

Statutory Instrument 2001 No. 1644

The BSE Monitoring (England) Regulations 2001

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STATUTORY INSTRUMENTS

2001 No. 1644

ANIMALS

ANIMAL HEALTH

The BSE Monitoring (England) Regulations 2001

<i>Made</i>	<i>1st May 2001</i>
<i>Laid before Parliament</i>	<i>2nd May 2001</i>
<i>Coming into force</i>	<i>1st July 2001</i>

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The Minister of Agriculture, Fisheries and Food, being a minister 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 him by that section, hereby makes the following Regulations -

Title, extent and commencement

1. - (1) These Regulations may be cited as The BSE Monitoring (England) Regulations 2001.

(2) These Regulations shall extend to England and shall come into force on 1st July 2001.

Interpretation

2. - (1) In these Regulations, unless the context otherwise requires -

"BSE" means the disease bovine spongiform encephalopathy;

"the BSE (No. 2) Order" means the Bovine Spongiform Encephalopathy (No. 2) Order 1996^[3];

"bovine animal" includes buffalo of the species *Bubalus bubalis* and *Bison bison*;

"the Commission Decisions" means -

(a) Commission Decision 2000/764/EC^[4] on the testing of bovine animals for the presence of bovine spongiform encephalopathy and amending Decision 98/272/EC^[5] on epidemio-surveillance for transmissible spongiform encephalopathies; and

(b) Commission Decision 2001/233/EC^[6] amending Decision 2000/418/EC^[7] as regards mechanically recovered meat and bovine vertebral column;

"inspector" means -

(a) a person appointed as such for the purposes of these Regulations by the Minister, including a veterinary inspector; and

(b) a person appointed as such for the purposes of these Regulations by a local authority in relation to its enforcement responsibilities under these Regulations;

"local authority" means -

(a) in any part of England where there is, within the meaning of the Local Government Changes for England Regulations 1994^[8], a unitary authority for that local government area, that authority; and

(b) in any part of England where there is not a unitary authority -

(i) in a metropolitan district, the council of that district;

(ii) in a non-metropolitan county, the council of that county;

(iii) in each London borough, the council of that borough; or

(iv) in the City of London, the Common Council;

"the Minister" means the Minister of Agriculture, Fisheries and Food;

"a notifiable bovine animal" means a bovine animal over 30 months of age which -

(a) dies on any farm or in transport; or

(b) has been killed otherwise than for human consumption;

"premises" means any place (including any structure or vehicle) in which bovine animals may be bred, handled, held, kept, marketed or shown to the public, and includes any such place occupied as a private dwelling; and

"veterinary inspector" means a veterinary inspector appointed for the purposes of these Regulations by the Minister.

(2) Expressions in these Regulations which are not defined in paragraph (1) above and which appear in either of the Commission Decisions have the same meaning in these Regulations as they have for the purposes of the Decision in which they appear.

(3) Any person appointed by the Minister or a local authority to be an inspector for the purposes of the Animal Health Act 1981 shall be deemed to have been appointed by the Minister or that authority to be an inspector for the purposes of these Regulations.

(4) Any reference in these Regulations to a numbered regulation is a reference to the regulation bearing that number in these Regulations.

Requirements relating to bovine animals over 30 months of age

3. - (1) A person who has in his possession or under his charge a notifiable bovine animal which dies, or the carcase of a notifiable bovine animal, shall with all practicable speed, and in any event within 24 hours from the time when the animal dies or the carcase comes into his possession or charge, notify the fact to the Minister or, where the Minister has appointed an agent to receive notifications under this regulation on his behalf, to that agent.

(2) Any veterinary surgeon or other person who, in the course of his duties -

(a) examines or inspects any notifiable bovine animal which dies during the course of those duties; or

(b) examines or inspects the carcase of any notifiable bovine animal,

shall with all practicable speed, and in any event within 24 hours from the time when the animal dies or the carcase is examined or inspected, notify the fact to the Minister or, where the Minister has appointed an agent to receive notifications under this regulation on his behalf, to that agent.

(3) Where the Minister appoints an agent for the purposes of receiving notifications under this regulation on his behalf, the Minister shall publish by such means as he thinks fit, including by notice in *The London Gazette*, the name of the agent, his address and other relevant contact information and the date on and after which notifications under this

regulation shall be made to the agent instead of to the Minister.

(4) A person who has in his possession or under his charge on any premises a notifiable bovine animal which dies, or the carcase of a notifiable bovine animal, shall detain it on the premises until it has been collected by or on behalf of the Minister.

Powers of entry, examination, search and sampling etc.

4. - (1) An inspector shall, on producing if so required, some duly authenticated document showing his authority, have a right at all reasonable hours to enter any premises including any part of any premises occupied as a private dwelling -

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

(b) for the purpose of ascertaining whether there is or has been any contravention of, or failure to comply with, these Regulations.

(2) If a justice of the peace, on sworn information in writing is satisfied that there is reasonable ground for entry into any premises (other than any premises occupied as a private dwelling) for any such purpose as is mentioned in paragraph (1) above and that either -

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

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

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

(3) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it, may take with him such other persons as he considers necessary, and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectively secured against unauthorised entry as he found them.

(4) An inspector may -

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

(b) make such tests in relation to, and take samples from, any bovine animal or any carcase of a bovine animal on the premises as he considers necessary for the purposes of these Regulations;

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

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

(e) 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;

(f) 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;

(g) take with him such other person as he considers necessary for any purpose in relation to the enforcement of these Regulations; and

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

Obstruction

5. - (1) No person shall -

(a) intentionally obstruct any person acting in the execution of these Regulations;

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

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

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

Offences and penalties

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

(a) contravenes or fails to comply with regulation 3(1), 3(2) or 3(4); or

(b) knowingly causes or permits any such contravention or non-compliance,

shall be guilty of an offence.

(2) A person guilty of an offence under these Regulations 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.

Offences by bodies corporate

7. - (1) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have

been attributable to any neglect on the part of -

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

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

(2) For the purposes of paragraph (1) above, "director", in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

Enforcement

8. The provisions of these Regulations shall be executed and enforced by the local authority or by the Minister.

Amendment of the Bovine Spongiform Encephalopathy (No. 2) Order 1996

9. - (1) Article 11 of the Bovine Spongiform Encephalopathy (No 2) Order 1996^[9] shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1), after the word "carcase" there shall be inserted the following words -

"or any blood derived from any carcase whether or not the carcase from which it is derived is seized, destroyed or disposed of by an inspector."

(3) In paragraph (2) -

(a) after the word "carcase", where it first appears, there shall be inserted the following words -

"or any blood derived from any carcase."; and

(b) after the word "carcase" where it subsequently appears there shall be inserted the following words -

"or blood".

(4) In paragraph (3), after the word "carcases" there shall be inserted the following words -

"or any blood derived from the carcasses".

Amendment of the Cattle Identification Regulations 1998

10. - (1) The Cattle Identification Regulations 1998^[10] shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1) after the definition of "local authority" there shall be inserted the following definition -

" "notifiable bovine animal" means a bovine animal over 30 months of age

which -

(a) dies on any farm or in transport; or

(b) has been killed otherwise than for human consumption;".

(3) In regulation 26(1) at the beginning of paragraph (1) there shall be inserted the following words -

"Subject to paragraph (1A) below,".

(4) In regulation 26, after paragraph (1) there shall be inserted the following paragraph -

" (1A) If a notifiable bovine animal with a cattle passport dies, the keeper will be treated as having complied with paragraph (1) above if, on notifying the fact in accordance with regulation 3(1) of the BSE Monitoring (England) Regulations 2001, the keeper surrenders the cattle passport to the Minister or, where the Minister has appointed an agent to receive notifications, to that agent."

Amendment of the Cattle (Identification of Older Animals) Regulations 2000

11. - (1) The Cattle (Identification of Older Animals) Regulations 2000[[11](#)] shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1), after the definition of "local authority" there shall be inserted the following definition -

" "notifiable bovine animal" means a bovine animal over 30 months of age which -

(a) dies on any farm or in transport; or

(b) has been killed otherwise than for human consumption;".

(3) In regulation 9 at the beginning there shall be inserted the following words -

" (1) Subject to paragraph (2) below".

(4) In regulation 9, after paragraph (1) there shall be inserted the following paragraph -

" (2) If a notifiable bovine animal with a registration certificate dies, the keeper will be treated as having complied with paragraph 1 above if, on notifying the fact in accordance with regulation 3(1) of the BSE Monitoring (England) Regulations 2001, the keeper surrenders the registration certificate to the Minister or, where the Minister has appointed an agent to receive notifications, to that agent."

Hayman

Minister of State, Ministry of Agriculture, Fisheries and Food

1st May 2001

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the purpose of dealing in England with the obligations -

(a) in article 1.2 of Commission Decision 2000/764/EC (OJ No. L305, 6.12.2000, p. 35) on the testing of bovine animals for the presence of bovine spongiform encephalopathy and amending Decision 98/272/EC (OJ No. L122, 24.4.1998, p. 59) on epidemio-surveillance for transmissible encephalopathies; and

(b) Commission Decision 2001/233/EC (OJ No. L84, 2001, p. 59) amending Decision 2000/418/EC as regards mechanically recovered meat and bovine vertebral column.

These require member States to ensure that certain categories of bovine animals over 30 months of age are examined in accordance with prescribed minimum requirements for monitoring BSE.

To enable these obligations are implemented, the Regulations require the person in possession or in charge of a notifiable bovine animal, defined in regulation 2 as a bovine animal aged over 30 months of age which dies on any farm or in transport or which has been killed otherwise than for human consumption, to notify the death to the agent appointed for this purpose by the Ministry of Agriculture, Fisheries and Food. The Regulations provide powers of entry, examination, search and sampling, offences and penalties and enforcement.

Related amendments for the purpose of dealing with these Community obligations are made to article 11 of the Bovine Spongiform Encephalopathy (No. 2) Order 1996 (S.I. 1996/3183, amended by S.I. 1997/2387, S.I. 1998/3071 and S.I. 1999/921) and regulations 2 and 26 of the Cattle Identification Regulations 1998 (S.I. 1998/871, amended by S.I. 1998/2969 and S.I. 1999/1339) and regulations 2 and 9 of the Cattle (Identification of Older Animals) Regulations (S.I. 2000/2976).

A Regulatory Impact Assessment for these Regulations has been prepared and placed in the library of each House of Parliament. Copies can be obtained from the BSE Division of the Ministry of Agriculture, Fisheries and Food, 1A Page Street, London SW1P 4PQ.

Notes:

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

[2] 1972 c. 68.[back](#)

[3] S.I. 1996/3183, amended by S.I. 1997/2387, S.I. 1998/3071 and S.I. 1999/921.[back](#)

[4] OJ No. L305, 6.12.2000, p. 35.[back](#)

[5] OJ No. L122, 24.4.1998, p.59.[back](#)

[6] OJ No. L84, 23.3.2001, p. 59.[back](#)

[7] OJ No. L158, 30.6.2000, p. 76, as amended by Commission Decision 2001/2/EC (OJ No. L1 , 4.1.2001).[back](#)

[8] S.I. 1994/867 to which there are amendments not relevant to these Regulations.[back](#)

[9] S.I. 1996/3183, amended by S.I. 1997/2387, S.I. 1998/3071 and S.I. 1999/921.[back](#)

[10] S.I. 1998/871 amended by S.I. 1998/2969, S.I. 1999/1339.[back](#)

[11] S.I. 2000/2976.[back](#)

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