

2013 No. 336

ANIMALS, ENGLAND

ANIMAL HEALTH

**The Transmissible Spongiform Encephalopathies (England)
(Amendment) Regulations 2013**

<i>Made</i> - - - -	<i>14th February 2013</i>
<i>Laid before Parliament</i>	<i>21st February 2013</i>
<i>Coming into force</i> - -	<i>6th April 2013</i>

The Secretary of State has been designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures in the veterinary and phytosanitary fields for the protection of public health.

The Secretary of State makes the following Regulations under the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2(c) to, the European Communities Act 1972.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for references to Commission Decision 84/247/EEC(d) to be construed as a reference to that instrument as amended from time to time.

Title, application and commencement

1. These Regulations may be cited as the Transmissible Spongiform Encephalopathies (England) (Amendment) Regulations 2013, apply in England and come into force on 6th April 2013.

Amendments to the Transmissible Spongiform Encephalopathies (England) Regulations 2010

2.—(1) The Transmissible Spongiform Encephalopathies (England) Regulations 2010(e) are amended as follows.

(2) After regulation 15 insert—

(a) S.I. 1999/2027.
(b) 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7).
(c) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006, and amended by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008.
(d) OJ No. L125, 12.5.84., p.58 as amended by Commission Decision 2007/371/EC (OJ No L 140, 1.6.2007, p.49).
(e) S.I. 2010/801, amended by S.I. 2011/881, 2681 and 2012/2897.

“Service of notices

15A.—(1) Any notice required or authorised under these Regulations to be served on any person may be amended, suspended or revoked in writing at any time.

(2) Any such notice may be served by—

- (a) delivering it to the person;
- (b) leaving it at the person’s proper address; or
- (c) sending it by post to the person at that address.

(3) Any such notice may—

- (a) in the case of a body corporate, be served on an officer of the body;
- (b) in the case of a partnership, be served on a partner or a person having the control or management of the partnership business; and
- (c) in the case of an unincorporated association, be served on an officer of the association.

(4) For the purposes of this regulation and section 7 (references to service by post) of the Interpretation Act 1978(a) in its application to this regulation, the proper address of any person on whom a notice is to be served is the person’s last known address except that—

- (a) in the case of service on a body corporate or an officer of the body, the proper address is the address of the registered or principal office of the body;
- (b) in the case of service on a partnership, a partner or a person having the control or management of the partnership business, the proper address is the address of the principal office of the partnership; and
- (c) in the case of service on an unincorporated association or an officer of the association, the proper address is the address of the principal office of the association.

(5) If the name or address of any occupier of premises on whom a notice is to be served under these Regulations cannot, after reasonable inquiry, be ascertained, the notice may be served by leaving it conspicuously affixed to a building or object on the premises.

(6) A notice may specify that a person in receipt of it must immediately inform an inspector of its safe receipt.

(7) In this regulation —

“body corporate” includes a limited liability partnership,

“director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate,

“officer”, in relation to a body corporate, means any director, manager, secretary or other similar officer of the body corporate,

“partnership” does not include a limited liability partnership.”.

(3) In Part 1 of Schedule 2—

- (a) omit paragraph 1 (notification of the body of a goat for the purpose of monitoring under Article 6 of the EU TSE Regulation), and
- (b) at sub-paragraph (1) of paragraph 10 (approval of laboratories), for “under paragraph 8” substitute “in pursuance of point 3.1(b), Chapter C of Annex X to the EU TSE Regulation”.

(4) In Schedule 3—

- (a) at sub-paragraph (2) of paragraph 5 (action following confirmation), after “sub-paragraph (1)(b)” add “(i) or (ii)”, and

(a) 1978 c. 30.

(b) for paragraph 9 (amount of compensation payable) substitute—

“Amount of compensation payable

9.—(1) Compensation payable for any domestic cattle (subject to the exceptions in paragraph 10) is the average market price for the category into which the animal falls at the date of the service of the notice of intention to kill as identified in the table at sub-paragraph (6) calculated as follows—

- (a) in the case of non-pedigree animals it is calculated each month from sale price data of animals in that category in respect of sales occurring during the period ending on the 20th day of the preceding month and starting on the 21st day of the month before that, and
- (b) in the case of pedigree animals it is calculated each month from sale price data of animals in that category in respect of sales occurring over a six month rolling period covering the six months ending on the 20th day of the preceding month and starting on the 21st day of the month falling six months before that.

(2) To be eligible for compensation an animal must be identified by means of ear tags and there must be presented to the Secretary of State, or an agent on behalf of the Secretary of State, a cattle passport issued in accordance with the Cattle Identification Regulations 2007(a) in respect of that animal at or before the time of slaughter.

(3) The sale price data are data compiled in relation to domestic cattle from store markets, prime markets, rearing calf sales, breeding sales and dispersal sales in Great Britain.

(4) The average market price for a category for which sale price data have been collected is the amount obtained by dividing the sum of those sale prices by the total number of animals in that category.

(5) For an animal to fall within the pedigree category—

- (a) it must be entire, and
- (b) at the time when the notice of intention to kill has been served on the owner the animal must be entered in the main section of a herd book for the breed in accordance with Commission Decision 84/247/EEC(b) laying down the criteria for the recognition of breeders’ organizations and associations which maintain or establish herd-books for pure-bred breeding animals of the bovine species, and there must be a zootechnical certificate issued in respect of that animal.

(6) The Secretary of State must categorise animals in accordance with the following table, and for the purposes of determining which category the animal falls into, the age of an animal is the age shown for that animal by any cattle passport issued in accordance with the Cattle Identification Regulations 2007, at the date on which the notice of intention to kill was served—

<i>Male</i>	<i>Female</i>
Beef Sector – non-pedigree	Beef Sector – non-pedigree
Up to and including 3 months	Up to and including 3 months
Over 3 months up to and including 6 months	Over 3 months up to and including 6 months
Over 6 months up to and including 9 months	Over 6 months up to and including 9 months
Over 9 months up to and including 12 months	Over 9 months up to and including 12 months
Over 12 months up to and including 16 months	Over 12 months up to and including 16 months
Over 16 months up to and including 20 months	Over 16 months up to and including 20 months
Over 20 months, breeding bulls	Over 20 months, calved
Over 20 months, non-breeding bulls	Over 20 months, not calved

(a) S.I. 2007/529, to which there are amendments not relevant to these Regulations.

(b) OJ No. L125, 12.5.84., p.58 as amended by Commission Decision 2007/371/EC (OJ No L 140, 1.6.2007, p.49).

Dairy Sector – non-pedigree

Up to and including 3 months
Over 3 months up to and including 6 months
Over 6 months up to and including 12 months
Over 12 months up to and including 16 months
Over 16 months up to and including 20 months
Over 20 months

Beef Sector – pedigree

Up to and including 6 months
Over 6 months up to and including 12 months
Over 12 months up to and including 24 months
Over 24 months

Dairy Sector – pedigree

Up to and including 2 months
Over 2 months up to and including 12 months
Over 12 months up to and including 24 months
Over 24 months

Dairy Sector – non-pedigree

Up to and including 3 months
Over 3 months up to and including 6 months
Over 6 months up to and including 12 months
Over 12 months up to and including 16 months
Over 16 months up to and including 20 months
Over 20 months up to and including 84 months, calved
Over 20 months up to and including 84 months, not calved
Over 84 months

Beef Sector – pedigree

Up to and including 6 months
Over 6 months up to and including 12 months
Over 12 months up to and including 24 months
Over 24 months, not calved
Over 24 months up to and including 36 months, calved
Over 36 months, calved

Dairy Sector – pedigree

Up to and including 2 months
Over 2 months up to and including 10 months
Over 10 months up to and including 18 months
Over 18 months, not calved
Over 18 months up to and including 36 months, calved
Over 36 months up to and including 84 months, calved
Over 84 months, calved”.

(5) In Schedule 4—

(a) in paragraph 4(1) (movement restrictions), after “Annex III” insert “or Annex VII”;

(b) in paragraph 6 (confirmation of TSE in sheep)—

(i) at sub-paragraph (1), after Annex III insert “or Annex VII”;

(ii) at sub-paragraph (2), omit “2(3)(b)(i) and 2(3)(b)(ii)” and insert “2.3(b)(i) to (iii)”;

(iii) after sub-paragraph (2) insert—

“(2A) Where the Secretary of State notifies the occupier that the measures set out in point 2.3(b)(iii) of Annex VII are to apply for two breeding years following the detection of the last TSE case, the occupier must—

(a) as soon as reasonably practicable after receiving such notification ensure that all sheep and goats on the holding are identified by ear tags, and such tags must not be removed other than as directed or permitted by the Secretary of State; and

(b) comply with the requirements as set out in point 4 of that Annex.”; and

(iv) at sub-paragraph (4)(a), after “animals” insert “(if there are any)”;

(c) in paragraph 7 (confirmation of TSE in goats)—

(i) for sub-paragraph (2) substitute—

“(2) The Secretary of State, after carrying out the inquiry specified in Article 13(1)(b) of, and point 1(b) of Annex VII to, the EU TSE Regulation, must decide which of the options

set out in points 2(3)(b)(i) or (iii) of Annex VII to that Regulation the Secretary of State intends to exercise.”; and

(ii) after sub-paragraph (2) insert—

“(2A) Where the Secretary of State notifies the occupier that the measures set out in point 2.3(b)(iii) of Annex VII are to apply for two breeding years following the detection of the last TSE case, the occupier must—

(a) as soon as reasonably practicable after receiving such notification ensure that all sheep and goats on the holding are identified by ear tags, and such tags must not be removed other than as directed or permitted by the Secretary of State; and

(b) comply with the requirements as set out in point 4 of that Annex.”;

(d) in paragraph 8(1) (use of milk and milk products following confirmation of classical scrapie), after “paragraph 6 or 7” insert “, and derived from animals that would have been killed if the Secretary of State were to have applied points 2.3(b)(i) to (iii)”;

(e) in paragraph 11 (derogation)—

(i) for sub-paragraph (3) substitute—

“(3) Any delay in destruction must be in accordance with point 2.3(f), Chapter A of Annex VII to the EU TSE Regulation.”; and

(ii) omit sub-paragraph (4);

(f) in paragraph 18 (introduction of animals onto a holding), omit “point 3(1)” and insert “point 3.1 or point 4, Chapter A”;

(g) in paragraph 19 (use of ovine germinal products), omit “point 3(2)” and insert “point 3.2 or point 4, Chapter A”; and

(h) in paragraph 20 (movement of animals from a holding), omit “point 3(3)” and insert “point 3.3 or point 4, Chapter A”.

(6) In Schedule 6 at sub-paragraph (3) of paragraph 18 (export of processed animal protein to third countries), for “E(2)” substitute “E”, and omit the words after “Part”.

David Heath

Minister of State

Department for Environment, Food and Rural Affairs

14th February 2013

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Transmissible Spongiform Encephalopathies (England) Regulations 2010 (S.I. 2010/801) (“the principal Regulations”).

A new regulation 15A is introduced into the principal Regulations to provide for the service of notices.

In Schedule 3, paragraph 9 (amount of compensation payable) is substituted so that the compensation payable to the keeper of animals killed under the principal Regulations is based upon sale price data for animal categories as identified in the table in paragraph 9(6) (which contains some revised categories).

Schedule 4 to the principal Regulations is amended to take account of amendments to Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ No. L147, 31.5.2001, p.1).

Minor corrections are made to Schedules 2 and 6 to the principal Regulations.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available on the government website at www.gov.uk/defra, and can be found with the Explanatory Memorandum alongside this instrument at www.legislation.gov.uk.

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STATUTORY INSTRUMENTS

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