Dear Consultee

CONSULTATION ON THE PROPOSED TRANSMISSIBLE SPONGIFORM ENCEPHALOPATHIES (SCOTLAND) REGULATIONS 2010

I am writing to invite your comments on the proposed Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010 which would replace the existing Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006 as amended (the “2006 Regulations”).

The 2006 Regulations came into force on 24 November 2006. They provide the powers necessary to administer and enforce the provisions of Regulation (EC) No.999/2001 which lays down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (the “EU TSE Regulation”).

There have been a number of amendments to the EU TSE Regulation since the 2006 Regulations came into force. These have generally been technical amendments updating the detailed requirements of TSE monitoring arrangements and in the case of scrapie, implementing a more proportionate approach to controls in line with the European Commission’s TSE Roadmap\(^1\). These amendments also reflect the declining prevalence of BSE in cattle, new scientific advice and technical advances.

The amendments, which are directly applicable in all EU Member States, include changes to the age threshold for BSE testing in cattle in some Member States, new controls on milk from sheep flocks and goat herds in which TSE is suspected or confirmed and more proportionate controls on animal feed.

There has also been a need to review the content of the main Regulations and the Schedules to the domestic legislation to ensure that any lessons learnt in the past are incorporated into domestic legislation.

What will be the outcome of this consultation?

The proposed new Regulations include amendments to take account of new EU legislation, advice from the Commission concerning the EU TSE Regulation, technical changes and lessons learnt from operating the 2006 Regulations. We have also reviewed the Schedules to ensure that they are appropriate and that any lessons learned are incorporated.

Who will be affected by the proposals in this consultation?

Certain sectors of the cattle, sheep and goat industries, principally the keepers of sheep and goats suspected or confirmed as being infected by scrapie or BSE; cattle keepers who slaughter animals on their own premises for home consumption; abattoirs which do not handle cattle which require BSE testing; and manufacturers of feed for ruminants which contains fishmeal.

How do I comment on these proposals?

Your views are sought on the proposals described in Parts III and IV of this document. Specific questions have been highlighted and the changes summarised at Part II. These provisions may be subject to some subsequent amendment in response to comments received during the consultation period.

The consultation package includes a draft of the proposed new Regulations and a draft Regulatory Impact Assessment. This provides further detail on the above measures in terms of their impact on stakeholders. **We invite your comments on the proposed changes plus any additional estimates on benefits and costs likely to result from the changes.**

The Food Standards Agency has been fully involved in the preparation of these consultation papers.

We aim to put the new Regulations into effect early next year. The closing date for comments on the proposals set out in this consultation is 26 January 2010.

Separate consultations on proposals to make similar changes in England, Wales and Northern Ireland are being carried out in those countries.

How do I respond?

Please send your responses to:

scottishTSEregs@scotland.gsi.gov.uk or

TSE (Scotland) Regulations 2010 Consultation
Animal Health & Welfare Division
Room 350, Pentland House
47 Robb’s Loan
Edinburgh
EH14 1TY

If you have any queries please contact Ian Murdoch on 0131 244 6129.

We would be grateful if you could clearly indicate in your response which questions or parts of the consultation paper you are responding to as this will aid our analysis of the responses received.
This consultation, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at http://www.scotland.gov.uk/consultations. You can telephone Freephone 0800 77 1234 to find out where your nearest public internet access point is.

The Scottish Government now has an email alert system for consultations (SEconsult: http://www.scotland.gov.uk/consultations/seconsult.aspx). This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). SEconsult complements, but in no way replaces, SE distribution lists, and is designed to allow stakeholders to keep up to date with all SE consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the Respondent Information Form which forms part of the consultation attached to this letter as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public (see the attached Respondent Information Form), these will be made available to the public in the Scottish Government Library or placed on the Scottish Government consultation web pages. We will check all responses where agreement to publish has been given for any potentially defamatory material before logging them in the library or placing them on the website. You can make arrangements to view responses by contacting the SE Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

What happens next?

Following the consultation closing date, all responses will be analysed and considered along with any other available evidence to help us reach a decision on how the TSE regulations should be introduced in Scotland. We aim to issue a report on this consultation process as soon as possible and this will include indications of the changes to be made to the legislation.
Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to:

Name: Ian Murdoch
Address: Rm 350 Pentland House, 47 Robb's Loan, Edinburgh EH14 1TY
E-mail: ian.murdoch2@scotland.gsi.gov.uk

I look forward to any comments you may have

Yours Sincerely

Nick Ambrose

Dr Nick Ambrose
Head of Animal Health – Disease Prevention
Rural Directorate
Scottish Government

29 December 2009
CONSULTATION ON THE PROPOSED TRANSMISSIBLE SPONGIFORM ENCEPHALOPATHY (SCOTLAND) REGULATIONS 2010

List of consultees

Organisations

Action of Churches Together in Scotland
Advocates for Animals
ADAS Scotland
Agricultural Industries Confederation
Agriculture and Horticulture Development Board
Animal Health Distributors Association (UK) Ltd
ANM Group Ltd
All Divisional Veterinary Managers in Scotland
All Scottish Local Authorities
Argent (UK) Ltd
Association of Meat Inspectors
Biobest Laboratories Ltd
Biodynamic Agricultural Association
Blackface Sheep Breeders Association
Bluefaced Leicester Sheep Breeders Association
Border Leicester Sheep Breeders Association
British Deer Society
British Goat Society
British Hospitality Association
British Medical Association Scotland
British Society of Animal Science
British Veterinary Association (Scotland)
CBI Scotland
Centre for Tropical Veterinary Medicine
Cheviot Sheep Society
Church of Scotland Offices
Compassion in World Farming
Consumer Focus Scotland
CoSLA
Crofters Commission
Dairy UK – Scotland
Deer Commission for Scotland
Devro (Scotland) Ltd
Diageo
Evangelical Alliance
Federation of Small Businesses
Food and Drink Federation
Food Innovation Institute
Food Safety Authority of Ireland
Forestry Commission Scotland
G McWilliam (Aberdeen) Ltd
Glasgow Metropolitan College
Glasgow University Veterinary School
H.R. Bradford (Bakers) Ltd
Hallmark Meat hygiene Ltd/ AA Duncan & Son
Hannah Research Institute
Harbro Ltd
Health and Safety Executive
Health & Sport Committee
Health Protection Scotland
Highland Cattle Society
Highlands & Islands Enterprise
Hospital Caterers Association
Human BSE Foundation
Independent Farming Group
Institute of Auctioneers & Appraisers in Scotland
John M Munro Ltd
JWC Services Ltd
Larder Bytes Ltd
LGC Penicuik
M.D. Longhorn & Co
Macaulay Land Use Research Institute
MacPhie of Glenbervie Ltd
MacSweens of Edinburgh
McIntosh Donald
Meat and Livestock Commission
Meat Hygiene Service
Moredun Research Institute
National Beef Association Scotland
National CJD Surveillance Unit
National Farmers Union of Scotland
National Livestock Traders & Producers Association
National Sheep Association (Scotland)
Neogen Europe Ltd
North Country Cheviot Sheep Society
NHS Borders
NHS Fife
NHS Grampian
NHS Lothian
Pet Food Manufacturers Association
Quality Meat Scotland
Roslin Institute
Rowett Research Institute
Royal College of Veterinary Surgeons
Royal (Dick) School of Veterinary Studies
Royal Environmental Health Institute of Scotland
Royal Highland and Agricultural Society of Scotland
Ruma
Scotbeef
Scottish Agricultural College
Scottish Agricultural Organisation Society Ltd
Scottish Association of Master Bakers
Scottish Association of Meat Wholesalers
Scottish Association of Young Farmers Clubs
Scottish Beef Cattle Association
Scottish Centre for Inspection & Environmental Health
Scottish Chamber of Commerce
Scottish Churches Parliamentary Office
Scottish Conservative Central Office
Scottish Crofting Federation
Scottish Enterprise
Scottish Environment Protection Agency
Scottish Environmental Services Association
Scottish Federation of Meat Traders Associations
Scottish Government Criminal Justice Directorate
Scottish Grocers' Federation
Scottish Green Party
Scottish Inter Faith Council
Scottish Labour Party
Scottish Liberal Democrats
Scottish National Party
Scottish Parliament
Scottish Rural Property & Business Association Ltd
Sheep Veterinary Society
Shetland Flock Book Trust
Shetland Livestock Marketing Group Ltd
Shetland Sheep Society
Small Farms Association
Tayside Scientific Services
TESCO Stores Ltd
The British Diabetic Association
The Halal Food Authority
The Scottish Food Trade Association
United Central Bakeries Ltd
United Fish Industries
University of Aberdeen
University of Edinburgh
University of Glasgow
Vegetarian Economy & Green Agriculture (VEGA)
Verner Wheelock Associates
VLA Lasswade
Walkers Shortbread Ltd
William Forest & Son (Paisley) Ltd
Women’s Farming Union
Woodhead Brothers Turriff
Consultation on the proposed
Transmissible Spongiform Encephalopathies
(Scotland) Regulations 2010

29 December 2009 to 26 January 2010
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Part I –Summary

Summary

The proposed Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010 would update and replace the existing Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006, as amended (the “2006 Regulations”). The proposed Regulations would include amendments in response to new EU legislation, advice from the Commission, technical changes and reviews of procedure.

Background

2006 Regulations came into force on 24 November 2006. They provide the necessary powers to administer and enforce the provisions of Regulation (EC) 999/2001 (the EU TSE Regulation) concerning the prevention, control and eradication of TSEs.

Key changes

(NB: The paragraph numbers are those for the proposed 2010 Regulations unless otherwise stated.)

- Regulations 14, 15 and 16: Would provide powers for inspectors to seize milk or milk products, to issue notices prohibiting the movement of milk and milk products and to licence the movement of restricted products. This is linked to the proposed changes in Schedule 4 (see below).

- Schedule 2, Part 1, paragraph 9: Would administer the requirements in the EU regulation for the BSE testing of cattle aged over 48 months which are slaughtered by cattle keepers on their premises for their own consumption (“home slaughter”).

- Schedule 2, Part 1, paragraph 10(3): Would give slaughterhouse operators the option of submitting samples for BSE testing to laboratories approved in other Member States. This is a requirement under the EU Services Directive.

- Schedule 2, Part 1, paragraph 12 and Part 2, paragraphs 16 and 18: Would remove the requirement for abattoirs that do not handle cattle that require BSE testing to need an approved Required Method of Operation (RMOP). RMOPs for cattle aged over 48 months would no longer need to specify arrangements for handling vertebral column which is defined as SRM because Schedule 2, Part 2, paragraph 22 of the 2006 Regulations would be deleted.

- Schedule 2, Part 1, paragraph 13: Would extend the requirements for retention and disposal of the carcases of tested animals to those slaughtered at places other than approved abattoirs (“home slaughter”).
• Schedule 2, Part 1, paragraph 14(2)(b): Would empower the Scottish Ministers to issue a direction to operators of animal by-product disposal plants to select and sample fallen sheep, goats and deer for TSE testing.

• Schedule 3, paragraph 3 (2006 Regulations): Would remove the requirement to dispose of the milk of a cow suspected of being infected with a TSE. The milk would still be banned from use for human consumption by EC Food Hygiene Regulation 853/2004 which requires that raw milk for human consumption must come from animals which are in a good general state of health.

• Schedule 4, paragraphs 4(1)(d), (2), (3) and (4): Would enable inspectors to serve a notice to prohibit the movement of sheep or goat milk or milk products from a holding on which a TSE is suspected in sheep or goats, while permitting its use within the holding of origin.

• Schedule 4, paragraph 8: Would make it an offence for sheep or goat milk or milk products from a holding on which classical scrapie is confirmed, produced prior to the removal of all goats and genetically susceptible sheep, to be used as feed for ruminants (except on the holding of origin), to export it, or to fail to comply with the other requirements laid down in these paragraphs regarding storage and transportation.

• Schedule 4, paragraph 9: Would require inspectors to serve a notice to destroy sheep or goat milk or milk products produced between the dates of official suspension and killing, on a holding on which BSE cannot be excluded after testing in sheep or goats. Government would pay compensation.

• Schedule 4, paragraphs 10(6) and 10(9): Would require farmers to identify sheep and goats on holdings on which atypical scrapie is confirmed, as directed by the Scottish Ministers and make it an offence to remove that identification unless permitted by the Scottish Ministers.

• Schedule 4, paragraph 11: Would administer the derogation in the EU Regulations allowing Member States to delay the culling of goat herds in which classical scrapie has been confirmed, by enabling farmers to apply in writing to the Scottish Ministers setting out the reasons for the application. Animal Health would consider applications and an appeals process would apply to applications approved in part or refused. The Scottish Ministers would be able to apply the derogation without the need for an application from the farmer.

• Schedule 4, paragraph 17(2): Would add a requirement that, if a notice is served on a holding under this Schedule and there is a change in occupation of the holding, the subsequent occupier must comply with the notice as if that notice were served on that occupier.

• Schedule 4, paragraph 24: Would replace the current system of compensation for sheep and goats and embryos and ova killed or destroyed to control TSEs, with a “table value” system of standard values similar to that already in use for compensation for cattle killed or destroyed to control TSEs. Sheep and goats’
milk and milk products compulsorily disposed of would be valued according to the market price.

- Schedule 6, Part 1, paragraph 1(4) and Part 2, paragraph 9: Would permit the feeding of fishmeal to unweaned ruminants in reconstituted milk replacer in line with Regulation (EC) No. 956/2008, whilst maintaining the existing ban on feeding fishmeal to adult ruminants.

- Schedule 6, Part 1, paragraph 2(3)(f): Would allow the Scottish Ministers to permit the feeding to all farmed animals, of feed materials of plant origin and feed containing such products, in which insignificant amounts of bone fragments of environmental origin had been detected, on the basis of a favourable risk assessment.

- Schedule 6, Part 2, paragraph 18(2): Would permit the export of pet food containing processed animal proteins (PAP) of ruminant origin provided that it is produced and labelled in accordance with the Animal By-Product Regulations.

- Schedule 7, paragraph 10: Would make it an offence not to remove specified risk material (SRM) from cattle, sheep or goats slaughtered at places of slaughter other than slaughterhouses (“home slaughter”).

**General Issues**

These proposals may be subject to some amendment in response to comments received during the consultation period.

Separate consultations on proposals to make similar changes in England, Wales and Northern Ireland are being carried out in those countries.
Part II- Amendments to the TSE (Scotland) Regulations
Proposed by the Scottish Government

Changes to the General Regulations

It is proposed to add a new sub paragraph to Regulation 8 (at 8(2)) which would allow the Scottish Ministers to amend a Required Method of Operation (RMOP – see paragraph 6, Schedule 2, Part 1 of the 2006 Regulations) to reflect technical or scientific developments. Previously, the legal basis for any change to the RMOP was directly linked to non-compliance with the existing requirements reflected in the RMOP, or to non-compliance with the provisions of EU or domestic TSE legislation. This direct linkage provided no legal coverage of a technical or scientific nature (such as the introduction of new techniques in brain stem sampling, or in relation to the form of packaging of brain stem samples prior to despatch to the testing laboratory).

The appeals procedure will be clarified at Regulation 10 with some textual changes to make the procedure more transparent.

Powers of entry will be clarified at Regulation 13 to highlight the circumstances where a Justice of the Peace needs to sign a warrant authorising an inspector to enter premises, if need be by reasonable force.

Currently Regulation 15(1)(c) only enables an inspector to serve notices on persons in possession of animal protein, and feedingstuffs which may contain animal protein. But in relation to the recall powers in Regulation 13(3)(g), the persons on whom such notices can be served need to include the suppliers. The proposed amendment will make this change to improve the enforcement powers for such recalls.

Changes to the Schedules

Schedule 1 (Ambulatory References)

Schedule 1 lists the pieces of EU legislation which, whenever amended, automatically fall within the provisions of the new Regulations. This means that the new Regulations continue to administer the corresponding EU legislation even if it is amended. The new Schedule would include the following Commission Decisions:

- Commission Decision 2007/411/EC which prohibits the placing on the market of products derived from bovine animals born or reared within the United Kingdom before 1 August 1996. No amendments to this Decision are currently proposed.

- Commission Decision 2007/453/EC establishing the BSE status of Member States or third countries according to their BSE risk. This Decision has been amended by Commission Decision 2008/829/EC and the Commission is proposing a further amendment later in 2009 following the categorisation of further countries by the World Organisation for Animal Health (OIE) in 2009.
• Commission Decision 2008/908/EC authorising certain Member States to revise their annual BSE monitoring programmes. This allows listed Member States the option of raising the age threshold for testing fallen cattle and cattle slaughtered for human consumption for BSE, to over 48 months. The European Commission is proposing to repeal and replace Commission Decision 2008/908/EC later in 2009, adding Slovenia to the list of Member States. We propose adding the reference to the new Decision to Schedule 1 following its adoption. However optional increases in the BSE testing age resulting from any future amendments of the new Decision would only be implemented if they were acceptable to the FSA Board and Scottish Ministers.

Q1: Do you have any comments on these proposals?

Schedule 2 (TSE monitoring)

Commission Decision 2007/411/EC requires that, following the death of a bovine animal which was born or reared in the UK before 1 August 1996, its carcase must be disposed of in accordance with the EU Animal By-Products Regulation (Regulation (EC) No. 1774/2002). It is an offence under the 2006 Regulations, to consign a bovine animal which was born or reared in the UK before 1 August 1996 to a slaughterhouse for human consumption or to slaughter such an animal in a slaughterhouse. We propose amending paragraph 4 of Part 1 of Schedule 2 of the 2006 Regulations to clarify the definition of a bovine animal which was born or reared in the UK before 1 August 1996 and that it is an offence to slaughter these animals for human consumption.

The European Commission has advised that the EU TSE Regulation requires the BSE testing of all cattle aged over the testing threshold. This includes cattle slaughtered in slaughterhouses and cattle which keepers slaughter on their premises for their own consumption (home-slaughtered). The 2006 Regulations require slaughterhouse operators to collect and submit samples from cattle aged over the testing threshold, for BSE testing. Although the 2006 Regulations provide powers for inspectors to issue notices to enforce the EU TSE Regulation, they do not contain a clear obligation for cattle keepers carrying out home-slaughtering to comply with BSE testing requirements.

We propose to add a new paragraph to Schedule 2, to require a cattle keeper home-slaughtering a bovine animal aged over the testing threshold to arrange both to sample the animal and to deliver the brainstem sample to an approved testing laboratory for BSE testing. Details of private laboratories in Great Britain approved to carry out BSE testing are available at

1 The BSE test age threshold is over 48 months for all cattle born in Austria, Belgium, Denmark, Finland, France, Germany, Greece, Luxembourg, Italy, Ireland, Netherlands, Spain, Portugal, Sweden and the UK. Cattle born elsewhere must be tested for BSE if slaughtered for human consumption aged over 30 months or if sick at ante-mortem/emergency slaughtered aged over 24 months. [NB. The European Commission is proposing to add Slovenia to the list of Member States which can raise their BSE testing age threshold, following a favourable risk assessment by the European Food Safety Authority].
We propose to extend the retention and disposal requirements in paragraph 7 of Part 1 Schedule 2 of the 2006 Regulations to cover home slaughter. We would also take the opportunity to clarify that a “no test result” includes situations in which approved testing laboratories do not receive brainstem samples.

Q2: Do you have any comments on the proposals for implementing the requirement for BSE testing of home slaughtered cattle?

We propose to add a new paragraph 5(1)(b) of Schedule 2, Part 1 of the 2006 Regulations. This new requirement will make it an offence to submit a brain stem sample for testing if the bovine animal from which it was taken cannot be identified. This follows an incident where DNA testing used at an OTM approved abattoir demonstrated that a brain stem sample could not be correlated to any OTM cattle slaughtered on that day.

Slaughterhouse operators processing cattle which require BSE testing must describe the procedures that will be followed to comply with the BSE testing requirements in their Required Method of Operation (RMOP). The RMOP must include details of the arrangements for sampling and BSE testing in an approved laboratory and must be approved by the Meat Hygiene Service. Slaughterhouse operators would have to provide assurance that approved laboratories had arrangements to supply results to the Meat Hygiene Service and Animal Health which would not release tested carcases and their hides respectively, until negative results were available.

Q3: Do you agree that slaughterhouse operators should have the option of submitting samples for BSE testing to laboratories approved in another Member State?
Currently, all abattoirs slaughtering cattle aged over thirty months (OTM) must have an approved RMOP. The main purpose of the RMOP is to provide for effective control of BSE testing, but it must also describe the procedures that ensure that vertebral column (VC) is removed as specified risk material (SRM) from carcases of OTM cattle. However, on 1 January 2009, the age at which cattle slaughtered for human consumption require BSE testing increased from over 30 to over 48 months although the requirement to remove the VC of OTM cattle remained unchanged. Consequently, the RMOP for slaughterhouses handling OTM cattle aged 48 months or less covers only the procedures for checking and batching cattle before slaughter and channelling OTM carcases to OTM-authorised cutting plants to have the VC removed.

We consider that effective control of OTM VC SRM removal can be maintained without the need for these procedures to be set out in an approved RMOP, as Schedule 6 of the 2006 Regulations requires that OTM carcases are sent to specifically-authorised cutting plants for VC removal and this enforceable provision will remain. We therefore propose that slaughterhouse RMOPs should no longer be required to include procedures related to removal of VC as SRM and that we should delete paragraph 22 of Schedule 2, Part 2 of the 2006 Regulations as this paragraph concerns the removal of vertebral column from carcases for which there is a negative BSE test result.

Q4: Do you agree that the system for removing OTM bovine vertebral column as specified risk material does not need to be set out in an approved RMOP?

In April 2009, the Food Standards Agency Board agreed that abattoirs handling only cattle aged 48 months or less no longer need an approved RMOP. This means we need to:

- remove the restriction on slaughter of 30-48 month old cattle\(^2\) to slaughterhouses that have an approved RMOP; and require only slaughterhouses processing cattle that need BSE testing, to have an approved RMOP.

In order for these changes to take effect we propose amending

- paragraph 6 of Schedule 2, Part 1 of the 2006 Regulations to limit the requirement for an approved RMOP to slaughterhouses processing cattle which require BSE testing. Only cattle which did not require testing could be used for the assessment for the purposes of approving the RMOP;
- paragraph 15 of Schedule 2, Part 2 of the 2006 Regulations to require the approved RMOP to describe the system that enables cattle which require BSE testing to be identified and sampled; and to describe the system that ensures that cattle which require BSE testing are batched separately from those which do not. We would also clarify the definition of a bovine animal which was born or reared in the UK before 1 August 1996.

\(^2\) Other than those born outside the EU15 (see footnote 3)
Q5: Do you agree that only slaughterhouses that wish to handle cattle that require BSE testing need an approved RMOP?

Regulation (EC) No.716/96 provided for the Older Cattle Disposal Scheme which ceased to exist on 1 January 2009. A reference to this Regulation in paragraph 6 of Schedule 2, Part 1 of the 2006 Regulations would be removed.

We propose to amend paragraph 7(3)(b) of Schedule 2, Part 1 of the 2006 Regulations. Poor quality brainstem samples, where the obex cannot be adequately identified are classified as “no-tests” The UK authorities had applied a worst case scenario to these “no-tests” samples (i.e. treating them as though they were samples from cattle which would have tested positive for BSE). This resulted in the destruction of up to 4 animals on each occurrence of a “no-test” result (because of the requirement to apply the ‘one before and two after rule’ – (1b2a) to positively tested cattle).

An amendment is proposed for paragraph 7(5) of Schedule 2, Part 1 of the 2006 Regulations making a technical change to the existing requirements to retain and dispose of sheep or goat carcasses as specified. The addition of the words ‘selected for sampling’ will correct a potential gap in Regulations between selection for sampling (at a slaughterhouse, hide market or tannery) and the actual sampling. We are already operating under these measures so there will be no additional burdens or issues for the industry.

The EU TSE Regulation requires the UK to test an annual quota of 10,000 fallen sheep and 500 fallen goats aged over 18 months. The fallen sheep and goat surveys are currently administered by the Rural Payments Agency via contracts which formerly covered the collection and disposal of fallen cattle eligible for BSE testing. The Scottish Government continues to provide a free service to farmers for the collection, sampling and disposal of sheep and goat carcasses accepted into the survey. The Scottish Government would like greater flexibility in establishing systems to ensure compliance with EU requirements to test an annual quota of fallen sheep and goats for TSE in future. We propose to amend paragraph 7(5) of Schedule 2, Part 1 of the 2006 Regulations to require premises approved under the Animal By-Products Regulations to comply with a direction from the Scottish Ministers to select fallen sheep or goats for TSE sampling and to sample them. Tested carcases would have to be retained pending a negative test result unless they were disposed of in accordance with the Animal By-Products Regulations. These provisions would also apply to any future requirements to sample fallen deer for TSE.

Q6: Do you have any comments on the proposal for new powers for the Scottish Ministers to issue a direction to operators of animal by-products disposal plants to select and sample fallen sheep or goats for TSE testing?
Schedule 3 (Control and eradication of TSE in bovine animals)

A number of amendments to the provisions governing movement restrictions, the appeals procedure, valuation and compensation issues are being proposed.

In order to bring this Schedule in line with the EU TSE Regulation all references to BSE will be amended to TSE in bovines. This is a technical amendment which avoids any potential confusion between classical BSE and emerging “unusual” strains of BSE e.g. “H-Type” BSE.

It is proposed that paragraph 3(2) of Schedule 3 will be amended and a new clause 3(3) will be added to administer the requirements in Article 12 of EU TSE Regulation and Article 2(1)(a) of Commission Decision 2007/411/EC. These relate to the restriction of the movement of bovine animals which may be linked to (e.g. may be a cohort or an offspring of) a bovine animal suspected of being affected with a TSE.

Currently, where a bovine animal suspected of being affected with BSE is not killed immediately, the keeper must dispose of its milk in such a way that it cannot be consumed by humans or animals, other than the suspect’s own calf or animals kept for research purposes. This requirement was first introduced in December 1988 but there is no such requirement in the EU TSE Regulation. In June 2005 the Spongiform Encephalopathy Advisory Committee (SEAC) advised3 that the results of FSA-funded research, together with previous epidemiological and experimental research “provided no evidence...for the transmission of BSE via [cow’s] milk”. We therefore propose to remove Paragraph 3(4) of Schedule 3 of the 2006 Regulations. However, the food ban would effectively remain as the EC Food Hygiene Regulation 853/2004 requires that raw milk for human consumption must come from animals which are in a good general state of health.

Q7: Do you agree that the requirement to dispose of the milk of a cow suspected of being infected with TSE should be omitted from the new Regulations?

We propose to amend paragraph 5(2) of Schedule 3 which will provide a right of appeal to any decision to cull a cohort animal following an inspector’s rejection of evidence alleging that the animal did not have access to the same feed as an animal affected by BSE. The appellant would have 21 days following the notification of the decision, to make representations to a person appointed by the Scottish Ministers. Other than the exemptions administered by paragraph 5(1)(b) of Schedule 3 and by Regulation 4 (research premises) the culling of cohorts as soon as possible is a legal obligation under EU TSE Regulation and no other rights of appeal are considered compatible with this requirement.

Paragraph 9(1) of Schedule 3 would be amended to clarify that the compensation payable under the published calendar month standard values is the average price paid in Great Britain for that age and category of animal in the six months (pedigree) or month (non-pedigree) before the date of its valuation (rather than the date of slaughter or death). The age and category will be determined at the point the notice

3 http://www.seac.gov.uk/minutes/final88.pdf
of intention to slaughter is served. This amendment avoids any confusion if, for example, an animal’s value is determined in a calendar month before that in which it is slaughtered (Paragraph 8(a)) of Schedule 3 or dies (Paragraph 8(b) of Schedule 3).

Paragraph 10(3) of Schedule 3 would be amended to require the owner of animals killed under this schedule to pay for valuation fees, in line with the practice elsewhere in the TSE legislation.

Schedule 4 (Control and eradication of TSE in sheep and goats)

In 2007 SEAC advised\(^4\) that the preliminary results of experiments suggesting that classical scrapie could be transmitted to a lamb via milk from an infected sheep had “no direct implications for human health” as there was “no evidence that classical scrapie is transmissible to humans” and “estimates…suggest the prevalence of BSE in the UK sheep flock may be zero and in the worse case no more than 10 flocks would be affected.” Following an opinion\(^5\) on TSE infectivity in sheep and goat milk from the European Food Safety Authority (EFSA) in 2008, the EU adopted Regulation (EC) No.103/2009 which introduced new controls to reduce the risk of spreading BSE or classical scrapie to ruminant animals in uninfected flocks and herds through consumption of sheep and goats’ milk and milk products. The new controls also ensure that sheep and goats’ milk and milk products from flocks and herds in which TSE is suspected is not placed on the market unless BSE is excluded. We propose amending the 2006 Regulations to administer these new controls.

Regulation 15 and Paragraph 4 of Schedule 4 of the 2006 Regulations would be amended to require an inspector to serve a notice to prohibit the movement of sheep or goat milk or milk products from a holding on which a TSE is suspected in sheep or goats. Regulation 16 of the 2006 Regulations would be amended to allow inspectors to licence milk or milk products to premises for storage pending the outcome of the confirmatory tests, which are expected to take up to 12 working days from receipt at the laboratory. Sheep or goat milk or milk products could still be used on the holding during this period. Restrictions would be lifted if a TSE was not confirmed or if the TSE was confirmed as atypical scrapie. The Scottish Government would not pay for any consequential loss as a result of these restrictions (other than where BSE could not subsequently be excluded following testing and milk or milk products were compulsorily destroyed).

Q8: Do you have any comments on the practical implications of these restrictions on sheep and goat milk and milk products?

Paragraphs 6 and 7 of Schedule 4 of the 2006 Regulations would be amended to add new requirements for sheep or goat milk or milk products from a holding on which classical scrapie was confirmed, produced prior to the removal of genetically susceptible sheep/all goats. It would be an offence to use such milk/milk products as

\(^4\) http://www.seac.gov.uk/committee/sheepsubgroupreport07.pdf

\(^5\) http://www.efsa.europa.eu/EFSA/efsaloard-1178620753812_1211902166533.htm
feed for ruminants (except on the holding of origin). If such milk/milk products were used for feed for non-ruminants it would be an offence:

- to export the feed from the UK;
- to fail to comply with the documentation and packaging requirements;
- to bring such feed on to a premises with ruminants for storage or use; and
- to fail to comply with the requirements for transport and cleaning and disinfection of vehicles.

Q9: Do you have any comments on the practical implications of these restrictions on sheep and goat milk and milk products?

Paragraph 8 of Schedule 4 of the 2006 Regulations would be amended to add a new requirement for an inspector to serve a notice of intention to destroy sheep or goat milk or milk products on a holding on which BSE cannot be excluded following a test on a sheep or goat. This would apply to milk/milk products on the holding produced from the point of official suspicion to the point at which the herd or flock was culled. The Scottish Government would pay compensation at market value for milk or milk products compulsorily destroyed. Regulation 14 of the 2006 Regulations would be amended to provide powers for inspectors to seize and dispose of milk and milk products and Regulation 15 would be amended to allow inspectors to serve notices to require the disposal of milk or milk products.

Q10: Do you have any comments on the practical implications of these restrictions on sheep and goat milk and milk products or on the proposed rate of compensation for milk destroyed where BSE cannot be excluded?

Revised EU controls have been agreed (EU Commission Regulation No. 727/2007) which allow Member States more discretion in the way they apply controls in cases of atypical scrapie where BSE is excluded and atypical scrapie is confirmed.

A new Paragraph 9 of Schedule 4 will enable the Scottish Ministers to choose from the options available where atypical scrapie is confirmed. These are the options of monitoring flocks/herds for two years, or requiring them to be killed and destroyed under a whole flock/herd cull. The paragraph will also set out provisions for administration of the new options and the responsibilities of occupiers of holdings. These include a prohibition on the export to other member States or third countries, of any live animals, or embryos or ova from animals that have been subjected to the monitoring option. The appeals procedure would apply to a decision to apply either of the options.

A number of other drafting and technical amendments will be made to reflect the revised EU controls and to update the Schedule.

In 2008 the European Court of First Instance suspended the option of replacing the killing and destruction of genetically susceptible sheep and all goats, following the confirmation of classical scrapie in a flock or herd, with testing of fallen sheep/goats and abattoir culls aged over 18 months. The EU TSE Regulation contains a derogation allowing Member States to delay killing for up to 5 breeding years where the frequency of the ARR allele within the breed or holding is low or absent or where a delay is necessary to avoid in breeding. Regulation (EC) No.103/2009 reduced the
delay in dairy herds or flocks from 5 breeding years to 18 months and it requires that all breeding rams on the premises are NSP Type 1 (ARR/ARR). The movement restrictions referred to in paragraphs 20, 21 and 22 of Schedule 6 of the 2006 Regulations apply to the holding while culling is being delayed.

Defra are currently using the EU derogation to delay the culling of goat herds in which classical scrapie has been confirmed. We propose on introducing a provision allowing all farmers wishing to take advantage of the derogation, to apply in writing to the Scottish Ministers setting out the reasons for the application. Animal Health would consider applications on behalf of the Scottish Ministers. The appeals process would apply to applications approved in part or refused. We also propose clarifying that the Scottish Ministers can apply the derogation without the need for an application from the farmer.

Q11. Do you have any comment on the proposals for applying the EU derogation which allows the killing of animals in flocks or herds in which classical scrapie has been confirmed, to be delayed under certain circumstances.

We would welcome your views on the balance of costs between industry and the taxpayer in relation to compensation paid for TSE controls in sheep and goats. The EU TSE Regulation requires Member States to pay compensation to owners for the loss of animals killed and products of animal origin compulsorily destroyed to control TSE. The EU provides co-financing for TSE compensation which, for 2009, is 50% of the compensation paid to a maximum of €70 for a sheep or goat. In 2008, the compensation paid for TSE controls in sheep and goats in Great Britain was £635434 while the compensation paid for BSE in cattle was £185768.

Paragraph 23 of Schedule 4 of the 2006 Regulations requires the Scottish ministers to pay compensation for sheep or goats killed on suspicion of being affected with a TSE. There are standard values (£30 for an animal at the end of its productive life or £90 in any other case) if TSE is confirmed and the possibility of compensation to a maximum of £400 if TSE is not confirmed. Paragraphs 24 and 25 of Schedule 4 of the 2006 Regulations require the Scottish Ministers to pay compensation for sheep and goats killed and products destroyed following confirmation of TSE, as determined by individual valuation if the owner considers that the standard values (Figure 1) are unreasonable.

We consider that fixed compensation would achieve a more equitable balance of costs of compensation for TSE controls in sheep and goats, between the industry and the taxpayer. Suspicion of TSE or confirmation of TSE in its herd or flock has a significant negative impact on an animal’s true market value. This approach would rationalise the compensation arrangements for TSE in sheep and goats with those for BSE in cattle. We propose amending paragraphs 23-25 of Schedule 4 of the 2006 Regulations to adopt a system of standard values (Figure 2) for TSE controls in sheep and goats, which would be intended to reflect the average market value if the animal or animal product was not suspected of being affected with TSE or from a TSE affected herd or flock. We would keep these standard values under review. We

propose retaining the provision which allows the Scottish ministers to obtain an
individual valuation of an animal if he considers the standard value to be excessive.
In that case the Scottish Ministers would pay for the valuation. Sheep and goats’
milk and milk products compulsorily disposed of would be valued according to the
market price with the owner paying for the valuation.

Figure 1: Current System

<table>
<thead>
<tr>
<th>Animal or product</th>
<th>Compensation (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male sheep or goat</td>
<td>90</td>
</tr>
<tr>
<td>Female sheep or goat</td>
<td>65</td>
</tr>
<tr>
<td>Lamb (under 12 months old) or kid (under 12 months old)</td>
<td>40</td>
</tr>
<tr>
<td>Embryo</td>
<td>150</td>
</tr>
<tr>
<td>Ovum</td>
<td>5</td>
</tr>
</tbody>
</table>

Figure 2: Proposed System

<table>
<thead>
<tr>
<th>Category</th>
<th>Compensation (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pedigree</td>
<td></td>
</tr>
<tr>
<td>Male sheep – productive</td>
<td>450</td>
</tr>
<tr>
<td>Male goat – productive</td>
<td>300</td>
</tr>
<tr>
<td>Female sheep – productive</td>
<td>200</td>
</tr>
<tr>
<td>Female goat – productive</td>
<td>250</td>
</tr>
<tr>
<td>Sheep or goat – end of productive life</td>
<td>60</td>
</tr>
<tr>
<td>Sheep or goat – other</td>
<td>70</td>
</tr>
<tr>
<td>Lamb or kid (under 12 months old)</td>
<td>75</td>
</tr>
<tr>
<td>Non-Pedigree</td>
<td></td>
</tr>
<tr>
<td>Male sheep – productive</td>
<td>200</td>
</tr>
<tr>
<td>Male goat – productive</td>
<td>180</td>
</tr>
<tr>
<td>Female sheep – productive</td>
<td>90</td>
</tr>
<tr>
<td>Female goat – productive</td>
<td>180</td>
</tr>
<tr>
<td>Sheep or goat – end of productive life</td>
<td>60</td>
</tr>
<tr>
<td>Sheep or goat – other</td>
<td>70</td>
</tr>
<tr>
<td>Lamb or kid (under 12 months old)</td>
<td>55</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Category</th>
<th>Compensation (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Products</td>
<td></td>
</tr>
<tr>
<td>Embryo</td>
<td>100</td>
</tr>
<tr>
<td>Ovum</td>
<td>5</td>
</tr>
<tr>
<td>Milk</td>
<td>Market value</td>
</tr>
<tr>
<td>Milk product</td>
<td>Market value</td>
</tr>
</tbody>
</table>

[Productive = breeding male or female in lamb/kid or in milk]
[End of productive life = cull animals]
[Other = includes other animals reared for slaughter]
Q12. Do you have any comments on the proposed approach for standard values for categories of animals/animal products killed or destroyed to control TSE in sheep and goats? If you do not agree with the proposal could you suggest alternative categories or values as appropriate?

Paragraph 14 of Schedule 4 of the 2006 Regulations would be clarified to require subsequent occupiers of premises, to comply with a notice served on a previous occupier.

Paragraph 20 of Schedule 4 of the 2006 Regulations would be corrected to refer to progeny.

Schedule 5 (Control and eradication of TSE in animals that are not bovine, ovine or caprine)

A new schedule 5 will be added to address Community obligations of Article 11 (Notifications) and Article 12 (Suspect Animals) of the EU TSE Regulation in relation to the suspicion of TSE in non-bovine, non-ovine and non-caprine animals. These measures were previously administered by regulation 77(1) of the TSE (Scotland) Regulations 2002 (SSI 2002 No. 255) but were omitted in error from the 2006 Regulations.

Paragraph 1 of Schedule 5 requires the compulsory notification (by farmers, vets and laboratories) of all animals (other than cattle, sheep or goats) suspected of being affected by a TSE. Paragraph 3 of Schedule 5 will enable the Scottish Ministers to arrange for the compulsory slaughter of any TSE suspect of TSE positive animals, although we do not propose to require this for animals not otherwise intended for human consumption. Compensation would be payable for animals compulsory slaughtered under this Schedule. As we are currently operating under these measures on a voluntary basis, there will be no additional burdens or issues for the industry.

Paragraph 4 of Schedule 5 creates an obligation (similar to sheep and goats in Schedule 2) for the occupier of a slaughterhouse, hide market or tannery to retain carcases selected for sampling until the test results have been received and to destroy the carcass by incineration if the test result is positive. Compensation can be requested for animals that test positive to TSE if they are destroyed because of that positive result.

Schedule 6 (Feedingstuffs)

Due to the insertion of the new Schedule 5, the schedule numbered as Schedule 5 in the 2006 Regulations, which deals with feedingstuffs, will be renumbered as Schedule 6 in the new Regulations. There are some technical changes proposed for this Schedule.

The TSE Roadmap proposed relaxing the ban on feeding fishmeal to ruminants which was introduced in 2001, whilst maintaining the ban on feeding mammalian
meat and bone meal (MBM). The European Parliament and the Council amended the EU TSE Regulation in January 2007 allowing the European Commission to propose legislation to allow the feeding of fishmeal to young ruminants (e.g. calves, lambs, kids). In September 2008, the EU adopted Regulation (EC) No.956/2008 which permits the feeding of fishmeal to unweaned ruminants in reconstituted milk replacer. This followed an EFSA opinion in 2007, a Community Reference Laboratory report of significant improvements in the performance of tests to detect traces of MBM in fishmeal and a scientific assessment of the dietary needs of young ruminants. The latter concluded that fishmeal is a highly digestible protein source with a good amino acid profile and a high calcium/phosphorus content, compared to vegetable protein sources. In 2008, SEAC concluded that “the risk of BSE infections arising from feeding feed containing fish meal to young ruminants” was “likely to be very low to negligible” although it highlighted areas of scientific uncertainty and the importance of safe sourcing. Tests on all imported consignments of fishmeal since 2005 have not detected any MBM contamination.

Paragraph 1 of Schedule 5, Part 1 of the 2006 Regulations would be amended and a new paragraph would be added to permit the feeding of fishmeal to unweaned ruminants in reconstituted milk replacer in line with Regulation (EC) No.956/2008. Farmers wishing to bring milk replacer containing fishmeal on to their premises where ruminant animals are kept (and feed it to unweaned ruminants) would first have to register with Animal Health on behalf of the Scottish ministers. This mirrors the requirements for feeding feed containing fishmeal to non-ruminants (e.g. pigs and poultry). Milk replacer powder containing fishmeal would have to be produced in mills authorised by Animal Health on behalf of the Scottish Ministers and labelled and transported in accordance with Regulation (EC) No.956/2008. Again this mirrors the requirements for producing feed containing fishmeal for non-ruminants (e.g. pigs and poultry). However farmers may wish to purchase milk replacers containing fishmeal, produced in other Member States, for feeding to unweaned ruminants.

The EU ban on feeding fishmeal to adult ruminants remains in place. The changes to the EU TSE Regulation in January 2007 allow the European Commission to propose tolerance levels for insignificant amounts of animal protein in feed caused through technically unavoidable contamination e.g. ruminant feed containing traces of fishmeal produced on the same line as non-ruminant feed. Quantitative tests to determine the precise levels of fishmeal (or other proteins) in feed are not yet considered reliable enough to support the adoption of agreed tolerance levels. We are aware that this restriction continues to have a significant financial impact on the feed industry.

Q13. Do you have any comments on the proposals for administering controls on the manufacture and feeding of fishmeal to unweaned ruminants in reconstituted milk replacer?

The TSE Roadmap proposed allowing a more risk-proportionate approach to the detection of traces of bone fragments in sugar beet, derived from soil, following experiences in Germany. Prior to this, EU rules required the disposal of whole

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9 [http://www.seac.gov.uk/statements/feedban-oct08.pdf](http://www.seac.gov.uk/statements/feedban-oct08.pdf)
consignments of feed in which traces of bone fragments derived from soil or rodents were detected. The EU subsequently adopted a provision in 2005 which allowed Member States to use feed derived from root crops in which bone fragments had been detected, provided that there was a favourable risk assessment which considered the amount and the probable source of the bone fragments and the final destination of the feed. In February 2009 the EU adopted Regulation (EC) No.162/2009 extending the scope of this provision to cover all feeds of plant origin. It only applies to the unavoidable presence of insignificant amounts of animal bone fragments (e.g. from soil, rodents, birds) in crops and reflects the sensitivity of current detection methods. The feed testing programme in Great Britain indicates that the detection of bone fragments, arising from the environment, in feed is extremely rare, even in imported feed derived from root crops.

Paragraph 1(1) and Paragraph 2(3)(f) of Schedule 5, Part 1 of the 2006 Regulations would be amended to allow the Scottish Ministers to permit the feeding to all farmed animals of feed materials of plant origin and feed containing such products in which insignificant amounts of bone fragments had been detected, on the basis of a favourable veterinary risk assessment (i.e. whether the feed poses a significant risk of generating new TSE infections). The risk assessment would consider the amount (e.g. using qualitative laboratory techniques) and probable source (e.g. using production and tracing data and species-specific laboratory tests) of the bone fragments. It would also consider the final destination of the feed (e.g. whether for ruminants or non-ruminants). For feed produced in the Great Britain, Animal Health would assess the risk with technical input from the Veterinary Laboratories Agency, the National Reference Laboratory for animal protein in feed. For feed introduced from other Member States, Animal Health would liaise closely with veterinary authorities in other Member States in the assessment of risk.

Q14. Do you have any comments on the proposals for carrying out a risk assessment following the detection of traces of bone fragments in animal feed, arising from unavoidable environmental sources?

In the 2006 Regulations, 'petfood containing animal protein' is one of the list of products which may not be brought onto a livestock farm, with an exception for doing so in controlled circumstances to feed to pets or working dogs on the premises, as provided for in paragraphs 2(2)(f) and 3 of the current Schedule 5.

The proposed addition at paragraph 2(2)(g) of Schedule 6 will cover 'raw petfood consisting of animal protein'. This will be added to ensure that this product is clearly controlled in addition to petfood containing animal protein, with a corresponding amendment in paragraph 3(a). This is a clarification only, and should lead to no measurable additional burden on the industry.

Paragraph 6 of Schedule 6 where compensation is payable for the slaughter of TSE susceptible animals under the terms of paragraph 5 in this Schedule, the amount payable is to be brought into line with the amount payable for each species as laid down in the relevant Schedules of the 2006 Regulations. This means: for bovine animals, in accordance with Paragraphs 9 & 10 of Schedule 3; for ovine or caprine animals, in accordance with Paragraphs 23 and 24 of Schedule 4; and for any other animals, to the market value in accordance with Regulation 11.
In September 2008, the EU adopted Regulation (EC) No.956/2008 which made a change to the requirements for packaging of feed for non-ruminants (e.g. pigs/poultry) containing fishmeal. This required the packaging to be “clearly marked” with the words “contains fishmeal-must not be fed to ruminants, rather than simply for the “label” to “clearly indicate” these words. This followed reports of the use of detachable labels such that bags were no longer properly identified as containing fishmeal if the label became detached. The new requirement for the declaration to be printed or stuck directly (i.e. “marked”) on the bag is already legally binding because of the ambulatory clause in Schedule 1. However we propose to amend Paragraph 8(3) of Schedule 5, Part 2 of the 2006 Regulations to refer to “marking”, rather than “labelling” of packaging of feed containing fishmeal in line with Regulation (EC) No.956/2008 for the sake of clarity.

In September 2008, the EU adopted Regulation (EC) No.956/2008 exempting petfood which contains processed animal protein (PAP) of ruminant origin and which has been treated and labelled in accordance with the Animal By-Products Regulations, from the ban on exporting PAP of ruminant origin to third countries. This amendment brings controls on exports of PAP in line with those for use within the Community. Member States can use PAP of ruminant origin to produce petfood for use within the EU. Both petfood and PAP must be derived from animal tissues which were formerly considered fit for human consumption. We propose amending Paragraph 17(1) of Schedule 5, Part 2 of the 2006 Regulations to clarify that it is not an offence to export petfood containing PAP of ruminant origin provided that it is produced and labelled in accordance with the Animal By-Products Regulations.

Paragraph 20 of Schedule 5 of the 2006 Regulations makes it an offence to supply an ingredient produced on premises where processed animal proteins are in use (e.g. a petfood plant) without labelling/accompanying documentation to indicate its origin.

Paragraph 20 of Schedule 6 in the new Regulations will extend the labelling/documentation requirement to feedingstuffs containing ingredients originally produced on premises using processed animal proteins, but only where such a feedingstuff product is not specifically identified and marketed for petfood use. This should ensure that farmed animal feed compounders cannot unwittingly incorporate possibly contaminated feed ingredients in end products destined to be fed to TSE susceptible animals.

The views of the petfood industry in particular are invited on this amendment. For the purposes of the associated impact assessment, any data which would help to quantify the category of product affected, and estimates of the cost of compliance, will be gratefully received.

Other technical changes in Schedule 6

Paragraph 1(3) (paragraph 1(2)(c ) in 2006 Regulations) – will make it clear that where animal proteins cannot be brought onto a farm keeping ruminant animals, the particular exception for premises registered to use feed containing fishmeal, dicalcium/tricalcium phosphate or blood products/meal for non-ruminants, relates
only to the purpose of the registration, and is not a wider exception for the presence
of other animal proteins.

Paragraph 3(iv) – will be amended to make a more general reference to compliance
with Animal By-Product legislation on use of fertilisers/soil improvers.

Paragraph 4(2)(b) – will add powers to enable an inspector to seize cattle passports
of bovine animals under movement restriction.

Paragraph 12(1)(a) & (b) – will include a technical amendment to focus sourcing
requirement on blood processors only, and not to feed producers.

Paragraph 12(4) – will include an amendment to provide an authorisation
requirement for blood product/bloodmeal processors where official permission is
needed (i.e. if ruminant blood is processed separately at same plant).

**Schedule 7 (Specified Risk Material) - See also Part IV of this consultation
document**

Previously Schedule 6 covered SRM controls. Proposed changes to this Schedule
are described in Part IV.

**Schedule 8 (Restrictions on placing on the market and export)**

Previously Schedule 7 covered restrictions on placing on the market and export.

Schedule 7 of the 2006 Regulations makes provisions relating to bovine animals
which were born or reared in the UK before 1 August 1996 and their products. We
propose to amend paragraphs 1 and 2 of Schedule 7 of the 2006 Regulations to
clarify the definition of a bovine animal which was born or reared in the UK before 1
August 1996.

We propose adding a new paragraph to Schedule 8 which provides a cross-
reference to offences relating to placing on the market and export in Schedules 3, 4
and 6.
Part III- Amendments Proposed by the Food Standards Agency

Changes to the Animal By-Products (Identification) Regulations 1995

Regulation 3

The Animal By-Products (Identification) Regulations 1995 (SI 1995 No.614) require the staining of “animal by-product” with Black PN or Brilliant Black BN dye, prior to disposal. The definition of “animal by-product” in regulation 3 of the Animal By-Products (Identification) Regulations 1995, as amended by the Bovine Products (Restriction on Placing on the Market) (Scotland) Regulations 2005 (SSI 2005 No.470) is obsolete: it refers to the Bovine Products (Restriction on Placing on the Market) (Scotland) Regulations 2005 and to the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2002 both of which are revoked.

The new Regulations would update the definition of "animal by-product" in regulation 3 of the Animal By-Products (Identification) Regulations 1995 as follows:

- The definition as “animal by-product,” of products derived from bovine animals born or reared in the UK before 1 August 1996 would refer to paragraph 1 of Schedule 8 to the new Regulations.
- The definition as “animal by-product,” of carcases, or parts of carcases, of bovine animals which have been slaughtered for human consumption, other than in accordance with an approved RMOP, and thus require disposal, would refer to regulation 15 of the new Regulations.

Revocation of the Bovine Products (Restriction on Placing on the Market) (Scotland) (No. 2) Regulations 2005 (SSI 2005/586)

We propose to revoke the above regulations. This is because the provisions of these regulations are duplicated in paragraph 1 of Schedule 7 to the TSE (Scotland) Regulations as amended by SSI 2008/417.

Changes to the Schedules of the TSE (Scotland) Regulations

Schedule 7 (Specified risk material, mechanically separated meat and slaughtering techniques)

Due to the insertion of a new Schedule 5, Schedule 6 in the 2006 Regulations will be renumbered as Schedule 7 in the new Regulations.

The definition of “mechanically separated meat" in paragraph 3(3) of the 2006 Regulations is superfluous and can be deleted because “mechanically separated meat" automatically has the same meaning as the EU TSE Regulation. The prohibition on production of mechanically separated meat is covered by the direct reference to the EU TSE Regulation in Paragraph 3(1) of Schedule 7.
Paragraph 7(3) – Point 4.1(a) of Annex V of the EU TSE Regulation states that SRM shall be removed at slaughterhouses or, as appropriate, “other places of slaughter”. To implement this requirement, we propose adding a new paragraph in Schedule 7 of the new Regulations making it an offence not to remove SRM from cattle, sheep and goats slaughtered at “other places of slaughter” (i.e. from a home slaughtered animal).

Paragraph 16 of Schedule 6 to the 2006 Regulations would be deleted as the scheme referred to (the Older Cattle Disposal Scheme) ceased to exist on 1 January 2009.

The prohibition on the dispatch of heads and un-split carcases to other member States has been moved from its previous location at paragraph 18 of Schedule 6 to the 2006 Regulations to paragraph 3 of Schedule 8 to the new Regulations. The provision itself has not been changed.

Q15. Do you have any comments on these proposals?
Title of proposal

The Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010

The Council Regulation

Regulation (EC) No. 999/2001 requires Member States to implement rules for the prevention control and eradication of transmissible spongiform encephalopathies (TSE). These rules are currently administered and enforced by the TSE (Scotland) Regulations 2006. There have been a number of amendments to the EU Regulation in line with the TSE Roadmap and the Government propose to amend the TSE (Scotland) Regulations accordingly. Some other changes are proposed e.g. to reduce administrative procedures in abattoirs, to introduce table valuations for sheep and goats and to enable a sample of 10,000 fallen sheep and 500 goats to be selected at animal by-products (ABP) premises if a decision is taken to drop the current free collection and disposal service.

Purpose and intended effect

Objectives

The Scottish Government’s policy objective is to have TSE controls which maintain consumer and animal health protection, are based on sound science, are proportionate to the known risk and are practical and enforceable. The proposed TSE (Scotland) Regulations 2010 include:

• provisions which would update the administrative requirements for abattoirs to reflect previous changes to BSE testing;
• amendments to the Compulsory Scrapie Flock Scheme (CSFS) which will provide scrapie controls in the UK that are flexible, meet the degree of risk involved, and place UK sheep and goat farmers on the same footing as their competitors in Member States;
• introduce new controls on milk from sheep flocks and goat herds in which TSE was suspected or confirmed;
• introduce more proportionate feed controls; and,
• adopt a system of standard compensation values for sheep and goats.

Background

Transmissible spongiform encephalopathies (TSEs) are fatal brain diseases which include classical and atypical scrapie in sheep and goats, and bovine spongiform encephalopathy (BSE) in cattle. Exposure to BSE through the consumption of infected meat is believed to be the primary cause of variant Creutzfeldt-Jakob Disease (vCJD) in humans. Since the disease was first discovered, there has been 164 human deaths from definite or probable vCJD in the UK to 3 August 2009.
The Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006 came into force on 24 November 2006. They provide the necessary powers to administer and enforce the provisions of Regulation (EC) No.999/2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (the EU TSE Regulation).

There have been a number of amendments to the EU TSE Regulation since the 2006 Regulations came into force. The Scottish Government and the Food Standards Agency (FSA) have also reviewed the Schedules to ensure that they are appropriate and that any lessons learned are incorporated.

Rationale of government intervention

There have been a number of amendments to the EU Regulation in line with the TSE Roadmap and the Government propose to amend the TSE (Scotland) Regulations accordingly. The benefits of consolidation as well as updating the Regulations are that this will help provide transparency for those affected by the Regulations, as well as help with the consistency of operation and enforcement of the Regulations by industry and the enforcement bodies.

A description of the main areas of existing TSE Regulations that have been updated can be found in Annex A to this RIA.

Consultation

Within government

Colleagues within the Rural Directorate of the Scottish Government, the FSA and other UK Devolved administrations have been and will continue to be involved with the implementation of this Regulation.

Public consultation

The main industry bodies will be invited to provide their views on the various options. Every effort will be made to ensure that the final package of measures is practical and workable for the Scottish industry.

This RIA provides estimates on the basis of the best information available and will now be issued for formal consultation. Should the results of the consultation exercise indicate that changes to the RIA are required, a further RIA will be submitted to the Committees for consideration.

Options

The proposed options are:

Option 1 – Do nothing and continue current approach using existing Regulations.
**Option 2A** – Apply amended EU controls and introduce fixed compensation rates – with UK funded collection and disposal of 10,000 fallen sheep and 500 goats.

**Option 2B** – apply amended EU controls and introduce fixed compensation rates – with the possibility of sampling 10,000 sheep and 500 goat carcases at ABP premises.

**Costs and benefits**

**Sectors and groups affected**

The proposed Regulations are expected to affect: those who keep and sell cattle, sheep and goats; hauliers; abattoirs; cutting plants; the meat processing industry; renderers; incinerators; independent butchers and other retailers; the catering industry; and consumers.

**Benefits**

The economic, environmental and social benefits of each option is set out below.

**Option 1**

Provides benefits for human and animal health controls on TSEs.

This option will reduce sources of TSE infection from known scrapie affected flocks and prevent transmission to other flocks thus reducing the level of scrapie infection in the national flock and saving the taxpayer the cost of dealing with flocks that may otherwise have become infected. It also reduces a theoretical risk to human and animal health from BSE masked as scrapie.

**Options 2A and 2B**

The difference between options 2A and 2B is purely down to the method of collection and disposal of 10,000 fallen sheep and 500 goats.

- Option 2A assumes the continuation of the Rural Payments Agency (RPA) method of collection and disposal.
- Option 2B assumes that industry pays as normal to send carcases for disposal at ABP premises and that brainstem samples are taken from a 10,000 sample of sheep and a 500 sample of goats at a range of disposal sites without a free collection and disposal service funded by taxpayers.

Options 2A and 2B will provide benefits to animal health. The milk restrictions on suspected TSE premises and adjustments to payable compensation will reinforce the necessity for stringent biosecurity measures and incentivise good practice. These measures will, in turn, yield increased protection of animal health. The proposed options will also deliver a more appropriate balance of scrapie costs between the taxpayer and industry.
Costs

A detailed analysis of the cost of each option is contained in Annex B.

Small/Micro Firms Impact Test

A Small Firms Impact test will be carried out during the consultation period by consulting with key representatives of small businesses within the cattle, sheep and goat industries to gauge their views on the impact of proposed changes to the Regulations. The impact is not expected to be significant as only a very small number of businesses will be affected by the controls.

Legal Aid Impact Test

This proposal does not create new criminal sanctions or civil penalties and is not expected to have any implications on an individual's right to access legal aid.

‘Test Run’ of business forms

No business forms will be involved with the implementation of the proposed legislation.

Competition assessment

There will not be any direct or indirect limits to the number or range of farms in the industry caused by the proposed changes to the Regulations. The proposed Regulations will place UK sheep and goat farmers on the same footing as their competitors in Member States

Enforcement, sanctions and monitoring

The Regulation will be enforced by domestic legislation, which in Scotland will replace the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006, as amended.

The Meat Hygiene Service enforces in slaughterhouses and cutting plants. Local Authorities enforce the current legislation at all other premises. Animal Health carries out official inspections on farms and premises. It is proposed that responsibility for enforcing the new legislation will remain as is.
Detailed consideration of Schedules 2, 4 and 7 of the 2006 Regulations

BSE Testing

The European Commission has advised that the EU TSE Regulation requires the BSE testing of all cattle aged over the testing threshold. This includes cattle slaughtered in slaughterhouses and cattle which keepers slaughter on their premises for their own consumption (home-slaughtered). The 2006 Regulations require slaughterhouse operators to collect and submit samples from cattle aged over the testing threshold for BSE testing. Although the 2006 Regulations provide powers for inspectors to issue notices to enforce the EU TSE Regulation, they do not contain a clear obligation for cattle keepers carrying out home-slaughtering to comply with BSE testing requirements. We are proposing to make the following changes to the 2006 Regulations:

1. Amend paragraph 5 of Schedule 2 of the 2006 Regulations to require a cattle keeper home-slaughtering a bovine animal aged over the testing threshold to arrange both to sample the animal and to deliver the brainstem sample to an approved testing laboratory for BSE testing; and

2. Extend the retention and disposal requirements in paragraph 7 of Schedule 2 to cover home slaughter. We would also take the opportunity to clarify that an “insufficient test result” includes situations in which approved testing laboratories do not receive brainstem samples.

The EU TSE Regulation requires that specified risk material (SRM) is removed at slaughterhouses or, as appropriate, “other places of slaughter” (i.e. home slaughter). To administer this requirement we propose inserting a new paragraph in Schedule 7 of the Regulations making it an offence not to remove SRM from cattle, sheep and goats slaughtered at “other places of slaughter” (i.e. from a home-slaughtered animal).

On 1 January 2009, the age threshold for BSE testing healthy cattle born in the EU15 slaughtered for human consumption was raised from 30 to 48 months. Schedule 2 of the current Regulations requires that all slaughterhouses in which cattle aged over 30 months are slaughtered for human consumption have an approved Required Method of Operation (RMOP). It also requires the RMOP to describe the system for removing vertebral column as SRM. Following the agreement of the Food Standards Agency Board, we propose removing the requirement for slaughterhouses which do not slaughter cattle eligible for BSE testing, to have an approved RMOP and, secondly, to remove the controls on vertebral column removal from the RMOP provisions for slaughterhouses that do slaughter cattle that require BSE testing.

Currently the EU TSE Regulation requires the UK to test an annual quota of 10,000 fallen sheep and 500 fallen goats aged over 18 months. This involves considerably fewer than 1% of fallen sheep carcases and relatively few fallen goats. The fallen sheep and goat surveys are currently administered by the RPA via contracts which
formerly covered the collection and disposal of fallen cattle eligible for BSE testing. The Scottish Government continues to provide a free service to farmers for the collection, sampling and disposal of sheep and goat carcases accepted into the survey. Carcases are currently volunteered by farmers. The Scottish Government would like greater flexibility in establishing systems to ensure better compliance with EU requirements to test a random, annual sample of fallen sheep and goats for TSE in future. We propose to amend paragraph 7(5) of Schedule 2, Part 1 of the 2006 Regulations to require premises approved under the ABP Regulations to comply with a direction from the Scottish Ministers to select fallen sheep or goats for TSE sampling and to sample them. Tested carcases would have to be retained pending a negative test result, unless they were disposed of by incineration or rendering followed by incineration in accordance with the ABP Regulations. These provisions would also apply to any future requirement to sample deer for TSE. The Scottish Government and the Devolved Administrations are currently discussing with industry whether the current arrangements should be retained or amended.

Changes to Scrapie Controls

Scrapie, a TSE, is a fatal disease of sheep and goats. It is a notifiable disease and can be transmitted within and between flocks and/or herds.

There is a theoretical risk that BSE might have been transmitted to sheep and if so it might be masked by scrapie. So flocks affected by scrapie could represent a reservoir of infection and potential public health risk. That said, BSE has never been found in the UK sheep flock.

As a result, EU controls were introduced in 2003. These require that sheep flocks with a confirmed case of scrapie are subject to either a whole flock cull or a genotype and selective cull, under which all the sheep in the flock are genotyped by taking a blood sample. Those sheep with genotypes that scientific research has shown to be more susceptible to infection by the form of scrapie now known as classical scrapie are culled.

Strict controls then apply to movements on and off the farm. Depending on its genotype, which determines the resistance to scrapie, a sheep:

(a) may be retained or sold for breeding,

(b) may be required to be sold for slaughter,

(c) or must be collected by Government contractors and killed and destroyed as SRM.

Current scientific knowledge suggests that goats are uniformly susceptible to scrapie regardless of their genotype. Therefore, the only option allowed in the EU Regulation introduced in 2003 for goat herds with a confirmed case of scrapie is to cull the whole herd.
The Compulsory Scrapie Flocks Scheme

The EU controls are applied via the Compulsory Scrapie Flocks Scheme (CSFS) throughout the UK, and the 2006 Regulations provide enforcement powers in Scotland (Similar legislation applies in England and Wales).

There are currently around 39 farms under the controls in Great Britain. The cost of applying the genotype and selective cull option to each flock is estimated at £55K, and to cull the whole flock is £73K.

The scheme is administered by Animal Health with the Veterinary Laboratories Agency (VLA) undertaking TSE testing aspects. Local Authorities are responsible for monitoring movements from CSFS farms and for enforcement under the TSE Regulations.

Changes in EU controls

The EU controls were introduced at a time when it was not possible to determine if a TSE was scrapie or BSE (theoretically scrapie could be masking BSE). However, new diagnostic tests mean that it is now possible to distinguish between BSE and scrapie, and they are used in all TSE testing of sheep. The new diagnostic tests also confirm the presence of a previously undetected form of scrapie, termed atypical scrapie to differentiate it from the form of scrapie known to have been in the national flock and herd for more than 200 years and now referred to as classical scrapie. Atypical scrapie has been found in sheep with genotypes that are resistant to classical scrapie as well as sheep with genotypes susceptible to classical scrapie. As a result, the EU Commission proposed a review of the EU controls in relation to animals from flocks where BSE is excluded and to provide a suitable approach for dealing with atypical scrapie.

The changes to the controls involve:

1. A monitored flock/herd option allowing flocks and herds with atypical scrapie to be monitored for a 2 year period, as an alternative to whole flock or herd cull. This option involves TSE testing of all fallen stock over 18 months of age and all animals over 18 months of age sent to slaughter in the UK for human consumption.

2. Allowing animals to go to slaughter, instead of having to be killed and destroyed with compensation paid, subject to TSE testing of those animals over 18 months of age.

3. Reducing the period of restrictions in flocks affected by classical scrapie to 2 years (from 3 years).

The UK’s aim is to have scrapie controls that are flexible and reflect the degree of risk involved and we have been pressing for some time for changes to the EU controls to reflect this. The revised EU controls meet this objective with regard to atypical scrapie and the reduced restriction period.
The effect of applying these amended controls is to help eradicate scrapie in affected flocks/herds in a way that is cost effective and in compliance with the EU measures.

**Business affected/assumptions**

The business sectors affected are sheep and goat farms with suspected cases of classical and atypical scrapie. The following table shows the number of flocks and holdings coming under CSFS controls since 2005 in Scotland:

<table>
<thead>
<tr>
<th>Year</th>
<th>Flocks</th>
<th>Holdings</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>42</td>
<td>22</td>
</tr>
<tr>
<td>2006</td>
<td>25</td>
<td>16</td>
</tr>
<tr>
<td>2007</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td>2008</td>
<td>2</td>
<td>1</td>
</tr>
</tbody>
</table>

For a number of reasons, including a decrease in the surveillance at abattoirs and of fallen stock required by EU Regulation but mostly as a result of the work of the National Scrapie Plan since its inception in 2001, we estimate that the decrease in the number of cases of classical scrapie over the coming years will continue.

Where atypical scrapie has been found it is generally only as an isolated case on a holding. Most cases are discovered by the EU Regulatory TSE surveillance of animals at abattoirs and fallen stock. Cases of atypical scrapie are expected to remain relatively constant and be found in single cases on farms as opposed to classical scrapie, where action may be taken on several flocks within the same farm unit.

Given the reduction in the number of confirmed classical scrapie cases and the relatively stable number of confirmed atypical cases in recent years, we have assumed that there will be around 1 holding (2 flocks) with new classical scrapie cases in year 1 in Scotland, declining to 0 holdings (0 flocks) by year 5. We have assumed there will be 1 flock with atypical scrapie each year.

Based on average number of animals in CSFS flocks to date, we have assumed that an average size flock is 500 adult animals, plus up to 700 lambs depending on the time of year. From information provided by sheep industry groups, we know that annual replacement rates (regardless of whether the flock is producing lambs for slaughter or breeding animals for use or sale) are somewhere between 20 and 30%. Therefore, we have based our calculations on an annual adult replacement rate per flock of 25%. Depending on the nature and geographic location of a flock, the average adult mortality rate can vary between 2 and 5% per year. Therefore, we have assumed an overall average mortality rate of 3% per year.

**New controls on milk**

Following an opinion from the European Food Safety Authority (EFSA) in November 2008, the EU adopted new controls on milk from sheep and goat flocks in which TSE was suspected, classical scrapie was confirmed or BSE could not be excluded. The main impact is the ban on using milk or milk products from holdings on which TSE is suspected, other than on the holding, until the test result has been confirmed.
Sheep or goat milk or milk products could still be used on the holding during this period. A potential impact is the requirement to destroy milk or milk products on holdings on which BSE cannot be excluded in a sheep or goat. Following the confirmation of classical scrapie there are restrictions on the use of milk/milk products in animal feed.

We propose making the following changes to the 2006 Regulations to administer these controls:

1. Amend Regulation 15 and Paragraph 4 of Schedule 4 to require an inspector to serve a notice to prohibit the movement of sheep or goat milk or milk products from a holding on which a TSE is suspected in sheep or goats;

2. Amend Regulation 16 to allow inspectors to licence milk or milk products to premises for storage pending the outcome of the confirmatory tests, which are expected to take up to 12 working days from receipt at the laboratory. Sheep or goat milk or milk products could still be used on the holding during this period. Restrictions would be lifted if a TSE was not confirmed or if the TSE was confirmed as atypical scrapie. The Scottish Government would not pay for any consequential loss as a result of these restrictions (other than where BSE could not subsequently be excluded following testing and milk or milk products were compulsorily destroyed);

3. Amend Paragraphs 6 and 7 of Schedule 4 to add new requirements for sheep or goat milk or milk products from a holding on which classical scrapie was confirmed, produced prior to the removal of genetically susceptible sheep/all goats. It would be an offence to use such milk/milk products as feed for ruminants (except on the holding of origin). If such milk/milk products were used for feed for non-ruminants it would be an offence:
   - to export the feed from the UK;
   - to fail to comply with the documentation and packaging requirements;
   - to bring such feed on to a premises with ruminants for storage or use; and
   - to fail to comply with the requirements for transport and cleaning and disinfection of vehicles.

4. Amend Paragraph 8 of Schedule 4 to add a new requirement for an inspector to serve a notice of intention to destroy sheep or goat milk or milk products on a holding on which BSE cannot be excluded following a test on a sheep or goat. This would apply to milk/milk products on the holding produced from the point of official suspicion to the point at which the herd or flock was culled. The Scottish Government would pay compensation at market value for milk or milk products compulsorily destroyed;

5. Amend Regulation 14 to provide powers for inspectors to seize and dispose of milk and milk products. Regulation 15 would also need to be amended to allow inspectors to serve notices to require the disposal of milk or milk products.
We are seeking views on the appropriateness of the current balance of costs between industry and the taxpayer in relation to compensation paid for TSE controls in sheep and goats (including the compensation paid in respect of animals slaughtered on suspicion of TSE and those slaughtered under the Compulsory Scrapie Flocks Scheme). The EU TSE Regulation requires Member States to pay compensation to owners for the loss of animals killed and products of animal origin compulsorily destroyed to control TSE. In addition, Government pays for the disposal of these slaughtered animals. In 2008, the compensation in respect of TSE controls in sheep and goats in Great Britain was £703,464. The compensation paid for BSE in cattle (including suspects and the cohorts and offspring of confirmed BSE cases) was £185,768. The current Regulations provide for standard values of £90 for a ram or billy goat, £65 for a ewe or nanny goat, £40 for a lamb or kid under 12 months old, £150 for an embryo and £5 for an ovum, although there is an option of individual valuation where the owner considers that these values are unreasonable.

We consider that fixed compensation would achieve a fairer balance of costs of compensation for TSE controls in sheep and goats, between the industry and the taxpayer. This approach would also bring compensation arrangements for TSEs in sheep and goats more in line with those for BSE in cattle. It may also provide a greater incentive for owners of higher value goat herds and sheep flocks to take more responsibility for preventative measures such as sourcing from classical scrapie-free flocks or herds and breeding for classical scrapie resistance in sheep. Suspicion of TSE or confirmation of TSE in its herd or flock has a significant negative impact on an animal’s market value.

We propose amending paragraphs 23-25 of Schedule 4 of the 2006 Regulations to adopt a system of standard values (Figure 2) for TSE controls in sheep and goats, which would be intended to reflect the average market value if the animal or animal product was not suspected of being affected with TSE or from a TSE affected herd or flock. The proposed standard values in Figure 2 are higher than the current standard values in Figure 1, because they reflect present market conditions where prices are high by past standards.

Under the current system, non-standard values are often paid at much higher rates than the standard. The proposed higher standard rates that would apply to all animals in future, would therefore reduce the overall average compensation per animal. Fixed valuations for sheep and goats will be reviewed on an annual basis (or more frequently, if necessary) to ensure that valuations reflect market prices and are reasonable to both farmers and taxpayers. We propose retaining the provision which allows compensation to be determined by individual valuation at the Scottish Minister’s expense if he considers that the standard values are excessive. Sheep and goats’ milk and milk products compulsorily disposed of would be valued according to the market price with the owner paying for the valuation.
### Figure 1: Current System

<table>
<thead>
<tr>
<th>Animal or product</th>
<th>Compensation (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male sheep or goat</td>
<td>90</td>
</tr>
<tr>
<td>Female sheep or goat</td>
<td>65</td>
</tr>
<tr>
<td>Lamb (under 12 months old) or kid (under 12 months old)</td>
<td>40</td>
</tr>
<tr>
<td>Embryo</td>
<td>150</td>
</tr>
<tr>
<td>Ovum</td>
<td>5</td>
</tr>
</tbody>
</table>

N.B. Under the current system compensation for many animals is based on non-standard valuations that are much higher than the standard values above.

### Figure 2: Proposed System

<table>
<thead>
<tr>
<th>Category</th>
<th>Compensation (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Pedigree</strong></td>
<td></td>
</tr>
<tr>
<td>Male sheep – productive</td>
<td>450</td>
</tr>
<tr>
<td>Male goat – productive</td>
<td>300</td>
</tr>
<tr>
<td>Female sheep – productive</td>
<td>200</td>
</tr>
<tr>
<td>Female goat – productive</td>
<td>250</td>
</tr>
<tr>
<td>Sheep or goat – end of productive life</td>
<td>60</td>
</tr>
<tr>
<td>Sheep or goat – other</td>
<td>70</td>
</tr>
<tr>
<td>Lamb or kid (under 12 months old)</td>
<td>75</td>
</tr>
<tr>
<td><strong>Non-Pedigree</strong></td>
<td></td>
</tr>
<tr>
<td>Male sheep – productive</td>
<td>200</td>
</tr>
<tr>
<td>Male goat – productive</td>
<td>180</td>
</tr>
<tr>
<td>Female sheep – productive</td>
<td>90</td>
</tr>
<tr>
<td>Female goat – productive</td>
<td>180</td>
</tr>
<tr>
<td>Sheep or goat – end of productive life</td>
<td>60</td>
</tr>
<tr>
<td>Sheep or goat – other</td>
<td>70</td>
</tr>
<tr>
<td>Lamb or kid (under 12 months old)</td>
<td>55</td>
</tr>
<tr>
<td><strong>Products</strong></td>
<td></td>
</tr>
<tr>
<td>Embryo</td>
<td>100</td>
</tr>
<tr>
<td>Ovum</td>
<td>5</td>
</tr>
<tr>
<td>Milk</td>
<td>Market value</td>
</tr>
<tr>
<td>Milk product</td>
<td>Market value</td>
</tr>
</tbody>
</table>

Pedigree = registered in the main section of a recognised herd or flock book  
Productive = breeding male or female in lamb/kid or in milk  
End of productive life = cull animals  
Other = includes other animals reared for slaughter
## Summary of cost to Option 1

### Cost to Government & Cost to Farmer

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost to Government</th>
<th>Cost to Farmer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fallen sheep and goat surveillance</td>
<td>£945,000</td>
<td>-</td>
</tr>
<tr>
<td>Scrapie compensation</td>
<td>£19,980</td>
<td>-</td>
</tr>
<tr>
<td>Changes to CSFS</td>
<td>£106,000</td>
<td>£1,261</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>£1,070,980</strong></td>
<td><strong>£1,261</strong></td>
</tr>
</tbody>
</table>

### Environmental costs

The total weight of sheep incinerated in the 1st year is 76,850 – 107,590 kg.

### Fallen Sheep and Goat Surveillance

**Cost to Government**

Cost of collection and disposal of 10,000 fallen sheep and 500 goats
- GB RPA collection and disposal cost = £90/sheep or goat
- Number of collections = 10,500
- Total cost = 10,500 x £90 = **£945,000**

### Scrapie Compensation

**Cost to Government**

- GB compensation for scrapie in 2008 was £703,464. A total of 4,453 animals were killed.
- Scotland only compensation for scrapie in 2008 was £19,980. A total of 311 animals were killed.

### Costs of administering RMOPs to X 30-48 month slaughterhouses

**Costs to Industry**

We are unable to quantify these costs – See Annex C Additional Information Sought but costs not expected to be significant.

### CSFS

The current EU controls require either whole flock cull or genotype and selective cull where scrapie is confirmed in a sheep flock. (For a goat herd the only option is a whole herd cull).
The economic costs (including the cost to the Government and the cost to the farmer) for Option 1 are set out below. The tables supporting these calculations can be viewed at Annex D within Tables 1, 2, 3 and 4. All figures are approximate.

**Costs to Government**

**Genotyping and selective cull of sheep flocks with classical scrapie**

Table 1 shows that the average annual cost to Government is approximately £33,000.

Assumptions:
(a) We would expect there would be 2 flocks affected by classical scrapie in year 1, declining to 0 by year five.
(b) It costs an average of £55,000 per flock to apply genotype and selective cull action.
(c) The average cost has been calculated over a period of 5 years.

**Whole flock cull with atypical scrapie**

Table 2 shows that the average cost to Government is approximately £73,000.

Assumptions:
(a) 1 flock affected by atypical scrapie each year.
(b) It costs an average of £73,000 per flock to apply whole flock cull action.
(c) The average cost has been calculated over a period of 5 years.

The average CSFS cost to the Government is approximately £106,000.

**Costs to farmer**

**Genotype and selective cull of sheep flocks with classical scrapie**

Table 3 shows that the average annual cost to farmers is approximately £546.

Assumptions:
(a) 2 flocks under genotype and selective cull action.
(b) Farmer’s time gathering animals, dealing with paperwork – 2 days, £260 per flock
(c) Farmer’s time sourcing replacement animals for approximately 50% of adult flock that either must be sold for slaughter or killed and destroyed as SRM after genotype and selective cull action. They will spend the time sourcing replacements – this is a labour intensive action of one working week on average: £650 per flock
(d) The total cost per flock is £260 + £650 = £910
(e) The average cost has been calculated over a period of 5 years.

**Whole flock cull of sheep flocks with atypical scrapie**

Table 4 shows that the average annual cost to farmers is approximately £715.
Assumptions:
(a) 1 holdings affected by atypical scrapie.
(b) Farmers will have to spend approximately half a day on additional paper work relating to CSFS during the year e.g. additional record keeping dealing with legal notices and other CSFS administration paperwork: £65 per flock
(c) In the 1 holding affect by atypical scrapie, farmers will have to source replacement animals after whole flock cull action. They will spend time sourcing. This is a labour intensive action of one working week on average: £650 per flock
(d) The total cost per flock is £65 + £650 = £715
(e) The average cost has been calculated over a period of 5 years.

Total average CSFS cost to the farmer is approximately £1261.

Option 1: Environmental Costs

Atypical scrapie

If we applied a whole flock cull to atypical flocks then there would be an increase in the number of animals incinerated. Assuming 20 rams and 480 ewes in 1 flock and action required when the flock has 700 lambs on the ground.

Rams (110-130 kg per animal) x 20 rams x 1 flock = 20 rams
Weight incinerated = 2,200 – 2,600 kg

Ewes (60-85 kg per animal) 480 ewes x 1 flock = 480 ewes
Weight incinerated = 28,200 – 40,800 kg

Lambs (25-35 kg per animal) 700 animals x 1 flock = 700 lambs
Weight incinerated = 17,500 – 24,500 kg

Total 1200 sheep (maximum weight) = 48,500 – 67,900 kg

Classical scrapie

2 flocks with 500 adults (20 rams and 480 ewes) and possibly 700 lambs per flock will be genotyped and susceptible animals culled and destroyed.

Assume 35% of adult flock would have been destroyed because of unsuitable genotypes under genotype and cull action = 7 rams and 168 ewes per flock.

Assume 50% of the 2 flocks which come under scrapie controls involve lambs that are taken and destroyed without genotyping.

(assume weights of 60-85 kg for a ewe, 110-130 kg for a ram and 25-35 kg for a lamb)

Rams (110-130 kg per animal) x 7 rams x 1 flock = 7 rams
Weight incinerated = 770 – 910 kg
Ewes (60-85 kg per animal) 168 ewes x 1 flock = 168 ewes  
Weight incinerated = 10,080 – 14,280 kg

Lambs (25-35 kg per animal) 700 animals x 1 flock = 700 lambs  
Weight incinerated = 17,500 – 24,500 kg

Total 875 sheep (maximum weight) = **28,350 – 39,690 kg**

The total weight of sheep that would be incinerated under Option 1 is therefore between 76,850 – 107,590 kg in the first year.

### Summary of cost to Options 2A and 2B

Tables A and B summarise the costs and the overall net benefit of the two options.

#### Table A: Summary of cost to Options 2A

| Industry costs                                                                 | £
|--------------------------------------------------------------------------------|--
| Milk restrictions following confirmation of classical scrapie                   | 7,700
| Annual CSFS cost to farmers                                                   | 120
| Annual cost to industry                                                        | 7,820

**Industry benefit**

| Benefit to industry due to change in compensation system                      | 5,850
| Saved annual CSFS cost to farmers                                             | 1,300
| Annual industry benefit                                                       | 7,150

**Average annual cost to industry**  

£670

**Government costs**

| Milk restrictions where BSE cannot be excluded                                | 1,000
| Annual CSFS cost                                                             | 4,200
| Annual cost to Government                                                    | 5,200

**Government benefit**

| Saved annual CSFS cost                                                       | 96,800
| Annual benefit                                                              | 96,800

**Average annual benefit to Government**  

£91,600
Table B: Summary of cost to Options 2B

<table>
<thead>
<tr>
<th>Industry costs</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Milk restrictions following confirmation of classical scrapie</td>
<td>£7,700</td>
</tr>
<tr>
<td>Collection and disposal costs for fallen sheep and goat carcases e.g. £27/Adult Sheep and £35/Adult Goat based on advice from NFSCo</td>
<td>£140,000</td>
</tr>
<tr>
<td>Annual CSFS cost to farmers</td>
<td>£120</td>
</tr>
<tr>
<td>Cost to industry</td>
<td>£147,820</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Industry benefit</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Benefit to industry due to change in compensation system</td>
<td>£5,850</td>
</tr>
<tr>
<td>Saved annual CSFS cost to farmers</td>
<td>£1,300</td>
</tr>
<tr>
<td>Industry benefit</td>
<td>£7,150</td>
</tr>
</tbody>
</table>

Average annual cost to industry £140,670

<table>
<thead>
<tr>
<th>Government costs</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Milk restrictions where BSE cannot be excluded</td>
<td>£1,000</td>
</tr>
<tr>
<td>Annual CSFS</td>
<td>£4,200</td>
</tr>
<tr>
<td>Annual cost to Government</td>
<td>£5,200</td>
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</table>

<table>
<thead>
<tr>
<th>Government benefit</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Saved annual CSFS</td>
<td>£96,800</td>
</tr>
<tr>
<td>Collection and disposal costs for fallen sheep and goats falling to zero under new scheme</td>
<td>£460,000</td>
</tr>
<tr>
<td>Annual benefit</td>
<td>£556,800</td>
</tr>
</tbody>
</table>

Average annual benefit to Government £551,600

Environmental costs of Options 2A and 2B

The total weight of sheep incinerated in 1st year 76,850 – 107,590 kg

The difference between options 2A and 2B is purely down to the method of collection and disposal of 10,000 fallen sheep and 500 goats.

Option 2A assumes the continuation of the RPA method of collection and disposal.

Option 2B assumes that industry pays as normal to send carcases for disposal at ABP premises and that brainstem samples are taken from a 10,000 sample of sheep and a 500 sample of goats at a range of disposal sites without a free collection and disposal service funded by taxpayers.
New controls on milk

The cost of milk restrictions following a suspected case of TSE in goats and sheep is passed on to industry. While awaiting the results of the tests, the farmer is banned from using milk or milk products other than on the holding where TSE is suspected. As milk perishes quickly, the milk that is held on the farm for the 2 week restriction period will spoil and cannot be sold by the farmer. There is no requirement for compensation to be paid for this milk and therefore the industry bears the full cost of the milk restriction. It is assumed that milk is disposed of on farm as category 2 animal by-product without significant costs to industry. The cost to industry is calculated in Table 2.

Table 2: Annual industry cost due to milk restrictions where TSE is suspected (Option 2A & 2B)

<table>
<thead>
<tr>
<th></th>
<th>Sheep milk</th>
<th>Goat milk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Size of sheep flock</td>
<td>400</td>
<td>10</td>
</tr>
<tr>
<td>Number of scrapie cases per herd per year</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Number of flocks affected in Scotland per year</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Milk yield per sheep per week (Litres)</td>
<td>10.5</td>
<td>18</td>
</tr>
<tr>
<td>Total milk yield per week (Litres)</td>
<td>4200</td>
<td>180</td>
</tr>
<tr>
<td>Price per litre</td>
<td>£0.90</td>
<td>£0.40</td>
</tr>
<tr>
<td>Number of weeks restricted per suspect case</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Total amount of sheep milk restricted</td>
<td>8400</td>
<td>360</td>
</tr>
<tr>
<td><strong>Annual industry cost of restrictions on sheep milk</strong></td>
<td>£7,560</td>
<td>£144</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Goat milk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Size of goat herd</td>
<td>10</td>
</tr>
<tr>
<td>Number of scrapie cases per herd per year</td>
<td>1</td>
</tr>
<tr>
<td>Number of herds affected in Scotland per year</td>
<td>1</td>
</tr>
<tr>
<td>Milk yield per goat per week (Litres)</td>
<td>18</td>
</tr>
<tr>
<td>Total milk yield per week (Litres)</td>
<td>180</td>
</tr>
<tr>
<td>Price per litre</td>
<td>£0.40</td>
</tr>
<tr>
<td>Number of weeks restricted per suspect case</td>
<td>2</td>
</tr>
<tr>
<td>Total amount of goat milk restricted</td>
<td>360</td>
</tr>
<tr>
<td><strong>Annual industry cost of restrictions on goats milk</strong></td>
<td>£144</td>
</tr>
</tbody>
</table>

**Total annual industry cost of restrictions on sheep and goat milk** £7,704

Milk restrictions also apply in a case where BSE cannot be excluded. This involves destroying milk or milk products on holdings on which BSE cannot be excluded. It is assumed that milk is disposed of on farm as category 2 animal by-product without significant costs to government. However, in this case, the government would then have to compensate farmers for the milk or milk products destroyed. The cost to Government is worked out in Table 3.
Table 3: Annual Government cost due to milk restrictions where BSE cannot be excluded (Option 2A & 2B)

<table>
<thead>
<tr>
<th>Size of sheep flock</th>
<th>400</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of flocks in which BSE cannot be excluded in Scotland per year</td>
<td>0.14285714</td>
</tr>
<tr>
<td>Milk yield per sheep per week (Litres)</td>
<td>10.5</td>
</tr>
<tr>
<td>Total milk yield per week (Litres)</td>
<td>4005</td>
</tr>
<tr>
<td>Price per litre</td>
<td>£0.90</td>
</tr>
<tr>
<td>Number of weeks restricted per suspect case</td>
<td>2</td>
</tr>
<tr>
<td>Total amount of sheep milk restricted</td>
<td>8010</td>
</tr>
<tr>
<td><strong>Annual industry cost of restrictions on sheep milk</strong></td>
<td><strong>£1,030</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Size of goat herd</th>
<th>10</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of herds in which BSE cannot be excluded in Scotland per year</td>
<td>0.14285714</td>
</tr>
<tr>
<td>Milk yield per goat per week (Litres)</td>
<td>18</td>
</tr>
<tr>
<td>Total milk yield per week (Litres)</td>
<td>180</td>
</tr>
<tr>
<td>Price per litre</td>
<td>£0.40</td>
</tr>
<tr>
<td>Number of weeks restricted per suspect case</td>
<td>2</td>
</tr>
<tr>
<td>Total amount of goat milk restricted</td>
<td>360</td>
</tr>
<tr>
<td><strong>Annual industry cost of restrictions on goats milk</strong></td>
<td><strong>£21</strong></td>
</tr>
</tbody>
</table>

| **Total annual Government cost of restrictions on milk where BSE cannot be excluded** | **£1,051** |

The cost due to restrictions on milk when BSE cannot be excluded is relatively small as such cases are rare.

**Compensation values for sheep and goats**

The impact of the proposed change in the compensation system will depend on the number of animals slaughtered, whether they would have been compensated at standard rates under the old system and what would have been their valuation if non-standard rates had been applied. To illustrate the potential impact this assessment uses figures from 2008.

Table 1: Annual change in the compensation paid to farmers (Option 2A & 2B)

<table>
<thead>
<tr>
<th>Number of sheep slaughtered</th>
<th>310</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compensation that would be paid for slaughtered sheep under proposed system</td>
<td>£29,872</td>
</tr>
<tr>
<td>Number of lambs slaughtered</td>
<td>1</td>
</tr>
<tr>
<td>Compensation that would be paid for slaughtered lambs under proposed system</td>
<td>£56</td>
</tr>
<tr>
<td>Number of Goats slaughtered</td>
<td>0</td>
</tr>
<tr>
<td>Compensation that would be paid for slaughtered goats under proposed system</td>
<td>£0</td>
</tr>
<tr>
<td>Number of kids slaughtered</td>
<td>0</td>
</tr>
<tr>
<td>Compensation that would be paid for slaughtered kids under proposed system</td>
<td>£0</td>
</tr>
</tbody>
</table>
system

| Compensation under the new proposed system                  | £29,928 |
| Compensation eligible for Vet Fund rebate under new proposed system | £4,098 |
| Total compensation under the new proposed system net of Vet Fund | £25,830 |
| Total compensation paid under current system                 | £19,980 |
| Annual change in compensation paid to farmers due to the change in compensation system | -£5,850 |

When calculating the compensation value for the proposed compensation system, the following assumptions have been used:

1. The proposed compensation system has compensation values for both productive and unproductive animals. Due to a lack of data on the amount of unproductive animals slaughtered in 2008, it is assumed that 90% of slaughtered animals are productive.

2. The proposed compensation system has different compensation values for animals based on the sex of the animal. Due to a lack of data breaking down adult sheep and goats into different sexes, it is assumed that 5% of slaughtered animals were male and 95% were female.

3. The proposed compensation system has different compensation values for animals based on whether the animal is pedigree or not pedigree. Due to a lack of data breaking down sheep, goats, lambs and kids into pedigree and non-pedigree breeds, it is assumed that 5% of slaughtered animals are pedigree and 95% are non-pedigree.

4. The proposed compensation values for slaughtered adult sheep and goats and values for slaughtered lambs and kids are multiplied by the number of slaughtered sheep/goats/lambs/kids that were slaughtered in 2008. This gives us a compensation figure that would have been paid in 2008 if the proposed compensation system was enforced during the whole of 2008. A proportion of all paid compensation can be claimed back from the EU veterinary fund. The financial contribution shall be at the rate of 50% of the cost incurred by the concerned Member States for compensation to owners value of their animals culled and destroyed in accordance with their eradication programme, up to a maximum of EUR 70 per animal. The real value of the EU contribution is in fact only about a third of the nominal amount. This is because of the UK’s special budget rebate arrangements with Europe (sometimes referred to as Fontainebleau), which overall greatly reduce the cost of EU membership to the UK. Once the EU veterinary fund contribution is taken into account, the compensation actually paid in 2008 is compared to the compensation that would have been paid in 2008 if the proposed system was enforced during the whole of 2008.

Collection and disposal of 10,000 sheep and 500 goats

An additional benefit of option 2B is due to the change in the method of collection and disposal of 10,000 sheep and 500 goats. This leads to an increased cost to industry of £0.14m per annum, but as the government doesn’t have to pay for collection and disposal, there is a government benefit of £0.46m per annum. Even though, as before, there is a trade off of cost and benefit between government and
Industry, the government actually receives a larger benefit from the change in method of collection and disposal than the industry loses as a cost.

The Scottish Government currently provides a free service to farmers, administered under a RPA contract, for the collection, sampling and disposal of sheep and goat carcases accepted into the survey. This involves considerably fewer than 1% of fallen sheep carcases and relatively few fallen goats. Carcases are currently volunteered by farmers but the survey would be more representative if carcases could be collected on a random basis at disposal sites.

The Scottish Government would like greater flexibility in establishing systems to ensure compliance with EU requirements to test an annual quota of fallen sheep and goats for TSE in future. This option would take a similar approach to that adopted for the fallen cattle survey, with farmers paying for collection and disposal in the natural course of disposing of their fallen sheep and goats. The Scottish Government could require ABP premises to select a certain number of sheep per week, pay for them to be sampled and sent to VLA Newcastle for analysis. Government would continue to cover the cost of taking brain samples and testing them at the VLA Newcastle laboratory under all options.

Changes to CSFS

This would meet the policy objective. It would enable us to apply the controls in a flexible and cost effective way, in line with EU legislation, and enable us to enforce them.

The economic costs (including the cost to the Government and the cost to the farmer) for Option 1 are set out below. The tables supporting these calculations can be viewed at Annex D within Tables 5, 6, 7, and 8. All figures are approximate.

Costs to Government

TSE testing additional 25 annual culls in classical scrapie monitored flocks

There will be an additional cost to Government in arranging and carrying out an additional 25 tests on average for each flock monitored instead of genotyped and selectively culled.

Table 5 shows that the average annual cost to Government is approximately £1,200.

Assumptions:
(a) Animal Health Central Operations: £30 per flock
(b) Meat Hygiene Service (MHS) sample removal: £700 per flock
(c) VLA TSE test: £1,250 per flock
(d) Cost to Government per flock = £1,980
(e) Average costs have been calculated over a period of 5 years.
Collect and TSE test all fallen stock from flocks with atypical scrapie monitored under Option 2

There will be an additional cost to Government in collecting fallen stock from atypical scrapie flocks that now come under CSFS control measures.

Table 6 shows that the average annual cost to Government is approximately £3,000.

Assumptions:
(a) 3% adult mortality = 15 animals per flock x 1 flock per year = 15 fallen stock per year.
(b) The average cost of collecting a fallen stock carcass, removing the head and incinerating the carcass, delivering the head to a VLA laboratory, removing the brain sample at the VLA laboratory and testing for the presence of TSE including discriminatory test for BSE is approximately £200.
(c) Cost per flock is £3,000.
(d) Average costs have been calculated over a period of 5 years.

There are not expected to be any additional costs to delivery agents – Animal Health or VLA – or to Local Authorities who enforce the legislation as any extra burden in dealing with atypical scrapie will be offset by the reduction in the restriction period from three years to two years in genotyping and selective cull cases.

The total average annual CSFS cost to the Government is approximately £4,200.

Costs to farmers

Atypical scrapie – monitored flocks

Table 7 shows that the average annual cost to farmers is approximately £100.

Assumptions:
(a) We assume that there will be around 1 flock with atypical scrapie coming under the controls per year – they will be restricted and monitored for 2 years which will involve sending over 18 month fallen stock and annual culls for slaughter for TSE testing. (They will be able to send animals off for breeding in the UK but not to other Member States). Farmers are not expected to incur any additional one-off costs.
(b) Regarding annual costs – farmers will incur nothing for collection of fallen stock as Government pays for this, but will have additional costs for annual culls as follows:
   • 25 additional culls for human consumption now required to be tested. 2 hours farmer’s time gathering animals and completing paper work in connection with the collection: £33 per flock.
(c) Farmers will also have to spend approximately half a day on additional paper work relating to CSFS during the year e.g. additional record keeping in dealing with legal notices and other CSFS administration paper work: £65 per flock.
(d) The total cost per flock is £98 (£33 + £65)
(e) The average cost has been calculated over a period of 5 years.

**TSE testing additional 25 annual culls in classical scrapie monitored flocks**

It is not expected that farmers with detected or reported cases of classical scrapie in their flocks will incur any additional one-off costs arising from the new controls. At present, owners of flocks with classical scrapie are required to submit a sample of annual culls slaughtered for the food chain for TSE testing (100 animals per average flock size). The EU Regulation now requires all such animal to be TSE tested when the monitored flock option is applied to a classical scrapie flock.

Table 8 shows that the average annual cost to farmer is approximately £20.

**The total average annual CSFS cost to the farmer is approximately £120.**

**Saved costs to Government**

**Classical scrapie cases**

As we will be monitoring approximately half the new cases rather than genotyping and selectively culling them, there will be benefits to the taxpayer from the reduced expenditure on culling of animals and compensating for them. Genotype and selective cull costs approximately £55,000 per flock.

Total benefit in the first year is 1 x £55,000 = £55,000
Average annual cost saving £22,000 (Annex D, Table 9)

There will be benefits to the taxpayer from the reduced expenditure on collecting fallen stock from flocks with classical cases of scrapie as a result of the reduction of the restriction period from three to two years.

Cost saving per flock is £3,000
Total benefit in the first year is 2 x £3,000 = £6,000
Average annual cost is £1,800 (Annex D, Table 10)

There will be an animal health benefit in reducing the sources of TSE infection thus avoiding costly action to tackle cases that may otherwise have occurred if the new regulation had not been implemented.

For classical scrapie, the estimated net present cost saving over 5 years to the Government is approximately £120,000.
**Atypical scrapie**

There will be cost savings from not culling all atypical scrapie affected flocks (estimated 1 flock pa)

Cost saving per flock £73,000
Average annual cost saving is approximately £73,000 (Annex D, Table 11)

**Saved costs to farmers**

**Classical scrapie cases**

Sheep and goat farms with confirmed cases of classical scrapie will benefit. There is a lot of paper work involved in CSFS. Farmers have to deal with legal notices, genotype and slaughter certificates, collection notices and correspondence with Animal Health and the owner should benefit by not having to spend two days in total on dealing with the administrative burden.

Farmers will also benefit from being subject to scrapie controls for 2 years instead of 3 years.

Farmer’s time gathering animals and dealing with paperwork: £260 per flock (2 days work)

Total benefit in year 2 is 1 x £259.68 = £259.68

Average annual cost saving is approximately £160 (Annex D, Table 12)

**Classical scrapie – Monitored Flocks**

Those whose flocks are subject to new monitored flock option will benefit from not having animals killed and destroyed, thereby enabling farmers to retain them for breeding or send them for fattening or slaughter. They will save time they would have had to spend sourcing replacements for their flock that was compulsory culled and destroyed with compensation paid or required to be sold for slaughter. This is a labour intensive action of one working week on average: £649.50 per flock.

Total benefit in year 1 is 2 x £649.50 = £1,299
Average annual cost saving is approximately £390 (Annex D, Table 13)

**For classical scrapie, the estimated net present cost saving (over 5 years) to the farmers is approximately £2,900.**

**Atypical scrapie**

Flocks with atypical scrapie will no longer need to be culled out.

Farmers cost savings £715 per flock
Average annual cost saving is approximately £715 (Annex D, Table 14)
Options 2A and 2B: Saved Environmental costs

Reduced levels of culling will mean less transport of animals for destruction and reduction in the number of carcasses incinerated. However, we do not consider this to be a significant cost saving as total amount of sheep body weight saved that would be incinerated annually under current policy (Option 1) is between approximately 76,850 – 107,590 kg. (There should be no need to cull and destroy animals in the second year of restrictions in classical scrapie genotyped flocks as the remaining animals and progeny should be of the required genotype).
Additional Information Sought

The following amendments to the Regulations may also have a minimal impact. To refine this Impact Assessment, additional information on these issues is being sought as part of the consultation exercise.

Paragraphs 1 and 5(1)(b) Schedule 2, Part 1. This amendment would enable slaughterhouses to send brain stem samples from cattle to suitably designated laboratories in other Member States for BSE testing. This is a requirement of the EU Services Directive 2006/123/EC. There are three private companies with a total of 5 laboratories in Great Britain approved to carry out BSE testing of cattle slaughtered for human consumption. Thus we believe that the likelihood of slaughterhouses choosing to send samples for testing outside the UK is remote.

The meat industry is invited to answer the following questions:

Q1. Can you quantify the number of slaughterhouses that would send samples for BSE testing outside the UK?

Q2. What will be the cost saving to each slaughterhouse?

Paragraphs 6(1), 15 and 17 of Schedule 2. This amendment would remove the requirement for slaughterhouses which do not slaughter cattle eligible for BSE testing to have an approved RMOP.

The meat industry is invited to answer the following question:

Q3. Assuming no RMOP already in place, how much would it cost you to produce a new RMOP for cattle aged 30 to 48 months?

Paragraphs 6 and 7 of Schedule 4. This amendment would add new requirements for sheep or goat milk or milk products from a holding on which classical scrapie is confirmed, produced prior to the removal of genetically susceptible sheep/all goats. It would be an offence to use such milk/milk products as feed for ruminants (except on the holding of origin). If such milk/milk products were used for feed for non-ruminants it would be an offence:

- to export the feed;
- to fail to comply with the documentation and packaging requirements;
- to bring such feed on to a premises with ruminants for storage or use; and,
- to fail to comply with the requirements for transport and cleaning and disinfection of vehicles.

The number of scrapie affected herds/flocks with genetically susceptible animals is very small (and we are not aware that there is any significant use of milk/milk products from such herds for animal feed outside the holding of origin).
The dairy and feed industries are invited to answer the following questions:

Q4. Can you quantify the amount of sheep or goat milk produced in Scotland that is used to produce animal feed?

Q5. What will be the cost impact of the restrictions on using sheep and goat milk/milk products as animal feed?
### Annex D - Summary Sheet

#### Option 1

<table>
<thead>
<tr>
<th></th>
<th>Present value</th>
<th>Average annual cost</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cost to Government</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Present value</td>
<td>504,275</td>
<td>106,000</td>
</tr>
<tr>
<td><strong>Cost to farmer</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Present value</td>
<td>6,040</td>
<td>1,261</td>
</tr>
<tr>
<td><strong>Total cost</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Present value</td>
<td>510,315</td>
<td>107,261</td>
</tr>
</tbody>
</table>

#### Option 2

<table>
<thead>
<tr>
<th></th>
<th>Present Value</th>
<th>Average annual cost</th>
<th>Present value</th>
<th>Average annual cost</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cost to Government</strong></td>
<td>19,892</td>
<td>4,188</td>
<td>-458,173</td>
<td>-96,800</td>
</tr>
<tr>
<td><strong>Cost to farmer</strong></td>
<td>556</td>
<td>118</td>
<td>-6,038</td>
<td>-1,261</td>
</tr>
<tr>
<td><strong>Total cost</strong></td>
<td>20,448</td>
<td>4,306</td>
<td>-464,211</td>
<td>-98,061</td>
</tr>
</tbody>
</table>

**Net cost to Government (negative = cost saving)**
- Present value: -438,281
- Average annual cost: -92,612

**Net cost to farmer (negative = cost saving)**
- Present value: -5482
- Average annual cost: -1143

**Total Net cost (negative = cost saving)**
- Present value: -443,763
- Average annual cost: -93,755
2010 No.

ANIMALS

ANIMAL HEALTH

The Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010

Made - - - - February 2010
Laid before the Scottish Parliament February 2010
Coming into force - - March 2010

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The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(a) and all other powers enabling them to do so.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Scottish Ministers that it is expedient for references to the Community instruments referred to in Schedule 1 to be construed as references to those instruments as amended from time to time.

The Scottish Ministers have carried out consultation as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(b).

(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3) and the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act“), section 27(1). Paragraph 1A of Schedule 2 was inserted by section 28 of the 2006 Act.
PART 1
General provisions

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010 and come into force on [March] 2010.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations—

“approved research premises” means premises approved for research purposes by the Scottish Ministers;

“bovine animal” includes bison and buffalo (including water buffalo);

“BSE” means bovine spongiform encephalopathy;

“bulk” means not enclosed or wrapped in packaging;

“cattle passport” has the same meaning as in the Cattle Identification (Scotland) Regulations 2007(a);

“Commission Decision 2007/411/EC” means Commission Decision 2007/411/EC(b) prohibiting the placing on the market of products derived from bovine animals born or reared within the United Kingdom before 1st August 1996 for any purpose and exempting such animals from certain control and eradication measures laid down in Regulation (EC) No. 999/2001 and repealing Decision 2005/598;

“Community TSE Regulation” means Regulation (EC) No. 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies(c), as read with—

(a) Commission Decision 2007/411/EC;

(b) Commission Decision 2007/453/EC establishing the BSE status of Member States or third countries or regions thereof according to their BSE risk(d); and

(c) Commission Decision 2009/719/EC authorising certain Member States to revise their annual BSE monitoring programme(e);

“cutting plant” (except in Schedule 7, paragraph 9(2)(b)(iii)) has the meaning given to it in paragraph 1(17) of Annex 1 to Regulation (EC) No. 853/2004, and is an establishment that is—

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

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

“inspector” means an inspector appointed under regulation 12, and “veterinary inspector” means a veterinary surgeon appointed by the Scottish Ministers as an inspector;

“local authority” means a council constituted under section 2 of the Local Government etc (Scotland) Act 1994(f);
“premises” includes—

(a) domestic premises if they are being used for any purpose in connection with the Community TSE Regulation or these Regulations;

(b) land and outbuildings;

(c) a slaughterhouse;

(d) a cutting plant;

(e) a place that is, for the purposes of point 4(1)(a) of Annex V to the Community TSE Regulation, an other place of slaughter; and

(f) any vehicle, container or structure (moveable or otherwise);


(b) Commission Regulation (EC) No. 878/2004(c) laying down transitional measures in accordance with Regulation (EC) No. 1774/2002 for certain animal by-products classified as Category 1 and 2 materials and intended for technical purposes; and


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(g) O.J. No. L 271, 15.10.2005, p.17.


“Regulation (EC) No. 882/2004” means Regulation (EC) No. 882/2004(b) of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules, as read with—

(a) Commission Regulation (EC) No. 2074/2005;
(b) Commission Regulation (EC) No. 2076/2005; and
(c) Commission Regulation (EC) No. 669/2009(c);

“slaughterhouse” has the meaning given to it in paragraph 1(16) of Annex 1 to Regulation (EC) No. 853/2004, and is an establishment that is—

(a) approved or conditionally approved as such by the Food Standards Agency under Article 31(2) of Regulation (EC) No. 882/2004; or
(b) operating as such under Article 4(5) of Regulation (EC) No. 853/2004 pending such approval;

“suspect animal” means an animal suspected of having a TSE;
“TSE” means transmissible spongiform encephalopathy; and
“TSE susceptible” means capable of having a TSE.

(2) Expressions defined in the Community TSE Regulation and not defined in these Regulations have the same meaning in these Regulations as they have for the purposes of the Community TSE Regulation.

(3) Any reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000(d), which has been recorded and is consequently capable of being reproduced.

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

Appointment of competent authority

3. The Scottish Ministers are the competent authority for the purposes of the Community TSE Regulation except as otherwise specified in these Regulations.

Exception for research

4.—(1) The provisions of Schedules 2 to 8 do not apply in relation to animals kept for the purposes of research in approved research premises.

(2) If a bovine animal, sheep or goat kept in approved research premises or its progeny dies or is killed, the occupier must dispose of it as a Category 1 animal by-product in accordance with Regulation (EC) No. 1774/2002 and failure to do so is an offence.

(c) O.J. No. L 194, 24.7.2009, p.11.
(d) 2000 c.7, amended by the Communications Act 2003 (c.21), sections 406 and 411(2) and (3) and Schedule 17, paragraph 158.
PART 2
Introduction of Schedules

The Schedules

5. The following Schedules have effect—
   (a) Schedule 2 (monitoring for TSE);
   (b) Schedule 3 (control and eradication of TSE in bovine animals);
   (c) Schedule 4 (control and eradication of TSE in sheep and goats);
   (d) Schedule 5 (control and eradication of TSE in animals that are not bovine, ovine or caprine);
   (e) Schedule 6 (feedingstuffs);
   (f) Schedule 7 (specified risk material, mechanically separated meat and slaughtering techniques); and
   (g) Schedule 8 (restrictions on placing on the market and export).

PART 3
Administration and enforcement

Approvals, authorisations, licences and registrations

6.—(1) The Scottish Ministers must grant an approval, authorisation, licence or registration under these Regulations if they are satisfied that the provisions of the Community TSE Regulation and these Regulations will be complied with.

   (2) Any approval, authorisation, licence or registration must be in writing, and specify—
      (a) the address of the premises;
      (b) the name of the occupier; and
      (c) the purpose for which it is granted.

   (3) Any approval, authorisation, licence or registration may be made subject to such conditions as are necessary to—
      (a) ensure that the provisions of the Community TSE Regulation and these Regulations will be complied with; and
      (b) protect public or animal health.

   (4) If the Scottish Ministers refuse to grant an approval, authorisation, licence or registration, or grant one subject to conditions—
      (a) they must—
         (i) give their reasons in writing; and
         (ii) explain the right of the applicant to make written representations to a person appointed by the Scottish Ministers; and
      (b) the appeals procedure in regulation 10 applies.

Occupier’s duty

7. The occupier of any premises approved, authorised, licensed or registered under these Regulations commits an offence if that occupier does not ensure that—
   (a) the premises are maintained and operated in accordance with—
      (i) any condition of the approval, authorisation, licence or registration; and
(ii) the requirements of the Community TSE Regulation and these Regulations; and
(b) any person employed by the occupier, and any person permitted to enter the premises, complies with those conditions and requirements.

Suspension and amendment

8.—(1) The Scottish Ministers may suspend or amend any approval, authorisation, licence or registration granted under these Regulations if—
(a) any of the conditions under which it was granted is not fulfilled; or
(b) they are satisfied that the provisions of the Community TSE Regulation or these Regulations are not being complied with.

(2) The Scottish Ministers may amend an approval, authorisation, licence or registration granted under these Regulations if the Scottish Ministers consider it necessary in the light of technical or scientific developments.

(3) A suspension or amendment—
(a) has immediate effect if the Scottish Ministers consider it necessary for the protection of public or animal health; and
(b) otherwise, does not have effect for at least 21 days from notification of the suspension or amendment.

(4) Notification of the suspension or amendment must—
(a) be in writing;
(b) state when the suspension or amendment comes into effect;
(c) give the reasons; and
(d) explain the right of the person who has been notified to make written representations to a person appointed by the Scottish Ministers.

(5) The appeals procedure in regulation 10 applies.

(6) If the suspension or amendment does not have immediate effect and representations are made under regulation 10, the suspension or amendment does not have effect until the final determination of the appeal by the Scottish Ministers unless they consider that it is necessary for the protection of public or animal health for the suspension or amendment to have effect before then.

Revocation of approvals, authorisations, licences and registrations

9.—(1) The Scottish Ministers may revoke any approval, authorisation, licence or registration granted under these Regulations if they are satisfied that the premises will not be operated in accordance with the Community TSE Regulation or these Regulations and if—
(a) it is currently suspended and the period for appeal under regulation 10 has expired or they have upheld the suspension following such appeal;
(b) they have previously suspended it and there is further non-compliance with the Community TSE Regulation or these Regulations; or
(c) they are satisfied that the occupier no longer uses the premises for the purpose for which it was granted.

(2) Notification of the revocation must—
(a) be in writing;
(b) state when the revocation comes into effect;
(c) give the reasons; and
(d) explain that the person who has been notified has the right to make written representations to a person appointed by the Scottish Ministers.
(3) If the Scottish Ministers make a revocation under paragraph (1)(b) or (c) the appeals procedure in regulation 10 applies but the revocation remains in force during that appeals procedure.

**Appeals procedure**

10.—(1) Where this regulation applies, a person may make written representations to a person appointed for the purpose by the Scottish Ministers concerning any decision of the Scottish Ministers within 21 days of notification of the decision to that person.

(2) The Scottish Ministers may also make written submissions to the appointed person concerning the decision.

(3) The appointed person must then report in writing to the Scottish Ministers.

(4) The Scottish Ministers must give to the appellant written notification of the final determination and the reasons for it.

**Valuations**

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

(2) The owner and the Scottish Ministers may agree a valuation.

(3) If the owner and the Scottish Ministers cannot agree a valuation, they may jointly appoint a valuer.

(4) If the owner and the Scottish Ministers cannot agree who to appoint as valuer, the President of the Institute of Auctioneers and Appraisers in Scotland(a) will nominate a valuer, and both the owner and the Scottish Ministers must accept the nomination.

(5) The valuer will carry out the valuation and submit it and any other relevant information and documentation to the Scottish Ministers, and submit a copy to the owner.

(6) The owner and a representative of the Scottish Ministers each have the right to be present at a valuation.

(7) The valuation is binding on the owner and the Scottish Ministers.

(8) In this regulation, “owner” means the owner of the animal or product in question.

**Appointment of inspectors**

12. —(1) Except as specified in paragraph (2), the Scottish Ministers or the local authority may appoint inspectors for the purposes of enforcing these Regulations.

(2) The Food Standards Agency may appoint inspectors for the purposes of enforcing Schedule 7 and paragraphs 1, 3 and 4 of Schedule 8 in relation to a slaughterhouse or cutting plant.

(3) The appointment of an inspector (whether under paragraph (1) or (2)) may be limited to powers and duties specified in the appointment.

(4) An inspector appointed under this regulation has the protection specified in regulation 14(3).

**Powers of entry**

13.—(1) Inspectors have a right to enter any premises for the purpose of ensuring that the Community TSE Regulation or these Regulations are being complied with.

(2) Inspectors must, if so required, produce some duly authenticated document showing their authority before exercising their right under paragraph (1).

(3) Inspectors may exercise the right under paragraph (1) at all reasonable hours.

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(a) The Institute of Auctioneers and Appraisers in Scotland is the corporate body of Scotland’s auctioneers and appraisers and was founded in 1926.
(4) Inspectors may be accompanied by—
   (a) such other persons as they consider necessary; and
   (b) any representative of the European Commission acting for the purpose of the enforcement of a Community obligation.

(5) If inspectors enter any unoccupied premises or (where the premises are occupied the occupier of the premises is temporarily absent), they must leave those premises (so far as reasonably practicable) as effectively secured against unauthorised entry as the inspectors found them.

(6) If a justice of the peace, on sworn information in writing, is satisfied that there are reasonable grounds for entry into any premises for the purposes of the enforcement of these regulations, and—
   (a) admission has been refused, or a refusal is expected, and (in either case) notice to apply for a warrant has been given to the occupier;
   (b) asking for admission, or the giving of such a notice, would defeat the object of the entry;
   (c) the case is one of urgency; or
   (d) the premises are unoccupied or the occupier is temporarily absent,
the justice may by a signed warrant authorise inspectors to enter the premises, if need be by reasonable force.

(7) A warrant under this regulation is valid for one month.

Powers of inspectors

14.—(1) An inspector may—
   (a) seize any—
      (i) animal;
      (ii) body of an animal, part of a body of an animal (including the blood and the hide), semen, embryo or ovum;
      (iii) animal protein or feedingstuffs that may contain animal protein; or
      (iv) milk or milk product,
and dispose of them as necessary;
   (b) carry out any inquiries, investigations, examinations and tests;
   (c) collect, pen and inspect any animal and for this purpose may require the keeper of the animal to arrange for its collection and penning;
   (d) inspect any body of an animal, part of a body of an animal (including the blood and the hide), semen, embryo or ovum;
   (e) inspect any part of the premises, any equipment, facility, operation or procedure;
   (f) take any samples;
   (g) have access to, and inspect and copy any records (in whatever form they are held) in order to determine if these Regulations are being complied with, including records kept under the Community TSE Regulation and these Regulations, or remove such records to enable them to be copied;
   (h) have access to, inspect and check the operation of, any computer and any associated apparatus or material that is or has been in use in connection with any record; and for this purpose may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford the inspector such assistance as the inspector may reasonably require (including providing the inspector with any necessary passwords) 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;
(i) mark anything (including an animal) whether electronically or otherwise, for identification purposes; and

(j) lock or seal any container or store.

(2) Any person who without reasonable cause defaces, obliterates, or removes any mark or seal, or removes any lock, applied under paragraph (1) is guilty of an offence.

(3) An inspector is not personally liable for any act done in the execution or purported execution of these Regulations if the inspector acted in the honest belief that a duty under these Regulations required it or entitled it to be done; but this does not relieve the Scottish Ministers or a local authority from any liability in respect of the acts of an inspector authorised or appointed by them.

Notices

15.—(1) If it is necessary for any reason connected with the enforcement of the Community TSE Regulation or these Regulations an inspector may serve a notice on—

(a) the owner or keeper of any animal;

(b) the person in possession of any animal, body of an animal, part of a body of an animal (including the blood and the hide), semen, embryo or ovum;

(c) the person in possession, or supplier, of any animal protein or feedingstuffs that may contain animal protein; or

(d) the owner, or person in possession, of any milk or milk products.

(2) The notice is in writing, and gives the reasons for it being served.

(3) The notice may—

(a) prohibit the movement of any animal onto or from the premises specified in the notice;

(b) prohibit the movement of any milk or milk products from the premises specified in the notice;

(c) specify those parts of premises to which an animal may or may not be allowed access;

(d) require the killing or slaughter of any animal;

(e) prohibit or require the movement onto or from premises specified in the notice of the body or any part of the body (including the blood and the hide) of any animal, any animal protein or feedingstuffs that may contain animal protein, and any animal semen, embryo or ovum;

(f) require the disposal of the body or any part of the body (including the blood and the hide) of any animal (whether or not it is one that was required to be retained), and any semen, embryo, ovum, milk or milk product as may be specified in the notice;

(g) require the disposal of any animal protein or feedingstuffs that may contain animal protein or specify how they are to be used;

(h) require the recall of any animal protein or feedingstuffs that may contain animal protein.

(4) If an inspector suspects that any premises to which the Community TSE Regulation or these Regulations apply constitutes a risk to animal or public health, the inspector may serve a notice on the occupier or person in charge of the premises requiring that person to cleanse and disinfect all or any part of the premises and any associated equipment.

(5) A notice may specify how it must be complied with, and specify time limits.

(6) A notice must be complied with at the expense of the person on whom it is served, and if it is not complied with an inspector may arrange to have it complied with at that person’s expense.

(7) Failure to comply with a notice is an offence.

Notices restricting movement

16.—(1) If a notice is served restricting movement, an inspector may subsequently permit movement under the authority of a licence.
(2) The person transporting under the authority of a licence must carry the licence during movement, and produce it on demand to an inspector.

(3) Failure to comply with paragraph (2) is an offence.

Obstruction

17. Any person who—
   (a) intentionally obstructs an inspector acting under these Regulations;
   (b) without reasonable cause, fails to give to an inspector acting under these Regulations any assistance or information or to provide any facilities that the inspector may reasonably require that person to give or provide for the performance of the inspector’s functions under these Regulations;
   (c) gives false or misleading information to an inspector acting under these Regulations; or
   (d) fails to produce a record when required to do so by an inspector acting under these Regulations,

is guilty of an offence.

Penalties

18. A person guilty of an offence under these Regulations is liable—
   (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 12 months or both; or
   (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or both.

Offences by bodies corporate

19.—(1) Where a body corporate is guilty of an offence under these Regulations, and that offence is shown 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 officer of the body corporate; or
   (b) any person who was purporting to act in any such capacity,

that person as well as the body corporate is guilty of an offence and be liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, the provisions of paragraph (1) apply in relation to the acts and defaults of a member in connection with the member’s functions of management as if the member were a director of the body corporate.

(3) For the purposes of paragraph (1), “director” in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate and “body corporate” includes a Scottish partnership, and, in relation to such a partnership, a reference to a director or other officer of a body corporate is a reference to a partner.

Enforcement

20.—(1) Subject to sub-paragraphs (2), (3) and (4), these Regulations are enforced by the local authority.

(2) Schedule 2 is enforced by the Scottish Ministers in slaughterhouses and cutting plants.

(3) Schedule 7 and paragraphs 1, 3 and 4 of Schedule 8 are enforced by the Food Standards Agency in slaughterhouses and cutting plants.
(4) The Scottish Ministers may direct, in relation to cases of a particular description or any particular case, that an enforcement duty imposed on the local authority under this regulation is discharged by the Scottish Ministers and not by the local authority.

Consequential amendments

21. The consequential amendments specified in Schedule 9 have effect.

Saving provision

22. Notwithstanding the revocation of the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006(a), regulation 21 (miscellaneous amendments) and Schedule 8 shall remain in full force and effect.

Revocations

23. The enactments specified in the first column of Schedule 10 are revoked to the extent specified in the corresponding entry in the third column of that Schedule.

St Andrew’s House, Edinburgh
2010

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SCHEDULE 1

Ambulatory References

The Community instruments that must be construed as amended from time to time are—

(a) The Community TSE Regulation;
(b) Regulation (EC) No. 1774/2002;
(c) Regulation (EC) No. 853/2004;
(d) Regulation (EC) No. 882/2004;
(e) Commission Decision 2007/411/EC;
(f) Commission Decision 2007/453/EC(a); and
(g) Commission Decision 2009/719/EC(b).

(b) O.J. No. 256, 29.9.2009, p.35.
PART 1
Monitoring for TSE

1. Notification of the body of a goat for the purpose of monitoring under Article 6 of the Community TSE Regulation

2. Delivery of the body of a bovine animal for the purpose of monitoring under Article 6 of the Community TSE Regulation

3. Persons collecting and delivering

4. Destruction without sampling

5. Retention of bodies of bovine animals pending test results

6. Island areas

7. Consignment and slaughter of over-age bovine animals

8. Brain stem sampling of bovine animals (slaughterhouses)

9. Brain stem sampling of bovine animals (other places of slaughter)

10. Approval of laboratories

11. Approved sampling sites

12. Slaughter of bovine animals

13. Retention of products and disposal

14. TSE sampling of sheep, goats and deer

15. Compensation

PART 2
Contents of a RMOP

16. Animal identification and separation

17. Brain stem sampling

18. Correlation of sample to carcase and all other parts of the body

19. Retention of carcases

20. Retention of parts of the body

21. Disposal before receipt of the result

22. Other measures following sampling
(a) within 24 hours from the time when the animal dies or is killed or the body comes into that person’s possession or control notify the Scottish Ministers; and
(b) where the Scottish Ministers direct, detain it until it has been collected by or on behalf of the Scottish Ministers,

and failure to do so is an offence.

(2) This paragraph does not apply in relation to goats slaughtered for human consumption or killed in accordance with Schedule 4.

Delivery of the body of a bovine animal for the purpose of monitoring under Article 6 of the Community TSE Regulation

2.—(1) For the purpose of monitoring under Article 6 of the Community TSE Regulation, a person who has possession or control of the body of a bovine animal that must be tested for BSE in accordance with point 3(1) of Part 1 of Chapter A of Annex III to that Regulation must, unless directed otherwise by the Scottish Ministers, within 24 hours either—
(a) make arrangements with another person for that other person to collect it and deliver it to an approved sampling site within 72 hours; or
(b) identify an approved sampling site that will carry out the sampling and deliver the animal to that site so as to arrive at the site within 72 hours,

and failure to do so is an offence.

(2) The periods of 24 and 72 hours referred to in sub-paragraph (1) run from the time when the animal died or was killed or came into the possession or control of the person to whom the requirements of that sub-paragraph apply.

Persons collecting and delivering

3. A person with whom arrangements are made under paragraph 2(1)(a) for the delivery of a body to an approved sampling site must, unless directed otherwise by the Scottish Ministers, within 48 hours of the time when the body comes into that person’s possession or control—
(a) identify an approved sampling site that will carry out the sampling; and
(b) ensure it is delivered to that site,

and failure to do so is an offence.

Destruction without sampling

4. Any person who destroys the body of a bovine animal to which paragraph 2(1) applies before it has undergone sampling at an approved sampling site, except in accordance with a direction of the Scottish Ministers, commits an offence.

Retention of bodies of bovine animals pending test results

5. An approved sampling site to which the body of a bovine animal has been sent for sampling in accordance with this Part must retain it in accordance with point 6(3) of Part I of Chapter A of Annex III to the Community TSE Regulation, and failure to do so is an offence.

Island areas

6.—(1) The requirements of paragraph 1(1) and 2 do not apply in an island area.

(2) In this paragraph, “island area” means—
(a) islands in the area of the Argyll and Bute Council, excluding the island of Bute;
(b) the area of Comhairle nan Eilean Siar;
(c) islands in the area of the Highland Council, excluding the island of Skye;
(d) islands in the area of North Ayrshire Council;
(e) the area of the Orkney Islands Council; and
(f) the area of the Shetland Islands Council.

(3) The exemption in sub-paragraph (1) continues to apply even if the body of the animal has been removed from an island area.

Consignment and slaughter of over-age bovine animals

7.—(1) If a bovine animal was born or reared in the United Kingdom before 1st August 1996, it is an offence—

(a) to consign it to a slaughterhouse for human consumption (whether the animal is alive or dead); or

(b) to slaughter it for human consumption.

(2) For the purposes of sub-paragraph (1), a bovine animal is deemed to have been born or reared in the United Kingdom before 1st August 1996 unless its cattle passport shows either that—

(a) it was born in the United Kingdom on or after 1st August 1996; or

(b) it first entered the United Kingdom on or after 1st August 1996.

Brain stem sampling of bovine animals (slaughterhouses)

8.—(1) The occupier of a slaughterhouse in which a bovine animal which must be tested in accordance with point 2 of Part I of Chapter A of Annex III to the Community TSE Regulation is slaughtered or (if the animal is slaughtered at a place other than a slaughterhouse) processed must—

(a) take a sample comprising the brain stem for testing in accordance with point 1 of Chapter C of Annex X to the Community TSE Regulation;

(b) ensure that the animal from which the sample has been taken can be identified; and

(c) arrange for the sample to be delivered to an approved testing laboratory, and failure to do so is an offence.

(2) The Scottish Ministers must, by means of a notice, notify the occupier of a slaughterhouse if an animal comes into any of the categories specified in point 2(1) of Part I of Chapter A of Annex III to the Community TSE Regulation (except in the case of a dead animal consigned to a slaughterhouse with a written declaration from a veterinary surgeon that it falls into one of those categories).

(3) In accordance with point 5 of Part I of Chapter A of Annex III to the Community TSE Regulation, the Scottish Ministers may serve a notice on the occupier of a slaughterhouse requiring the occupier to take a sample from any bovine animal slaughtered there and send it for testing in accordance with sub-paragraph (1).

Brain stem sampling of bovine animals (other places of slaughter)

9. The occupier of a place—

(a) that, for the purposes of point 4(1)(a) of Annex V to the Community TSE Regulation, is an other place of slaughter; and

(b) in which a bovine animal covered by point 2 of Part I of Chapter A of Annex III to the Community TSE Regulation is slaughtered must—

(i) arrange for a sample, comprising the brain stem, to be taken for testing in accordance with point 1 of Chapter C of Annex X to the Community TSE Regulation;

(ii) ensure that the animal from which the sample has been taken can be identified; and
(iii) arrange for the sample to be delivered to an approved testing laboratory, and failure to do so is an offence.

Approval of laboratories

10.—(1) The Scottish Ministers must approve laboratories to test samples taken under paragraph 8 if the Scottish Ministers are satisfied that the laboratory—

(a) will carry out the testing in accordance with Chapter C of Annex X to the Community TSE Regulation;

(b) has adequate quality control procedures; and

(c) has adequate procedures to ensure the correct identification of the samples and notification of the test results to the consigning slaughterhouse and to the Scottish Ministers.

(2) The Scottish Ministers may charge the fees set out in the following table for the initial approval and ongoing quality assessment of a laboratory—

Fees for laboratory approvals and quality assessment

<table>
<thead>
<tr>
<th>Service</th>
<th>Fee (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial approval</td>
<td>29,770</td>
</tr>
<tr>
<td>Annual proficiency testing and follow-up inspection for the first year after approval</td>
<td>8,834</td>
</tr>
<tr>
<td>Annual proficiency testing from the second year after approval</td>
<td>4,135</td>
</tr>
<tr>
<td>Single proficiency test (in the event of a failure in the annual proficiency testing)</td>
<td>1,385</td>
</tr>
<tr>
<td>Hourly rate of an inspector (for any additional inspections that are necessary to check for compliance with the matters set out at sub-paragraph (1)(a) to (c))</td>
<td>87.24</td>
</tr>
</tbody>
</table>

(3) For the purposes of this paragraph and paragraphs 8 and 9, an “approved testing laboratory” means—

(a) a laboratory approved under this paragraph;

(b) a laboratory approved under corresponding legislation elsewhere in the United Kingdom;

(c) an EU National Reference laboratory; or

(d) a diagnostic laboratory approved by a Member State in accordance with Annex X to the Community TSE Regulation.

Approved sampling sites

11.—(1) The Scottish Ministers must on application approve a sampling site to sample animals to which paragraph 2 applies if satisfied that the sampling site has adequate control procedures to carry out the sampling.

(2) An “approved sampling site” means a sampling site approved under this paragraph or a sampling site in another part of the United Kingdom approved by the competent authority in that part of the United Kingdom to carry out sampling for the same purpose.

Slaughter of bovine animals

12.—(1) It is an offence for the occupier to use a slaughterhouse to slaughter for human consumption a bovine animal that, in accordance with point 2 of Part 1 of Chapter A of Annex III
to the Community TSE Regulation, requires BSE testing at slaughter, unless the Scottish Ministers have approved the Required Method of Operation (“RMOP”) for that slaughterhouse and that occupier.

(2) The RMOP must, as a minimum, describe—

(a) the procedures that will be followed to comply with Part 1 of this Schedule; and

(b) all the systems and procedures specified in Part 2 of this Schedule.

(3) The Scottish Ministers must approve the RMOP if they are satisfied that all the requirements of the Community TSE Regulation and these Regulations will be complied with, and the occupier must demonstrate this by means of an assessment of 2 days’ duration during which animals are slaughtered (using bovine animals that are not required, under point 2 of Part 1 of Chapter A of Annex III to the Community TSE Regulation, to be tested for BSE).

(4) If a bovine animal referred to in paragraph (1) is slaughtered for human consumption other than in accordance with the RMOP, the occupier of the slaughterhouse is guilty of an offence.

Retention of products and disposal

13.—(1) In relation to any sampled bovine animal, the occupier of a slaughterhouse, other place of slaughter, (for the purposes of point 4(1)(a) of Annex V to the Community TSE Regulation) hide market or tannery must, for the purpose of point 6(3) of Part I of Chapter A of Annex III to the Community TSE Regulation and pending receipt of the test result, either—

(a) retain all carcases and all parts of the body (including the blood and the hide) that will have to be disposed of in the event of a positive result; or

(b) dispose of them in accordance with sub-paragraph (2).

(2) For the purposes of points 6(4) and 6(5) of that Part, if a positive result is received for a sampled animal, the occupier must immediately dispose of—

(a) the carcase and all parts of the body of that animal (including the blood and the hide); and

(b) unless a derogation has been granted under sub-paragraph (5), the carcase and all parts of the body (including the blood and the hide) of the animal immediately preceding that animal on the slaughter line and the 2 animals immediately following it,

in accordance with point 6(4) of that Part.

(3) If no sample has been sent to or no sample has been received by, an approved testing laboratory for testing in accordance with paragraphs 8 and 9, or if an insufficient test result is received, in respect of a bovine animal required to be tested under this Schedule, the occupier must immediately dispose of—

(a) the carcase and all parts of the body (including the blood and the hide) of that animal; and

(b) unless a derogation has been granted under sub-paragraph (5) the carcase and all parts of the body (including the blood but not the hide) of the animal immediately preceding that animal on the slaughter line and the 2 animals immediately following it,

in accordance with point 6(4) of that Part; and for the purposes of this sub-paragraph an “insufficient test result” means a certification by an approved testing laboratory that the sample sent to the laboratory was not of an adequate quality or was not of a sufficient quantity to obtain a test result.

(4) If a no-test result is received, in respect of an animal required to be tested under this Schedule, the occupier must immediately dispose of the carcase and all parts of the body (including the blood and the hide) of that animal in accordance with point 6(4) of that Part; and for the purposes of this sub-paragraph a “no-test result” means a negative result from a sample following multiple rapid testing where such testing was certified as necessary by an approved testing laboratory.

(5) The Scottish Ministers may grant in writing a derogation under point 6(6) of Part I of Chapter A of Annex III to the Community TSE Regulation if they are satisfied that there is a system in place that prevents contamination between carcases.
Any person who fails to comply with sub-paragraphs (1) to (4) is guilty of an offence.

**TSE sampling of sheep, goats and deer**

14.—(1) In relation to any sheep or goat selected for sampling, the occupier of a slaughterhouse, hide market or tannery must—

(a) for the purposes of point 7(3) of Part II of Chapter A of Annex III to the Community TSE Regulation, retain the carcase and all parts of the body (including the blood and the hide) pending receipt of the test result (except to the extent that point 7(3) permits direct disposal of animal by-products pending receipt of a negative rapid test result); and

(b) in the event of a positive result, immediately dispose of the carcase and all parts of the body (including the blood and the hide) in accordance with point 7(4) of that Part.

(2) Where—

(a) a sheep, goat or deer has died, or has been killed, other than for human consumption; and

(b) either—

(i) the death or killing occurred at premises approved, or required to be approved, under the Animal By-Products (Scotland) Regulations 2003(a); or

(ii) the carcase of the sheep, goat or deer has been taken to those premises,

the occupier of the premises must comply with any direction given by the Scottish Ministers requiring the carcase to be sampled at the premises.

(3) In relation to any deer selected for monitoring for TSE in accordance with Part III of Chapter A of Annex III to the Community TSE Regulation, the occupier of a slaughterhouse, hide market or tannery must—

(a) retain the carcase and all parts of the body (including the blood and the hide) pending receipt of the test result; and

(b) in the event of a positive result, immediately dispose of the carcase and all parts of the body (including the blood and the hide) in accordance with point 7(4) of Part II of Chapter A of Annex III to the Community TSE Regulation.

(4) Any person who fails to comply with sub-paragraphs (1), (2) or (3) is guilty of an offence.

**Compensation**

15.—(1) If a bovine animal slaughtered for human consumption tests positive, the Scottish Ministers must pay compensation for the carcase and all parts of the body (including the blood and the hide) of—

(a) that animal; and

(b) if they are destroyed because of that positive result, the animal immediately preceding it on the slaughter line and the 2 animals immediately following it.

(2) In the case of a bovine animal for which a no-test result is received the Scottish Ministers must—

(a) inform the owner in writing whether they intend to pay compensation for—

(i) the carcase and all parts of the body (including the blood and the hide) of that animal; and

(ii) if they are destroyed because of that no-test result, the carcase and all parts of the body (including the blood but not the hide) of the animal immediately preceding it on the slaughter line and the 2 animals immediately following it; and

(b) if they do not intend to pay compensation, give their reasons in writing, and the appeals procedure in regulation 10 applies.

(3) The compensation is the market value, established under the procedure in regulation 11, with the occupier paying any fee arising for nominating and employing a valuer.

(4) Compensation is not payable in any other case.

PART 2
Contents of a RMOP

Animal identification and separation

16.—(1) The RMOP must describe the system that—
(a) enables bovine animals born or reared in the United Kingdom before 1st August 1996 to be identified and ensures that they are not slaughtered for human consumption;
(b) enables bovine animals that, in accordance with point 2(1) of Part 1 of Chapter A of Annex III to the Community TSE Regulation, require BSE testing, to be identified and ensures that they are sampled in accordance with this Schedule; and
(c) enables bovine animals that in accordance with point 2(2) of Part 1 of Chapter A of Annex III to the Community TSE Regulation, require BSE testing at slaughter, to be identified and ensures that they are sampled in accordance with this Schedule.

(2) The requirements of sub-paragraph (1)(b) and (c) apply only in relation to bovine animals born or reared in the United Kingdom on or after 1st August 1996.

(3) The RMOP must also describe the system that ensures that animals to which sub-paragraph (1)(b) and (c) applies are—
(a) batched together before slaughter separately from those not referred to in sub-paragraph (1)(b) and (c); and
(b) slaughtered in batches separately from those not referred to in sub-paragraph (1)(b) and (c).

(4) For the purposes of this paragraph, a bovine animal is deemed to have been born or reared in the United Kingdom before 1st August 1996 unless its cattle passport shows either that—
(a) it was born in the United Kingdom on or after 1st August 1996; or
(b) it first entered the United Kingdom on or after 1st August 1996.

Brain stem sampling

17.—(1) The RMOP must describe how the slaughterhouse occupier will ensure that there are—
(a) sufficient staff trained and competent in the taking, labelling, packaging and dispatch of brain stem samples;
(b) hygienic facilities for sampling; and
(c) sampling procedures that do not jeopardise the hygienic production of meat intended for human consumption.

(2) It must describe how health and safety guidelines designed to minimise the risk of exposure of staff to a TSE during brain stem sampling and packaging will be complied with.

Correlation of sample to carcase and all other parts of the body

18. The RMOP must describe the system linking the brain stem sample of each bovine animal to which paragraph 16(1)(b) and (c) applies, to the carcase of that animal and all parts of the body of that animal (including the blood and the hide).
Retention of carcases

19.—(1) The RMOP must describe—

(a) the system that ensures that all carcases retained in accordance with paragraph 13(1) are retained either in a sealed or locked chiller or on a sealed or locked rail in an unsealed chiller pending the receipt of the BSE test result;

(b) the system that ensures that the chronological order in which the animals were slaughtered can be determined; and

(c) how the occupier will ensure that there is suitable and sufficient chiller space for retaining carcases for the purposes of this Schedule.

Retention of parts of the body

20. The RMOP must describe the system that ensures that all parts of the body (including the blood and the hide) are retained in accordance with paragraph 13(1).

Disposal before receipt of the result

21. The RMOP must describe the disposal arrangements for all carcases and all parts of the body (including the blood and the hide) retained pending receipt of a BSE test result but disposed of before the test result is received.

Other measures following sampling

22. The RMOP must describe the systems in place that ensure that—

(a) brain stem samples are packaged in accordance with packaging instructions P650 of the European Agreement Concerning the International Carriage of Dangerous Goods by Road (version applicable as from 1st January 2005)(a);

(b) BSE test results are received, either by fax or by other electronic means; and

(c) everything required to be disposed of in accordance with point 6(4) or 6(5) of Part I of Chapter A of Annex III to the Community TSE Regulation or under this Schedule is identified and disposed of accordingly.

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SCHEDULE 3

Control and eradication of TSE in bovine animals

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Notification

1.—(1) For the purposes of Article 11 of the Community TSE Regulation, any person who has possession or control of any bovine animal suspected of having a TSE must immediately notify the Scottish Ministers and retain it on the premises until it has been examined by a veterinary inspector.

(2) Any veterinary surgeon who examines or inspects any bovine animal suspected of having a TSE must, with all practical speed, notify the Scottish Ministers.

(3) Any person (other than the Scottish Ministers) who examines the body of any bovine animal, or any part of it, in a laboratory and who reasonably suspects the presence of a TSE must immediately notify the Scottish Ministers, and retain the body and any parts of it until a veterinary inspector has authorised disposal.

(4) Failure to comply with this paragraph is an offence.

Restriction of a notified animal

2.—(1) When a bovine animal is the subject of notification under paragraph 1 an inspector may serve a notice prohibiting its movement from the premises pending determination of whether or not it is suspected of having a TSE.

(2) Movement of restricted animals are only permitted in accordance with regulation 16.

Killing of a suspect animal

3.—(1) For the purposes of paragraphs (1) and (2) of Article 12 of the Community TSE Regulation, if a veterinary inspector suspects that a bovine animal has a TSE the inspector must—

(a) cause it to be killed on the holding immediately; or

(b) remove its cattle passport and serve a notice prohibiting the animal from being moved from the holding until it has been killed; or

(c) ensure that its cattle passport is stamped “Not for human consumption” and serve a notice directing the owner to consign it to other premises for killing and prohibiting movement other than in accordance with that direction.
(2) The inspector must restrict the movement of other bovine animals on the holding in accordance with the second, third and fifth paragraphs of Article 12(1) of the Community TSE Regulation and Article 2(1)(a) of Commission Decision 2007/411/EC.

(3) The inspector may restrict the movement of bovine animals on other holdings in accordance with the fourth paragraph of Article 12(1)(a) of Commission Decision 2007/411/EC.

(4) In the suspect animal is killed on the holding, it is an offence to remove the body from that holding except in accordance with a written direction from an inspector.

(5) If the suspect animal is not killed immediately, its keeper must dispose of its milk in such a way that it cannot be consumed by humans or animals except its own calf or animals kept for research purposes, and failure to comply with this sub-paragraph is an offence.

Identification and restriction of progeny and cohorts

4.—(1) In accordance with Article 13(2) of the Community TSE Regulation as read with Article 2(1)(b) and (2) of Commission Decision 2007/411/EC, if—

(a) a veterinary inspector suspects that a bovine animal has a TSE;

(b) the monitoring of carcases under Part 1 of Schedule 2 or under Annex III to the Community TSE Regulation confirms that an animal is suspected of having a TSE; or

(c) the competent authority of another part of the United Kingdom or another Member State notifies the Scottish Ministers that a bovine animal is suspected of having a TSE,

an inspector must identify—

(i) (if the suspect animal is female) all its progeny born within 2 years prior to, or after, clinical onset of the disease; and

(ii) in all cases all its bovine cohorts born on or after 1st August 1996,

and for these purposes the animal’s date of birth is the one shown on its cattle passport.

(2) An inspector must serve notices prohibiting movement of the animals identified in accordance with sub-paragraph (1) from the holding on which they are kept or where the inspector suspects they may be kept (whether or not this is the same holding as that of the suspect animal) and remove their cattle passports.

(3) If the inspector cannot immediately identify the animals specified in sub-paragraph (1) the inspector must prohibit the movement of all bovine animals from the holding pending identification.

(4) Movements of restricted animals are only permitted in accordance with regulation 16.

Action following confirmation

5.—(1) In accordance with Article 13(1)(c) of, and point 2 of Annex VII to, the Community TSE Regulation as read with Article 2(1)(b) and (2) of Commission Decision 2007/411/EC, when it is confirmed that a bovine animal had a TSE an inspector must cause to be killed—

(a) (if the animal is female) all its progeny born within 2 years prior to, or after, clinical onset of the disease; and

(b) in all cases, all the bovine animals in its cohort born on or after 1st August 1996 except where—

(i) an inspector is satisfied that the animal did not have access to the same feed as the animal in which a TSE was confirmed; or

(ii) the animal is a bull that is kept at, and will not be removed from, a semen collection centre, but it is an offence to remove the animal from the centre except to be killed, and when it is killed the owner must ensure that the carcase is completely destroyed, and failure to do so is an offence.
(2) If the animal is not killed on the holding, an inspector must ensure that its cattle passport is stamped “Not for human consumption” and serve a notice directing the owner to consign it to other premises for killing as specified in the direction.

(3) If the test is negative the inspector must remove all restrictions imposed because of the suspect animal and return the cattle passports.

(4) When an animal is killed under this paragraph, it is an offence to remove the body of the animal from the premises on which it was killed except in accordance with a written direction from an inspector.

Death while under restriction

6. If a bovine animal dies or is killed while it is under restriction for any reason under this Schedule, the owner must immediately notify the Scottish Ministers, and retain the body on the premises until the owner is directed in writing to move or dispose of it by an inspector, and it is an offence not to comply with this paragraph or to fail to comply with a direction under it.

Placing on the market of progeny

7. Any person who places on the market a bovine animal in contravention of Article 15(2) of the Community TSE Regulation and Chapter B of Annex VIII to that Regulation is guilty of an offence.

When compensation is payable

8. The Scottish Ministers must pay compensation—

(a) when an animal is killed under this Schedule;

(b) when an animal is to be killed under this Schedule, and has been valued for the purposes of compensation, but dies (or is killed for other reasons) after valuation; or

(c) where an animal is subject to a movement restriction under this Schedule and has to be killed as an emergency and a veterinary surgeon has declared in writing that the animal would otherwise have been fit for human consumption in accordance with Chapter VI of Section 1 of Annex III to Regulation (EC) No. 853/2004, in which case compensation is the market value of the body (including the blood and the hide).

Amount of compensation payable

9.—(1) The compensation is the average price paid in Great Britain for that age and category of animal—

(a) for a pedigree animal, in the previous 6 months before the date of its valuation; and

(b) for any other bovine animal, in the previous month before the date of its valuation.

(2) A pedigree animal is one for which a pedigree certificate has been issued by a breeders’ organisation or association that fulfils the conditions of Council Decision 84/247/EEC laying down the criteria for the recognition of breeders’ organisations and associations which maintain or establish herd-books for pure-bred breeding animals of the bovine species(a).

(3) The Scottish Ministers must categorise animals as follows, and for the purposes of determining which category the animal falls into, the age of the animal is the age, as shown by its cattle passport, at the date on which the notice of intention to kill was served.

**Categories**

*Male*

**Beef Sector – non-pedigree animal**
- Up to and including 3 months
- Over 3 months up to and including 6 months
- Over 6 months up to and including 9 months
- Over 9 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
  - Breeding bulls
  - Other
- Over 20 months

**Dairy Sector – non-pedigree animal**
- 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

*Female*

**Beef Sector – non-pedigree animal**
- Up to and including 3 months
- Over 3 months up to and including 6 months
- Over 6 months up to and including 9 months
- Over 9 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
  - Calved
  - Not calved
- Over 20 months

**Dairy Sector – non-pedigree animal**
- 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 animal*
- 6 months up to and including 12 months
- Over 12 months up to and including 24 months
- Over 24 months

*Dairy Sector – pedigree animal*
- 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

**Exceptions**

10.—(1) Where the Scottish Ministers consider that the data to calculate the average price is inadequate, they may pay compensation at—

(a) for animals in that category, the most recent previously calculated average price for which there was sufficient data to calculate the average price; or

(b) for the individual animal, the market price.

(2) For buffalo or bison, compensation is the market price.

(3) The market price is the price that might reasonably have been obtained for the individual animal—

(a) from a purchaser in the open market;

(b) at the time of valuation;

(c) on the assumption that the animal was not from a herd affected by a TSE;

(d) calculated in accordance with regulation 11;
(e) any fee for nominating the valuer and the valuer’s fee is payable by the Scottish Ministers; and
(f) represents the total amount of compensation payable for that animal.
SCHEDULE 4
Regulation 5(c)
Control and eradication of TSE in sheep and goats

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Notification

1.—(1) For the purposes of Article 11 of the Community TSE Regulation, any person who has possession or control of any sheep or goat suspected of having a TSE must immediately notify the Scottish Ministers and retain it on the premises until it has been examined by a veterinary inspector.

(2) Any veterinary surgeon who examines or inspects any sheep or goat suspected of having a TSE must, with all practical speed, notify the Scottish Ministers.

(3) Any person (other than the Scottish Ministers) who examines the body of any sheep or goat, or any part of it, in a laboratory and who reasonably suspects the presence of a TSE must immediately notify the Scottish Ministers, and retain the body and any parts of it until a veterinary inspector has authorised disposal.

(4) Failure to comply with this paragraph is an offence.

Restriction of a notified animal

2.—(1) When a sheep or goat is the subject of notification under paragraph 1, a veterinary inspector may, pending determination of whether or not it is suspected of having a TSE, serve a
notice prohibiting the movement of the animal from its holding and the movement of any other sheep or goat on to or from that holding.

(2) Movements of restricted animals are only permitted in accordance with regulation 16.

Killing of a suspect animal

3.—(1) For the purposes of paragraphs (1) and (2) of Article 12 of the Community TSE Regulation, if a veterinary inspector suspects that a sheep or goat has a TSE, the inspector must—

(a) cause the animal to be killed on the holding immediately;

(b) serve a notice prohibiting the animal from being moved from the holding until it has been killed; or

(c) serve a notice directing the owner to consign the animal to other premises for killing and prohibiting movement other than in accordance with that direction.

(2) If the animal is killed on the holding, it is an offence to remove the body from the holding except in accordance with a written direction from an inspector.

Movement restrictions

4.—(1) For the purposes of Article 12(1) of, and point 2(2) of Annex VII to, the Community TSE Regulation, following suspicion of a TSE (whether in a live animal or through the monitoring under Annex III to the Community TSE Regulation), an inspector—

(a) must serve a notice prohibiting the movement onto or from its holding of any sheep or goat on the same holding as the suspect animal if the inspector considers that the animal was exposed to a TSE on that holding;

(b) may serve a notice prohibiting the movement onto or from any holding of any sheep or goat if there is evidence that the suspect animal was exposed to a TSE on that holding;

(c) may serve a notice prohibiting movement onto or from a holding where an animal specified in point 1(b) of Annex VII to the Community TSE Regulation is kept or where the inspector suspects such an animal is kept; and

(d) must serve a notice prohibiting the movement of sheep or goat milk, or sheep or goat milk products, derived from any sheep or goat present on any holding referred to in sub-paragraphs (a) to (c).

(2) Movements of restricted animals or products are only permitted in accordance with regulation 16.

(3) To avoid doubt, a notice served under paragraph (1)(d) does not prohibit the use of milk or milk products within the holding.

(4) A notice referred to in paragraph (1)(a) to (d) remains in force until one of paragraphs 5, 6, 7 or 9 applies.

Action where TSE is not confirmed

5. If it is confirmed that the animal did not have a TSE, an inspector must remove all restrictions, as soon as reasonably possible, imposed because the sheep or goat was suspected of being infected with a TSE.

Action following confirmation of TSE in sheep

6.—(1) When it is confirmed that a suspect sheep or the body of a sheep monitored under Annex III to the Community TSE Regulation has a TSE, and BSE is excluded in accordance with the procedure set out in Chapter C, point 3(2)(c) of Annex X to that Regulation, the Scottish Ministers, after—

(a) carrying out the inquiry specified in Article 13(1)(b) of the Community TSE Regulation and in point 1(b) of Annex VII to that Regulation; and
(b) sampling the animals to establish their genotype (if this is necessary),

must decide which of the options set out in point 2(3)(b)(i) and (ii) of Annex VII to the Community TSE Regulation they intend to exercise.

(2) They must then serve a notice on the occupier of the holding identifying which of the options in those paragraphs they intend to exercise.

(3) The notice must specify—
  (a) the identity of the animals to be killed and destroyed;
  (b) the identity of any animals to be slaughtered for human consumption;
  (c) the identity of any animals that may be retained;
  (d) the identity of any ovum or embryo to be destroyed; and
  (e) the time limit for complying with the notice.

(4) The appeals procedure in regulation 10 applies.

Confirmation of TSE in goats

7.—(1) This paragraph applies if it is confirmed that a suspect goat, or a body of a goat monitored under Annex III to the Community TSE Regulation, is affected with a TSE, and BSE is excluded in accordance with the procedure set out in Chapter C, point 3(2)(c) of Annex X to that Regulation, except where the Scottish Ministers decide to exercise the power in paragraph 10(3).

(2) The Scottish Ministers, after carrying out the inquiry specified in Article 13(1)(b) of, and point 1(b) of Annex VII to, the Community TSE Regulation, must serve a notice on the occupier of the holding informing them that the Scottish Ministers intend to kill and destroy all the goats on the holding and all embryos and ova from those animals in accordance with Article 13(1)(c) of, and point 2(3)(b)(i) of Annex VII, to that Regulation.

(3) The appeals procedure in regulation 10 applies.

Use of milk and milk products following confirmation of classical scrapie

8.—(1) This paragraph applies to milk or milk products derived from a sheep or goat that is to be destroyed in accordance with paragraph 6 or 7.

(2) Milk and milk products must not—
  (a) be used for feeding ruminants, other than ruminants within the holding; or
  (b) be exported, or allowed to be exported, to any other Member State or third country as feed for non-ruminants.

(3) Milk and milk products that are to be fed to non-ruminants in the United Kingdom must be—
  (a) accompanied by documentation that clearly states that it must not be fed to ruminants; and
  (b) contained in packaging that is clearly marked “must not be fed to ruminants”.

(4) Feedingstuffs containing milk or milk products must not be stored on farms where ruminants are kept.

(5) Bulk feedingstuffs containing milk or milk products must not be transported in vehicles that also transport feedingstuffs for ruminants.

(6) Vehicles that have transported bulk feedingstuffs containing milk or milk products must, before being used for transporting any feedingstuffs intended for ruminants, be thoroughly cleaned so as to avoid cross-contamination, in accordance with a procedure approved by the Scottish Ministers.

(7) Failure to comply with any of sub-paragraphs (2) to (6) is an offence.
Inability to exclude BSE in sheep or goats

9.—(1) This paragraph applies if a TSE is confirmed in a suspect sheep or goat, or a body of a sheep or goat monitored under Annex III to the Community TSE Regulation, and BSE cannot be excluded by the results of a ring trial carried out in accordance with the procedure set out in Chapter C, point 3(2)(c) of Annex X to that Regulation.

(2) The Scottish Ministers, after carrying out the inquiry specified in Article 13(1)(b) of, and point 1(b) of Annex VII to, the Community TSE Regulation, must serve a notice on the occupier of the holding informing them of the Scottish Ministers’ intention to have the animals killed and destroyed, and the embryos and ova destroyed and the milk and milk products destroyed, in accordance with Article 13(1)(c), and point 2(3)(a) of Annex VII to that Regulation.

(3) In sub-paragraph (2), “milk and milk products” means the milk and milk products that derived from the animals that were present on the relevant holding on and from the date on which notice was served under paragraph 4(1)(d).

(4) The appeals procedure in regulation 10 applies.

Confirmation of atypical scrapie in sheep or goats

10.—(1) This paragraph applies if the TSE confirmed in a suspect sheep or goat, or a body of a sheep or goat, monitored under Annex III to the Community TSE Regulation is atypical scrapie, and BSE is excluded in accordance with the procedure set out in Chapter C, Point 3(2)(c) of Annex X, to that Regulation.

(2) The Scottish Ministers may decide not to apply paragraph 6 in respect of sheep, or paragraph 7 in respect of goats.

(3) If the Scottish Ministers decide not to apply either paragraph 6 or 7, the Scottish Ministers must, instead of complying with the requirements in that paragraph,—

(a) carry out the inquiry specified in Article 13(1)(b) of, and point 1(b) of Annex VII to, the Community TSE Regulation; and

(b) decide which of the options set out in point 5(a) or (b) of Annex VII to that Regulation the Scottish Ministers intend to exercise.

(4) The Scottish Ministers must then serve a notice on the occupier of the holding informing them of which option the Scottish Ministers intend to exercise.

(5) If the Scottish Ministers choose the option set out in point 5(a) of Annex VII to the Community TSE Regulation, the notice must specify—

(a) the identity of the animals (if any) to be killed and destroyed;

(b) the identity of any ovum or embryo (if any) to be destroyed; and

(c) the time limit for complying with the notice.

(6) If the Scottish Ministers choose the option set out in point 5(b) of Annex VII to the Community TSE Regulation, for 2 breeding years following the detection of the last TSE case, the occupier must—

(a) identify all sheep and goats on the holding by attaching a tag to the ear of each animal; and

(b) ensure that no tag is removed, other than as directed or permitted by the Scottish Ministers; and

(c) subject the holding to the intensified TSE monitoring set out in point 5(b)(ii) of that Annex,

and failure to comply with this sub-paragraph is an offence.

(7) No person may export any live sheep or goat identified under sub-paragraph (6) or embryos or ova from such animals to another Member State or third country, and failure to comply with this sub-paragraph is an offence.

(8) The appeals procedure in regulation 10 applies.
In sub-paragraph (6), “tag” means an identification tag approved for the purposes of sub-paragraph (6) by the Scottish Ministers.

Derogation

11.—(1) Subject to sub-paragraphs (2) to (4)—
   (a) the Scottish Ministers may decide to delay the destruction of any animals specified in a notice served under paragraph 6 or 7; or
   (b) the occupier of the relevant holding may apply to the Scottish Ministers for a delay in the destruction of any such animals.

(2) The Scottish Ministers must not decide upon, or consent to, a delay unless satisfied that—
   (a) the frequency of ARR allele within the relevant breed or holding is low or absent; or
   (b) a delay is necessary in order to avoid inbreeding.

(3) Subject to sub-paragraph (4), the Scottish Ministers may decide upon, or consent to, a delay of up to 5 breeding years.

(4) The Scottish Ministers must not decide upon, or consent to,—
   (a) any delay, if a breeding ram (other than a ram of the ARR/ARR genotype present within the breed or holding) is on the holding; or
   (b) a delay of more than 18 months in relation to sheep or goats kept for the production of milk or milk products intended for placing on the market.

(5) An application under sub-paragraph (1)(b) must be in writing and must set out in full the reasons for the application.

(6) The Scottish Ministers must provide the applicant with a decision in writing, stating that the Scottish Ministers—
   (a) consents to the application;
   (b) consents in part to the application; or
   (c) refuses the application.

(7) The Scottish Ministers may impose any conditions that they consider to be reasonably necessary in relation to any decision made, or consent granted, under this paragraph.

(8) Unless the Scottish Ministers consent to the application in full, the appeals procedure in regulation 10 applies.

Time for appeals

12. The Scottish Ministers must not cause to be killed any sheep or goat, or cause to be destroyed any ovum or embryo, under this Schedule until—
   (a) they have received written notification from the person on whom the notice is served that that person has no intention to proceed with an appeal; or
   (b) after the 21 day period for appeal under regulation 10 has expired; or
   (c) if there is an appeal, the appeal is determined or withdrawn.

Killing and destruction following confirmation

13.—(1) An inspector must ensure that all the animals specified for killing in the notice in paragraphs 6(3), 7(2), 9(2) or 10(5) are killed and that all the ova and embryos specified for destruction in the notice are destroyed.

(2) If an animal is not killed on the holding, an inspector must direct the owner in writing to consign it to other premises for killing as specified in the direction.
(3) When an animal has been killed under this paragraph, it is an offence to remove the body from the premises on which it was killed except in accordance with a written direction from an inspector.

**Animals from another holding**

14. For the purposes of point 2(4) of Annex VII to the Community TSE Regulation, if the animal with a TSE was introduced from another holding, the Scottish Ministers may act in accordance with this Schedule in relation to the holding of origin in addition to, or instead of, the holding on which a TSE was confirmed.

**Common grazing**

15. In the case of animals with a TSE on common grazing, the Scottish Ministers may limit a notice under paragraphs 6(3), 7(2), 9(2) or 10(5) to an individual flock in accordance with point 2(4) of Annex VII to the Community TSE Regulation.

**Multiple flocks on a holding**

16. Where more than one flock is kept on a single holding, the Scottish Ministers may limit a notice under paragraphs 6(3), 7(2), 9(2) or 10(5) to an individual flock in accordance with point 2(4) of Annex VII to the Community TSE Regulation.

**Subsequent occupiers**

17.—(1) If there is a change in occupation of the holding, the previous occupier must ensure that the subsequent occupier is made aware of the existence and contents of any notice served under this Schedule, and failure to do so is an offence.

(2) The subsequent occupier must comply with the notice as if that notice were served on that occupier and failure to do so is an offence.

**Introduction of animals onto a holding**

18. Any person who introduces an animal onto a holding in contravention of point 3(1) of Annex VII to the Community TSE Regulation is guilty of an offence.

**Use of ovine germinal products**

19. Any person who uses ovine germinal products in contravention of point 3(2) of Annex VII to the Community TSE Regulation is guilty of an offence.

**Movement of animals from a holding**

20. Any person who moves an animal from a holding in contravention of point 3(3) of Annex VII to the Community TSE Regulation is guilty of an offence.

**Period of movement restrictions**

21. For the purposes of point 3(4) of Annex VII to the Community TSE Regulation the relevant dates must be established by the Scottish Ministers giving written notification of those dates to the occupier of the holding.

**Death while under restriction**

22. If any animal aged 18 months or over dies or is killed while it is under restriction for any reason under this Schedule or Annex VII to the Community TSE Regulation, the owner must immediately notify the Scottish Ministers, and retain the body on the premises until the owner is
directed in writing to move or dispose of it by the Scottish Ministers, and it is an offence not to comply with this paragraph or to fail to comply with a direction under it.

Placing on the market of progeny of sheep or goats in which BSE is confirmed

23. Any person who places on the market any first generation progeny, semen, embryo or ovum of a sheep or goat suspected of, or confirmed with, a TSE in contravention of Article 15(2) of the Community TSE Regulation and Chapter B of Annex VIII to that Regulation is guilty of an offence.

Compensation

24.—(1) Subject to sub-paragraph (2), the Scottish Ministers must pay compensation to the owner of animals killed and destroyed, and products destroyed, under this Schedule in accordance with the following table and, in the case of milk and milk products, with sub-paragraph (3)—

Compensation

<table>
<thead>
<tr>
<th>Animal or product</th>
<th>Compensation (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pedigree animals</td>
<td></td>
</tr>
<tr>
<td>Male sheep (productive)</td>
<td>450</td>
</tr>
<tr>
<td>Male goat (productive)</td>
<td>300</td>
</tr>
<tr>
<td>Female sheep (productive)</td>
<td>250</td>
</tr>
<tr>
<td>Female goat (productive)</td>
<td>250</td>
</tr>
<tr>
<td>Sheep or goat (end of productive life)</td>
<td>60</td>
</tr>
<tr>
<td>Sheep or goat (other)</td>
<td>70</td>
</tr>
<tr>
<td>Lamb or kid (under 12 months old)</td>
<td>75</td>
</tr>
<tr>
<td>Non-pedigree animals</td>
<td></td>
</tr>
<tr>
<td>Male sheep (productive)</td>
<td>200</td>
</tr>
<tr>
<td>Male goat (productive)</td>
<td>180</td>
</tr>
<tr>
<td>Female sheep (productive)</td>
<td>90</td>
</tr>
<tr>
<td>Female goat (productive)</td>
<td>180</td>
</tr>
<tr>
<td>Sheep or goat (end of productive life)</td>
<td>60</td>
</tr>
<tr>
<td>Sheep or goat (other)</td>
<td>70</td>
</tr>
<tr>
<td>Lamb or kid (under 12 months old)</td>
<td>55</td>
</tr>
<tr>
<td>Products</td>
<td></td>
</tr>
<tr>
<td>Embryo</td>
<td>100</td>
</tr>
<tr>
<td>Ovum</td>
<td>5</td>
</tr>
<tr>
<td>milk</td>
<td>by valuation: to be determined in accordance with regulation 11.</td>
</tr>
<tr>
<td>milk products</td>
<td>by valuation: to be determined in accordance with regulation 11.</td>
</tr>
</tbody>
</table>

(2) If the Scottish Ministers considers the compensation specified in the table in sub-paragraph (1) to be excessive, they may obtain a valuation of the animal or product.

(3) A valuation referred to in the table in sub-paragraph (1) (in relation to milk or milk products) and a valuation referred to in sub-paragraph (2) (in relation to animals or products other than milk or milk products)—

(a) must be in accordance with the procedure in regulation 11;

(b) must be the price that would reasonably be expected to have been obtained for the milk, milk product or animal—

(i) from a buyer in the open market;

(ii) at the time of the valuation; and
(iii) on the assumption that the milk, milk product or animal was not from a flock or herd affected by a TSE; and

(c) represents the total amount of compensation payable for that milk, milk product or animal.

(4) Any fee arising for nominating and employing a valuer for the purposes of this paragraph must be paid by—

(a) the owner (in the case of milk or milk products); or

(b) the Scottish Ministers (in the case of animals).

(5) In the tables in sub-paragraph (1)—

“end of productive life” means an animal that is to be culled for animal management purposes;

“other” means an animal that is not productive, not at end of productive life and not a lamb or kid;

“pedigree animal” means an animal for which a pedigree certificate has been issued by a breeders’ organisation or association that fulfils the conditions of Commission Decision 90/254/EEC(a) laying down the criteria for approval of breeders’ organisations and associations which establish or maintain or establish flock-books for pure-bred breeding sheep and goats;

“productive” means a breeding male animal or a female animal in lamb or kid or milk.

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SCHEDULE 5

Control and eradication of TSE in animals that are not bovine, ovine or caprine

Notification

1.—(1) For the purposes of Article 11 of the Community TSE Regulation, any person who has in their possession or under their control any animal that is not bovine, ovine or caprine that is suspected of being affected by a TSE must immediately notify the Scottish Ministers and detain it on the premises until it has been examined by a veterinary inspector.

(2) Any veterinary surgeon who examines or inspects any such animal must, with all practical speed, notify the Scottish Ministers of that examination or inspection.

(3) Any person (other than the Scottish Ministers) who examines the body of an animal that is not bovine, ovine or caprine, or any part of it, in a laboratory and who reasonably suspects the presence of a TSE must immediately notify the Scottish Ministers, and retain the body and any parts of it until a veterinary inspector has authorised disposal.

(4) Failure to comply with this paragraph is an offence.

Restriction of a notified animal

2.—(1) If an animal is the subject of notification under paragraph 1, a veterinary inspector may serve a notice prohibiting the movement of that animal from its holding, pending determination of whether or not it is suspected of being affected with a TSE.

(2) Movements of restricted animals are only permitted in accordance with regulation 16.

Slaughter of a suspect animal

3.—(1) For the purposes of Article 12(1) and (2) of the Community TSE Regulation, if a veterinary inspector suspects that an animal that is not bovine, ovine or caprine is affected with a TSE, they may either—

(a) kill it on the holding immediately;

(b) serve a notice prohibiting the animal from being moved from the holding until it has been killed; or

(c) serve a notice directing the owner to consign it to other premises for killing and prohibiting movement other than in accordance with that direction.

(2) If the animal is killed on the holding, it is an offence to remove the body from the holding or dispose of it except in accordance with a written direction from an inspector.

Compensation

4.—(1) Where an animal is killed under paragraph 3, the Scottish Ministers may pay compensation.

(2) The compensation is the market value of the animal at the time it is killed.

(3) For the purposes of this regulation, the market value—

(a) must be calculated in accordance with the procedure in regulation 11;

(b) must be the price that would reasonably be expected to have been obtained for the animal—

(i) from a buyer in the open market;

(ii) at the time of the valuation; and
(iii) on the assumption that the animal was not from a group affected by a TSE; and
(c) represents the total amount of compensation payable for that animal.
PART 1
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PART 1
Restrictions on feeding proteins to animals

Prohibition on feeding animal protein to ruminants

1.—(1) For the purposes of Article 7(1) and point (b) of Part I of Annex IV to the Community TSE Regulation it is an offence to—

(a) feed to any ruminant animal;
(b) supply for feeding to any ruminant animal; or
(c) permit any ruminant animal to have access to,

any animal protein (or anything containing animal protein) other than the proteins specified in point A(a) and, if authorised by the Scottish Ministers following a risk assessment, point A(d) of Part II of Annex IV to that Regulation.

(2) It is an offence to bring onto any premises where ruminant animals are kept, or to possess on such premises, anything (other than food intended for human consumption) prohibited by sub-paragraph (1), except—

(a) in accordance with paragraph 3; or
(b) where authorised by an inspector and suitable measures are in place to ensure that ruminant animals do not have access to the animal protein specified in the authorisation.

(3) Sub-paragraph (2) does not apply where the premises are registered to use and store the relevant animal protein under paragraph 8(6), 9(6)(b), 11(5) or 13(9).

(4) The prohibition in sub-paragraph (1) does not apply in relation to liquid milk replacers containing fishmeal provided that—

(a) the fishmeal has been produced, labelled, transported and used in accordance with point BA of Part II of Annex IV to the Community TSE Regulation;
(b) the liquid milk replacer is intended for, and fed only to, unweaned, ruminant farmed animals in accordance with point A(e) of that Part; and
(c) the prohibition continues to apply in relation to all other ruminant animals.

Prohibition on feeding animal protein to non-ruminants

2.—(1) For the purposes of Article 7(2) of, and point (a) of Part I of Annex IV to, the Community TSE Regulation it is an offence to—

(a) feed to any pig, poultry, horse or any farmed non-ruminant animal;
(b) supply for feeding to any such animal; or
(c) allow any such animal to have access to,

anything in relation to which this paragraph applies.

(2) Subject to sub-paragraph (3), the prohibition in sub-paragraph (1) applies in relation to—

(a) processed animal protein;
(b) gelatine of ruminant origin;
(c) blood products;
(d) hydrolysed protein;
(e) dicalcium phosphate and tricalcium phosphate of animal origin; and
(f) petfood containing animal protein.

(3) The prohibition in sub-paragraph (1) does not apply in relation to—

(a) the protein specified in point A(a) of Part II of Annex IV to the Community TSE Regulation;
(b) fishmeal (and feedingstuffs containing it) that has been produced, labelled, transported and stored in accordance with the conditions in point B of that Part;
(c) dicalcium phosphate and tricalcium phosphate (and feedingstuffs containing them) that have been produced, labelled, transported and stored in accordance with the conditions in point C of that Part;
(d) blood products derived from non-ruminants (and feedingstuffs containing them) that have been produced, labelled, transported and stored in accordance with the conditions in point D of that Part;
in the case of feeding to fish, blood meal derived from non-ruminants (and feedingstuffs containing it) that has been produced, labelled, transported and stored in accordance with the conditions in point D of that Part; and

(f) tuber and root crops (and feedingstuffs containing such products) in which bone spicules have been detected if authorised by the Scottish Ministers following a risk assessment in accordance with point A(d) of that Part.

(4) In this paragraph “protein” includes any feedingstuffs containing animal protein.

(5) It is an offence to bring onto any premises where any animals specified in sub-paragraph (1) are kept anything prohibited by this paragraph, or to possess it on such premises other than—

(a) food intended for human consumption;
(b) in accordance with paragraph 3; or
(c) where authorised by an inspector and suitable measures are in place to ensure that animals specified in sub-paragraph (1) do not have access to it.

Exceptions

3. Paragraphs 1(2) and 2(5) do not apply to—

(a) petfood for feeding to pets (including working dogs) on those premises;
(b) organic fertiliser or soil improver produced and used in accordance with Regulation (EC) No. 1774/2002 and the Animal By-Products (Scotland) Regulations 2003(a) and paragraph 18,

provided that—

(i) it is not fed to any farmed animals;
(ii) it is not stored or handled in parts of the premises—

(aa) to which farmed animals have access; or
(bb) where feedingstuffs for farmed animals are stored or handled;
(iii) it does not come into contact with—

(aa) feedingstuffs permitted to be fed to farmed animals; or
(bb) handling equipment used in connection with any such feedingstuffs; and
(iv) farmed animals do not have access to petfood at any time and do not have access to organic fertiliser or soil improver until it has been applied to the land and the no-grazing period specified in regulation 11(1) of the Animal By-Products (Scotland) Regulations 2003 has expired.

Movement prohibitions and restrictions of animals

4. Where an inspector has reasonable grounds to believe that a TSE susceptible animal has been fed or has had access to—

(a) specified risk material;
(b) any material which the inspector has reasonable grounds to believe carries the risk of TSE infectivity; or
(c) animal protein for which the inspector cannot establish the origin or the TSE infectivity risk,

the inspector may serve a notice on the owner or person in charge of the animal prohibiting or restricting the movement of the animal from the premises described in the notice.

Killing of animals

5.—(1) Where an inspector has reasonable grounds to believe that a TSE susceptible animal has been fed or has had access to any material referred to in paragraph 4, the inspector may serve a notice on the owner or person in charge of the animal in accordance with this paragraph.

(2) The notice may either—

(a) require the owner or person in charge of the animal to kill it and dispose of it as specified in the notice; or

(b) require the owner or person in charge of the animal to keep it on such premises and in such manner as the notice provides, in which case the inspector must ensure that the cattle passport of any bovine animal is stamped with the words “Not for human consumption”.

Compensation

6.—(1) Where an animal is killed under paragraph 5, the Scottish Ministers may pay compensation if they consider it appropriate in all the circumstances and give their decision on whether or not to pay compensation in writing.

(2) The compensation is the market value of the animal at the time it is killed, established in accordance with the procedure in regulation 11, with the owner paying any fee for nominating the valuer and the valuer’s fee.

(3) The appeals procedure in regulation 10 applies in relation to the decision of the Scottish Ministers.

Slaughter or sale for human consumption

7. It is an offence to consign for slaughter for human consumption or to slaughter for human consumption any TSE susceptible animal the passport for which has been stamped under paragraph 5.

PART 2
Production of protein and feedingstuffs

Fishmeal for feeding to non-ruminant farmed animals

8.—(1) Any person producing fishmeal intended for feeding to non-ruminant farmed animals must do so in accordance with point B(a) of Part II of Annex IV to the Community TSE Regulation.

(2) Any person producing feedingstuffs containing fishmeal intended for feeding to non-ruminant farmed animals must do so—

(a) in accordance with point B(c) of that Part, in premises authorised by the Scottish Ministers for the purposes of that point;

(b) in accordance with point B(c)(i) of that Part, for home compounders registered by the Scottish Ministers for the purposes of that point; or

(c) in accordance with point B(c) (ii) of that Part, in premises authorised by the Scottish Ministers for the purposes of that point.

(3) Any person packaging the feedingstuffs must label them in accordance with point B(d) of that Part, and any documentation accompanying the feedingstuffs must be in accordance with that point.

(4) Any person transporting the feedingstuffs in bulk must do so in accordance with the first sentence of point B(e) of that Part.

(5) Any person using a vehicle previously used to transport such feedingstuffs to transport feedingstuffs for ruminants must comply with the second sentence of point B(e) of that Part.
(6) The occupier of any farm where ruminants are kept must comply with the first paragraph of point B(f) of that Part unless the Scottish Ministers are satisfied that the provisions of the second paragraph of that point are complied with and have registered the farm under that paragraph.

Fishmeal for feeding to unweaned, ruminant farmed animals

9.—(1) Any person producing raw fishmeal for use in feed for unweaned, ruminant farmed animals must do so in accordance with point BA(a) of Part II of Annex IV to the Community TSE Regulation.

(2) Any person producing feed for unweaned, ruminant farmed animals must, if the feed contains fishmeal, produce that feed only in premises authorised for that purpose by the Scottish Ministers in accordance with points BA(c) and BA(d) of Part II of that Part.

(3) Any person packaging milk replacers containing fishmeal intended for unweaned, ruminant farmed animals, must clearly mark the product in accordance with point BA(e) of that Part, and any documentation accompanying the product must be in accordance with that point.

(4) Any person transporting the milk replacers in bulk must do so in accordance with the first sentence of point BA(f) of that Part.

(5) Any person using a vehicle previously used to transport such milk replacers for the transport of other feedingstuffs for ruminants must comply with the second sentence of point BA(f) of that Part.

(6) The occupier of any farm where feedingstuffs containing fishmeal are to be used and ruminants are kept must ensure that—

(a) measures are in place to prevent such feedingstuffs being fed to ruminants, other than as permitted by point A(e) of that Part; and

(b) before the feedingstuffs are brought on to the relevant holding, the occupier of the holding has registered the holding with the Scottish Ministers in accordance with the second sentence of point BA(g) of that Part.

Offences relating to fishmeal and feedingstuffs containing fishmeal

10.—(1) Failure to comply with paragraph 8 or 9 is an offence.

(2) It is an offence for a home compounder registered under paragraph 8(2)(b) to—

(a) keep ruminant animals;

(b) consign feedingstuffs containing fishmeal (whether complete or partly complete) produced by the home compounder from the home compounder’s holding; or

(c) use feedingstuffs containing fishmeal with a crude protein content of 50% or more in the production of complete feedingstuffs.

(3) It is an offence for any person producing feedingstuffs in accordance with point B(c)(ii) of Part II of Annex IV to the Community TSE Regulation to—

(a) fail to ensure that feedingstuffs destined for ruminants are kept in separate facilities in accordance with the first indent of that point;

(b) fail to ensure that feedingstuffs destined for ruminants are manufactured in accordance with the second indent; or

(c) fail to make and keep a record in accordance with the third indent.

Feedingstuffs containing dicalcium phosphate or tricalcium phosphate for feeding to non-ruminant farmed animals

11.—(1) Any person producing feedingstuffs containing dicalcium phosphate or tricalcium phosphate for feeding to non-ruminant farmed animals must do so—

(a) in accordance with point C(a) of Part II of Annex IV to the Community TSE Regulation, in an establishment authorised by the Scottish Ministers for the purposes of that point;
(b) in accordance with point C(a)(i) of that Part, for home compounders registered by the Scottish Ministers for the purposes of that point; or
(c) in accordance with point C(a)(ii) of that Part in an establishment authorised by the Scottish Ministers for the purposes of that point.

(2) Any person packaging the feedingstuffs must label them in accordance with point C(b) of that Part, and any documentation accompanying the feedingstuffs must be in accordance with that point.

(3) Any person transporting those feedingstuffs in bulk must do so in accordance with the first sentence of point C(c) of that Part.

(4) Any person using a vehicle previously used to transport such feedingstuffs to transport feedingstuffs for ruminants must comply with the second sentence of point C(c) of that Part.

(5) The occupier of any farm where ruminants are kept must comply with the first paragraph of point C(d) of that Part unless the Scottish Ministers are satisfied that the provisions of the second paragraph of that point are complied with and have registered the farm under that paragraph.

Offences relating to feedingstuffs containing dicalcium phosphate or tricalcium phosphate for feeding to non-ruminant animals

12.—(1) Failure to comply with paragraph 11 is an offence.

(2) It is an offence for a home compounder registered under paragraph 11(1)(b) to—
(a) keep ruminant animals;
(b) consign feedingstuffs containing dicalcium phosphate or tricalcium phosphate (whether complete or partly complete) from the home compounder’s holding; or
(c) use feedingstuffs containing dicalcium phosphate or tricalcium phosphate with a phosphorus content of 10% or more in the production of complete feedingstuffs.

(3) It is an offence for any person producing feedingstuffs in accordance with point C(a)(ii) of Part II of Annex IV to the Community TSE Regulation to—
(a) fail to ensure that feedingstuffs destined for ruminants are manufactured in accordance with the first indent of that point;
(b) fail to ensure that they are kept in separate facilities in accordance with the second indent; or
(c) fail to make and keep a record in accordance with the third indent.

Blood products and blood meal

13.—(1) Any person who produces—
(a) blood products, or feedingstuffs containing blood products, intended for feeding to non-ruminant farmed animals; or
(b) blood meal, or feedingstuffs containing blood meal, intended for feeding to fish,

must ensure that the blood comes from a slaughterhouse that is registered with the Scottish Ministers for the purposes of point D(a) of Part II of Annex IV to the Community TSE Regulation and that either—
(i) is not used to slaughter ruminants; or
(ii) has in place a control system in accordance with the second paragraph of point D(a) of that Part to ensure that ruminant blood is kept separate from non-ruminant blood, and has been authorised for the purpose by the Scottish Ministers.

(2) The occupier of the slaughterhouse must consign the blood in accordance with point D(a) of Part II of Annex IV to the Community TSE Regulation, and any transporter must transport it in accordance with that point.
(3) Any person producing blood products or blood meal must do so in accordance with either the first or the second paragraph of point D(b) of that Part.

(4) Any person producing blood products or blood meal for the use described in the second paragraph of point D(b) of Part II of Annex IV to the Community TSE Regulation must—
   (a) have in place the control system specified in that paragraph to ensure that products of ruminant origin are kept separate from products of non-ruminant origin; and
   (b) be authorised by the Scottish Ministers for the purpose.

(5) Any person producing feedingstuffs containing blood products or blood meal must do so—
   (a) in accordance with point D(c) of that Part, in an establishment authorised by the Scottish Ministers for the purposes of that point;
   (b) in accordance with point D(c)(i) of that Part, for home compounders registered by the Scottish Ministers for the purposes of that point; or
   (c) in accordance with point D(c)(ii) of that Part, in an establishment authorised by the Scottish Ministers for the purposes of that point.

(6) Any person packaging the feedingstuffs must label them in accordance with point D(d) of that Part, and any documentation accompanying the feedingstuffs must be in accordance with that point.

(7) Any person transporting the feedingstuffs in bulk must do so in accordance with the first sentence of point D(e) of that Part.

(8) Any person using a vehicle previously used to transport such feedingstuffs to transport feedingstuffs for ruminants must comply with the second sentence of point D(e) of that Part.

(9) The occupier of any farm where ruminants are kept must comply with the first paragraph of point D(f) of that Part unless the Scottish Ministers are satisfied that the provisions of the second paragraph of that point are complied with and have registered the farm under that paragraph.

Offences relating to feedingstuffs containing blood products or blood meal

14.—(1) Failure to comply with paragraph 13 is an offence.

(2) It is an offence for any person collecting blood in accordance with the second paragraph of point D(a) of Part II of Annex IV to the Community TSE Regulation to fail to—
   (a) slaughter animals in accordance with the first indent of that paragraph;
   (b) collect, store, transport or package blood in accordance with the second indent of that paragraph; or
   (c) regularly sample and analyse blood in accordance with the third indent of that paragraph.

(3) It is an offence for any person producing blood products or blood meal in accordance with the second paragraph of point D(b) of that Part to fail to—
   (a) ensure that the blood is processed in accordance with the first indent of that paragraph;
   (b) keep raw material and finished product in accordance with the second indent of that paragraph; or
   (c) sample in accordance with the third indent of that paragraph.

(4) It is an offence for any person producing feedingstuffs in accordance with point D(c)(ii) of Part II of Annex IV to the Community TSE Regulation to—
   (a) fail to ensure that feedingstuffs are manufactured in accordance with the first indent of that point;
   (b) fail to ensure that they are kept in separate facilities in accordance with the second indent; or
   (c) fail to make and keep a record in accordance with the third indent.

(5) It is an offence for a home compounder registered under paragraph 12(4)(b) to—
   (a) keep ruminant animals where blood products are used;
(b) keep animals other than fish where blood meal is used;
(c) consign feedingstuffs containing blood products or blood meal (whether complete or partly complete) from the home compounder’s holding; or
(d) use feedingstuffs containing blood products or blood meal with a total protein content of 50% or more in the production of complete feedingstuffs.

Change in use of equipment

15.—(1) It is an offence to use equipment used to produce feedingstuffs for non-ruminant animals under paragraph 8, 11 or 13, for the production of feedingstuffs for ruminant animals, unless authorised in writing by an inspector.

(2) It is an offence to use equipment used to produce feedingstuffs for unweaned, ruminant animals under paragraph 9, for the production of feedingstuffs for weaned, ruminant animals, unless authorised in writing by an inspector.

Conditions applying to the storage and transport of bulk quantities of protein products and feedingstuffs containing such proteins

16.—(1) It is an offence to store or transport—
(a) bulk processed animal protein (other than fishmeal); or
(b) bulk products, including feedingstuffs, organic fertilisers, and soil improvers containing such proteins,
except in accordance with point C(a) of Part III of Annex IV to the Community TSE Regulation.

(2) It is an offence to store or transport bulk fishmeal, bulk dicalcium phosphate, bulk tricalcium phosphate, blood products derived from non-ruminants or blood meal derived from non-ruminants, except in accordance with points C(b) and C(c) of Part III of Annex IV to the Community TSE Regulation.

(3) In addition to the requirements of sub-paragraphs (1) and (2), it is an offence to transport bulk processed animal protein or any of the materials specified in sub-paragraph (2) unless the transporter is registered with the Scottish Ministers for that purpose.

Conditions applying to the manufacture and transport of petfood or feedingstuffs

17.—(1) It is an offence to manufacture, store, transport or package feedingstuffs, including petfood, that contain blood products of ruminant origin or processed animal protein, other than fishmeal, except in accordance with point D of Part III of Annex IV to the Community TSE Regulation.

(2) It is an offence to manufacture or transport petfood containing dicalcium or tricalcium phosphate or blood products of non-ruminant origin except in accordance with point D of that Part.

Export of processed animal protein to third countries

18.—(1) In accordance with point E(1) of Part III of Annex IV to the Community TSE Regulation it is an offence to export processed animal proteins derived from ruminants, and anything containing such proteins.

(2) Sub-paragraph (1) does not apply to the export of processed petfood (including canned petfood) that contains processed animal proteins derived from ruminants, provided that it has undergone treatment and is labelled in accordance with Regulation (EC) No 1774/2002.
(3) It is an offence to export processed animal proteins derived from non-ruminants (and anything containing such proteins) except in accordance with point E(2) of that Part and an agreement in writing between the United Kingdom and the competent authority of the third country.

Fertilisers

19.—(1) It is an offence to sell or supply for use as a fertiliser on agricultural land, or to possess with the intention of such sale or supply, any—
   (a) mammalian protein (other than ash) derived from animal by-products classified as Category 2 material in Regulation (EC) No. 1774/2002; or
   (b) ash derived from the incineration of animal by-products classified as Category 1 material in that Regulation.

(2) It is an offence to use anything prohibited in sub-paragraph (1) on agricultural land as a fertiliser.

(3) In this paragraph—
   (a) “agricultural land” means land used or capable of use for the purposes of a trade or business in connection with agriculture; and
   (b) “agriculture” includes fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, the use of land for woodland, and horticulture (except the propagation of plants and the growing of plants within greenhouses, glass structures or plastic structures).

Record keeping for transport etc. of reject petfood

20.—(1) Any person who supplies, transports or receives any petfood containing animal protein that is not intended for use as petfood must—
   (a) record—
      (i) the name of the manufacturer;
      (ii) the date of supply and receipt;
      (iii) the premises of origin and destination;
      (iv) the quantity of petfood; and
      (v) the nature of the animal protein contained in the petfood; and
   (b) keep those records for 2 years.

(2) The consignor must ensure that the petfood is labelled with the information referred to in sub-paragraph (1) or is accompanied by documentation that contains that information.

(3) Any person who fails to comply with this paragraph is guilty of an offence.

Cross-contamination of materials originating from premises where processed animal proteins (except fishmeal) are in use

21. It is an offence to supply an ingredient of a feedingstuff if that ingredient is produced on premises where any processed animal protein (except fishmeal) is used in any manufacturing process unless the label or accompanying documentation indicates this.
SCHEDULE 7

Specified risk material, mechanically separated meat and slaughtering techniques

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Appointment of the Food Standards Agency as the competent authority

1. The Food Standards Agency must carry out the duties placed on the Member State in point 11(1) and point 11(2) of Annex V to the Community TSE Regulation in relation to this Schedule and may grant authorisations for the purposes of point 4(3)(a) of that Annex.

Training

2. The occupier of any slaughterhouse or cutting plant where specified risk material is removed must—
   (a) ensure that staff receive any training necessary to ensure that the occupier complies with the occupier’s duties under this Schedule; and
   (b) keep records of each person’s training for as long as that person works there,

and failure to do so is an offence.

Mechanically separated meat

3.—(1) Any person who fails to comply with point 5 of Annex V to the Community TSE Regulation (measures concerning mechanically separated meat) is guilty of an offence.
(2) Any person who uses any mechanically separated meat produced in contravention of that point in the preparation of any food for sale for human consumption or of any feedingstuffs is guilty of an offence.

Pithing

4. Any person who fails to comply with point 6 of Annex V to the Community TSE Regulation (measures concerning laceration of tissues) is guilty of an offence.

Tongue harvesting

5. Any person who fails to comply with point 7 of Annex V to the Community TSE Regulation (harvesting of tongues from bovine animals) is guilty of an offence.

Head meat harvesting

6. Any person who fails to comply with point 8(1) of Annex V to the Community TSE Regulation (harvesting of bovine head meat) is guilty of an offence.

Removal of specified risk material

7.—(1) Any person who removes specified risk material at any premises or place other than premises or a place where that specified risk material may be removed under point 4(1) or point 4(3)(a) of Annex V to the Community TSE Regulation is guilty of an offence.

(2) In the case of a cutting plant, it is an offence to remove—

(a) any part of the vertebral column that is specified risk material from any bovine animal unless the plant is authorised under paragraph 13(1)(a); or

(b) the spinal cord from any sheep or goat aged over 12 months at slaughter, or that has a permanent incisor erupted through the gum, unless the plant is authorised for the purpose of such removal under paragraph 13(1)(b).

Bovine animals in a slaughterhouse

8.—(1) When a bovine animal is slaughtered in a slaughterhouse or the carcase of a bovine animal is transported to a slaughterhouse following emergency slaughter elsewhere, the occupier of the slaughterhouse must remove all specified risk material (other than those parts of the vertebral column that are specified risk material) as soon as is reasonably practicable after slaughter and in any event before post-mortem inspection.

(2) The occupier must as soon as is reasonably practicable after slaughter consign any meat containing those parts of the vertebral column that are specified risk material to—

(a) a cutting plant authorised under paragraph 13(1)(a);

(b) a cutting plant located in another part of the United Kingdom and authorised under the corresponding provision applicable in that part; or

(c) another Member State in accordance with point 10(2) of Annex V to the Community TSE Regulation.

(3) The occupier must identify meat containing vertebral column that is not specified risk material in accordance with point 11(3)(a) of Annex V to the Community TSE Regulation and provide information in accordance with point 11(3)(b) of that Annex.

(4) No person may include a blue stripe in the label referred to in Article 13 of Regulation (EC) No. 1760/2000(a) of the European Parliament and of the Council establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef

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products and repealing Council Regulation (EC) No. 820/97, except in accordance with point 11(3)(a) of Annex V to the Community TSE Regulation.

(5) Failure to comply with this paragraph is an offence.

Sheep and goats in a slaughterhouse

9.—(1) When a sheep or goat is slaughtered in a slaughterhouse or the carcase of a sheep or goat is transported to a slaughterhouse following emergency slaughter elsewhere, the occupier of the slaughterhouse must remove all specified risk material (other than the spinal cord) as soon as is reasonably practicable after slaughter and in any event before post-mortem inspection.

(2) In the case of a sheep or goat aged over 12 months at slaughter, or that has a permanent incisor erupted through the gum, the occupier must as soon as is reasonably practicable after slaughter—

(a) remove the spinal cord at the slaughterhouse before the post-mortem inspection; or

(b) send the meat to—

(i) a cutting plant authorised under paragraph 13(1)(b);

(ii) a cutting plant located in another part of the United Kingdom and authorised under the corresponding provision applicable in that part; or

(iii) in accordance with point 10(1) of Annex V to the Community TSE Regulation, a cutting plant located in another Member State, provided that the Food Standards Agency has entered into a written agreement with the competent authority of the receiving Member State and the dispatch is in accordance with that agreement.

(3) Failure to comply with this paragraph is an offence.

Bovine animals, sheep and goats in other places of slaughter

10.—(1) When a bovine animal, sheep or goat is slaughtered in a place that, for the purposes of point 4(1)(a) of Annex V to the Community TSE Regulation, is an other place of slaughter, the person carrying out the slaughter must remove all specified risk material as soon as is reasonably practicable after slaughter.

(2) Failure to comply with this paragraph is an offence.

Young lamb and goat stamps

11.—(1) An inspector may stamp a sheep or goat in a slaughterhouse with a young lamb stamp or a young goat stamp if the animal does not have a permanent incisor erupted through the gum and the documentation, if any, relating to the animal does not indicate that it is aged over 12 months at slaughter.

(2) The stamp must mark the meat with a circular mark 5 centimetres in diameter with the following in capital letters 1 centimetre high—

(a) “MHS”; and

(b) in the case of—

(i) a sheep, “YL”; or

(ii) a goat, “YG”.

(3) It is an offence for any person other than an inspector to apply the stamp or a mark resembling the stamp, or to possess the equipment for applying it.

Removal of spinal cord from sheep and goats

12. It is an offence to remove the spinal cord or any part of it from a sheep or goat aged over 12 months at slaughter or that had one or more permanent incisors erupted through the gum (other than for the purposes of veterinary or scientific examination) except by—
(a) longitudinally splitting the whole vertebral column; or
(b) removing a longitudinal section of the whole vertebral column including the spinal cord.

Authorisation of cutting plants by the Food Standards Agency

13.—(1) The Food Standards Agency may authorise a cutting plant to remove—
(a) those parts of the vertebral column of bovine animals that are specified risk material; or
(b) the spinal cord from sheep and goats aged over 12 months at slaughter, or that have a permanent incisor erupted through the gum,

if the Agency is satisfied that the provisions of Annex V to the Community TSE Regulation and this Schedule will be complied with.

(2) The procedures in regulations 6, 8, 9 and 10 apply, with references to the Scottish Ministers being construed as references to the Food Standards Agency.

Removal of specified risk material at a cutting plant authorised under paragraph 13(1)

14.—(1) The occupier of a cutting plant authorised under paragraph 13(1) shall ensure that as soon as reasonably practicable after arrival at the plant of meat and in any event before the meat leaves the plant all specified risk material of the kind to which the authorisation relates is removed from the meat.

(2) Any person who fails to comply with this paragraph is guilty of an offence.

Meat from another Member State

15. For the purposes of point 10(1) and point 10(2) of Annex V to the Community TSE Regulation, where meat containing those parts of the vertebral column of a bovine animal that are specified risk material is brought into Scotland from another Member State, the importer must send it directly to a cutting plant authorised under paragraph 13(1)(a), and failure to do so is an offence.

Staining and disposal of specified risk material

16.—(1) The occupier of any premises where specified risk material is removed commits an offence if that occupier fails to comply with point 3 of Annex V to the Community TSE Regulation.

(2) For the purposes of that point—
(a) staining involves treating the material (whether by immersion, spraying or other application) with—
(i) a 0.5% weight/volume solution of the colouring agent Patent Blue V (E131, 1971 Colour Index No 42051(a)); or
(ii) such other colouring agent as may be approved in writing by the Scottish Ministers or the Food Standards Agency; and
(b) the stain must be applied in such a way that the colouring is and remains clearly visible—
(i) over the whole of the cut surface and the majority of the head in the case of the head of a sheep or goat; and
(ii) in the case of all other specified risk material, over the whole surface of the material.

(3) This paragraph does not apply in relation to any specified risk material that is destined for use as provided for in Article 1(2)(b) and (c) of the Community TSE Regulation.

(a) Colour Index is published online by the Society of Dyers and Colourists at Perkin House, 82 Grattan Road, Bradford, West Yorkshire BD1 2JB. See www.colour-index.org.
Security of specified risk material

17.—(1) Pending consignment or disposal from the premises or place where it was removed, the occupier of the premises or place must ensure that specified risk material is adequately separated from any food, feedingstuff or cosmetic, pharmaceutical or medical product and held in an impervious covered container that is labelled as either—

(a) containing specified risk material; or
(b) Category 1 animal by-products and including the words “For disposal only”.

(2) The occupier must ensure that the container is thoroughly washed as soon as is reasonably practicable each time that it is emptied, and disinfected before use for any other purpose.

(3) Failure to comply with this paragraph is an offence.

Prohibition on the sale, supply or possession for sale or supply of specified risk material for human consumption

18. It is an offence to sell, supply or possess for sale or supply—

(a) any specified risk material, or any food containing specified risk material, for human consumption; or
(b) any specified risk material for use in the preparation of any food for human consumption.
SCHEDULE 8

Restrictions on placing on the market and export

Placing on the market or export to third countries of bovine products

1.—(1) It is an offence for any person to place on the market or to export (or offer to export) to third countries any products consisting of or incorporating any material (other than milk) derived from a bovine animal born or reared within the United Kingdom before 1st August 1996.

(2) The prohibition in sub-paragraph (1) does not apply to the hides of bovine animals born or reared within the United Kingdom before 1st August 1996 (including hides from bovine animals referred to in the third indent of point 1(a) of Annex VII to the Community TSE Regulation) that have been used for leather production in accordance with Article 1(3) of Commission Decision 2007/411/EC.

(3) For the purposes of this paragraph, a bovine animal is deemed to have been born or reared in the United Kingdom before 1st August 1996 unless its cattle passport shows either that—

(a) it was born in the United Kingdom on or after 1st August 1996; or

(b) it first entered the United Kingdom on or after 1st August 1996.

Placing on the market or export to third countries of bovine animals

2.—(1) It is an offence for any person to place on the market or to export (or offer to export) to third countries in accordance with Part II of Chapter A of Annex VIII to the Community TSE Regulation bovine animals born or reared in the United Kingdom before 1st August 1996.

(2) The prohibition in sub-paragraph (1) does not apply to the placing on the market of such animals for sale or supply to any person in the United Kingdom.

(3) For the purposes of this paragraph, a bovine animal is deemed to have been born or reared in the United Kingdom before 1st August 1996 unless its cattle passport shows either that—

(a) it was born in the United Kingdom on or after 1st August 1996; or

(b) it first entered the United Kingdom on or after 1st August 1996.

Export to Member States of heads and un-split carcases

3. Subject to point 10(2) of Annex V to the Community TSE Regulation, it is an offence for any person to export (or offer to export) a head or un-split carcase containing specified risk material to another Member State in the absence of an agreement of the kind specified in point 10(1) of that Annex.

Export to third countries of products containing specified risk material

4. In accordance with point 10(3) of Annex V to the Community TSE Regulation, it is an offence for any person to export (or offer to export) heads or fresh meat of bovine, ovine or caprine animals containing specified risk material to third countries.

Further offences relating to placing on the market and export

5. In addition to the offences specified in paragraphs 1 to 4, the following provisions of these Regulations specify offences relating to placing on the market and export—

(a) paragraph 7 of Schedule 3;

(b) paragraph 8(2)(b) and (7) of Schedule 4;

(c) paragraph 10(7) of Schedule 4;
(d) paragraph 23 of Schedule 4; and
(e) paragraph 19(1) and (3) of Schedule 6.
SCHEDULE 9

Consequential Amendments

The Animal By-Products (Identification) Regulations 1995

1. The Animal By-Products (Identification) Regulations 1995(a) are amended as follows.

2. For paragraph (3) of regulation 3 (meaning of “animal by-product”) substitute—

“(3) In these Regulations the definition of “animal by-product” includes—

(a) any product that, under paragraph 1 of Schedule 8 to the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010(b), it is an offence for any person to place on the market or export (or offer to export) to third countries; and

(b) where—

(i) a bovine animal has been slaughtered for human consumption other than in accordance with a required method of operation approved pursuant to paragraph 13(3) of Schedule 2 to the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010; and

(ii) the disposal of its body, or a part of its body, has in consequence been required under regulation 15(1), (2) and (3)(e) of those Regulations, that body or part of a body.”.

The Rendering (Fluid Treatment) (Scotland) Order 2001

3. The Rendering (Fluid Treatment) (Scotland) Order 2001(c) is amended as follows.


The Meat Products (Scotland) Regulations 2004

5. The Meat Products (Scotland) Regulations 2004(e) are amended as follows.

6. In regulation 2 (interpretation), for “the TSE (Scotland) Regulations 2006” substitute “the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010(f)”. 

7. In regulation 6 (parts of the carcase in uncooked meat products), for “the TSE (Scotland) Regulations 2006” substitute “the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010”.

(b) S.S.I. 2009/???
(c) S.S.I. 2001/189, amended by S.S.I. 2006/530.
(f) S.S.I. 2009/???
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EXPLANATORY NOTE
(This note is not part of the Regulations)

These Regulations, which apply in Scotland, revoke and remake with amendments the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006.

These Regulations enforce 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 as amended (“the Community TSE Regulation”). They also enforce—

(a) Commission Decision 2007/411 prohibiting the placing on the market of products derived from bovine animals born or reared within the United Kingdom before 1st August 1996 for any purpose and exempting such animals from certain control and eradication measures laid down in Regulation (EC) No. 999/2001 and repealing Decision 2005/598;

(b) Commission Decision 2008/908 authorising certain Member States to revise their annual BSE monitoring programme;

(c) Commission Regulation (EC) No 956/2008 and No. 163/2009 amending Annex IV to the Community TSE Regulation; and


The main Regulations

The Regulations provide that the Scottish Ministers are the competent authority for the purposes of the Community TSE Regulation (except in Schedule 7 and paragraphs 1, 3 and 4 of Schedule 8, where the competent authority is the Food Standards Agency) (regulation 3) and provide an exception for research (regulation 4).

The provisions in Part 2 introduce Schedules 2 to 8.

Part 3 deals with administration and enforcement.

Regulations 6 to 10 deal with approvals, authorisations, licences and registrations, occupier’s duties, suspension, amendment and revocations of approvals, etc, and an appeals procedure.

Regulation 11 deals with valuations.

Regulations 12 to 14 give powers to the Scottish Ministers, the local authority and the Food Standards Agency to appoint inspectors, and deal with powers of entry and powers of inspectors. Regulation 15 provides for a notice procedure, and regulation 16 provides for licences permitting movement during a movement restriction.

Regulations 17 to 19 deal with obstruction of an inspector, penalties, and offences by a body corporate. A person guilty of an offence under these Regulations is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term of twelve months or both; or

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

Regulation 20 details who is responsible for enforcing these Regulations.

Regulation 21 introduces Schedule 9 (consequential amendments).

Regulation 22 saves the miscellaneous amendments made by the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006.

Regulation 23 introduces Schedule 10 (revocations).
Schedule 1

Schedule 1 sets out those Community instruments to which any reference should be construed as to those instruments as amended from time to time.

Schedule 2

Schedule 2 deals with monitoring for TSEs. Paragraph 1 provides for notification to the Scottish Ministers of fallen stock that must be tested for TSEs under the Community TSE Regulation. Paragraphs 2 to 5 deal with the delivery, testing and retention of bodies of bovine animals for the purposes of monitoring under Article 6 of the Community TSE Regulation. Paragraph 4 makes it an offence to destroy the body of a bovine animal to which paragraph 1 applies before it has been tested. Paragraph 6 provides that paragraphs 1 and 2 do not apply in an island area as defined in that paragraph. Paragraph 7 makes it an offence to consign a bovine animal born or reared in the United Kingdom before 1 August 1996 to a slaughterhouse for human consumption or to slaughter such an animal for human consumption. Paragraphs 8 and 9 provide for brain stem sampling of specified bovine animals. Paragraph 10 provides for the approval of laboratories that test such brain stem samples and includes the following fees—

(a) £29,770 for the initial approval of a laboratory;
(b) £8,834 for annual proficiency testing and a follow-up inspection for the first year after approval;
(c) £4,135 for annual proficiency testing from the second year after approval;
(d) £1,385 for Single proficiency test (in the event of a failure in the annual proficiency testing); and
(e) £87.24 per hour for an inspector (for any additional inspections that are necessary to check for compliance with the terms of the approval).

Paragraph 11 deals with applications for approval as a sampling site.

Paragraph 12 creates a requirement for the occupier of a slaughterhouse (in which bovine animals that require BSE testing are slaughtered for human consumption) to have a Required Method of Operation (“RMOP”).

Paragraph 13 provides for retention of products and their disposal, paragraph 13 provides for TSE sampling in sheep, goats and deer and paragraph 14 deals with compensation.

Paragraphs 14 to 22 specify the minimum requirements that must appear in a RMOP.

Schedule 3

Schedule 3 deals with control and eradication of TSEs in bovine animals. Paragraph 1 provides for notification of a suspect animal to the Scottish Ministers. Paragraphs 2 and 3 provide for the restriction and slaughter of notified and suspect animals. Paragraphs 4 and 5 deal with the offspring and cohorts of the suspect. Paragraph 6 provides for the notification and restriction of the carcases of animals that die or are killed while under restriction, and paragraph 7 prohibits the placing on the market of offspring.

Paragraphs 8 to 10 deal with compensation.

Schedule 4

Schedule 4 deals with control and eradication of TSEs in sheep and goats. Paragraph 1 provides for notification of a suspect animal to the Scottish Ministers. Paragraphs 2 and 3 provide for the restriction and slaughter of the suspect. Paragraphs 4 and 5 deal with movement restrictions. Paragraphs 6 to 10 provide for action following confirmation. Paragraph 11 deals with derogations from the usual requirement of paragraphs 6 to 10. Paragraph 12 provides for time for appeals, and paragraph 13 provides for killing and destruction. Paragraphs 14 to 16 deal with infected animals.
from another holding, common grazing and multiple flocks on a holding. Paragraph 17 deals with subsequent occupiers of the land.

Paragraphs 18 to 20 set out the procedure to be followed after the killing or destruction. Paragraph 18 restricts the introduction of animals onto a holding. Paragraph 19 regulates the use of ovine germinal products, and paragraph 20 restricts the movement of animals from a holding.

Paragraph 21 specifies when the time relating to restrictions begins. Paragraph 22 provides for notification of animals that die while under restriction. Paragraph 23 deals with placing on the market of first generation progeny, semen, embryo, and ovum of animals that are either suspected of, or confirmed with, a TSE. Paragraph 24 deals with compensation.

Schedule 5

Schedule 5 deals with animals that are not bovine, ovine, or caprine. Paragraphs 1 to 3 concern notification, restriction and slaughter of suspect animals. Paragraph 4 provides for compensation.

Schedule 6

Schedule 6 deals with feedingstuffs. Paragraphs 1 to 3 prohibit feeding specified feedingstuffs to ruminant and non-ruminant animals, and provide for exceptions. Paragraphs 4 and 5 provide for movement restrictions and slaughter of animals suspected of having been fed prohibited feedingstuffs, and paragraph 6 provides for compensation. Paragraph 7 prohibits the slaughter for human consumption of restricted animals.

Paragraphs 8 to 10 regulate the production and use of fishmeal for feeding to non-ruminant animals and unweaned, ruminant farmed animals. Paragraphs 11 and 12 regulate feedingstuffs containing dicalcium phosphate or tricalcium phosphate. Paragraphs 13 and 14 regulate feedingstuffs containing blood products and blood meal.

Paragraph 15 makes provision for changes in use of equipment. Paragraphs 16 and 17 control the manufacture, storage and transport of processed animal protein and products containing it. Paragraph 18 controls exports, and paragraph 19 regulates fertilisers derived from animal protein. Paragraph 20 deals with records, and paragraph 21 deals with cross-contamination.

Schedule 7

Schedule 7 deals with specified risk material, mechanically recovered meat and slaughtering techniques. Paragraph 1 appoints the Food Standards Agency as the competent authority for this Schedule. Paragraph 2 makes provision for training of staff in slaughterhouses and cutting plants where specified risk material is removed.

Paragraph 3 deals with mechanically recovered meat, paragraph 4 with pithing, paragraph 5 with tongue harvesting and paragraph 6 with head meat harvesting.

Paragraph 7 controls the removal of specified risk material. Paragraph 8 deals with bovine animals in a slaughterhouse and paragraph 9 deals with sheep and goats at a slaughterhouse.

Paragraph 10 deals with bovine animals, sheep and goats at other places of slaughter.

Paragraph 11 deals with young lamb and goat stamps.

Paragraph 12 deals with the removal of spinal cord from sheep and goats.

Paragraph 13 provides for the authorisation of cutting plants to remove certain specified risk material and paragraph 14 controls the removal of specified risk material at a cutting plant authorised under paragraph 12(1).

Paragraph 15 deals with meat from other Member States.
Paragraph 16 requires the staining and disposal of specified risk material and paragraph 17 provides for the security of specified risk material.

Paragraph 18 prohibits the supply of specified risk material for human consumption.

Schedule 8

Schedule 8 deals with the export of live bovine animals and products derived from them to other Member States and to third countries. Paragraphs 1 and 2 prohibit the dispatch of bovine animals and products to other Member States and to third countries, paragraph 3 restricts the dispatch of heads and un-split carcases containing specified risk material to other Member States, and paragraph 4 prohibits the dispatch of bovine heads and meat containing specified risk material to third countries. Paragraph 5 provides cross-references to other relevant offence provisions in these Regulations.

Schedules 9 and 10

Schedule 9 makes consequential amendments to other statutory instruments and Schedule 10 contains revocations.

A regulatory impact assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Scottish Government Rural Directorate, Pentland House, 47 Robb’s Loan, Edinburgh EH14 1TY and from the Food Standards Agency, 6th Floor, St Magnus house, 25 Guild Street, Aberdeen AB11 6NJ.
RESPONDENT INFORMATION FORM

Please Note That This Form Must Be Returned With Your Response To Ensure That We Handle Your Response Appropriately

Example A B C D

(Please complete in BLACK ink and in BLOCK CAPITALS, one per box)

1. Name/Organisation

Organisation Name

Title Mr □ Ms □ Mrs □ Miss □ Dr □ Please tick as appropriate

Surname

Forename

2. Postal Address

P O S T C O D E

Phone Email

3. Permissions

I am responding as ...

Individual □ Group/Organisation □

Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate □ Yes □ No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

Yes, make my response available, but not my name and address

Yes, make my response and name available, but not my address

(c) The name and address of your organisation will be made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your response to be made available?

Please tick as appropriate □ Yes □ No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so.

Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate □ Yes □ No

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