ascertain whether there is or has been any contravention of, or failure to comply with, this Part of these Regulations or any evidence of any such contravention or failure.

(3) No person except a veterinary inspector shall remove or otherwise interfere with any mark applied to or any electronic identification device attached to or otherwise administered to a TSE susceptible animal under paragraph (2)(f) above.

(4) If a justice of the peace, on sworn information in writing, is satisfied that there is reasonable ground for an inspector to enter any premises (excluding premises used only as a dwelling) for any purpose mentioned in paragraph (2) above and either–

- (a) admission to the premises has been refused, or a refusal is expected, and that notice of the intention to apply for a warrant has been given to the occupier; or
- (b) an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier is absent,

he may issue a warrant authorising an inspector to enter the premises for that purpose if need be by reasonable force.

(5) The occupier of premises entered by an inspector under this regulation or by virtue of a warrant issued it, and his employees and any person on the premises who is or has been in possession or charge of any animal or carcass which is or has been on the premises, shall–

- (a) provide such reasonable facilities to the inspector and comply with such reasonable requirements as the inspector considers necessary for any purpose connected with the administration or enforcement of chapter IV of the Community TSE Regulation; and
- (b) if required by an inspector, give such information as he possesses as to–
  - (i) any animal or carcass which is or has been on the premises;
  - (ii) any other animal or carcass with which any animal or carcass which is or has been on the premises may have come into contact; and
  - (iii) the location and movement of any animal or carcass which is or has been in his possession or charge.

(6) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it may take with him–

- (a) such other persons as he considers necessary to give him such assistance as he considers necessary; and
- (b) a representative of the European Commission acting for the purpose of the Community TSE Regulation or the Community Transitional Measures; and

(7) If an inspector enters any unoccupied premises he shall leave them as effectively secured against unauthorised entry as he found them.

#### **Movement prohibitions and restrictions of any TSE susceptible animals for the purposes of chapter IV of the Community TSE Regulation**

**79.**—(1) This regulation applies where an inspector is satisfied that for any purpose connected with the administration or enforcement of chapter IV of the Community TSE Regulation it is necessary to prohibit or restrict the movement of any TSE susceptible animal, whether or not the animal is suspected of being affected by a TSE, from or to any premises.

(2) For any such purpose an inspector may, by notice in writing served on the owner or person in charge of any animal, prohibit or restrict the movement of the animal from or to any premises described in the notice for such period, and subject to such conditions, as he considers necessary for that purpose and specifies in the notice.

(3) During the period in which the notice is in force a veterinary inspector may renew it subject to such conditions as he considers necessary for the same or a shorter period.

(4) A notice which is renewed may be renewed from time to time in a similar manner by a veterinary inspector.

(5) Where a notice is in force under this regulation the conditions of which allow movement of any animal suspected of being affected by a TSE from premises on the authority of a licence issued by a veterinary inspector, a veterinary inspector may issue a licence for this purpose subject to such conditions as he considers necessary.

(6) Where an animal or carcase is being moved under the authority of a licence issued under this Part of these Regulations the person in charge of the animal or carcase being so moved shall carry the licence during the authorised movement and shall, on demand made by an inspector or by a member of a police force, produce the licence and allow a copy or extract to be taken, and shall also, on such demand, furnish his name and address.

#### **Slaughter of TSE susceptible animals at slaughterhouses for the purposes of chapter IV of the Community TSE Regulation**

**80.**—(1) This regulation and regulation 81 below apply where the Scottish Ministers are satisfied it is necessary to slaughter any TSE susceptible animal for the purposes of chapter IV of the Community TSE Regulation.

(2) Where the Scottish Ministers are satisfied that it is necessary for these purposes to slaughter a TSE susceptible animal at premises licensed under the Fresh Meat (Hygiene and Inspection) Regulations 1995 an inspector shall so inform the occupier of the premises concerned and direct the occupier to slaughter the animal in such manner and period as the inspector directs.

(3) Before an inspector gives an occupier a direction to slaughter an animal under this regulation he shall consider the hygiene, specified risk material or animal welfare requirements with which the occupier must comply at the slaughterhouse in relation to–

- (a) the slaughter of the animal; and
- (b) any related operation, including–
  - (i) the handling of the animal before and at slaughter, or the handling, storage, treatment and disposal of the carcase, any part of the carcase or any blood derived from the carcase or any part of the carcase; or
  - (ii) any operation in relation to any other animal or the slaughter of any other animal at the slaughterhouse, including the handling of any other animal before and at slaughter, or the handling, storage, treatment and disposal of the carcase, any part of the carcase or any blood derived from the carcase or any part of the carcase of any other animal.

(4) Where the inspector is satisfied that for the purpose of complying with any of these requirements the occupier must–

- (a) slaughter any other animal at the slaughterhouse; or
- (b) carry out any such related operation,

the inspector shall direct the occupier to slaughter the other animal or carry out the related operation in such manner and period as the inspector directs

(5) Directions from an inspector to an occupier under this regulation may include directions in relation to–

- (a) the keeping and handling before and at slaughter of any animal at the slaughterhouse, whether or not it is to be slaughtered under a direction given under this regulation;
- (b) the arrangements for the slaughter at the slaughterhouse of any animal slaughtered under a direction given under this regulation; and

- (c) the treatment, storage and disposal of the carcase of any animal slaughtered at the slaughterhouse or any part of the carcase or any blood derived from the carcase or any part of the carcase.

(6) Any direction under this regulation shall be complied with at the expense of the person to whom the direction is given.

(7) If a direction under this regulation is not complied with, an inspector may arrange for it to be complied with at the expense of the person to whom the direction is given.

#### **Slaughter of TSE susceptible animals at other premises for the purposes of chapter IV of the Community TSE Regulation**

**81.**—(1) Where the Scottish Ministers are satisfied that it is necessary for the purposes of chapter IV of the Community TSE Regulation to slaughter a TSE susceptible animal at premises other than premises licensed under the Fresh Meat (Hygiene and Inspection) Regulations 1995 a veterinary inspector shall serve a notice of intended slaughter on the owner or person in charge of the animal—

- (a) informing him of that intention; and
- (b) specifying the period within which representations from the owner or person in charge of the animal may be made to the Scottish Ministers.

(2) After considering any representations received during this period from the owner or person in charge of the animal, the Scottish Ministers shall either—

- (a) withdraw the notice of intended slaughter; or
- (b) serve a notice on the owner or person in charge of the animal to confirm the intended slaughter of the animal.

(3) After service of the notice to confirm the intended slaughter of the animal the Scottish Ministers shall slaughter the animal as soon as possible having regard to the requirements of the annual programme of monitoring referred to in Article 6 of the Community TSE Regulation.

#### **Retention and seizure of carcasses etc. of TSE susceptible animals for the purposes of chapter IV of the Community TSE Regulation**

**82.**—(1) This regulation applies where the Scottish Ministers are satisfied that for any purpose connected with the administration or enforcement of chapter IV of the Community TSE Regulation it is necessary—

- (a) to require an occupier of premises to retain on the premises under the direction of the Scottish Ministers a carcass of a TSE susceptible animal, any part of such a carcass or any blood derived from any such carcass or part; or
  - (b) to seize from any premises the carcass of a TSE susceptible animal, any part of such a carcass or any blood derived from any such carcass or part.
- (2) For any such purpose an inspector may–
- (a) direct the occupier of the premises to retain on the premises a carcass of a TSE susceptible animal on the premises, any part of such a carcass or any blood derived from any such carcass or part; or
  - (b) seize or dispose of–
    - (i) any carcass of a TSE susceptible animal from any premises, or any part of such a carcass, whether or not it is a carcass or part of a carcass which the occupier has been required to be retained under the direction of an inspector; or
    - (ii) any blood derived from a carcass of a TSE susceptible animal or any part of such a carcass, whether or not the carcass or part of the carcass from which the blood is derived has been required to be retained under the direction of an inspector or has been seized by an inspector.
- (3) Directions from an inspector to an occupier under this regulation to retain a carcass, part of a carcass or blood derived from any carcass or part may include directions in relation to the treatment, storage and disposal of the carcass, part or blood.
- (4) Any direction under this regulation shall be complied with at the expense of the person to whom the direction is given.
- (5) If a direction under this regulation is not complied with, an inspector may arrange for it to be complied with at the expense of the person to whom the direction is given.

### **Compensation**

**83.—**(1) Where a TSE susceptible animal is slaughtered under regulation 80 or 81 above the Scottish Ministers shall pay compensation to the owner of the animal in accordance with the provisions of Part III of Schedule 1 below.

(2) Subject to paragraph (3) below, the Scottish Ministers shall pay compensation in accordance with the provisions of Part IV of Schedule 1 below to the owner of any carcass, part of a carcass or blood seized or disposed of under regulation 82 above.

**Prohibition of sale, supply and use of milk from affected or suspected animals**

**84.**—(1) Subject to paragraph (2) below, no person shall knowingly—

- (a) sell or supply for human consumption or for feeding to a farmed animal or poultry;
- (b) use in the manufacture of any product for sale or supply for human consumption or for feeding to an animal or poultry; or
- (c) feed to an animal or poultry,

any milk which he knows or has reason to suspect has been produced by a bovine animal suspected of being affected by bovine spongiform encephalopathy, a bovine animal in which the presence of bovine spongiform encephalopathy has been officially confirmed or any bovine animal referred to in Article 13 of, and point 1(a) of Annex VII to, the Community TSE Regulation as being at risk of being affected by bovine spongiform encephalopathy.

(2) The prohibitions in paragraph (1) above shall not apply—

- (a) to the feeding to its own calf of any milk produced by a cow; or
- (b) to the feeding to an animal or poultry of—
  - (i) any milk for research purposes in a research establishment under the authority of a licence granted by the Scottish Ministers under regulation 55 above and in accordance with any conditions subject to which the licence is granted; or
  - (ii) to the sale or supply of any milk to such a research establishment for those purposes.

## **Part VI**

### **Placing on the market of first generation progeny etc. of TSE suspect and confirmed animals**

#### **Notification of first generation progeny etc. of TSE suspect and confirmed animals**

**85.**—(1) A person who has in his possession or under his charge any—

- (a) first generation progeny; or
- (b) semen, embryos or ova,

of or derived from a TSE suspect or confirmed animal, and any veterinary surgeon or other person who, in the course of his duties, examines or inspects any such progeny, semen, embryos or ova, shall, with all practicable speed, notify the fact to the Divisional Veterinary Manager.

(2) A person who has in his possession or under his charge on any premises any animal he reasonably suspects is an animal of first generation progeny of, or semen, embryos or ova derived from, a TSE suspect or confirmed animal shall detain it on the premises until it has been examined by a veterinary inspector.

(3) A person who, in the course of a laboratory examination of the carcass of an animal, or any semen, embryos or ova derived from an animal, reasonably suspects it is an animal of first generation progeny of a TSE suspect or confirmed animal, or semen, embryos or ova derived from first generation progeny derived from a TSE suspect or confirmed animal, shall—

- (a) with all practicable speed, notify the fact to the Divisional Veterinary Manager;
- (b) retain the sample examined and the remainder of the carcass until its disposal has been authorised in writing by a veterinary inspector; and
- (c) if required in writing to do so by a veterinary inspector, surrender any samples, in whatever form, to such an inspector.

#### **Measures to administer and enforce Article 15(2) of, and chapter B of Annex VIII to, the Community TSE Regulation**

**86.**—(1) An inspector may make such enquiries and carry out such investigations as he considers necessary for any purpose connected with the administration or enforcement of Article 15(2) of, and chapter B of Annex VIII to, the Community TSE Regulation.

(2) For any such purpose an inspector shall, on producing, if required to do so, some duly authenticated document showing his authority, have the right at all reasonable times to enter any premises (excluding premises used only as a dwelling) to–

- (a) ascertain whether any animal of first generation progeny of a TSE suspect or confirmed animal, or semen, embryos or ova derived from such an animal, is being or has been kept on the premises;
- (b) collect, pen, inspect and examine any TSE suspect or confirmed animal or any first generation progeny of any TSE suspect or confirmed animal, and for this purpose may require the keeper of any such animal to arrange for the collection and penning of the animal;
- (c) inspect and examine, and make such tests and take such samples as he considers necessary from, any–
  - (i) TSE suspect or confirmed animal or a first generation progeny of any such animal;
  - (ii) carcase of a TSE suspect or confirmed animal or carcase of a first generation progeny of any such animal; or
  - (iii) semen, embryos or ova derived from any TSE suspect or confirmed animal;
- (d) mark for identification purposes any TSE suspect or confirmed animal or any first generation progeny of such an animal, or the carcase of a TSE suspect or confirmed animal or the carcase of a first generation progeny of such an animal, or administer or otherwise attach to any TSE suspect or confirmed animal, or any first generation progeny of such an animal, an electronic identification device;
- (e) serve a notice to restrict or prohibit the movement of–
  - (i) any TSE suspect or confirmed animal or any first generation progeny of such an animal; or
  - (ii) any carcase of a TSE suspect or confirmed animal or the carcase of any first generation progeny of such an animal;
- (f) issue a licence in connection with the movement of–
  - (i) any TSE suspect or confirmed animal or any first generation progeny of such an animal; or

- (ii) any carcase of a TSE suspect or confirmed animal or the carcase of any first generation progeny of such an animal;
  - (g) seize–
    - (i) any TSE suspect or confirmed animal or any first generation progeny of such an animal; or
    - (ii) any carcase of a TSE suspect or confirmed animal or the carcase of any first generation progeny of such an animal;
  - (h) serve any notice in connection with the slaughter of any TSE suspect or confirmed animal or any first generation progeny of such an animal;
  - (i) slaughter any TSE suspect or confirmed animal or any first generation progeny of such an animal;
  - (j) examine any record, in whatever form the record may be held, and take copies of the record;
  - (k) have access to, and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with any record; and for this purpose may require any person who has charge of or who is otherwise concerned with the operation of the computer, apparatus or material to afford to him such assistance as he may reasonably require and, where a record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away; or
  - (l) ascertain whether there is or has been any contravention of, or failure to comply with, this Part of these Regulations or any evidence of any such contravention or failure.
- (3) No person except a veterinary inspector shall remove or otherwise interfere with any mark applied to any animal or carcase under paragraph (2)(d) above or any electronic identification device attached to or otherwise administered to any animal under that paragraph.
- (4) If a justice of the peace is satisfied on sworn information in writing that there are reasonable grounds for an inspector to enter any premises (excluding premises used only as a dwelling) for any purpose mentioned in paragraph (2) above and that either–
- (a) admission to the premises has been refused, or a refusal is expected, and that notice of the intention to apply for a warrant has been given to the occupier of the premises; or

- (b) an application for admission, or the giving of such a notice, would defeat the object of entering the premises, or that the case is one of urgency, or that the premises are unoccupied or the occupier is absent,

he may issue a warrant authorising an inspector to enter the premises for that purpose if necessary using reasonable force.

(5) The occupier of premises entered by an inspector under this regulation or by virtue of a warrant issued it, and his employees and any person on the premises who is or has been in possession or charge of any animal or carcase which is or has been on the premises, shall–

- (a) provide such reasonable facilities to the inspector and comply with such reasonable requirements as the inspector considers necessary for any purpose connected with the administration or enforcement of Article 15(2) of, and chapter B of Annex VIII to, the Community TSE Regulation; and
- (b) if required by an inspector, give such information as he possesses as to–
  - (i) any animal or carcase which is or has been on the premises;
  - (ii) any other animal or carcase with which any animal or carcase which is or has been on the premises may have come into contact;
  - (iii) any semen, embryos or ova derived from any TSE suspect or confirmed animal which are or have been on the premises or with which any semen, embryos or ova derived from a TSE suspect or confirmed animal on the premises may have come into contact; and
  - (iv) the location and movement of any animal or carcase, or any semen, embryos or ova derived from a TSE suspect or confirmed animal, which is or has been in his possession or charge.

(6) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it may take with him–

- (a) such other persons as he considers necessary to give him such assistance as he considers necessary; and
- (b) a representative of the European Commission acting for the purpose of the Community TSE Regulation or the Community Transitional Measures; and

(7) If an inspector enters any unoccupied premises he shall leave them as effectively secured against unauthorised entry as he found them.

**Movement prohibitions and restrictions: Article 15(2) of, and chapter B of Annex VIII to, the Community TSE Regulation**

**87.—**(1) This regulation applies where an inspector is satisfied that for any purpose connected with the administration or enforcement of Article 15(2) of, and chapter B of Annex VIII to, the Community TSE Regulation it is necessary to prohibit or restrict the movement from or to any premises of any—

- (a) TSE suspect or confirmed animal or a first generation progeny of any such animal;
- (b) carcase of a TSE suspect or confirmed animal or carcase of a first generation progeny of any such animal; or
- (c) semen, embryos or ova derived from any TSE suspect or confirmed animal;

(2) For any such purpose an inspector may, by notice in writing served on the owner or person in charge of any animal, prohibit or restrict the movement of the animal, carcase or semen, embryos or ova from or to any premises described in the notice for such period, and subject to such conditions, as he considers necessary for that purpose and specifies in the notice.

(3) During the period in which the notice is in force a veterinary inspector may renew it subject to such conditions as he considers necessary for the same or a shorter period.

(4) A notice which is renewed may be renewed from time to time in a similar manner by a veterinary inspector.

(5) Where a notice is in force under this regulation the conditions of which allow movement of any animal, carcase or semen, embryos or ova from premises on the authority of a licence issued by a veterinary inspector, a veterinary inspector may issue a licence for this purpose subject to such conditions as he considers necessary.

(6) Where an animal, carcase or semen, embryos or ova is being or are moved under the authority of a licence issued under this Part of these Regulations the person in charge of the animal, carcase or semen, embryos or ova being so moved shall carry the licence during the authorised movement and shall, on demand made by an inspector or by a member of a police force, produce the licence and allow a copy or extract to be taken, and shall also, on such demand, furnish his name and address.

**Slaughter at slaughterhouses: Article 15(2) of, and chapter B of Annex VIII to, the Community TSE Regulation**

**88.—**(1) This regulation and regulation 89 below apply where the Scottish Ministers are satisfied it is necessary to slaughter any TSE suspect or confirmed animal, or a first

generation progeny of any such animal, for the purposes of the administration or enforcement of Article 15(2) of, and chapter B of Annex VIII to, the Community TSE Regulation.

(2) Where the Scottish Ministers are satisfied that it is necessary for these purposes to slaughter a TSE suspect or confirmed animal, or a first generation progeny of any such animal, at premises licensed under the Fresh Meat (Hygiene and Inspection) Regulations 1995 an inspector shall so inform the occupier of the premises concerned and direct the occupier to slaughter the animal in such manner and period as the inspector directs.

(3) Before an inspector gives an occupier a direction to slaughter an animal under this regulation he shall consider the hygiene, specified risk material or animal welfare requirements with which the occupier must comply at the slaughterhouse in relation to–

- (a) the slaughter of the animal; and
- (b) any related operation, including–
  - (i) the handling of the animal before and at slaughter, or the handling, storage, treatment and disposal of the carcase, any part of the carcase or any blood derived from the carcase or any part of the carcase; or
  - (ii) any operation in relation to any other animal or the slaughter of any other animal at the slaughterhouse, including the handling of any other animal before and at slaughter, or the handling, storage, treatment and disposal of the carcase, any part of the carcase or any blood derived from the carcase or any part of the carcase of any other animal.

(4) Where the inspector is satisfied that for the purpose of complying with any of these requirements the occupier must–

- (a) slaughter any other animal at the slaughterhouse; or
- (b) carry out any such related operation,

the inspector shall direct the occupier to slaughter the other animal or carry out the related operation in such manner and period as the inspector directs

(5) Directions from an inspector to an occupier under this regulation may include directions in relation to–

- (a) the keeping and handling before and at slaughter of any animal at the slaughterhouse, whether or not it is to be slaughtered under a direction given under this regulation;
- (b) the arrangements for the slaughter at the slaughterhouse of any animal slaughtered under a direction given under this regulation; and

- (c) the treatment, storage and disposal of the carcase of any animal slaughtered at the slaughterhouse or any part of the carcase or any blood derived from the carcase or any part of the carcase.
- (6) Any direction under this regulation shall be complied with at the expense of the person to whom the direction is given.
- (7) If a direction under this regulation is not complied with, an inspector may arrange for it to be complied with at the expense of the person to whom the direction is given.

**Slaughter at other premises: Article 15(2) of, and chapter B of Annex VIII to, the Community TSE Regulation**

**89.**—(1) Where the Scottish Ministers are satisfied that it is necessary to slaughter a TSE suspect or confirmed animal, or a first generation progeny of any such animal, at premises other than premises licensed under the Fresh Meat (Hygiene and Inspection) Regulations 1995 a veterinary inspector shall serve a notice of intended slaughter on the owner or person in charge of the animal—

- (a) informing him of that intention; and
  - (b) specifying the period within which representations from the owner or person in charge of the animal may be made to the Scottish Ministers.
- (2) After considering any representations received during this period from the owner or person in charge of the animal, the Scottish Ministers shall either—
- (a) withdraw the notice of intended slaughter; or
  - (b) serve a notice on the owner or person in charge of the animal to confirm the intended slaughter of the animal.
- (3) After service of the notice to confirm the intended slaughter of the animal the Scottish Ministers shall slaughter the animal as soon as possible having regard to the requirements of Article 15(2) of, and chapter B of Annex VIII to, Community TSE Regulation.

**Retention and seizure of carcasses etc.: Article 15(2) of, and chapter B of Annex VIII to, the Community TSE Regulation TSE**

- 90.**—(1) This regulation applies where the Scottish Ministers are satisfied that for any purpose connected with the administration or enforcement of Article 15(2) of, and chapter B of Annex VIII to, Community TSE Regulation, it is necessary—
- (a) to require an occupier of premises to retain on the premises under the direction of the Scottish Ministers—

- (i) any TSE suspect or confirmed animal or a first generation progeny of any such animal;
  - (ii) any carcase of a TSE suspect or confirmed animal or the carcase of a first generation progeny of any such animal;
  - (iii) any part of such a carcase or any blood derived from any such carcase or part; or
  - (iv) any semen, embryos or ova derived from any TSE suspect or confirmed animal; or
- (b) to seize from any premises any such animal, carcase, part of a carcase, blood or semen, embryos or ova.
- (2) For any such purpose an inspector may–
- (a) direct the occupier of the premises to retain on the premises any such animal, carcase, part of a carcase, blood or semen, embryos or ova; or
  - (b) seize or dispose of any such animal, carcase, part of a carcase, blood or semen, embryos or ova, whether or not it is an animal, carcase, part of a carcase, blood or semen, embryos or ova which the occupier has been required to be retained under the direction of an inspector; or
- (3) Directions from an inspector to an occupier under this regulation to retain any such animal, carcase, part of a carcase, blood or semen, embryos or ova may include directions in relation to the treatment, storage and disposal of the animal, carcase, part of a carcase, blood or semen, embryos or ova.
- (4) Any direction under this regulation shall be complied with at the expense of the person to whom the direction is given.
- (5) If a direction under this regulation is not complied with, an inspector may arrange for it to be complied with at the expense of the person to whom the direction is given.

### **Compensation**

**91.—**(1) Where a TSE susceptible animal is slaughtered under regulation 88 or 89 above the Scottish Ministers shall pay compensation to the owner of the animal in accordance with the provisions of Part V of Schedule 1 below.

(2) Subject to paragraph (3) below, the Scottish Ministers shall pay compensation in accordance with the provisions of Part VI of Schedule 1 below to the owner of any animal, carcase, part of a carcase, blood or semen, embryos or ova seized or disposed of under regulation 90 above.

### **Offspring slaughter**

**92.** Schedule 7 below shall have effect for the purpose of continuing the implementation of Council Decision 98/256/EC<sup>(a)</sup> (concerning emergency measures to protect against bovine spongiform encephalopathy, amending Decision 94/474/EC and repealing Decision 96/239/EC) in relation to offspring of bovine animals.

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<sup>(a)</sup> OJ No. L 113, 15.4.98, p.32. Council Decision 98/256/EC remains in force as a transitional measure by virtue of article 1(1) of Commission Regulation (EC) No 1326/2001 and section D of annex XI to the Community TSE Regulation (added by article 3(3) of, and annex IV to, Commission Regulation (EC) No 1326/2001).

## **Part VII**

### **Sampling and laboratory methods**

#### **Sampling and laboratory methods**

**93.** No person shall use any premises for the sampling and laboratory testing for the presence of a TSE unless the premises are used for these purposes in accordance with the methods and protocols laid down in chapter C of Annex X to the Community TSE Regulation.

## **Part VIII**

### **Community controls, offences, penalties and enforcement**

#### **Community controls: powers of inspectors**

**94.—(1)** An inspector shall, on producing, if required to do so, some duly authenticated document showing his authority, have the right at all reasonable times to enter any premises (excluding premises used only as a dwelling) for any purpose in relation to the checks and assistance referred to in Article 21 of the Community TSE Regulation.

(2) If a justice of the peace, on sworn information in writing, is satisfied that there is reasonable ground for an inspector to enter any premises (excluding premises used only as a dwelling) for any purpose mentioned in paragraph (1) above and either—

- (a) admission to the premises has been refused, or a refusal is expected, and that notice of the intention to apply for a warrant has been given to the occupier; or
- (b) an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier is absent,

he may issue a warrant authorising an inspector to enter the premises for that purpose if need be by reasonable force.

(3) The occupier of premises entered by an inspector under this regulation or by virtue of a warrant issued it, and his employees and any person on the premises who is or has been in possession or charge of any mammalian meat and bone meal or processed animal protein, any animal or carcase which is or has been on the premises, or any specified risk material which is or has been on the premises, shall—

- (a) provide such reasonable facilities to the inspector and comply with such reasonable requirements as the inspector considers necessary for any purpose in relation to the checks and assistance referred to in Article 21 of the Community TSE Regulation; and

- (b) if required by an inspector, give such information as he possesses as to–
  - (i) any mammalian meat and bone meal or processed animal protein, any animal or carcase, or any specified risk material, which is or has been on the premises;
  - (ii) any animal or carcase with which any mammalian meat and bone meal or processed animal protein, any animal or carcase, or any specified risk material, which is or has been on the premises may have come into contact; and
  - (iii) the location, transport and movement of any mammalian meat and bone meal or processed animal protein, any animal or carcase, or any specified risk material, which is or has been in his possession or charge.
- (4) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it may take with him–
  - (a) such other persons as he considers necessary to give him such assistance as he considers necessary; and
  - (b) a representative of the European Commission acting for the purpose of the Community TSE Regulation or the Community Transitional Measures; and
- (5) If an inspector enters any unoccupied premises he shall leave them as effectively secured against unauthorised entry as he found them.
- (6) Any notice under this regulation shall be complied with at the expense of the person on whom the notice is served.
- (7) If a notice under this regulation is not complied with, an inspector may arrange for it to be complied with at the expense of the person on whom the notice is served.

### **Obstruction**

**95.—**(1) No person shall–

- (a) intentionally obstruct any person acting in the execution of these Regulations;
- (b) without reasonable cause, fail to give to any person acting in the execution of these Regulations any assistance or information which that person may reasonably require of him for the purpose of carrying out his functions under these Regulations; or

- (c) furnish to any person acting in the execution of these Regulations any information which he knows to be false or misleading.

(2) Nothing in paragraph (1)(b) above shall be construed as requiring any person to answer any question or give any information if to do so might incriminate him.

### **Offences and penalties**

**96.**—(1) If a person contravenes or fails to comply with any provision of these Regulations he shall be guilty of an offence and shall be liable—

- (a) 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
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

(2) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar person of the body corporate, or
- (b) any person who was purporting to act in any such capacity,

he, as well as the body corporate, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(3) For the purposes of paragraph (2) above, “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

### **Offences due to fault of another person and defence of due diligence**

**97.**—(1) Where the commission by any person of an offence under any of the provisions of these Regulations is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this paragraph of this regulation whether or not proceedings are taken against the first-mentioned person.

(2) In any proceedings for an offence under any of the provisions of these Regulations, it shall, subject to paragraph (3) below, be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or by a person under his control.

(3) If in any case the defence provided by paragraph (2) above involves the allegation that the commission of the offence was due to an act or default of another person, or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless–

- (a) at least seven clear days before the hearing; and
- (b) where he has previously appeared before a court in connection with the alleged offence, within one month of his first such appearance,

he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

(4) In paragraph (3) above any reference to appearing before a court shall be construed as including a reference to being brought before a court.

### **Enforcement**

**98.**—(1) Part II and Part IV of these Regulations shall be enforced–

- (a) in relation to premises licensed under–
  - (i) the Fresh Meat (Hygiene and Inspection) Regulations 1995<sup>(a)</sup>;
  - [(ii) premises which are licensed under the Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995<sup>(b)</sup>;
  - (iii) premises which are licensed under the Wild Game Meat (Hygiene and Inspection) Regulations 1995<sup>(c)</sup>;
  - (iv) combined premises as defined in the Meat Products (Hygiene) Regulations 1994<sup>(d)</sup>; and
  - (iv) combined premises as defined in the Minced Meat and Meat Preparations (Hygiene) Regulations 1995<sup>(e)</sup>,]by the Agency or by the Scottish Ministers; and
- (b) in relation to any other premises, by the local authority.

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<sup>(a)</sup> S.I. 1995/539 as amended by S.I. 1995/731, S.I. 1995/1763, S.I. 1995/2200, S.I. 1995/2418, S.I. 1995/3124, S.I. 1995/3189, S.I. 1996/1148, S.I. 1996/2235, S.I. 1997/1729 and S.I. 1997/2074.

<sup>(b)</sup> S.I. 1995/540 as amended by S.I. 1995/1763, S.I. 1995/2200, S.I. 1995/3205 and S.I. 1997/1729.

<sup>(c)</sup> S. I. 1995/2148 as amended by S.I. 1995/3205.

<sup>(d)</sup> S. I. 1994/3082 as amended by S.I. 1995/1763, S.I. 1995/2200, S.I. 1995/3205 and S.I. 1996/1499.

<sup>(e)</sup> S. I. 1995/3205 as amended by S.I. 1996/3124.

(2) The other Parts of these Regulations shall be enforced by the local authority.

(3) The Scottish Ministers may direct, in relation to cases of a particular description or any particular case, that an enforcement duty imposed on a local authority under this regulation shall be discharged by the Scottish Ministers and not by the local authority.

## **Part IX**

### **Supplementary provisions**

#### **Service of notices and other documents**

**99.**—(1) Any notice or other document to be given or served on any person under or in relation to these Regulations may be given or served either—

- (a) by delivering it to that person;
- (b) in the case of an incorporated body, by delivering it to their secretary or clerk at their registered or principal office, or by sending it by post to him at that office; or
- (c) in the case of any other person, by leaving it, or sending it by post to him, at his usual or last known address.

(2) Where a notice or other document is to be given or served on the owner, proprietor, operator or occupier of any premises and it is not practicable after reasonable enquiry to ascertain the name and address of the person to or on whom it should be given or served, or the premises are unoccupied, the document may be given or served by addressing it to the person concerned by the description of “owner”, “proprietor”, “operator” or “occupier” of the premises (naming them) and—

- (a) by delivering it to some person on the premises; or
- (b) if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

#### **Amendments**

**100.** The provisions of the Regulations and Orders specified in an entry in the first column of Schedule 8 shall be amended in accordance with the provisions corresponding to that entry in the second column of Schedule 8.

#### **Revocations and savings and transitional provisions**

**101.**—(1) Subject to the savings and transitional provisions in the following provisions of this regulation, the provisions of the Regulations and Orders specified in the first column of Schedule 9 shall be revoked to the extent specified in the second column of that Schedule.

(2) Any application—

- (a) made in accordance with [licences and approvals] but not determined at the coming into force of these Regulations; or

- (b) referred to in [e.g. SRM Order 1997 and SRM Regulations 1997] and treated as being made in accordance with these instruments but not determined at the coming into force of these Regulations,

shall be treated as an application referred to [ ] of these Regulations.

(3) Accordingly any such application shall be subject to the remaining provisions of [ ], in respect of anything needing to be done at the coming into force of these Regulations in relation to the application by or on behalf of the applicant, and shall be determined in accordance with these Regulations.

(4) Any representations made [e.g. SRM licenses or approvals] shall have effect as if they were oral or written representations made in accordance with regulation [ ] of these Regulations.

A Member of the Scottish Executive

2002

SCHEDULE 1

**Compensation**

**Part I**

**Compensation for TSE susceptible animals slaughtered under regulations 6 or 7**

1. The compensation payable for a TSE susceptible animal slaughtered under regulation 6 or 7 above shall be an amount equal to the market value of the animal.
2. The market value of the animal shall be determined–
  - (a) by agreement between the Scottish Ministers and the owner of the animal; or
  - (b) by a valuer appointed by the Scottish Ministers.
3. A valuer appointed for the purpose of this regulation shall be paid by the Scottish Ministers.
4. The valuer shall give to the Scottish Ministers and the owner a certificate in writing of the value he has determined.
5. Where an animal was certified by a veterinary surgeon before slaughter as–
  - (a) requiring slaughter for emergency reasons relating to the welfare of the animal;
  - (b) not fit for human consumption by virtue of its condition; and
  - (c) having no market value as a consequence,

there shall be no compensation payable for the animal.

## Part II

### **Compensation for carcasses, parts of carcasses or blood of TSE susceptible animals seized or disposed of under regulation 8**

1. Subject to paragraph 5 below, the compensation for any carcase, part of any carcase or any blood seized or disposed of under regulation 8 shall be compensation to the owner of the carcase, part or blood of an amount equal to the value of the carcase, part or blood at the time it was seized or disposed of.
2. The value of any carcase, part or blood seized or disposed of under regulation 8 shall be determined–
  - (a) by agreement between the Scottish Ministers and the owner of the carcase, part or blood seized or disposed of; or
  - (b) by arbitration.
3. The owner of a carcase, part of a carcase or blood seized or disposed of under regulation 8 shall pay any reasonable costs or expenses incurred by the Scottish Ministers in connection with the seizure or disposal.
4. These costs or expenses shall be deducted from the amount of any compensation payable to the owner for the value of the carcase, part or blood seized or disposed of.
5. If the amount of these costs and expenses exceed the amount of compensation payable to the owner, the Scottish Ministers shall serve on the owner a notice specifying the amount of the excess and the period for payment of this amount to the Scottish Ministers.
6. The owner shall pay to the Scottish Ministers amount of the excess within the period specified in the notice.
7. On the expiry of this period, the amount of the excess shall be recoverable as a debt by the Scottish Ministers from the owner.

### **Part III**

#### **Compensation for TSE susceptible animals slaughtered under regulations 80 and 81**

- 1.** The compensation payable for a TSE susceptible animal slaughtered under regulations 80 or 81 above shall be an amount equal to the market value of the animal.
- 2.** The market value of the animal shall be determined–
  - (a) by agreement between the Scottish Ministers and the owner of the animal; or
  - (b) by a valuer appointed by the Scottish Ministers.
- 3.** A valuer appointed for the purpose of this regulation shall be paid by the Scottish Ministers.
- 4.** The valuer shall give to the Scottish Ministers and the owner a certificate in writing of the value he has determined.
- 5.** Where an animal was certified by a veterinary surgeon before slaughter as–
  - (a) requiring slaughter for emergency reasons relating to the welfare of the animal;
  - (b) not fit for human consumption by virtue of its condition; and
  - (c) having no market value as a consequence,there shall be no compensation payable for the animal.

## **Part IV**

### **Compensation for carcasses, parts of carcasses or blood of TSE susceptible animals seized or disposed of under regulation 82**

1. Subject to paragraph 5 below, the compensation for any carcase, part of any carcase or any blood seized or disposed of under regulation 82 shall be compensation to the owner of the carcase, part or blood of an amount equal to the value of the carcase, part or blood at the time it was seized or disposed of.
2. The value of any carcase, part or blood seized or disposed of under regulation 82 shall be determined–
  - (a) by agreement between the Scottish Ministers and the owner of the carcase, part or blood retained, seized or disposed of; or
  - (b) by arbitration.
3. The owner of a carcase, part of a carcase or blood seized or disposed of under regulation 82 shall pay any reasonable costs or expenses incurred by the Scottish Ministers in connection with the seizure or disposal.
4. These costs or expenses shall be deducted from the amount of any compensation payable to the owner for the value of the carcase, part or blood seized or disposed of.
5. If the amount of these costs and expenses exceed the amount of compensation payable to the owner, the Scottish Ministers shall serve on the owner a notice specifying the amount of the excess and the period for payment of this amount to the Scottish Ministers.
6. The owner shall pay to the Scottish Ministers amount of the excess within the period specified in the notice.
7. On the expiry of this period, the amount of the excess shall be recoverable as a debt by the Scottish Ministers from the owner.

**Part V**

**Compensation for any TSE suspect or confirmed animal or a first generation progeny of any such animal slaughtered under regulations 88 and 89**

1. The compensation payable for a TSE suspect or confirmed animal, or a first generation progeny of any such animal, slaughtered under regulations 88 and 89 above shall be an amount equal to the market value of the animal.
2. The market value of the animal shall be determined–
  - (a) by agreement between the Scottish Ministers and the owner of the animal; or
  - (b) by a valuer appointed by the Scottish Ministers.
3. A valuer appointed for the purpose of this regulation shall be paid by the Scottish Ministers.
4. The valuer shall give to the Scottish Ministers and the owner a certificate in writing of the value he has determined.
5. Where an animal was certified by a veterinary surgeon before slaughter as–
  - (a) requiring slaughter for emergency reasons relating to the welfare of the animal;
  - (b) not fit for human consumption by virtue of its condition; and
  - (c) having no market value as a consequence,there shall be no compensation payable for the animal.

## **Part VI**

### **Compensation for seizure or disposal under regulation 90**

- 1.** Subject to paragraph 5 below, the compensation for any
  - (a) carcase of a TSE suspect or confirmed animal or the carcase of a first generation progeny of any such animal;
  - (b) part of such a carcase or any blood derived from any such carcase or part; or
  - (c) semen, embryos or ova derived from any TSE suspect or confirmed animal;seized or disposed of under regulation 90 shall be compensation to the owner of the carcase, part, blood or semen, embryos or ova of an amount equal to the value of the carcase, part, blood or semen, embryos or ova at the time it was seized or disposed of.
- 2.** The value of any carcase, part, blood or semen, embryos or ova seized or disposed of under regulation 90 shall be determined–
  - (a) by agreement between the Scottish Ministers and the owner of the carcase, part, blood or semen, embryos or ova retained, seized or disposed of; or
  - (b) by arbitration.
- 3.** The owner of a carcase, part, blood or semen, embryos or ova seized or disposed of under regulation 90 shall pay any reasonable costs or expenses incurred by the Scottish Ministers in connection with the seizure or disposal.
- 4.** These costs or expenses shall be deducted from the amount of any compensation payable to the owner for the value of the carcase, part, blood or semen, embryos or ova seized or disposed of.
- 5.** If the amount of these costs and expenses exceed the amount of compensation payable to the owner, the Scottish Ministers shall serve on the owner a notice specifying the amount of the excess and the period for payment of this amount to the Scottish Ministers.
- 6.** The owner shall pay to the Scottish Ministers amount of the excess within the period specified in the notice.
- 7.** On the expiry of this period, the amount of the excess shall be recoverable as a debt by the Scottish Ministers from the owner.

SCHEDULE 2

**Conditions for the transport of fishmeal for feeding to farmed animals other than ruminants**

1. Fishmeal for use in the manufacture of feed for farmed animals other than ruminants shall be transported directly from the premises where the fishmeal is produced to the premises manufacturing the animal feed by means of a vehicle which at the same time is not used for the transport of other feed materials.
2. If a vehicle used for the transport of fishmeal for use in the manufacture of feed for farmed animals other than ruminants is subsequently used for the transport of other products, it shall be thoroughly cleaned and inspected before and after the transport of the fishmeal.
3. Intermediate storage of fishmeal is allowed only if it is carried out in dedicated storage plants.
4. Fishmeal imported from a third country for use in the manufacture of feed for farmed animals other than ruminants shall be transported directly from the border inspection post in accordance with the conditions laid down in Article 8 of Council Directive 97/78/EC<sup>(a)</sup> to the establishment manufacturing the animal feed by means of a vehicle which at the same time is not used for the transport of other feed materials.
5. If a vehicle used for the transport of fishmeal imported from a third country for use in the manufacture of feed for farmed animals other than ruminants is subsequently used for the transport of other products, it shall be thoroughly cleaned and inspected before and after the transport of the fishmeal.

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<sup>(a)</sup> OJ No. L24, 30.1.1998, p.9.

SCHEDULE 3

**Conditions for the production of dicalcium phosphate for feeding to farmed animals other than ruminants**

1. Dicalcium phosphate for feeding to farmed animals other than ruminants shall be produced from defatted bones.
2. The dicalcium phosphate shall be derived from bones derived from animals fit for human consumption following ante- and post-mortem inspection.
3. The dicalcium phosphate shall be produced by a process which ensures that all bone material is finely crushed and degreased with hot water and treated with dilute hydrochloric acid (at a minimum concentration of 4% and  $\text{pH} < 1.5$ ) over a period of at least two days followed by a treatment of the obtained phosphoric liquor with lime, resulting in a precipitate of dicalcium phosphate at  $\text{pH}$  4 to 7, which is finally air dried with inlet temperature of  $65^{\circ}\text{C}$ - $325^{\circ}\text{C}$  and end temperature between  $30^{\circ}\text{C}$ - $65^{\circ}\text{C}$  or by an equivalent process approved in accordance with the procedure of Article 17 of Council Directive 89/662/EEC<sup>(a)</sup> concerning veterinary checks in intra-Community trade with a view to the completion of the internal market.
4. If a vehicle used for the transport of fishmeal for use in the manufacture of feed for farmed animals other than ruminants is subsequently used for the transport of other products, it shall be thoroughly cleaned and inspected before and after the transport of the fishmeal.

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<sup>(a)</sup>OJ No. L 395, 30.12.1989, p.13, as last amended by Directive 1992/118/EEC (OJ No. L 62, 15.3.1993, p.49).

SCHEDULE 4

**Conditions for the production of hydrolysed protein for feeding to farmed animals  
other than ruminants**

1. Hydrolysed protein from hides and skins shall–
  - (a) be derived from hides and skins obtained from animals which have been slaughtered in a slaughterhouse and whose carcasses have been found fit for human consumption following ante- and post-mortem inspection; and
  - (b) be produced by a production process which involves appropriate measures to minimise contamination of hides and skins, preparation of the raw material by brining, liming and intensive washing followed by exposure of the material to a pH of >11 for >3 hours at temperature >80°C and followed by heat treatment at >140°C for 30 minutes at >3.6 bar; or by an equivalent production process approved in accordance with the procedure of Article 17 of Council Directive 89/662/EEC<sup>(a)</sup> concerning veterinary checks in intra-Community trade with a view to the completion of the internal market.
2. Hydrolysed protein from fish, feather, hides and skins shall be sampled after processing and found to have a molecular weight below 10,000 Dalton.

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<sup>(a)</sup>OJ No. L 395, 30.12.1989, p.13, as last amended by Directive 1992/118/EEC (OJ No. L 62, 15.3.1993, p.49).

## SCHEDULE 5

### Rendering requirements

#### PART I

##### Requirements for rendering specified risk material

1. The premises shall be adequately separated from the public highway and other premises. Notwithstanding this, they may occupy the same site as premises where animal products which are not specified risk material are rendered provided that specified risk material is stored, handled and processed separately from other animal material and by means of equipment used only for specified risk material.
2. Unauthorised persons and animals shall not be permitted to have access to the premises.
3. The premises or part of the premises used to process specified risk material must have a clean and an unclean section specified by the occupier, adequately separated. The unclean section must have a covered place to receive and store the specified risk material for processing and must be constructed in such a way that it is easy to clean and disinfect. Floors must be laid in such a way as to facilitate the draining of liquids. The premises must have adequate lavatories, changing rooms and washbasins for staff.
4. The premises shall have sufficient capacity of hot water and steam production to render specified risk material in accordance with the method in Part II of this Schedule chosen by the operator.
5. The equipment used to render specified risk material shall include–
  - (a) measuring equipment to check temperature and, if necessary, pressure at critical points;
  - (b) recording devices to record continuously the results of measurements; and
  - (c) an adequate safety system to prevent insufficient heating.
6. To prevent recontamination of processed specified risk material by incoming specified risk material, there must be clear separation between the area of the premises where the incoming specified risk material is unloaded and rendered and the areas set aside for further processing of the heated specified risk material and the storage of finished specified risk material products.

7. The premises must have adequate facilities for cleaning and disinfecting the containers or receptacles in which unprocessed specified risk material is received and the vehicles in which it is transported.

8. Adequate facilities must be provided for disinfecting the wheels, immediately before their departure, of vehicles transporting specified risk material or leaving the unclean section of the premises.

## **PART II**

### **Methods of Rendering**

#### **METHOD 1**

##### **NATURAL FAT BATCH ATMOSPHERIC (150 MM PARTICLE SIZE)**

###### **Equipment**

1. The premises shall be equipped with apparatus to crush specified risk material to the appropriate particle size, at least one cooker to cook the specified risk material, sufficient capacity of hot water and steam production to render specified risk material in accordance with this method, and equipment to separate protein from tallow and store those products.

###### **Crushing**

2. The raw material shall be reduced in size by crushing so that the particle size does not exceed 150 mm. Final reduction equipment shall be checked daily and its condition recorded. Any broken equipment shall be repaired without delay to ensure that the final particle size is achieved.

###### **Cooking**

3. Crushed material shall then be heated in a steam jacketed vessel to remove the inherent moisture at atmospheric pressure. The times and temperatures achieved during the cooking process shall be recorded in a permanent form. During the course of cooking, the material shall be maintained at a temperature in excess of 100 °C for at least 125 minutes, a temperature in excess of 110 °C for at least 120 minutes and a temperature in excess of 120 °C for at least 50 minutes. Material may be cooked so that two or more time/temperature requirements are carried out at the same time.

###### **Separation and storage of final products**

4. After cooking, the material shall be discharged from the cookers and separated into its tallow and protein components. Protein and tallow shall be stored separately.

###### **Records**

5. All records shall be kept for one year.

## **METHOD 2**

### **NATURAL FAT BATCH ATMOSPHERIC (30 MM PARTICLE SIZE)**

#### **Equipment**

1. The premises shall be equipped with apparatus to crush specified risk material to the appropriate particle size, at least one cooker to cook the specified risk material, sufficient capacity of hot water and steam production to render specified risk material in accordance with this method, and equipment to separate protein from tallow and store those products.

#### **Crushing**

2. The raw material shall be reduced in size by crushing so that the particle size does not exceed 30 mm. Final reduction equipment shall be checked daily and its condition recorded. Any broken equipment shall be repaired without delay to ensure that the final particle size is achieved.

#### **Cooking**

3. Crushed material shall then be heated in a steam jacketed vessel to remove the inherent moisture at atmospheric pressure. The times and temperatures achieved during the cooking process must be recorded in permanent form. During the course of cooking, the material must be maintained at a temperature in excess of 100 ° C for at least 95 minutes, a temperature in excess of 110 ° C for at least 55 minutes and a temperature in excess of 120 ° C for at least 13 minutes. Material may be cooked so that two or more time/temperature requirements are carried out at the same time.

#### **Separation and storage of final products**

4. After cooking, the material shall be discharged from the cookers and separated into its tallow and protein components. Protein and tallow shall be stored separately.

#### **Records**

5. All records shall be kept for one year.

## **METHOD 3**

### **ADDED FAT BATCH ATMOSPHERIC (30 MM PARTICLE SIZE)**

#### **Equipment**

1. The premises shall be equipped with apparatus to crush specified risk material to the appropriate particle size, at least one cooker to cook the specified risk material, sufficient capacity of hot water and steam production to render specified risk material in accordance with this method, and equipment to separate protein from tallow and store those products.

#### **Crushing**

2. The raw material shall be reduced in size by crushing so that the particle size does not exceed 30 mm. Final reduction equipment shall be checked daily and its condition recorded. Any broken equipment shall be repaired without delay to ensure that the final particle size is achieved.

#### **Cooking**

3. Crushed material shall then be heated with added tallow in a steam jacketed vessel to remove the inherent moisture at atmospheric pressure. The times and temperatures achieved during the cooking process must be recorded on a permanent recording system. During the course of cooking, the material shall be maintained at a temperature in excess of 100 ° C for at least 16 minutes, a temperature in excess of 110 ° C for at least 13 minutes, at a temperature in excess of 120 ° C for at least 8 minutes and at a temperature in excess of 130 ° C for at least 3 minutes. Material may be cooked so that two or more time/temperature requirements are carried out at the same time.

#### **Separation and storage of final products**

4. After cooking, the material shall be discharged from the cookers and separated into its tallow and protein components. Protein and tallow shall be stored separately.

#### **Records**

5. All records shall be kept for one year.

## **METHOD 4**

### **NATURAL FAT BATCH (BATCH PRESSURE)**

#### **Equipment**

1. The premises shall be equipped with apparatus to crush specified risk material to the appropriate particle size, at least one cooker to cook the specified risk material, sufficient capacity of hot water and steam production to render specified risk material in accordance with this method, and equipment to separate protein from tallow and store those products.

#### **Crushing**

2. The raw material shall be reduced in size by crushing so that the particle size does not exceed 50 mm. Final reduction equipment shall be checked daily and its condition recorded. Any broken equipment shall be repaired without delay to ensure that the final particle size is achieved.

#### **Cooking**

3. Crushed material should then be heated in a steam jacketed vessel. After all air in the vessel has been displaced by steam, the vessel shall be sealed and heating continued until the pressure reaches 3 bar and the temperature reaches at least 133 ° C. This state should be held for at least 20 minutes, after which the pressure should be lowered back to atmospheric pressure. The product should then be dried to remove all of its inherent moisture. The times, temperatures and pressures achieved during the cooking process must be recorded on a permanent recording system.

#### **Separation and storage of final products.**

4. After cooking, the material shall be discharged from the cookers and separated into its tallow and protein fractions. Protein and tallow shall be stored separately.

#### **Records**

5. All records shall be kept for one year.

## **METHOD 5**

### **NATURAL FAT CONTINUOUS ATMOSPHERIC**

#### **Equipment**

1. The premises shall be equipped with apparatus to crush specified risk material to the appropriate particle size, at least one cooker to cook the specified risk material, sufficient capacity of hot water and steam production to render specified risk material in accordance with this method, and equipment to separate protein from tallow and store those products.

#### **Crushing**

2. The raw material shall be reduced in size by crushing so that the particle size does not exceed 30 mm. Final reduction equipment shall be checked daily and its condition recorded. Any broken equipment shall be repaired without delay to ensure that the final particle size is achieved.

#### **Cooking**

3. The material shall be passed into a steam heated vessel. Passage of the raw material through the vessel shall be controlled by means of displacement and mechanical restrictions to ensure that the cooked dried material is discharged with all of its residual moisture removed as water vapour. The maximum feed rate for raw material and the minimum discharge temperature will be set for the vessel in the approval for the premises granted under this Order. The material shall be maintained at a temperature in excess of 100 ° C for at least 95 minutes, a temperature in excess of 110 ° C for at least 55 minutes and a temperature in excess of 120 ° C for at least 13 minutes. Material may be cooked so that two or more time/temperature requirements are carried out at the same time. The times and temperatures achieved during the cooking process must be recorded on a permanent recording system.

#### **Separation and storage of final products**

4. After cooking, the material shall be discharged from the cookers and separated into its tallow and protein components. Protein and tallow shall be stored separately.

#### **Records**

5. All records shall be kept for one year.

## **METHOD 6**

### **ADDED FAT CONTINUOUS ATMOSPHERIC**

#### **Equipment**

1. The premises shall be equipped with apparatus to crush specified risk material to the appropriate particle size, at least one cooker to cook the specified risk material, sufficient capacity of hot water and steam production to render specified risk material in accordance with this method, and equipment to separate protein from tallow and store those products.

#### **Crushing**

2. The raw material shall be reduced in size by crushing so that the particle size does not exceed 30 mm. Final reduction equipment shall be checked daily and its condition recorded. Any broken equipment shall be repaired without delay to ensure that the final particle size is achieved.

#### **Cooking**

3. The material shall be passed into a steam heated vessel where a consistent level of hot liquid tallow is maintained by recycling tallow as appropriate. Passage of the raw material through the vessel shall be controlled by means of displacement and mechanical restrictions to ensure that the cooked dried material is discharged with all of its residual moisture removed as water vapour. The maximum feed rate for raw material, the maximum tallow recycle rate, and the minimum discharge temperature will be set for the vessel in the approval for the premises granted under this Order. The material shall be maintained at a temperature in excess of 100 ° C for at least 16 minutes, a temperature in excess of 110 ° C for at least 13 minutes, a temperature in excess of 120 ° C for at least 8 minutes and a temperature in excess of 130 ° C for at least 3 minutes. Material may be cooked so that two or more time/temperature requirements are carried out at the same time. The times and temperatures achieved during the cooking process must be recorded on a permanent recording system.

#### **Separation and storage of final products**

4. On discharge from the vessel, any surplus tallow not required to maintain the vessel's operating level shall be removed, and the material separated into its tallow and protein components. Protein and tallow shall be stored separately.

#### **Records**

5. All records shall be kept for one year.

## METHOD 7

### DEFATTED CONTINUOUS ATMOSPHERIC

#### Equipment

1. The premises shall be equipped with apparatus to crush specified risk material to the appropriate particle size, at least one cooker to cook the specified risk material, sufficient capacity of hot water and steam production to render specified risk material in accordance with this method, and equipment to separate protein from tallow and store those products.

#### Crushing

2. The raw material shall be reduced in size by crushing so that the particle size does not exceed 20 mm. Final reduction equipment shall be checked daily and its condition recorded. Any broken equipment shall be repaired without delay to ensure that the final particle size is achieved.

#### Pre-heating

3. The crushed material shall then be passed to a pre-heater. Passage of the raw material through the pre-heater shall be controlled by means of displacement and mechanical restrictions to ensure that the cooked material is discharged at a temperature of at least 80 ° C and in a form in which water and tallow can be removed from the protein residue.

#### Pressing

4. The material discharged from the pre-heater must be passed through a screw press so adjusted that all water and tallow are removed from the protein residue.

#### Drying

5. The protein residue shall be passed into a steam heated vessel. Passage of the protein residue through the vessel shall be controlled by means of displacement and mechanical restrictions to ensure that the cooked dried protein is discharged with all of its residual moisture removed as water vapour. A maximum feed rate for protein residue and a minimum discharge temperature will be set for the vessel by an officer of the Scottish Ministers. The material shall be maintained at a temperature in excess of 80 ° C for at least 120 minutes and a temperature in excess of 100 ° C for at least 60 minutes. Material may be cooked so that both time/temperature requirements are carried out at the same time. The times and temperatures achieved during the cooking process must be recorded on a permanent recording system.

#### Storage of final products

6. Protein and tallow shall be stored separately.

**Records**

7. All records shall be kept for one year.

## SCHEDULE 6

**Application of Part IV of the Regulations to scheme animals**

<b>Provision of the Regulations</b>	<b>Extent to which provision applies to scheme animals</b>
[ex regulation 5(3)(b) of the SRM Regulations 1997]	Not applicable
[Ex regulation 8 of the SRM Regulations 1997]	Not applicable
[Ex regulation 9 of the SRM Regulations 1997]	Not applicable
[Ex regulation 10(3) of the SRM Regulations 1997]	Subject to the modification that the tongue may not be removed
[Ex regulation 10(4) of the SRM Regulations 1997]	Subject to the modification that from the point at which specified bovine material derived from a scheme animal is removed from the slaughterhouse, it may come into contact with any other animal material from such an animal
[Ex regulation 11 of the SRM Regulations 1997]	Not applicable
[Ex regulation 21(1)(e) of the SRM Regulations 1997]	Not applicable
[Ex regulation 24(4) of the SRM Regulations 1997]	Subject to the modification that specified risk material may come into contact with any animal material from a scheme animal
[Ex regulation 24(6) of the SRM Regulations 1997]	Subject to the modification that equipment used for processing specified risk material may be used for processing any part of a scheme animal
[ex regulation 24(9) of the SRM Regulations 1997]	Subject to the modification that protein and tallow produced from specified risk material of scheme animals shall be disposed of by burning by means which have been licensed under the Environmental Protection Act 1990
[Ex regulation 27(1) of the SRM Regulations 1997]	Subject to the modification that the impervious container or part of the vehicle (as the case may be) may also contain animal material from scheme animals
[Ex paragraph 1 of Schedule 1 to the SRM Regulations 1997]	Subject to the modification that specified risk material need not be stored, handled and processed separately from animal material from scheme animals

## SCHEDULE 7

### Offspring Slaughter

#### Interpretation

1.—(1) For the purposes of this Schedule—

“barrener cattle” means adult female bovine animals which have had one or more calves and which are being sold either for immediate slaughter or for further fattening before slaughter;

“beef breeding offspring animal” means an offspring animal, other than a pedigree offspring animal or a productive offspring animal, intended for suckler production;

“beef offspring animal” means an offspring animal, other than a pedigree offspring animal or a productive offspring animal, intended for the production of meat for human consumption;

“beef special premium” is the premium payable under Article 4(b) of Council Regulation (EEC) 805/68 as amended<sup>(a)</sup>;

“bovine animal” includes buffalo of the species *Bubalus bubalis* and *Bison bison*;

“cattle passport” has the same meaning as in the Cattle Identification Regulations 1998<sup>(b)</sup>;

“the Council Decision” means Council Decision 98/256/EC<sup>(c)</sup> concerning emergency measures to protect against bovine spongiform encephalopathy;

“dairy offspring animal” means an offspring animal, other than a pedigree offspring animal or a productive offspring animal, intended for the production of milk for human consumption;

“indicative market price” means a price calculated in accordance with

“market value” means—

(a) in the case of an offspring animal aged 30 months or over, either—

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<sup>(a)</sup>OJ No. L 148, 28.6.68, p. 24 (OJ/SE Vol. I, p. 187); the last relevant amendment was made by Council Regulation (EC) No. 2222/96, OJ No. L 296, 21.11.96, p. 50.

<sup>(b)</sup>S.I. 1998/871 as amended by S.I. 1998/1796.

<sup>(c)</sup>OJ No. L 113, 15.4.98, p.32 as amended by Commission Decision 98/564/EC (OJ No. L273, 9.10.98, p. 37) and Commission Decision 98/[ ]/EC of 25.11.98 (OJ No. L[ ]).

- (i) 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 were not an offspring animal; or
- (ii) the purchase price which would have applied had the animal been slaughtered at the time of valuation under the OTMS,

whichever is the higher; and

- (b) in the case of an offspring animal aged under 30 months, 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 were not an offspring animal;

“offspring animal” means a bovine animal born on or after 1 August 1996 in the United Kingdom, to a dam which–

- (a) was affected or suspected of being affected with BSE when it gave birth to the animal; or
- (b) has subsequently become affected or suspected of being affected with BSE;

“OTMS” means the Over Thirty Months Scheme for the purchase and slaughter of bovine animals aged over thirty months referred to in Commission Regulation (EC) No. 716/96<sup>(a)</sup> adopting exceptional support measures for the beef market in the United Kingdom, as amended;

“pedigree offspring animal” means an offspring animal which is a pure-bred breeding animal of the bovine species within the meaning of Council Directive 77/504/EEC<sup>(b)</sup>;

“productive offspring animal” means–

- (a) a female offspring animal in milk or in calf;
- (b) a male offspring animal, other than a pedigree offspring animal, kept for breeding purposes;

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<sup>(a)</sup> O.J. No. L99, 20.4.96, p. 14, as amended by Commission Regulations (EC) Nos. 774/96 (O.J. No. L104, 27.4.96, p. 21), 835/96 (O.J. No. L112, 7.5.96, p. 17), 1512/96 (O.J. No. L189, 30.7.96, p.93), 1846/96 (O.J. No. L245, 26.9.96, p. 9), 1974/96 (O.J. No. L262, 16.10.96, p. 2), 2149/96 (O.J. No. L288, 9.11.96, p. 14), 2423/96 (O.J. No. L329, 19.12.96, p. 43) and 1365/97 (O.J. No. L188, 17.7.97, p. 6).

<sup>(b)</sup> O.J. No. L 206, 12.8.77, p. 8 to which there are amendments not relevant to these Regulations.

(2) For the purpose of calculating the compensation payable for an offspring animal the age of the animal at slaughter shall be conclusively determined by reference to the date of birth of the animal shown on the cattle passport for the animal.

### **Requirements relating to offspring animals**

2.—(1) If an inspector is of the opinion that there is an offspring animal on any premises, he may serve a notice in Form OC 1 on the person appearing to him to be the owner or person in charge of that animal.

(2) On the service of a notice in Form OC 1—

- (a) the requirements contained in that notice shall have effect; and
- (b) the owner or person in charge of the animal who has been served with the notice shall surrender the cattle passport for the animal to an officer of the Scottish Ministers.

(3) The occupier of any premises and his employees, and any person who is or has been in possession or charge of any animal or carcase which is or has been on the premises, shall—

- (a) provide such reasonable facilities and comply with such reasonable requirements as are necessary to assist the inspector to form his opinion and carry out any inspection, examination, test, sampling or marking under this regulation; and
- (b) if so required by an inspector, or by an officer of the Scottish Ministers, give such information as he possesses as to—
  - (i) any animal or carcase which is or has been on the premises;
  - (ii) any other animal or carcase with which any animal or carcase which is or has been on the premises may have come into contact; and
  - (iii) the location and movement of any animal or carcase which is or has been in his possession or charge.

(4) If an animal to which a notice in Form OC 1 relates is moved from premises under a licence issued by an officer of the Scottish Ministers which is subject to a condition, the notice in Form OC 1 shall, providing the animal is moved in accordance with the condition, cease to have effect on the expiry of the period in respect of which the condition applies.

(5) A notice in Form OC 1 may at any time be withdrawn by a notice in Form OC 3 served by a veterinary inspector on the person appearing to him to be the owner or person in charge of the animal to which the notice in Form OC 1 relates.

### **Notice of intended slaughter**

**4.—(1)** The Scottish Ministers may, if they think fit, cause to be slaughtered any offspring animal.

(2) Subject to paragraph (5) below, where the Scottish Ministers propose to cause an offspring animal to be slaughtered under this paragraph a veterinary inspector shall serve a notice of intended slaughter in Form OC 2 on the person appearing to him to be the owner or person in charge of the animal specifying the premises at which the animal is to be slaughtered.

(3) Following the service of a notice in Form OC 2 an inspector may insert or administer an implant for the purpose of electronically tagging an offspring animal.

(4) No person except an inspector shall remove or otherwise interfere with an implant inserted or administered under paragraph (3) above.

(5) Where an animal is presented at any premises for slaughter for human consumption and a veterinary inspector is of the opinion that the animal is an offspring animal, the Scottish Ministers may cause the animal to be slaughtered under this paragraph without any notice in Form OC 2 being served on the owner or person in charge of the animal before it is slaughtered.

(6) Where an offspring animal is slaughtered in accordance with paragraph (5) above an inspector or officer of the Scottish Ministers shall, as soon as reasonably practicable thereafter, give notice to the owner or other person in charge of the carcase of the slaughtered animal that the animal has been slaughtered as an offspring animal.

(7) If an animal to which a notice in Form OC 2 relates is moved from premises under a licence issued by an officer of the Scottish Ministers which is subject to a condition, the notice in Form OC 2 shall, providing the animal is moved in accordance with the condition, cease to have effect on the expiry of the period in respect of which the condition applies.

(8) A notice in Form OC 2 may at any time be withdrawn by a notice in Form OC 3 served by a veterinary inspector on the owner or person in charge of the animal to which the notice in Form OC 2 relates.

### **Compensation for slaughtered offspring animals**

**5.—(1)** Subject to the provisions of this paragraph, where the Scottish Ministers causes an offspring animal to be slaughtered under regulation 4 the Scottish Ministers shall pay compensation in accordance with the provisions of this paragraph.

(2) The compensation payable for a pedigree offspring animal or a productive offspring animal shall be an amount equal to the market value of the animal.

(3) The compensation payable for a dairy offspring animal, a beef breeding offspring animal or a beef offspring animal shall be the percentage of the indicative market price for the month in which the animal is slaughtered specified in the table in Part I of Schedule 2 for an animal of the description and age of the animal slaughtered; together with the amount (if any) specified in that table in respect of any beef special premium payable for the animal which has not been claimed.

(4) The table in Part II of Schedule 2 sets out an example of the amounts of compensation payable for dairy offspring animals, beef breeding offspring animals and beef offspring animals ascertained by reference to the percentage of the indicative market price for these animals for [                      ].

(5) The market value of a pedigree offspring animal or a productive offspring animal shall, for the purposes of payment of compensation under these Regulations, be determined–

- (a) by agreement between the Scottish Ministers and the owner of the animal; or
- (b) by one valuer appointed jointly by the Scottish Ministers and the owner.

(6) If the market value of a pedigree offspring animal or a productive offspring animal cannot be agreed under paragraph (5)(a) above, or if there is no valuer appointed jointly under paragraph (5)(b) above, the market value of the animal shall be determined by a valuer nominated by the President of the Royal Institution of Chartered Surveyors.

(7) A valuer appointed or nominated for the purpose of this regulation shall be paid by the Scottish Ministers and shall give to the Scottish Ministers and the owner a certificate in writing of the value he has determined.

(8) Where an offspring animal is slaughtered as an offspring animal and was certified before slaughter by a veterinary surgeon as–

- (a) requiring slaughter for emergency reasons relating to the welfare of the animal;
- (b) not fit for human consumption by virtue of its condition; and
- (c) having no market value as a consequence,

there shall be no compensation payable for the animal under this paragraph.

(9) Where an offspring animal is slaughtered as an offspring animal and was certified in form OC 4 before slaughter by a veterinary surgeon as–

- (a) requiring slaughter for emergency reasons relating to the welfare of the animal;

- (b) not unfit for human consumption by virtue of its condition,

compensation shall be payable for the animal in accordance with the compensation payable under sub-paragraph (3) above for a beef animal of the age of the animal slaughtered (without any amount in respect of beef special premium).

(10) Where a notice in Form OC 1 has been served on an offspring animal and the animal is slaughtered under section 17 of the Animal Health Act 1981<sup>(a)</sup> in its application to brucellosis or tuberculosis as an affected animal, an animal exposed to the infection of brucellosis or tuberculosis or an animal which is a reactor, within the meaning of the Brucellosis and Tuberculosis Compensation (Scotland) Order 1978<sup>(b)</sup> and the notice in Form OC 1 has been withdrawn by the time of such slaughter or is withdrawn at that time, the compensation payable for the animal shall be ascertained in accordance with the Order concerned.

(11) Where a notice in Form OC 1 has been served on an offspring animal and the animal is slaughtered under section 32 of the Animal Health Act 1981 in its application to the disease bovine spongiform encephalopathy as an animal affected or suspected of being affected with that disease, and the notice in Form OC 1 has been withdrawn by the time of such slaughter or is withdrawn at that time, the compensation payable for the animal shall be ascertained in accordance with the provisions of regulation 83 and Part III of Schedule 1 above.

(12) The Scottish Ministers shall take such steps as they consider appropriate for the purpose of bringing to the notice of such organisations as appear to him to be representative of owners of bovine animals—

- (a) the indicative market price in respect of each month; and
- (b) the number of animals and the sale price of the animals on which the calculation of such indicative market price was based.

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<sup>(a)</sup>1981 c.22; section 35(1A) was inserted by section 1(2) of the Animal Health and Welfare Act 1984 (c.40).

<sup>(b)</sup> S.I. 1978/1485, amended by S.I. 1981/1448, S.I. 1996/1358 and S.I. 1998/2151.

**Forms**

6. The following forms shall be used for the purposes of this Schedule–

<b><u>FORM OC1</u></b>	
<b>Notice of requirements relating to an offspring animal</b>	
To	
of	
Location of animal .....	
I, the undersigned, being an inspector of the ..... hereby give you notice in accordance with the provisions of Schedule 7 to the TSE (Scotland) Regulations 2002 that, as the person appearing to be the owner or person in charge of the bovine animal specified below, you are required to observe the requirements of this form as specified overleaf.	
The Bovine animal to which the completed and signed notice applies is:	
Official Ear Mark Description of bovine animal including age, breed and sex:	
Signed	Dated
Name in BLOCK LETTERS	
Office Address	

**FORM OC1 REQUIREMENTS**

**Notice of requirements as respects the animal specified overleaf.**

**Requirements:**

1. The animal must be detained at the location specified overleaf. If the owner or person in charge of the animal intends to move the animal off the premises he must first obtain a licence from an officer of the Scottish Ministers for the animal to be moved; and the movement of the animal off the premises must be in accordance with any condition subject to which the licence is issued.
2. In the event of the animal dying, otherwise than as the result of being slaughtered, a veterinary inspector must be informed immediately.
3. In the event of the animal dying or being slaughtered on the premises—
  - (a) the carcase of the animal must be retained and surrendered to a veterinary inspector on request;
  - (b) the carcase of the animal must be disposed of as required by the veterinary inspector; and
  - (c) the carcase of the animal must not be moved off the premises except under the authority of a licence issued by a veterinary inspector of the Scottish Ministers and in accordance with any conditions subject to which the licence is issued.

**Breach of the requirements of this notice may constitute an offence against the TSE (Scotland) Regulations 2002 and render a person liable to penalties on conviction**

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**FORM OC2**

**Notice of intended slaughter of an offspring animal**

To  
of

Location of animal.....

I, the undersigned, being a veterinary inspector of the ..... hereby give you notice in accordance with the provisions of the TSE (Scotland) Regulations 2002 that, as the person appearing to me to be the owner or person in charge of the bovine animal specified below, the Scottish Ministers propose to cause the animal to be slaughtered at the premises specified below as an offspring animal under Schedule 7 to the TSE (Scotland) Regulations 2002.

Signed

Dated

Name in BLOCK LETTERS

Office Address:

The bovine animal to which the completed and signed notice applies is:

Official Ear Mark Description of bovine animal including age, breed and sex:

Premises at which the animal is to be slaughtered:

**FORM OC3**

**Withdrawal of notice relating to an offspring animal**

I, the undersigned, being a veterinary inspector of the ..... , hereby withdraw as from this ..... day of ..... the notice relating to the bovine animal specified below, signed by.....and ..... served on ..... on ..... day of.....

The bovine animal to which the completed and signed notice applies is:

Official Ear Tag Number/Offspring Slaughter Tag Number/Age/Breed/Sex:

Signed

Dated

Name in BLOCK LETTERS

Office Address

**FORM OC 4**

**Certificate that a casualty animal is not unfit for human consumption**

Name and address of owner or person in charge of the animal .....

.....

.....

.....

Telephone number .....

Animal details

Eartag	Sex	Breed	Age	Other identifiers

Reason for slaughter

.....

.....

.....

.....

After carrying out ante mortem inspection, making due enquiries, and, where appropriate, carrying out the tests detailed below \*, I certify that in my opinion–

(1) this animal was not affected with any disease or condition liable to render the whole carcase of the animal unfit for human consumption or that could be transmitted through the meat to humans or animals; and

(2) there is no evidence that any substances have been administered to the animal that might lead to a residue being present in the meat which might render meat from

the animal unfit for human consumption or that the animal consumed any substance that might render meat from the animal unfit for human consumption.

\*Tests performed and results

.....  
.....  
.....

Name of veterinary surgeon

.....

Address

.....  
.....  
.....

Time and date

Signed

**Tables of compensation**

7. The following tables of compensation shall be used for the purposes of this Schedule–

**Ascertainment of amount of compensation for dairy offspring animals, beef breeding offspring animals and beef offspring animals by reference to the indicative market price for the month of slaughter**

Age (months)	Dairy	Beef breeding	Beef				
			Basic scale	+	Steers		Bulls
					Not yet entered a claim for first beef special premium	Not yet entered a claim for second beef special premium	Not yet entered a claim for beef special premium
<b>less than 1</b>	20% of IMP	20% of IMP	20% of IMP				
<b>1 - less than 3</b>	30% of IMP	30% of IMP	30% of IMP				
<b>3 - less than 6</b>	40% of IMP	40% of IMP	40% of IMP				
<b>6 - less than 8</b>	50% of IMP	50% of IMP	50% of IMP				
<b>8 - less than 9</b>	50% of IMP	50% of IMP	50% of IMP	+	<b>£84.32</b>		<b>£104.73</b>
<b>9 - less than 12</b>	60% of IMP	60% of IMP	60% of IMP	+	<b>£84.32</b>		<b>£104.73</b>
<b>12 - less than 15</b>	70% of IMP	70% of IMP	70% of IMP	+	<b>£84.32</b>		<b>£104.73</b>
<b>15 - less than 18</b>	80% of IMP	80% of IMP	80% of IMP	+	<b>£84.32</b>		<b>£104.73</b>
<b>18 - less than 21</b>	90% of IMP	90% of IMP	90% of IMP	+	<b>£84.32</b>		<b>£104.73</b>
<b>21 - less than 24</b>	100% of IMP	100% of IMP	100% of IMP	+		<b>£84.32</b>	
<b>24 - less than 27</b>	110% of IMP	110% of IMP	100% of IMP	+		<b>£84.32</b>	
<b>27 - less than 30</b>	120% of IMP	120% of IMP	100% of IMP	+		<b>£84.32</b>	
<b>30 or over</b>	130% of IMP	120% of IMP	OTMS rate	+		<b>£84.32</b>	

Example of amounts of compensation for dairy offspring animals, beef breeding offspring animals and beef offspring animals ascertained by reference to the indicative market price for these animals for [ ]

Age (months)	Dairy	Beef breeding	Beef				
			Basic scale	+	<b>Steers</b>	<b>Bulls</b>	
					Not yet entered a claim for first beef special premium	Not yet entered a claim for second beef special premium	Not yet entered a claim for beef special premium
<b>less than 1</b>	£93.20	£93.20	£93.20				
<b>1 - less than 3</b>	£139.80	£139.80	£139.80				
<b>3 - less than 6</b>	£186.40	£186.40	£186.40				
<b>6 - less than 8</b>	£233.00	£233.00	£233.00				
<b>8 - less than 9</b>	£233.00	£233.00	£233.00	+	<b>£84.32</b>		<b>£104.73</b>
<b>9 - less than 12</b>	£279.60	£279.60	£279.60	+	<b>£84.32</b>		<b>£104.73</b>
<b>12 - less than 15</b>	£326.20	£326.20	£326.20	+	<b>£84.32</b>		<b>£104.73</b>
<b>15 - less than 18</b>	£372.80	£372.80	£372.80	+	<b>£84.32</b>		<b>£104.73</b>
<b>18 - less than 21</b>	£419.40	£419.40	£419.40	+	<b>£84.32</b>		<b>£104.73</b>
<b>21 - less than 24</b>	£466.00	£466.00	£466.00	+		<b>£84.32</b>	
<b>24 - less than 27</b>	£512.60	£512.60	£466.00	+		<b>£84.32</b>	
<b>27 - less than 30</b>	£559.20	£559.20	£466.00	+		<b>£84.32</b>	
<b>30 or over</b>	£605.80	£559.20	OTMS rate	+		<b>£84.32</b>	

### CALCULATION OF INDICATIVE MARKET PRICE

The indicative market price for each month shall be calculated using data collected in Great Britain relating to the month occurring two months before the month of slaughter and in accordance with the following formula:

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

WHERE–

- A equals the number of cattle aged less than 7 years when valued which were slaughtered as BSE suspects;
- B equals the average price for Friesian and Holstein cows in milk and in calf, first calving cows in milk and down calving heifers, in each case of first and second quality;
- C equals the number of cattle aged 7 years or more when valued which were slaughtered as BSE suspects; and
- D equals the average purchase price paid in the case of barren cattle of dairy breeds slaughtered in accordance with Commission Regulation (EC) No. 716/96 adopting exceptional measures for the support of the beef market in the United Kingdom, as amended,  
the final figure being rounded down to the nearest multiple of £1.

the final figure being rounded down to the nearest multiple of £1.



## SCHEDULE 9

**Revocations**

The Bovine Spongiform Encephalopathy (No. 2) Order 1996 (S.I. 1996/3183)	The whole Order
The Bovine Spongiform Encephalopathy Compensation Order 1996 (S.I. 1996/3184)	The whole Order
The Sheep and Goats Spongiform Encephalopathy Order 1998 (S.I. 1998/1645)	The whole Order
The Sheep and Goats Spongiform Encephalopathy (Compensation) Order 1998 (S.I. 1998/1647)	The whole Order
The BSE Offspring Slaughter Regulations 1998 (S.I. 1998/3070)	The whole Regulations
The Specified Risk Material Order 1997 (S.I. 1997/2964)	articles 5 and 7 to 14
The Specified Risk Material Regulations 1997 (S.I. 1997/2965)	regulations 5 to 11, 13, 14, 15, 15A, 16, 17, 18, 19 and 20 to 28
The Bovine Spongiform Encephalopathy (Feeding Stuffs and Surveillance) Regulations 1999 (S.I. 1997/882)	The whole Regulations
The Fertilisers (MMBM) Regulations 1998	The whole Regulations
The Fertilisers (MMBM) (Conditions of Manufacture) Regulations 1998	The whole Regulations
The Processed Animal Protein (Scotland) Regulations 2001 (S.I. 2001/276)	regulations 4 to 9, 12 to 16 and Schedules 1, 2 and 3
The BSE Monitoring (Scotland) Regulations 2001 (S.I. 2001/231)	The whole Regulations
The Restriction on Pithing (Scotland) Regulations 2001	

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These TSE Regulations make provision in Scotland, otherwise than in relation to trade, for–

- (a) the administration and enforcement of the following directly applicable Community legislation (“the Community TSE Regulation and Community Transitional Measures”)–
- Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ No. L 147, 31.5.2001, p.1) (“the TSE Regulation”);
  - Commission Regulation (EC) No 1248/2001 of 22 June 2001 amending Annexes III, X and XI to Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards epidemio-surveillance and testing of transmissible spongiform encephalopathies (OJ No. L 173, 27.6.2001, p.12);
  - Commission Regulation (EC) No 1326/2001 of 29 June 2001 laying down transitional measures to permit the changeover to the Regulation of the European Parliament and of the Council (EC) No 999/2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies, and amending Annexes VII and XI to that Regulation (OJ No. L 177, 30.6.2001, p.61); and
  - Commission Regulation (EC) No [ ]/2001 of [ ] 2001 amending Annex XI to Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards bovine vertebral column and amending Regulation (EC) No 1326 as regards animal feeding (OJ No. L [ ], [ ] 2001, p.[ ]); and
- (b) continuing the implementation of Council Decision 2000/766/EC (OJ No. L 306, 7.12.2000, p.32) concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein, and Commission Decision 2001/9/EC (OJ No. L 2, 5.1.2001, p.32) concerning control measures required for the implementation of Council Decision 2000/766/EC, in accordance with Article 1(2) of Commission Regulation (EC) No 1326/2001.

The Regulations come into force on [ ] 2002.

Part I of these Regulations contain introductory provisions. These include the interpretation provisions of regulation 2. Regulation 2(2) provides that the expressions in the Regulations

which are not defined in paragraph (1) of regulation 2 and which appear in the Community TSE Regulation and Community Transitional Measures have the same meaning for the purposes of these Regulations as they have for the purposes of the Community TSE Regulation and Community Transitional Measures. “TSE” is defined in the Community TSE Regulation as meaning all transmissible spongiform encephalopathies with the exception of those occurring in humans. Regulation 3 reflects Article 1 of the Community TSE Regulation to make provision for the purpose and application of the Regulations.

Part II of these Regulations makes provision for the administration and enforcement of the Community TSE Regulation and Community Transitional Measures in relation to the TSE monitoring. These are provisions for TSE monitoring, movement prohibitions and restrictions of TSE susceptible animals; slaughter of TSE susceptible animals at slaughterhouses and at other premises; retention and seizure of carcasses etc. of TSE susceptible animals; provision for compensation; and provision for notifications for the purposes of the programme of monitoring under Article 6 of the Community TSE Regulation.

Part III of these Regulations makes provision in relation to animal feeding. It continues the implementation of Council Decision 2000/766/EC (OJ No. L 306, 7.12.2000, p.32) concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein, and Commission Decision 2001/9/EC (OJ No. L 2, 5.1.2001, p.32) concerning control measures required for the implementation of Council Decision 2000/766/EC, in accordance with Article 1(2) of Commission Regulation (EC) No 1326/2001. Article 1(2) of Commission Regulation (EC) No 1326/2001, and section C of Annex XI to the Community TSE Regulation (added by Article 3(3) of, and Annex IV to, Commission Regulation (EC) No 1326/2001) provide that this Council Decision and Commission Decision remain in force. The implementation of these Decisions was previously provided by the Processed Animal Protein (Scotland) Regulations 2001, revoked in part by these Regulations.

Part III also includes provision for the administration and enforcement of the Community TSE Regulation and Community Transitional Measures in relation to feeding ruminants with mammalian protein, livestock with mammalian meat and bone meal and farmed animals (including ruminants and livestock) with processed animal protein.

Part IV of these Regulations makes provision for the administration and enforcement of the Community TSE Regulation and Community Transitional Measures in relation to specified risk material. These are prohibitions on the removal, collection or disposal of specified risk material except at licensed premises; provisions for licensing of premises for the removal, collection or disposal of specified risk material; prohibitions on the sale of specified risk material for human consumption; prohibitions relating to mechanically recovered meat and pithing; provisions for the separation of live animals and products of animal origin in premises which use specified risk material in production and live animals in or intended for research; prohibitions on feeding specified risk material to animals; provisions relating to transport and storage of specified risk material; requirements to make and keep records; requirements for cleansing and disinfection; powers of inspectors; provisions relating to

compliance with notices, suspension and revocation of licences; appeals against suspension and revocation of licences; and offences.

Part V of these Regulations makes provision for the administration and enforcement of the Community TSE Regulation and Community Transitional Measures in relation to control and eradication of TSE. These are provisions for notifications of animals suspected of being affected by a TSE; measures with respect to animals suspected of being affected by a TSE; movement prohibitions and restrictions of animals suspected of being affected by a TSE; slaughter of animals suspected of being affected by a TSE; retention and seizure of carcasses etc. of TSE susceptible animals; and provisions for compensation.

Part VI of these Regulations makes provision in relation to placing on the market of first generation progeny of, and semen, embryos and ova derived from, TSE suspect or confirmed animals.

It begins with provisions for the administration and enforcement of Article 15(2) of, and chapter B of Annex VIII to, the Community TSE Regulation in relation to placing on the market of first generation progeny of, and semen, embryos and ova derived from, TSE suspect or confirmed bovine animals, sheep and goats. These are provisions, similar to those in Part V of these Regulations, in relation to the last-born progeny to which female bovine animals infected with a TSE, or BSE-confirmed sheep or goats, gave birth during the preceding two year period or during the period that followed the appearance of the first clinical signs of the onset of the disease.

Part VI then makes provision for the continued implementation of Council Decision 98/256/EC (OJ No. L 113, 15.4.98, p.32), concerning emergency measures to protect against bovine spongiform encephalopathy, amending Decision 94/474/EC and repealing Decision 96/239/EC, in relation to offspring of bovine animals. An offspring for this purpose is any bovine animal born to a dam which is affected or suspected of being affected with BSE when it gave birth to the animal or which subsequently becomes affected or suspected of being affected with BSE. Council Decision 98/256/EC remains in force as a transitional measure by virtue of Article 1(1) of Commission Regulation (EC) No 1326/2001 and section D of Annex XI to the Community TSE Regulation (added by Article 3(3) of, and Annex IV to, Commission Regulation (EC) No 1326/2001). The implementation of Council Decision 98/256/EC in relation to offspring animals was previously provided by the Offspring Slaughter Regulations 1998, S.I. 1998/3070, revoked by these Regulations.

Part VII of these Regulations makes provision for the administration and enforcement of the Community TSE Regulation and Community Transitional Measures in relation to sampling and laboratory methods.

Part VIII of these Regulations makes provision for the administration and enforcement of the Community TSE Regulation and Community Transitional Measures in relation to offences, penalties and enforcement.

Part IX of and Schedules 4 and 5 to these Regulations contain supplementary provisions for service of notices and other documents, amendments, revocations and savings and transitional provisions.

A Regulatory Impact Assessment has been prepared. Copies can be obtained from the Scottish Executive Environment and Rural Affairs Department, Room 345, Pentland House, 47 Robb's Loan, Edinburgh, EH14 1TY