

Statutory Rule 1999 No. 323

Bovine Spongiform Encephalopathy (Feedingstuffs and Surveillance) Regulations (Northern Ireland) 1999

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STATUTORY RULES OF NORTHERN IRELAND

1999 No. 323

ANIMALS

ANIMAL HEALTH

Bovine Spongiform Encephalopathy (Feedingstuffs and Surveillance) Regulations (Northern Ireland) 1999

Made

9th July 1999

Coming into operation

3rd September 1999

The Department of Agriculture, being a Department designated^[1] for the purposes of section 2(2) of the European Communities Act 1972^[2] in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on it by the said section 2(2) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Bovine Spongiform Encephalopathy (Feedingstuffs and Surveillance) Regulations (Northern Ireland) 1999 and shall come

into operation on 3rd September 1999.

Interpretation

2. - (1) The Interpretation Act (Northern Ireland) 1954[3] shall apply to these Regulations as it applies to a measure of the Northern Ireland Assembly.

(2) In these Regulations -

"authorised officer" means an inspector appointed by the Department for the purposes of the Diseases of Animals (Northern Ireland) Order 1981 and any other officer of the Department authorised by it to exercise functions under these Regulations;

"the Commission Decision" means Commission Decision 98/272/EEC[4] on epidemio-surveillance for transmissible spongiform encephalopathies;

"the Department" means the Department of Agriculture for Northern Ireland;

"the disease" means bovine spongiform encephalopathy;

"feeding stuff" has the meaning assigned to it by section 66(1) of the Agriculture Act 1970[5];

"Official Elisa test" means the test required to be carried out in accordance with Commission Decision 94/474/EEC concerning certain protection measures relating to bovine spongiform encephalopathy as amended by Commission Decision 95/287/EEC[6];

"premises" includes any structure or vehicle and premises occupied as or contiguous with a dwelling; and

"protein" means any proteinaceous material derived from a carcase, except -

(a) any milk product;

(b) dicalcium phosphate derived from bones;

(c) dried plasma or any other blood product;

(d) gelatin; or

(e) amino acids produced from hides and skins by a process which involves exposure of the material to acid of a pH lower than 2 followed by alkali of a pH greater than 11 and heat treatment at a minimum of 140°C for 30 minutes at a pressure of 3 bar.

(3) Other expressions in these Regulations which are also used in the Commission Decision have the same meaning as in that Decision.

(4) These Regulations are without prejudice to the powers conferred by or under the Diseases of Animals (Northern Ireland) Order 1981 on inspectors appointed by the Department for the purposes of that Order.

Powers of authorised officers in relation to samples

3. - (1) An authorised officer shall, on producing, if required to do so, a duly authenticated document showing his authority, have the right to enter at any reasonable time any premises and there take such samples from any material found on

the premises as are necessary to allow the carrying out of the Official Elisa tests on those samples to determine whether that material consists of or contains ruminant protein.

(2) An authorised officer may send any sample taken in accordance with paragraph (1) for laboratory testing.

(3) An authorised officer entering any premises in accordance with paragraph (1) may take with him such other persons acting under his instructions as he considers necessary for the purposes of this regulation.

Investigation of the disease in bovine animals

4. - (1) When carrying out an investigation of the disease as part of a programme of monitoring by the Department under Article 4(1) of the Commission Decision, an authorised officer may -

(a) inspect and examine any bovine animal or the carcase of any bovine animal on any premises;

(b) make such tests in relation to, and take such samples from, any bovine animal or the carcase of any bovine animal on any premises as he may consider necessary for the purpose of diagnosis or research in relation to the disease;

(c) mark for identification purposes any bovine animal or the carcase of any bovine animal on any premises; and

(d) examine any record in whatever form on the premises, and take copies of those records, which he believes may be relevant to any such inspection, examination, test, sampling or marking.

(2) The occupier of any premises and his employees, and any person who is or has been in possession or charge of any animal or carcase which is or has been on any premises, shall -

(a) provide such reasonable facilities and comply with such reasonable requirements as are necessary for an investigation of the disease as part of a programme of monitoring referred to in paragraph (1); and

(b) if so required by an authorised officer, give such information as he possesses as to -

(i) any bovine animal or carcase which is or has been on the premises;

(ii) any other animal or carcase with which any bovine animal or carcase which is or has been on the premises may have come into contact; and

(iii) the location and movement of any bovine animal or carcase which is or has been in his possession or charge.

(3) An authorised officer shall, on producing, if required to do so, his authority, have a right at any reasonable time -

(a) to enter any premises -

(i) for the purpose of ascertaining whether any bovine animal is being or has been kept on the premises; or

(ii) for any other purpose connected with an investigation of the disease as part of a programme of monitoring referred to in paragraph (1); or

(b) to enter any premises for the purpose of ascertaining whether there is on the premises any evidence of any contravention of the provisions of this regulation.

(4) If a justice of the peace, on sworn information in writing, is satisfied that there is reasonable ground for entry into any premises for any of the purposes mentioned in paragraph (3) and that either -

(a) admission to the premises has been refused, or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier; or

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

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

(5) An authorised officer, when entering premises for any of the purposes mentioned in paragraph (3), or when on any premises for any such purpose, may -

(a) examine any record in whatever form on the premises, and take copies of those records;

(b) have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with any records, and may require any person having charge of, or who is otherwise concerned with the operation of the computer, apparatus or material to afford him such assistance as he may reasonably require;

(c) where records are kept by means of a computer, may require the records to be produced in a form in which they may be taken away;

(d) take with him such other person as he considers necessary -

(i) to carry out any checks and examinations under these Regulations; or

(ii) for any purpose in relation to the enforcement of these Regulations; and

(e) take with him a representative of the European Commission acting for any purposes in relation to the Commission Decision.

Obstruction

5. - (1) A person shall not -

- (a) intentionally obstruct an authorised officer acting in the execution of these Regulations;**
- (b) without reasonable cause, fail to give to any authorised officer acting in the execution of these Regulations any assistance or information which the officer may reasonably require of him under regulation 4(2) for the purpose of carrying out his functions under these Regulations; or**
- (c) furnish to any authorised officer acting in the execution of these Regulations any information which he knows to be false or misleading.**

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

Offences and penalties

6. - (1) Any person who, without lawful authority or excuse, proof of which shall lie on him -

- (a) defaces, obliterates or removes any mark applied to any bovine animal or carcase under regulation 4(1)(c);**
- (b) contravenes or fails to comply with regulation 4(2) or 5(1); or**
- (c) knowingly causes or permits any such contravention or non-compliance,**

shall be guilty of an offence.

(2) A person guilty of an offence under paragraph (1) shall be liable -

- (a) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both;**
- (b) on summary conviction to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or to both.**

Sealed with the Official Seal of the Department of Agriculture for Northern Ireland on

L.S.

L. G. McKibben
Assistant Secretary

9th July 1999.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations give effect in part to Commission Decision 95/287/EC amending Decision 94/474/EEC concerning certain protection measures relating to bovine spongiform encephalopathy (O.J. No. L181, 1.8.95, p. 40) and in part to Article 4(1) of Commission Decision 98/272/EC (O.J. No. L122, 24.4.98, p. 59) on epidemic-surveillance for bovine spongiform encephalopathy.

The Regulations -

- (a) enables samples to be taken for the purpose of enabling the Official Elisa tests for identification of ruminant protein in feed intended for ruminants to be carried out (regulation 3). The obligation to carry out those tests is contained in the text added to Article 3(3)(c) of Decision 94/474/EEC by Article 1(1) of Decision 95/287/EC;**
- (b) make provision for the investigation of bovine spongiform encephalopathy as part of a programme of monitoring carried out by the Department under Article 4(1) of Commission Decision 98/272/EC (regulation 4(1)). This includes the inspection, examination and testing of bovine animals and carcasses, the taking of samples, marking the animals and their carcasses and examining records;**
- (c) require that people in charge or in possession of bovine animals and carcasses of bovine animals co-operate with these investigations (regulation 4(2));**
- (d) make provision in relation to entry onto premises by authorised officers of the Department (the remaining provisions of regulation 4);**
- (e) prohibit the obstruction of and other activities in relation to such officers acting in execution of these Regulations (regulation 5); and**
- (f) provide offences and penalties (regulation 6).**

Notes:

[1] S.I. 1972/1811[back](#)

[2] 1972 c. 68; section 2 is subject to Schedule 2 to that Act and is to be read with S.I. 1984/703 (N.I. 3) and S.I. 1994/2795 (N.I. 15)[back](#)

[3] 1954 c. 33 (N.I.)[back](#)

[4] O.J. No. L122, 24.4.98, p. 59[back](#)

[5] 1970 c. 40; the definition of feeding stuff in section 66 was substituted by regulation 20 of the Feeding Stuffs Regulations (Northern Ireland) 1995 (S.R. 1995 No. 451); and regulation 3 of those Regulations prescribes descriptions of animals for the purpose of the definition[back](#)

[6] O.J. No. L194, 29.7.94, p. 96 as amended by Commission Decision 95/287/EEC (O.J. No. L181, 1.8.95, p. 40)[back](#)

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