

2012 No. 1379

ANIMALS, ENGLAND

ANIMAL HEALTH

The Cattle Compensation (England) Order 2012

<i>Made</i>	- - - -	<i>16th May 2012</i>
<i>Laid before Parliament</i>		<i>30th May 2012</i>
<i>Coming into force</i>	- -	<i>1st July 2012</i>

The powers conferred by sections 1 and 32(3) of the Animal Health Act 1981^(a) are vested^(b) in the Secretary of State who, in exercise of those powers and with the approval of the Treasury, makes the following Order.

Title, commencement and expiry

1. This Order—

- (a) may be cited as the Cattle Compensation (England) Order 2012;
- (b) comes into force on 1st July 2012; and
- (c) ceases to have effect on 1st July 2019.

Interpretation

2. In this Order—

“the Act” means the Animal Health Act 1981;

“animal” means domestic cattle, buffalo or bison;

“brucellosis” means infection with the bacterium *Brucella abortus*, otherwise known as contagious abortion;

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

“enzootic bovine leukosis” means infection with the enzootic bovine leukosis virus;

“market value” means, in relation to an animal slaughtered for brucellosis, tuberculosis or enzootic bovine leukosis, the price which might reasonably have been obtained for it at the time of valuation from a purchaser in the open market if the animal were neither affected nor suspected of being affected with that disease;

“relevant date” means—

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- (a) 1981 c. 22. See section 86(1) for the definitions of “the Minister” and “the Ministers”.
- (b) Functions conferred under the Act were transferred, so far as exercisable by the Secretaries of State for Scotland and Wales, to the Minister of Agriculture, Fisheries and Food by the Transfer of Functions (Agriculture and Food) Order 1999 (S.I. 1999/3141). Functions of the Minister of Agriculture, Fisheries and Food were then further transferred to the Secretary of State by the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794).
- (c) S.I. 2007/529, amended by S.I. 2007/1046 and 2011/881.

- (a) in respect of an animal slaughtered for brucellosis, the date on which a notice requiring slaughter of the animal is served pursuant to article 19 of the Brucellosis (England) Order 2000^(a);
- (b) in respect of an animal slaughtered for enzootic bovine leukosis, the date on which a notice requiring slaughter of the animal is served pursuant to article 12 of the Enzootic Bovine Leukosis (England) Order 2000^(b);
- (c) in respect of an animal slaughtered for tuberculosis—
 - (i) the date on which a positive skin test for the animal is read;
 - (ii) the date on which an inconclusive skin test for the animal is read which results in its being classified as a reactor and therefore consistent with its being affected with tuberculosis;
 - (iii) where the skin test is negative, or no skin test has been carried out, the date on which a clinical sample is taken from the animal for the purposes of any other diagnostic test for tuberculosis;
 - (iv) where no diagnostic test for tuberculosis has been carried out, or where tests have been carried out on the animal with negative results, but the animal is slaughtered because it has been exposed to infection as a result of contact with, or close proximity to, an animal that is affected or suspected of being affected with tuberculosis, the same date as the relevant date for that affected or suspected animal; or
 - (v) where no diagnostic test for tuberculosis has been carried out but the animal is slaughtered because it is affected or suspected of being affected with tuberculosis, following clinical examination by a veterinary surgeon, the date of that examination;

“sale price data” means data compiled in relation to domestic cattle from store markets, prime markets, rearing calf sales, breeding sales and dispersal sales in Great Britain;

“skin test” means the single intradermal comparative cervical tuberculin test for tuberculosis; and

“tuberculosis” means infection with the bacterium *Mycobacterium bovis* (*M.bovis*).

Compensation for animals slaughtered for brucellosis, tuberculosis or enzootic bovine leukosis

3. Where the Secretary of State causes an animal to be slaughtered under section 32(1) of the Act in its application to brucellosis, tuberculosis or enzootic bovine leukosis, the Secretary of State must pay compensation in accordance with this Order.

Calculation of compensation

4.—(1) If the conditions in paragraph (2) are met, compensation payable under section 32(3) of the Act by the Secretary of State—

- (a) for domestic cattle (other than those referred to in (b)), is calculated in accordance with paragraph 2 of the Schedule;
- (b) for domestic cattle where there are either no sale price data or only inadequate sale price data and the Secretary of State decides to act in accordance with paragraph 3(2)(b) of the Schedule, is the market value as determined under the Individual Ascertainment of Value (England) Order 2012^(c), with any reduction in accordance with paragraph 4 of the Schedule where there has been a delay of more than 60 days in testing the domestic cattle for tuberculosis; and

(a) S.I. 2000/2055, amended by S.I. 2008/618 and 2009/2713.

(b) S.I. 2000/2056, amended by S.I. 2009/2713.

(c) S.I. 2012/1380.

- (c) for a buffalo or bison is the market value as determined under the Individual Ascertainment of Value (England) Order 2012, with any reduction in accordance with paragraph 4 of the Schedule where there has been a delay of more than 60 days in testing the animal for tuberculosis.
- (2) The conditions are that—
 - (a) the animal must be identified by means of ear tags at the time of removal for slaughter; and
 - (b) a cattle passport for the animal issued in accordance with the Cattle Identification Regulations 2007 must be presented to the Secretary of State, or an agent acting on behalf of the Secretary of State, before or at the time of removal for slaughter.

Review of this Order

- 5.—(1) Before 1st July 2017 the Secretary of State must—
- (a) carry out a review of this Order;
 - (b) set out the conclusions of the review in a report; and
 - (c) publish the report.
- (2) The report must, in particular—
- (a) set out the objectives intended to be achieved by this Order;
 - (b) assess the extent to which those objectives are achieved; and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

Revocation and savings

- 6.—(1) The Cattle Compensation (England) Order 2006^(a) is revoked.
- (2) In relation to any bovine animal (as defined in that Order) for which compensation has been calculated under the provisions of that Order prior to the coming into force of this Order, that calculation shall continue to apply.

14th May 2012

Jim Paice
Minister of State
Department for Environment, Food and Rural Affairs

We approve

16th May 2012

Jeremy Wright
Michael Fabricant
Two of the Lords Commissioners of Her Majesty's Treasury

(a) S.I. 2006/168.

SCHEDULE

Article 4

Calculation of compensation

PART 1

Method of calculation

Interpretation

1. In this Schedule—

“category” means a category of animal set out in the table in paragraph 6(5);

“non-pedigree animal” means an animal that is not a pedigree animal;

“non-pedigree category” means a category consisting of non-pedigree animals;

“pedigree animal” means a breeding animal for which a pedigree certificate has been issued by a breeder’s organisation or association that fulfils the conditions of Commission Decision 84/247/EEC^(a) 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; and

“pedigree category” means a category consisting of pedigree animals which meet the conditions set out in paragraph 6(3).

The average market price

2.—(1) Subject to paragraph 4, the compensation payable to the keeper of the animal is the average market price for the category into which the animal falls at the relevant date.

(2) The average market price for each category is as follows—

- (a) in the case of non-pedigree animals it is calculated each month from sale price data of animals in that category in respect of sales occurring during the period ending on the 20th day of the preceding month and starting on the 21st day of the month before that; and
- (b) in the case of pedigree animals it is calculated each month from sale price data of animals in that category in respect of sales occurring over a six-month rolling period covering the six months ending on the 20th day of the preceding month and starting on the 21st day of the month falling six months before that.

(3) The average market price for a category for which sale price data have been collected is the amount obtained by dividing the sum of those sale prices by the total number of animals in that category.

No data or inadequate data

3.—(1) Sub-paragraph (2) applies where there are either no available sale price data or the Secretary of State considers there to be inadequate sale price data for calculating the average market price for a relevant category of animal.

(2) Where this paragraph applies—

- (a) the average market price is the most recently ascertained average market price for the relevant category of animal, where one has previously been calculated; or
- (b) the Secretary of State may opt to pay compensation at the level of the market value of the animal in question, as ascertained under the Individual Ascertainment of Value (England) Order 2012.

(a) OJ No. L125, 12.5.84, p.58.

Compensation payable following delays in testing for tuberculosis

4.—(1) Where—

- (a) the keeper of an animal has been served with a notice under article 8(1) of the Tuberculosis (England) Order 2007^(a);
- (b) the keeper has failed to carry out a test by the latest date specified in the notice;
- (c) a test has subsequently been carried out after the latest date specified in the notice; and
- (d) the animal has been slaughtered following that test,

compensation payable for that animal is to be calculated using the formula set out in paragraph (2).

(2) The formula referred to in paragraph (1) is—

$$A \times B$$

where—

A is the average market price for the category into which the animal falls at the relevant date (or the market value as determined in the circumstances identified in article 4(1)(b) or (c)); and

B is the figure specified in sub-paragraph (3).

(3) Where the test was carried out after the latest date specified in the notice and the interval between the date so specified and the test is—

- (a) not more than 60 days, “B” is 1;
- (b) more than 60 but not more than 90 days, “B” is 0.75;
- (c) more than 90 but not more than 180 days, “B” is 0.5; and
- (d) more than 180 days, “B” is 0.05.

(4) The Secretary of State must notify the keeper in writing of any decision to reduce compensation following delays of more than 60 days in testing for tuberculosis—

- (a) giving the reasons for the decision;
- (b) explaining that the keeper has the right to make written representations to a person appointed by the Secretary of State in accordance with paragraph 5; and
- (c) explaining that notwithstanding any written representations being made the Secretary of State may continue to take action under section 32(1) of the Act to have the animal removed for slaughter.

Review of decision to reduce compensation

5.—(1) Within 21 days after receipt of the notification under paragraph 4(4) a keeper may make written representations to a person appointed by the Secretary of State for the purpose of having the decision to reduce the compensation payable to the keeper reviewed by such appointed person.

(2) The appointed person must consider those written representations together with any written representations that may be made by the Secretary of State, and must report in writing, with a recommended course of action resulting from the review, to the Secretary of State.

(3) The Secretary of State must then reach a final decision and notify the keeper of that decision and the reasons for it.

(4) The Secretary of State may continue to take action under section 32(1) of the Act to remove the animal for slaughter before reaching a final decision in accordance with sub-paragraph (3).

^(a) S.I. 2007/740, amended by S.I. 2009/2713.

PART 2

Categories

Determination of category

6.—(1) The Secretary of State must determine from the table in sub-paragraph (5) the category into which an animal falls at the relevant date and may appoint an agent for the purpose of that determination.

(2) For the purpose of the determination, the date of birth of the animal is as shown on the cattle passport and the age of the animal shall be calculated accordingly.

(3) For an animal to fall within a pedigree category—

(a) it must—

(i) be a pedigree animal which meets the requirements set out in Commission Decision 84/419/EEC(a) for entry in the main section of a herd-book for pure-bred breeding animals of the bovine species and be entered in the main section of such a herd-book before the relevant date; and

(ii) be entire; and

(b) the pedigree certificate in respect of that animal must be presented to the Secretary of State or an agent acting on behalf of the Secretary of State not later than 10 days after the relevant date.

(4) An animal which does not meet the conditions specified in sub-paragraph (3) is treated for the purposes of calculating compensation as falling into the relevant non-pedigree category.

(5) The categories of domestic cattle are as follows—

<i>Male</i>	<i>Female</i>
Beef Sector – non-pedigree	
Up to and including 3 months	Up to and including 3 months
Over 3 months up to and including 6 months	Over 3 months up to and including 6 months
Over 6 months up to and including 9 months	Over 6 months up to and including 9 months
Over 9 months up to and including 12 months	Over 9 months up to and including 12 months
Over 12 months up to and including 16 months	Over 12 months up to and including 16 months
Over 16 months up to and including 20 months	Over 16 months up to and including 20 months
Over 20 months, breeding bulls	Over 20 months, calved
Over 20 months, non-breeding bulls	Over 20 months, not calved
Dairy Sector – non-pedigree	
Up to and including 3 months	Up to and including 3 months
Over 3 months up to and including 6 months	Over 3 months up to and including 6 months
Over 6 months up to and including 12 months	Over 6 months up to and including 12 months
Over 12 months up to and including 16 months	Over 12 months up to and including 16 months
Over 16 months up to and including 20 months	Over 16 months up to and including 20 months
Over 20 months	Over 20 months up to and including 84 months, calved
	Over 20 months up to and including 84 months, not calved
	Over 84 months
Beef Sector - pedigree	
Up to and including 6 months	Up to and including 6 months
Over 6 months up to and including 12 months	Over 6 months up to and including 12 months

(a) OJ No. L 237, 5.9.84, p.11.

Over 12 months up to and including 24 months
Over 24 months

Over 12 months up to and including 24 months
Over 24 months, not calved
Over 24 months up to and including 36 months,
calved
Over 36 months, calved

Dairy Sector - pedigree

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

Up to and including 2 months
Over 2 months up to and including 10 months
Over 10 months up to and including 18 months
Over 18 months, not calved
Over 18 months up to and including 36 months,
calved
Over 36 months up to and including 84 months,
calved
Over 84 months, calved

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes and replaces the Cattle Compensation (England) Order 2006 (S.I. 2006/168).

The Order provides for rates of compensation where the Secretary of State causes an animal to be slaughtered under section 32(1) of the Animal Health Act 1981 (c. 22) in its application to brucellosis, tuberculosis or enzootic bovine leukosis (article 3).

Article 4 provides that the amount of compensation payable on the slaughter of domestic cattle is either the average market price for the category into which the slaughtered animal falls at the relevant date (defined in article 2), calculated in accordance with Part 1 of the Schedule, or the market value of the animal as ascertained in accordance with the Individual Ascertainment of Value (England) Order 2012 (S.I. 2012/1380) if there are no or inadequate sale price data available for the relevant category of cattle.

The amount of compensation payable on the slaughter of a buffalo or bison is the market value of that animal, ascertained in accordance with the Individual Ascertainment of Value (England) Order 2012 (article 4(1)(c)).

Compensation is reduced from the average market price for the relevant category of animal that is slaughtered for the control of tuberculosis where there has been a delay of more than 60 days on the part of the keeper in arranging for the tuberculosis testing of animals (paragraph 4 of the Schedule). There is a provision for the keeper to request a review by a person appointed by the Secretary of State of such a decision to reduce the compensation payable (paragraph 5 of the Schedule).

Paragraph 6 in Part 2 of the Schedule contains a table which provides that the categories on which the average market prices are based are defined by the sex, age, livestock type (beef or dairy), pedigree status and, if female, whether calved or not calved. The average market price for each category is published every month on the Department for Environment, Food and Rural Affairs' website.

Article 5 requires the Secretary of State to review the operation and effect of this Order and publish a report of that review, no later than 30th June 2017.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available on the Defra website (www.defra.gov.uk) and is published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk.

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