

Statutory Instrument 2005 No. 2633

The TSE (England) (Amendment) (No.2) Regulations 2005

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STATUTORY INSTRUMENTS

2005 No. 2633

ANIMALS, ENGLAND

ANIMAL HEALTH

The TSE (England) (Amendment) (No.2) Regulations 2005

<i>Made</i>	<i>19th September 2005</i>
<i>Laid before Parliament</i>	<i>26th September 2005</i>
<i>Coming into force</i>	<i>19th October 2005</i>

The Secretary of State, being a Minister designated [1] for the purposes of section 2(2) of the European Communities Act 1972[2] in relation to measures in the veterinary and phytosanitary fields for the protection of public health, in exercise of the powers conferred by that section, makes the following Regulations:

1. These Regulations may be cited as the TSE (England) (Amendment) (No.2) Regulations 2005 and shall come into force on 19th October 2005.

2. The TSE (England) Regulations 2002[3] are amended in accordance with the provisions of these Regulations.

3. In regulation 3(1) (interpretation)—

(a) at the end of the definition of "the Community Transitional Measures", there is added—

" (g) Regulation (EC) No. 932/2005 of the European Parliament and of the Council of 8 June 2005 amending Regulation (EC) No. 999/2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies as regards the extension of the period for transitional measures [4];",

and the word "and" is deleted from the end of sub-paragraph (e), and added to the end of sub-paragraph (f), of that definition;

(b) at the end of the definition of "inspector", there is added—

" (d) a person appointed as such for the purposes of Article 6 of the Community TSE Regulation and Regulation 10A in relation to a hide market or tannery by the Meat and Livestock Commission established by section 1 of the Agriculture Act 1967[5];",

and the word "and" is deleted from the end of sub-paragraph (b), and added to the end of the sub-paragraph (c), of that definition;

(c) in the definition of "local authority", for sub-paragraph (b)(ii) there is substituted—

" (ii) in a non-metropolitan county, the council of that county or the council of a district council within the county area; or";

(d) for the definition of "vertebral column", there is substituted—

" "vertebral column" excludes the vertebrae of the tail, the spinous and transverse processes of the cervical, thoracic and lumbar vertebrae, the median sacral crest and the wings of the sacrum, but includes the dorsal root ganglia;";

(e) for the definition of "young lamb stamp" and the word "and"

preceding it, there is substituted—

"young goat stamp" means the stamp described as such in regulation 38(2); and

"young lamb stamp" means the stamp described as such in regulation 38(2)."

4. After Regulation 10 (notifications), there are inserted the following regulations—

" Slaughter of bovine animals over 30 months of age

10A. —(1) No person shall use a slaughterhouse for the slaughter of a relevant bovine animal unless the occupier of the slaughterhouse has agreed in writing with an OVS the Required Method of Operation in respect of the slaughter of relevant bovine animals at the slaughterhouse in question.

(2) Without prejudice to the inclusion in it of other provisions, a relevant agreement shall contain provisions stating how each requirement referred to in Schedule 1A is to apply in respect of the Required Method of Operation at the slaughterhouse in question.

(3) A relevant agreement (irrespective of its content) may be suspended or revoked by the OVS by notice in writing served on the occupier if the OVS is of the opinion that it is not being complied with, or that a reasonable proposed alteration of the agreement suggested by him in writing to the occupier has not been accepted by the occupier within 7 days; and if the OVS suspends or revokes the agreement—

(a) the occupier may make representations on the suspension or revocation to a person appointed for the purpose by the Secretary of State;

(b) the appointed person shall consider the representations and report in writing to the Secretary of State; and

(c) the Secretary of State shall give written notification of her final determination and the reasons for it.

(4) The occupier of the slaughterhouse shall ensure that the provisions contained in the relevant agreement relating to that slaughterhouse are complied with in relation to each relevant bovine animal slaughtered there.

(5) Where a relevant bovine animal has been slaughtered otherwise than in accordance with a relevant agreement, an inspector may give to the occupier of the slaughterhouse in question a direction for the disposal of—

(a) the carcass of that relevant bovine animal; and

(b) all other parts of the body of that animal including the blood and the hide.

(6) Where an inspector gives a direction under paragraph (5), the owner of the carcase shall not be entitled to any compensation under these Regulations in respect of that carcase and the other parts of the body of the animal including the blood and the hide.

(7) If a person to whom a direction is given under paragraph (5) fails to comply with the direction, an inspector may arrange for it to be complied with—

(a) without prejudice to any proceedings arising out of such default; and

(b) at the expense of the person to whom the direction was given.

(8) Paragraphs (5) to (7) are without prejudice to paragraph (3) or to any proceedings arising out of contravention of paragraph (1) or failure to comply with paragraph (4).

(9) In this regulation—

(a) "registered bovine animal" means a bovine animal which belongs to a herd registered under the Beef Assurance Scheme pursuant to regulation 4 of the Fresh Meat (Beef Control) (No.2) Regulations 1996^[6];

(b) "relevant agreement" means an agreement referred to in paragraph (1);

(c) "relevant bovine animal" means a bovine animal, other than a registered bovine animal, over 30 months of age any part of which is intended for human consumption; and

(d) "Required Method of Operation", in relation to a slaughterhouse, means the method of operation that would apply there.

Consignment of over-age animals to a slaughterhouse

10B.—(1) Subject to paragraph (2), no person shall consign to a slaughterhouse a live or dead bovine animal born or reared in the United Kingdom prior to 1 August 1996.

(2) Paragraph (1) shall not prohibit a person from consigning a bovine animal to a slaughterhouse under the purchase scheme introduced under Commission Regulation (EC) No. 716/96^[7] adopting exceptional support measures for the beef market in the United Kingdom, as amended by Commission Regulations (EC) No. 774/96^[8], 1974/96^[9], No. 2149/96^[10], No. 1365/97^[11], and No. 667/2003^[12].

5. In regulation 23 (production of feedingstuffs containing fishmeal), for paragraphs (1), (2) and (3) there are substituted—

" (1) No person shall use any premises for the production of feedingstuffs containing fishmeal for the feeding of non-ruminant farmed animals save in accordance with—

- (a) the condition contained in paragraph 2.1B(c) of Annex IV; or
- (b) the derogations from that condition contained in sub-paragraphs (i) and (ii) of that paragraph.

(2) The Secretary of State shall authorise establishments in relation to the production of feedingstuffs for the purposes of—

- (a) the condition contained in paragraphs 2.IB(c) of Annex IV; and
- (b) the derogations from that condition contained in sub-paragraphs (i) and (ii) of that paragraph,

if, following an inspection of the premises by a veterinary inspector, she is satisfied that the premises are capable of being operated in accordance with the relevant requirements of Annex IV.

(3) In paragraphs (1) and (2), "Annex IV" means Annex IV to the Community TSE Regulation."

6. In regulation 25 (use and storage of feedingstuffs)—

- (a) sub-paragraph (a) of paragraph (1) is omitted; and
- (b) in paragraph (2), "fishmeal," is omitted.

7. After regulation 25, there are inserted the following regulations—

" Use and storage of feeding stuffs containing fishmeal

25A. —(1) Subject to paragraph (2), any person who—

- (a) uses or stores any feedingstuff containing fishmeal for feeding to non-ruminant farmed animals; and
- (b) fails to comply with paragraph 2.IB(f) of Annex IV to the Community TSE Regulation,

shall be guilty of an offence.

(2) For the purposes of the derogation in paragraph 2.IB(f) of that Annex, no person shall use or store any feeding stuff containing fishmeal on premises where ruminants are kept unless he is registered by the Secretary of State for that purpose in accordance with paragraph (3).

(3) The Secretary of State shall grant a registration under paragraph (2) where the occupier has declared to her in writing that measures are

implemented on the premises in question to prevent the feedingstuffs being fed to ruminant animals on those premises.

(4) Any person who fails to comply with paragraph (2) shall be guilty of an offence.

(5) A person guilty of an offence under this regulation shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term of three months or both; or

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or both.

Samples sent to laboratories and reporting requirements

25B. —(1) Up to and including 31st December 2005, where an operator of an establishment producing feedingstuffs sends a sample to a laboratory for testing for any purpose in connection with the requirements of Annex IV of the Community TSE Regulation, he shall supply in writing with the sample—

(a) the name and address of the premises at which the sample was taken;

(b) the date on which the sample was taken; and

(c) the description and identity of the sample.

(2) The operator shall also supply in writing with the sample—

(a) confirmation whether or not the sample was taken from a feedingstuff or an ingredient for the feeding of farmed animals—

(i) which has been imported from a third country, or

(ii) which has been, or is intended to be, placed on the market; and, if so,

(b) details of the species of animal for which the feedingstuff or ingredient is intended.

(3) Any—

(a) person who submits a sample to a laboratory for analysis pursuant to paragraph (1); or

(b) occupier of the laboratory, other than the Community reference laboratory, to which that sample is sent,

shall inform the Secretary of State with all practicable speed if there is any evidence arising from that sample of a breach of these Regulations or of Annex IV to the Community TSE Regulation."

8. In regulation 29B (slaughter of animals), for paragraph (4) there is substituted—

" (4) Subject to paragraph (5), if any person on whom a notice is served under paragraph (1) fails to comply with the requirements of the notice, an inspector may carry out or cause to be carried out those requirements—

(a) without prejudice to any proceedings arising out of such default; and

(b) at the expense of the person on whom the notice is served.

(5) An inspector may only carry out or cause to be carried out the requirements of a notice referred to in paragraph (4) if the Secretary of State has confirmed the notice pursuant to paragraph (3)."

9. In regulation 33 (removal of specified risk material from carcasses in slaughterhouses)—

(a) for paragraph (1), there is substituted—

" (1) When a bovine animal is slaughtered in a slaughterhouse, or slaughtered elsewhere then brought to a slaughterhouse to be dressed for human consumption, the occupier of the slaughterhouse shall ensure that—

(a) all specified risk material, excluding the vertebral column, is removed from the carcase as soon as is reasonably practicable after the animal has been slaughtered and before the carcase is presented for inspection pursuant to regulation 35; and

(b) the carcase is consigned to cutting premises licensed under regulation 56(1) as soon as reasonably practicable for the removal of the vertebral column at those premises in accordance with regulation 36(1).";

(b) in paragraph (2)(b), for the words "the head, spleen, ileum and tonsils are" there are substituted "all specified risk material, excluding the spinal cord, is"; and

(c) paragraph (10) is omitted.

10. In regulation 36 (removal of vertebral column of bovine animals in cutting premises)—

(a) in paragraph (1)(a), for the words " regulation 33(10)", there are substituted "regulation 33(1)"; and

(b) for paragraph (5) there is substituted—

" (5) In this regulation, "carcase" means—

- (a) a carcase;
- (b) a half carcase;
- (c) a half carcase cut into no more than three wholesale cuts; and
- (d) quarters,

containing no specified risk material other than the vertebral column."

11. For regulation 37 (removal of SRM spinal cord of bovine animals, sheep and goats) there is substituted—

" Removal of spinal cord of sheep and goats which is specified risk material

37. —(1) Where the carcase of a sheep or a goat is consigned to a slaughterhouse or cutting premises licensed for the purpose of this Part of these Regulations, the occupier of that slaughterhouse or cutting premises shall ensure that the spinal cord which is specified risk material is removed from the rest of the carcase.

(2) If the spinal cord which is specified risk material is removed in a slaughterhouse or at cutting premises licensed for the purpose of this Part of these Regulations, the occupier shall ensure that it is stained in accordance with regulation 33(3) and disposed of as specified risk material in accordance with this Part of these Regulations.

(3) If the spinal cord which is specified risk material is removed at any premises, other than a licensed slaughterhouse or licensed cutting premises, for the purposes of veterinary or scientific examination, after that examination the spinal cord shall be stained blue and disposed of as specified risk material in accordance with this Part of these Regulations."

12. For regulation 38 (young lamb stamp), there is substituted—

" Young lamb stamp and young goat stamp

38. —(1) Where a sheep or a goat is slaughtered in a slaughterhouse and at the time of slaughter—

- (a) it is not more than 12 months of age; or
- (b) there is no permanent incisor erupted through the gum,

and the spleen and the ileum have been removed, the carcase of the animal may be marked with a young lamb stamp or a young goat stamp as appropriate.

(2) A young lamb stamp and a young goat stamp shall consist of a circular mark 5 centimetres in diameter containing in legible form in capital letters 1 centimetre high—

- (a) "MHS"; and
- (b) in the case of a sheep, "YL"; and
- (c) in the case of a goat, "YG".

(3) No person other than —

- (a) an OVS;
- (b) an inspector; or
- (c) a meat technician acting under the responsibility of an OVS,

may apply a young lamb stamp or a young goat stamp or possess the equipment for applying such a stamp.

(4) No person shall use a stamp resembling a young lamb stamp or a young goat stamp in such a way as to suggest that the carcase of any animal other than an animal referred to in paragraph (1) is such a carcase.

(5) In relation to any slaughterhouse or cutting premises, the Agency may appoint as meat technicians such persons as are necessary to assist the OVS and inspectors in carrying out the functions referred to in paragraph (3)."

13. —(1) In regulation 41(1) and (2), after the words "young lamb stamp", there are inserted ", or young goat stamp, as the case may be,".

(2) In regulations 46(1) and 47(1), after the words "young lamb stamp", there are inserted ", or young goat stamp, as the case may be".

14. After Schedule 1 (compensation), there is inserted Schedule 1A set out in the Schedule.

15. In Schedule 6A (enforcement of Annex VII to the Community TSE Regulation), after part IV (compensation), there is inserted—

" PART V

OFFENCES

18. A person guilty of an offence under paragraph 8, 10, 11 or 12 shall be liable—

(a) on summary conviction to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or to both; or

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both."

Ben Bradshaw

Parliamentary Under Secretary of State Department for the Environment, Food and Rural Affairs

19th September 2005

SCHEDULE

Regulation 14

" SCHEDULE 1A

Regulation 10A

REQUIREMENTS TO BE COVERED BY AGREEMENTS RELATING TO THE SLAUGHTER OF BOVINE ANIMALS OVER 30 MONTHS OF AGE

Animal identification and separation

1. There must be a reliable system for identifying on arrival at the slaughterhouse—

(a) bovine animals born before 1st August 1996;

(b) bovine animals born on or after 1st August 1996;

(c) bovine animals referred to in (a) or (b) which are subject to slaughter ordered by a veterinary surgeon following an accident or serious physiological or functional problems;

(d) bovine animals referred to in (a) or (b) which are, or are suspected of, suffering from—

(i) a disease which is communicable to humans or animals;
or

(ii) a disease or disorder of their general condition which is likely to make their meat unfit for human consumption;

(e) bovine animals referred to in (a) or (b) which have, or are suspected of having—

(i) had administered to them substances with pharmacological effects, or

(ii) consumed substances,

which may make their meat unfit for human consumption.

2. There must be a reliable system for ensuring that no bovine animal born or reared in the United Kingdom before 1st August 1996 is slaughtered for human consumption.

3. Bovine animals which are over 30 months of age but born on or after 1st August 1996 must be clearly identified.

4. Bovine animals which are over 30 months of age but born on or after 1st August 1996 and bovine animals which are 30 months of age and under must be separated into batches for subsequent separate slaughter.

Brain stem sampling

5. There must be sufficient slaughterhouse staff trained and competent in the taking, labelling, packaging and despatch of brain stem samples. Health and safety guidelines to minimise the risk of exposure to bovine spongiform encephalopathy must be followed and hygienic facilities must be provided. Sampling procedures must not jeopardise the hygienic production of meat intended for human consumption.

Correlation of sample to carcase and all other body parts.

6. There must be a reliable system for linking the brain stem sample of each bovine animal over 30 months of age to the carcase of that animal and all other parts of the body of that animal including the blood and the hide.

Retention of carcasses and all other body parts

7. Unless there is a system in place at the slaughterhouse in question which prevents contamination between carcasses, there must be a reliable system (including the provision of suitable and sufficient chiller space) for ensuring that the carcase of a bovine animal tested for bovine spongiform encephalopathy ("the tested animal") plus the carcase of—

(a) the bovine animal immediately preceding the tested animal, and

(b) each of the two bovine animals immediately following the tested animal,

on the slaughter line are retained in slaughter order either in a sealed chiller or on a sealed rail in an unsealed chiller, pending the receipt of the results of the rapid test.

8. Where there is a system in place at the slaughterhouse in question which prevents contamination between carcasses, there must be a reliable system (including the provision of suitable and sufficient chiller space) for ensuring that the carcass of a bovine animal tested for bovine spongiform encephalopathy ("the tested animal") is retained either in a sealed chiller or on a sealed rail in an unsealed chiller, pending the receipt of the results of the rapid test.

9. There must also be a reliable system (including the provision of suitable and sufficient chiller space) for ensuring that—

(a) all parts of the body, including the blood and the hide, but excluding the carcass ("the body parts") of a tested animal plus the body parts of—

(i) the bovine animal immediately preceding the tested animal, and

(ii) the two bovine animals immediately following the tested animal,

on the slaughter line, and

(b) mixed batches of the body parts of both a tested animal and any other bovine animal,

are disposed of by incineration or, with the exception of the hides, retained at the slaughterhouse until rapid test results are available.

10. Hides not retained at the slaughterhouse must be retained at premises under official control until rapid test results are available.

Delivery of sample to testing laboratory

11. Brain stem samples for testing for bovine spongiform encephalopathy must be packaged and delivered in a testable condition to a laboratory approved by the Secretary of State for the purposes of point 2 of Chapter C of Annex X to the Community TSE Regulation. The samples must be packaged and labelled 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)[[13](#)].

Receipt of rapid test results by the slaughterhouse

12. There must be a system for the receipt of the correct test results from the laboratory, either by fax or by other electronic means.

Action following a positive or "no test" result.

13. Unless there is a system in place at the slaughterhouse in question which prevents contamination between carcasses, there must be effective arrangements to ensure that the carcass and all other parts of the body, including the blood and the hide ("the whole body") of any bovine animal which tested positive for bovine spongiform encephalopathy ("the BSE positive animal"), plus the whole body of the bovine animal immediately preceding the BSE positive animal and of each of the two bovine animals immediately following the BSE positive animal on the

slaughter line (including any batched materials), are identified and disposed of by incineration.

14. Where there is a system in place at the slaughterhouse in question which prevents contamination between carcasses, there must be effective arrangements to ensure that the whole body of any BSE positive animal is identified and disposed of by incineration.

15. Unless there is a system in place at the slaughterhouse in question which prevents contamination between carcasses, there must be effective arrangements to ensure that the whole body of any bovine animal samples of which cannot be tested for any reason ("the no test animal") plus the whole body (but not the hide if it is separately identified) of the bovine animal immediately preceding the no test animal and of each of the two bovine animals immediately following the no test animal on the slaughter line (including any batched materials), are identified and disposed of by incineration.

16. Where there is a system in place at the slaughterhouse in question which prevents contamination between carcasses, there must be effective arrangements to ensure that the whole body of any bovine animal, samples of which cannot be tested for any reason, is identified and disposed of by incineration.

Removal of vertebral column in cutting premises licensed under regulation 56(1)

17. There must be effective arrangements to ensure that the vertebral column is not removed from the carcase of a bovine animal over 30 months of age which has tested negative for bovine spongiform encephalopathy in the slaughterhouse but that it is removed from the carcase in cutting premises licensed under regulation 56(1).

Testing of the effectiveness of the controls put in place

18. Before the first occasion on which the occupier of a slaughterhouse slaughters a bovine animal over 30 months of age any part of which is intended for human consumption, there must be a test of all the control procedures in this Schedule by means of a trial using bovine animals under 30 months old that demonstrates that all of the control procedures are effective."

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the TSE (England) Regulations 2002, S.I. 2002/843 ("the 2002 Regulations"), which give effect in England to the enforcement and administration of Regulation EC No. 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies. Other amending Regulations are S.I. 2002/1253, S.I. 2002/2860, S.I. 2003/1482, S.I. 2004/1518 and S.I. 2005/556.

These Regulations also give effect in part to Article 16a of Council Directive

95/53/EC of 25 October 1995 fixing the principles governing the organization of official inspections in the field of animal nutrition (OJ No. L 265, 8.11.1995, p.17). Article 16a was inserted by Directive 2001/46 of the European Parliament and of the Council (OJ No. L 234, 1.9.2001, p. 55). The relevant provision is contained in new regulation 25B of the 2002 Regulations, inserted by regulation 7 of these Regulations.

The main changes are as follows.

Amendments are made to certain definitions contained in regulation 3 of the 2002 Regulations. (Regulation 3.)

New regulation 10A of, and new Schedule 1A to, the 2002 Regulations make provision for a regime for the slaughter for human consumption, and testing, of cattle over thirty months of age and new regulation 10B prohibits consignment to a slaughterhouse a bovine animal born or reared in the UK before 1st August 1996. (Regulation 4 and the Schedule.)

Regulation 23 of the 2002 Regulations is amended to make provision relating to the use of premises for the production of feedingstuffs containing fishmeal. (Regulation 5.)

New regulation 25A of the 2002 Regulations contains further provisions about feedingstuffs containing fishmeal and new regulation 25B relates to the submission of samples of feedingstuffs to laboratories. (Regulation 7.)

Regulation 33 of the 2002 Regulations is amended to make new provision about the removal of specified risk material from the carcase of a bovine animal slaughtered for human consumption. (Regulation 9.) ("Specified risk material" is defined in regulation 3(1) of the 2002 Regulations.)

Regulation 37 of the 2002 Regulations is replaced by a new regulation relating to the removal of spinal cord from sheep and goats. (Regulation 11.)

Regulation 38 of the 2002 Regulations is replaced by a new regulation relating to the stamping of the carcasses of young lambs and goats from which have been removed the spleen and ileum. (Regulation 12.)

Provision is made for the penalties for offences under Schedule 6A of the 2002 Regulations. (Regulation 15.)

A Regulatory Impact Assessment has been prepared and placed in the library of each House of Parliament. Copies can be obtained from Andy Cooke, Department for Environment, Food and Rural Affairs, Area 311, 1A Page Street, London SW1P 4PQ.

Notes:

[1] S.I. 1999/2027.[back](#)

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

[3] S.I. 2002/843, amended by S.I. 2002/1253, S.I. 2002/2860, S.I. 2003/1482, S.I. 2004/1518 and S.I. 2005/556.[back](#)

[4] OJ No. L 163, 23.6.2005 p. 1.[back](#)

[5] 1967 c.22; section 1 was amended by the Agriculture Act 1986 (c.49), section 7.[back](#)

[6] S.I. 1996/2097; the relevant amending instrument is S.I. 2000/656.[back](#)

[7] OJ L 99, 20.4.1996, p. 14.[back](#)

[8] OJ L 104, 27.4.1996, p. 21.[back](#)

[9] OJ L 262, 16.10.1996, p. 2.[back](#)

[10] OJ L 288, 9.11.1996, p. 14.[back](#)

[11] OJ L 188, 17.7.1997, p. 6.[back](#)

[12] OJ L 96, 12.4.2003, p. 13.[back](#)

[13] Current edition (2005); ISBN 92-1-139097-4.[back](#)

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