

SCHEDULE 1

Regulations 9, 84, 93 and 94

**COMPENSATION**

**Part I**

**COMPENSATION FOR TSE SUSCEPTIBLE ANIMALS  
SLAUGHTERED UNDER REGULATIONS 6 OR 7**

1. The compensation payable for a TSE susceptible animal slaughtered under regulation 6 or 7 shall be an amount equal to the market value of the animal.

2.—(1) The market value of the animal shall be determined –

- (a) by agreement between the Department and the owner of the animal and such agreement shall be final and binding on the Department and the owner;
- (b) if the owner and the Department cannot agree, or fail to reach such agreement, by an independent valuer paid by the Department and selected by the owner from a list of at least three such independent valuers submitted by the Department to the owner; or
- (c) if the owner refuses or neglects to select an independent valuer in accordance with subparagraph (b) by an independent valuer selected by the Department.

(2) An independent valuer selected in accordance with paragraph 1(b) or (c) shall give to the Department and the owner a certificate in writing of his valuation and such valuation shall be final and binding on the Department and the owner.

3. Where an animal was certified by a veterinary surgeon before slaughter as–

- (a) requiring slaughter for emergency reasons relating to the welfare of the animal;
- (b) not fit for human consumption by virtue of its condition; and
- (c) having no market value as a consequence,

there shall be no compensation payable for the animal.

**Part II**

**COMPENSATION FOR CARCASSES, PARTS OF  
CARCASSES OR BLOOD OF TSE SUSCEPTIBLE ANIMALS,  
SEIZED OR DISPOSED OF UNDER REGULATION 8**

1. Subject to paragraph 5, the compensation for any carcass, part of any carcass or any blood seized or disposed of under regulation 8 shall be an amount equal to the value of the carcass, part of the carcass or blood at the time it was seized or disposed of.

2. The value of any carcass, part of any carcass or blood seized or disposed of under regulation 8 shall be determined –

- (a) by agreement between the Department and the owner of the carcass, part of the carcass or blood seized or disposed of; or
- (b) by arbitration.

3. The owner of a carcass, part of a carcass or blood seized or disposed of under regulation 8 shall pay any reasonable costs or expenses incurred by the Department in connection with such seizure or disposal.

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4. These costs or expenses shall be deducted from the amount of any compensation payable to the owner for the value of the carcase, part of the carcase or blood seized or disposed of.

5. If the amount of these costs and expenses exceed the amount of compensation payable to the owner, the Department shall serve on the owner a notice specifying the amount of the excess and the period for payment of this amount to the Department.

6. The owner shall pay to the Department the amount of the excess within the period specified in the notice.

7. On the expiry of this period, the amount of the excess shall be recoverable as a debt by the Department from the owner.

### Part III

## **COMPENSATION FOR TSE SUSCEPTIBLE ANIMALS SLAUGHTERED UNDER REGULATIONS 81 OR 82**

#### *Compensation for sheep and goats*

1. The compensation payable for a sheep or a goat slaughtered under regulation 81 or 82 shall be as specified in paragraphs 2 and 3.

2. Where an examination, at a veterinary laboratory of the Department, of tissues taken from the carcase of the sheep or goat confirms that it was an animal affected with a TSE, the compensation shall be –

- (a) in the case of an animal at the end of its productive life, the amount of £30; and
- (b) in the case of any other such animal, the amount of £90.

3. Where an examination, at a veterinary laboratory of the Department, of tissues taken from the carcase of the sheep or goat does not confirm that it was an animal affected with a TSE, the compensation shall be whichever is the greater of –

- (a) the amount which would be payable under paragraph 2 if the examination had confirmed it was an animal affected with a TSE; and
- (b) such sum as appears to the Department, having regard to any evidence provided by the owner of the animal slaughtered, to reflect the market value of the animal, subject to a maximum sum of £400 for each animal.

#### *Compensation for bovine animals*

4. The compensation payable for a bovine animal slaughtered under regulation 81 or 82 shall be as specified in the remaining paragraphs of this Part of this Schedule.

5. Where examination, at a veterinary laboratory of the Department, of tissues taken from the carcase of an animal confirms that it was an animal affected with bovine spongiform encephalopathy, the compensation shall be either –

- (a) the market value of the animal; or
- (b) the indicative market price in respect of the month of the year in which the market value of the animal was determined rounded down to the nearest £1,

whichever is less.

6. Where examination, at a veterinary laboratory of the Department, of tissues taken from the carcase of a suspected animal does not confirm that it was an animal affected with bovine spongiform encephalopathy, the compensation shall be either –

- (a) the market value of the animal; or
- (b) 125% of the indicative market price in respect of the month of the year in which the market value of the animal was determined rounded down to the nearest £1,

whichever is less.

7. Where an exposed animal (other than an offspring animal) is slaughtered, the compensation shall be an amount equal to –

- (a) in the case of a female animal, the market value, or 90% of the replacement value, of the animal, whichever is the greater; and
- (b) in the case of a male animal, the market value of that animal.

8. Where the Department causes 10% or more of the animals in a herd to be slaughtered as exposed animals (other than offspring animals), there shall be added to any compensation payable under paragraph 7, an amount equal to –

- (a) the appropriate percentage of the appropriate sum; or
- (b) 25% of that sum,

whichever is the less.

9. For the purposes of paragraph 8, the appropriate sum in the case of any animal is the amount of compensation payable under paragraph 7 or £1000, whichever is the less.

10. For the purposes of paragraph 8(a) –

- (a) where 10% or more of the animals in a closed herd are slaughtered, the appropriate percentage is  $(10 + E \times 1.5)\%$ ; and
- (b) where 10% or more of the animals in any other herd are slaughtered, the appropriate percentage is  $(10 + E)\%$ ,

where E equals half of the percentage by which the number of animals slaughtered exceeds 10% of the number of animals in the herd.

11. For the purposes of paragraphs 5 and 6 –

- (a) the indicative market price in respect of each month of the year shall be calculated in accordance with the following formula –

$$\frac{(A \times B) - (C \times D)}{(A - C)}$$

where

A is either 1 or the number of cattle aged less than 7 years when their market value was determined which were slaughtered in Northern Ireland in pursuance of regulation 81 or 82 during the month of the year (“the calculation month”) occurring two such months before the month for which the indicative market price is being calculated, whichever is the greater;

B is the average price during the calculation month for commercial grade cows and in-calf heifers both of which are intended for use in the production of milk, such price to be calculated by dividing the total of the sales price paid for such animals in the returns for a 4 week period ending on the last Saturday of the calculation month by the total number of such animals shown in those returns to have been sold;

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C is either 1 or the number of cattle aged 7 years or more when their market value was determined which were slaughtered in Northern Ireland in pursuance of regulation 81 or 82 during the calculation month, whichever is the greater; and

D is the average price paid during the calculation month for cull cows slaughtered in accordance with Commission Regulation (EC) 716/96 adopting exceptional support measures for the beef market in the United Kingdom<sup>(1)</sup>,

the final figure being rounded down to the nearest £1;

- (b) where, in respect of any calculation month, returns in respect of all the markets listed in paragraph 13(2) have not been furnished to the Department by the 15th day of the following month of the year –
- (i) if returns have been so furnished in respect of 3 or more of those markets, the average price for commercial grade cows and in-calf heifers in respect of that calculation month shall be calculated in accordance with sub-paragraph (a) from the information shown in those returns;
  - (ii) in any other case, the average price for commercial grade cows and in-calf heifers in respect of that calculation month shall be the same as that for the most recent previous calculation month for which an average price was calculated in accordance with sub-paragraph (a).

12. The Department shall take such steps as it considers appropriate for the purposes of bringing to the notice of persons concerned the indicative market price in respect of each month of the year and the total number of animals and the total sale price (and in the case of cull cows, the average price) on which the calculation of such indicative market price was based.

13.—(1) The following definitions apply for the purposes of this Part of this Schedule as it relates to compensation payable for bovine animals –

“closed herd” means a herd into which no female bovine animal has been introduced from any other herd since 15th October 1990;

“cull cows” means adult female bovine animals which have had one or more calves and which are being sold for immediate slaughter;

“exposed animal” means a bovine animal which has been exposed in any way to the infection of a TSE;

“herd” means –

- (a) all female bovine animals, which are in milk or in calf; and
- (b) all male bovine animals, which are or have been used for breeding purposes,

which are kept on the same holding, and are managed as a separate production unit at the time a notice confirming the Department’s intention to slaughter the animal is given to the keeper or other person in charge of the animal;

“market value” means –

- (a) in the case of a bovine animal aged 30 months or over, either–
  - (i) 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 not affected or suspected of being affected with bovine spongiform encephalopathy or, as the case may be, were not an exposed animal or an offspring animal; or

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(1) O.J. No. L99, 20.4.96, p. 14 as amended by Commission Regulations (EC) Nos. 774/96 (O.J. No. L104, 27.4.96, p. 21), 835/96 (O.J. No. L112, 7.5.96, p. 17), 1512/96 (O.J. No. L189, 30.7.96, p. 93), 1846/96 (O.J. No. L245, 26.9.96, p. 9), 1974/96 (O.J. No. L262, 16.10.96, p. 2), 2149/96 (O.J. No. L288, 9.11.96, p. 14), 2423/96 (O.J. No. L329, 19.12.96, p. 43) and 1365/97 (O.J. No. L188, 17.7.97, p. 6)

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- (ii) the price which would have applied had the animal been slaughtered in accordance with Commission Regulation (EC) No. 716/96 adopting exceptional support measures for the beef market in the United Kingdom, whichever is the higher, and
- (b) in the case of an animal 30 months old or under, 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 not affected or suspected of being affected with bovine spongiform encephalopathy or, as the case may be, were not an exposed animal or an offspring animal;

“replacement value” in relation to a female bovine animal means the value, at the time of valuation, of a bovine animal in its first lactation of the same breed and quality as the slaughtered bovine animal at the time of its valuation;

“return” means a document furnished to the Department by the person or persons operating a market at a place listed in sub-paragraph (2) which shows for a week ending on a Saturday the number of –

- (a) commercial grade cows and in-calf heifers, both of which are intended for use in the production of milk, sold at that market and the total sale price for such animals in that week at that market; and
- (b) cull cows for slaughter sold at that market and the total sale price for such animals in that week at that market;

“suspected animal” means a bovine animal which is suspected of being affected with bovine spongiform encephalopathy.

(2) A return shall be furnished to the Department within 7 days from the end of the week to which that return relates, by a person or persons operating a market in animals at any of the following places, that is to say –

Ballyclare: Park Street, Ballyclare, Co. Antrim, BT39 9DQ;

Ballymoney: 30 Market Street, Ballymoney, Co. Antrim, BT53 6EB;

Enniskillen: Lackaboy, Enniskillen, Co. Fermanagh, BT74 4RL;

Markethill: 6 The Square, Markethill, Co. Armagh, BT60 1RB;

Omagh: 5 Gillygooley Road, Omagh, Co. Tyrone, BT78 5PP.

## Part IV

### **COMPENSATION FOR CARCASSES, PARTS OF CARCASSES OR BLOOD OF TSE SUSCEPTIBLE ANIMALS RETAINED, SEIZED OR DISPOSED OF UNDER REGULATION 83**

1. Subject to paragraph 5, the compensation for any carcass, part of any carcass or any blood seized or disposed of under regulation 83 shall be an amount equal to the value of the carcass, part of the carcass or blood at the time it was seized or disposed of.

2. The value of any carcass, part of a carcass or blood seized or disposed of under regulation 83 shall be determined –

- (a) by agreement between the Department and the owner of the carcass, part of the carcass or blood retained, seized or disposed of; or
- (b) by arbitration.

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3. The owner of a carcass, part of a carcass or blood seized or disposed of under regulation 83 shall pay any reasonable costs or expenses incurred by the Department in connection with the seizure or disposal.

4. These costs or expenses shall be deducted from the amount of any compensation payable to the owner for the value of the carcass, part of the carcass or blood seized or disposed of.

5. If the amount of these costs and expenses exceed the amount of compensation payable to the owner, the Department shall serve on the owner a notice specifying the amount of the excess and the period for payment of this amount to the Department.

6. The owner shall pay to the Department the amount of the excess within the period specified in the notice.

7. On the expiry of this period, the amount of the excess shall be recoverable as a debt by the Department from the owner.

## Part V

### **COMPENSATION FOR TSE SUSPECT OR CONFIRMED ANIMAL OR A FIRST GENERATION PROGENY OF ANY SUCH ANIMAL SLAUGHTERED UNDER REGULATIONS 90 OR 91**

1. The compensation payable for a TSE suspect or confirmed animal, or a first generation progeny of any such animal, slaughtered under regulation 90 or 91 shall be an amount equal to the market value of the animal.

2.—(1) The market value of the animal shall be determined –

- (a) by agreement between the Department and the owner of the animal and such agreement shall be final and binding on the Department and the owner;
- (b) if the owner and the Department fail to reach such agreement, by an independent valuer paid by the Department and selected by the owner from a list of at least three such independent valuers submitted by the Department to the owner; or
- (c) if the owner refuses or neglects to select an independent valuer in accordance with subparagraph (b), by an independent valuer selected by the Department.

(2) An independent valuer selected in accordance with paragraph (1)(b) or (c) shall give to the Department and the owner a certificate in writing of his valuation and such valuation shall be final and binding on the Department and the owner.

3. Where an animal was certified by a veterinary surgeon before slaughter as –

- (a) requiring slaughter for emergency reasons relating to the welfare of the animal;
- (b) not fit for human consumption by virtue of its condition; and
- (c) having no market value as a consequence,

there shall be no compensation payable for the animal.

## Part VI

### **COMPENSATION FOR SEIZURE OR DISPOSAL UNDER REGULATION 92**

1. Subject to paragraph 5, the compensation for any

- (a) carcase of a TSE suspect or confirmed animal or the carcase of a first generation progeny of any such animal;
- (b) part of such a carcase or any blood derived from any such carcase or part; or
- (c) semen, embryos or ova derived from any TSE suspect or confirmed animal,

seized or disposed of under regulation 92 shall be an amount equal to the value of the carcase, part of the carcase, blood, semen, embryos or ova at the time it was seized or disposed of.

2. The value of any carcase, part of a carcase, blood, semen, embryos or ova seized or disposed of under regulation 92 shall be determined –

- (a) by agreement between the Department and the owner of the carcase, part of the carcase, blood, semen, embryos or ova retained, seized or disposed of; or
- (b) by arbitration.

3. The owner of a carcase, part of a carcase, blood, semen, embryos or ova seized or disposed of under regulation 92 shall pay any reasonable costs or expenses incurred by the Department in connection with the seizure or disposal.

4. These costs or expenses shall be deducted from the amount of any compensation payable to the owner for the value of the carcase, part of the carcase, blood, semen, embryos or ova seized or disposed of.

5. If the amount of these costs and expenses exceed the amount of compensation payable to the owner, the Department shall serve on the owner a notice specifying the amount of the excess and the period for payment of this amount to the Department.

6. The owner shall pay to the Department the amount of the excess within the period specified in the notice.

7. On the expiry of this period, the amount of the excess shall be recoverable as a debt by the Department from the owner.

## Part VII

### **COMPENSATION FOR OFFSPRING ANIMALS OF TSE SUSCEPTIBLE ANIMALS SLAUGHTERED UNDER REGULATION 94(1)**

1. The compensation payable for an offspring animal slaughtered in accordance with regulation 94(1) shall be an amount equal to the market value of the animal.

2.—(1) The market value of the animal shall be determined –

- (a) by agreement between the Department and the owner of the animal and such agreement shall be final and binding on the Department and the owner;
- (b) if the owner and the Department fail to reach such agreement, by an independent valuer paid by the Department and selected by the owner from a list of at least three such independent valuers submitted by the Department to the owner; or
- (c) if the owner refuses or neglects to select an independent valuer in accordance with subparagraph (b), by an independent valuer selected by the Department.

(2) An independent valuer selected in accordance with paragraph (1)(b) or (c) shall give to the Department and the owner a certificate in writing of his valuation and such valuation shall be final and binding on the Department and the owner.

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