

Welsh Statutory Instrument 2001 No. 2360 (W.197)

The BSE Monitoring (Wales) Regulations 2001

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STATUTORY INSTRUMENTS

2001 No. 2360 (W.197)

ANIMALS, WALES

ANIMAL HEALTH

The BSE Monitoring (Wales) Regulations 2001

Made

26th June 2001

Coming into force

1st July 2001

Arrangement of provisions

Regulation

- [1. Title, commencement and application](#)
- [2. Interpretation](#)
- [3. Requirements relating to bovine animals over 30 months of age](#)
- [4. Powers of entry, examination, search and sampling etc.](#)
- [5. Obstruction](#)
- [6. Offences and penalties](#)
- [7. Offences by bodies corporate](#)
- [8. Enforcement](#)

- [9. Amendment of the Bovine Spongiform Encephalopathy \(No. 2\) Order 1996](#)
- [10. Amendment of the Cattle Identification Regulations 1998](#)
- [11. Amendment of the Cattle \(Identification of Older Animals\) \(Wales\) Regulations 2000](#)

The National Assembly for Wales, being 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 that section 2(2), hereby make the following Regulations: -

Title, commencement and application

1. These Regulations may be cited as the BSE Monitoring (Wales) Regulations 2001, they apply to Wales and shall come into force on 1st July 2001.

Interpretation

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

"BSE" ("*BSE*") means the disease bovine spongiform encephalopathy;

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

"bovine animal" ("*anifail buchol*") means a buffalo of the species *bubalus bubalis* or bison, a bull, cow, steer, heifer or calf;

"the Commission Decisions" ("*Penderfyniadau'r Comisiwn*") 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" ("*arolygydd*") 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" ("*awdurdod lleol*") means in respect of a county or county borough, the council of that county or county borough;

"the Minister" ("*y Gweinidog*") means the Minister of Agriculture, Fisheries and Food;

"National Assembly" ("*Cynulliad Cenedlaethol*") means the National Assembly for Wales;

"a notifiable bovine animal" ("*anifail buchol hysbysadwy*") 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" ("*safle*") 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;

"veterinary inspector" ("*arolygydd milfeddygol*") means a veterinary inspector appointed for the purposes of these Regulations by the Minister; and

"veterinary surgeon" ("*milfeddyg*") means a person registered in the register of veterinary surgeons or in the supplemental veterinary register.

(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[8] 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 is in possession or in charge of a notifiable bovine animal, or the carcase of such an 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 or her possession or charge, notify the fact to the National Assembly or, where the National Assembly has appointed an agent to receive notifications under this regulation on its behalf, to that agent.

(2) Any veterinary surgeon or other person who, in the course of his or her 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 such an 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 National Assembly or, where the National Assembly has appointed an agent to receive notifications under this regulation on its behalf, to that agent.

(3) Where the National Assembly appoints an agent for the purposes of receiving notifications under this regulation on its behalf, the National Assembly shall publish by such means as it thinks fit, including a 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 the National Assembly.

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

Powers of entry, examination, search and sampling etc.

4. - (1) An inspector, on producing, if required to do so, some duly authenticated

document showing his or her authority, shall have the right at all reasonable hours to enter any premises (including any premises, or 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;
- (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 of the peace may by warrant signed by him or her 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 or her such other persons as he or she considers necessary, and on leaving any unoccupied premises shall ensure that they are left as effectively secured against unauthorised entry as when he or she found them.

(4) An inspector may -

- (a) inspect and examine any bovine animal or the carcase of any such animal on the premises;
- (b) make such tests in relation to, and take such samples from any bovine animal or the carcase of any such animal on the premises as he or she considers necessary for the purposes of these Regulations;
- (c) mark for identification purposes any bovine animal or the carcase of any such animal on the premises;
- (d) examine any records 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 or her such assistance as he or she may reasonably require;
- (f) where records are kept by means of a computer, require the records to be produced in a form in which they may be taken away;

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

(h) take with him or her 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 or her for the purpose of carrying out his or her functions under these Regulations; or

(c) furnish to any person acting in the execution of these Regulations any information which he or she 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 or her.

Offences and penalties

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

(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 or she, 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 National Assembly or by the local authority.

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

9. - (1) Article 11 of BSE (No. 2) Order shall in so far as it applies to Wales 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^[9] 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 (Wales) 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) (Wales) Regulations 2000

11. - (1) The Cattle (Identification of Older Animals) (Wales) Regulations 2000^[10] shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1), after the definition of "National Assembly" 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 (Wales) Regulations 2001, the keeper surrenders the registration certificate to the National Assembly or, where the National Assembly has appointed an agent to receive notifications, to that agent.".

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998^[11].

Dafydd Elis-Thomas
The Presiding Officer of the National Assembly

26th June 2001

EXPLANATORY NOTE

(This note does not form part of the Regulations)

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

(a) in article 1.2 of Commission Decision 2000/764/EC (OJ No. L 305, 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. L 84, 23.3. 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 to be 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 National Assembly for Wales. The Regulations provide powers of entry, examination and search, 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 in so far as it applies to Wales (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 Cattle (Identification of Older Animals) (Wales) Regulations (S.I. 2000/3339 (W.217)).

A regulatory appraisal has not been prepared for these Regulations.

Notes:

[1] By virtue of the European Communities (Designation) (No. 3) Order 1999 (S.I. 1999/2788).[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. L 305, 6.12.2000, p.35.[back](#)

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

[6] OJ No. L 84, 23.3.2001 p. 59.[back](#)

[7] OJ No. L 158, 30.6.2000, p. 76, as amended by Commission Decision 2001/2/EC (OJ No. L 1, 4.1.2001).[back](#)

[8] 1981 c.22.[back](#)

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

[10] S.I. 2000/3339 (W.217).[back](#)

[11] 1998 c.38.[back](#)

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