

*Draft Regulations laid before Parliament under paragraph 2(2) of Schedule 2 to the European Communities Act 1972 for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2005 No.**

**ANIMALS, ENGLAND AND WALES**

**The Animal Health Act 1981 (Amendment) Regulations 2005**

*Made* - - - - 2005  
*Coming into force* - - 10th January 2006

The Secretary of State, in relation to England, and the National Assembly for Wales, in relation to Wales, each being designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to the Common Agricultural Policy of the European Community, in exercise of the powers conferred on them by that section 2(2), make the following Regulations;

A draft of these Regulations has, under paragraph 2(2) of Schedule 2 to that Act, been laid before, and approved by resolution of, each House of Parliament:

**Title, extent and commencement**

1.—(1) These Regulations may be cited as the Animal Health Act 1981 (Amendment) Regulations 2005.

(2) They extend to England and Wales and come into force on 10th January 2006.

**Amendment to the Animal Health Act 1981**

2. Before paragraph 3 of Schedule 3 to the Animal Health Act 1981 (but after the cross-heading “Foot-and-mouth disease”) insert—

“**2A.**—(1) This paragraph applies to any premises which are declared by the relevant authority to be infected premises under any provision which gives effect in relation to England or Wales to Council Directive [2003/85/EC](#) of 29 September 2003 on Community measures for the control of foot-and-mouth disease<sup>(3)</sup>.

(2) Subject to sub-paragraphs (3) and (5), the relevant authority must cause to be slaughtered all susceptible animals kept on the premises.

(3) The relevant authority may decide not to slaughter susceptible animals kept in—

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(1) [S.I. 1972/1811](#) and [2005/1971](#)  
(2) [1972 c.68](#).  
(3) OJ No. L306, 22.11.2003, p1.

- (a) a laboratory, zoo, wildlife park or other premises where animals are kept principally for the purposes of display and education of the public, or an enclosed area principally used for shooting; or
  - (b) premises not falling within (a) of a body, institute or centre which—
    - (i) keeps animals only for the purposes of conservation, display and education of the public, or scientific research or breeding of such animals for research, and
    - (ii) is approved by the relevant authority in relation to those animals in accordance with any provision which gives effect in relation to England or Wales to Article 13(2) of Council Directive [92/65/EEC](#) of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A(1) to Directive [90/425/EEC](#)(4); or
  - (c) other premises where susceptible animals are kept for scientific purposes or purposes related to conservation of species or farm animal genetic resources.
- (4) Before considering a decision not to slaughter susceptible animals under sub-paragraph (3), the relevant authority must be satisfied that—
- (a) basic European Community interests are not endangered (and in particular it shall take into account any threat of the spread of foot-and-mouth disease to other member States); and
  - (b) adequate measures are in place to prevent any risk of spreading foot-and-mouth disease virus.
- (5) If the premises consist of two or more separate production units (by virtue of a declaration under sub-paragraph (6)), the relevant authority may decide not to slaughter susceptible animals kept on free units of those premises.
- (6) The relevant authority may by notice served on the occupier declare in respect of any premises that those premises are to be regarded as two or more separate production units.
- (7) A declaration under sub-paragraph (6) shall not be made unless the Chief Veterinary Officer has advised the relevant authority at the time of a veterinary inquiry into the premises that in her opinion—
- (a) the structure, including the administration, and size of the premises allow in each separate unit for a complete separation of housing and keeping (including air space) for their susceptible animals;
  - (b) the operations on each separate unit, and in particular stable and pasture management, milking, feeding, and removal of dung or manure are completely separated and carried out by different personnel;
  - (c) the machinery, non-susceptible working animals, equipment, installations, instruments and disinfection facilities used in each separate unit are completely separate; and
  - (d) each of paragraphs (a)-(c) has applied continuously for at least—
    - (i) 28 days immediately prior to the earliest date on which the premises were infected with foot-and-mouth disease, if only bovine animals or swine have been kept on the premises within that period, or
    - (ii) 42 days immediately prior to that date, in any other case.

(8) A declaration under sub-paragraph (6) shall identify, and designate the boundaries of, each separate unit and shall declare every separate unit which is free of disease to be a free unit.

(9) A unit shall cease to be a free unit if the relevant authority serves a notice on the occupier—

- (a) varying the declaration in respect of it under sub-paragraph (6) such that it is no longer declared to be a free unit; or
- (b) revoking that declaration.

(10) The relevant authority shall for animals slaughtered under this paragraph pay compensation as follows—

- (a) where the animal slaughtered was affected with foot-and-mouth disease the compensation shall be the value of the animal immediately before it became so affected;
- (b) in every other case the compensation shall be the value of the animal immediately before it was slaughtered.

(11) In this paragraph—

“Chief Veterinary Officer” means the Chief Veterinary Officer appointed by the relevant authority;

“relevant authority” means—

- (a) in relation to premises in England, the Secretary of State,
- (b) in relation to premises in Wales, the National Assembly for Wales, and
- (c) in relation to premises which are situated partly in England and partly in Wales, either the Secretary of State or the National Assembly for Wales, as they agree between them (or, in the absence of agreement, the Secretary of State);

“susceptible animal” means a cow, sheep, goat, deer, camel, llama, alpaca, guanaco, vicuna, any other ruminant or any swine (that is, a member of the suborder *Suina* of the order *Artiodactyla*).

3. In sub-paragraph (1) of paragraph 3 of that Schedule after “in any case” insert “also”.

[date]

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

Signed on behalf of the National Assembly for Wales

*Name*  
[position]

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**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK  
Statutory Instrument: The Animal Health Act 1981 (Amendment) Regulations 2005 No. 3475

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[Date]

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Animal Health Act 1981 (“the Act”) to specify the circumstances in which the Secretary of State (in England) or the National Assembly for Wales (in Wales) must slaughter animals in the event of an outbreak of foot-and-mouth disease.

They partially transpose, for England and Wales, articles 10, 15, 16 and 18 of Council Directive [2003/85/EC](#) (OJNo. L306, 22.11.2003, p1) (“the Directive”). The other measures transposing the Directive in England and Wales are, in England, the Foot-and-Mouth Disease (England) Order 2005 (S.I. []) and the Foot-and-Mouth Disease (Control of Vaccination) (England) Regulations 2005 (S.I. []) and in Wales the Foot-and-Mouth Disease (Wales) Order 2005 (S.I. [] (W.[])) and the Foot-and-Mouth Disease (Control of Vaccination) (Wales) Regulations 2005 (S.I. [] (W.[])).

Article 2 inserts a new paragraph 2A into Schedule 3 to the Act which has the following effect:

Paragraphs 2A(1) and 2A(2) impose a duty on the Secretary of State or the National Assembly for Wales (respectively, “the relevant authority” in England and Wales) to slaughter susceptible animals kept on premises where foot-and-mouth disease is confirmed.

Paragraph 2A(3), read with 2A(4), allows the relevant authority to make an exception where the disease is confirmed at premises keeping animals for the purposes set out in paragraph 2A(3).

Paragraph 2A(5), read with 2A(6), (7), (8) and (9), allows the relevant authority to make an exception where the disease is confirmed at premises which are structured as separate production units.

Paragraph 2A(10) makes provision for compensation in respect of slaughtered animals.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business. A Transposition Note setting out how the main elements of the Directive are implemented in these Regulations has been placed in the library of each House of Parliament. Copies may be obtained from the Department for Environment, Food and Rural Affairs, Exotic Disease Prevention and Control Division, 1A Page Street, London SWP 4PQ.