

2005 No. 3433

ANIMALS, ENGLAND

ANIMAL HEALTH

The Cattle Compensation (England) Order 2005

| | |
|-------------------------------|---------------------------|
| <i>Made</i> - - - - | <i>8th December 2005</i> |
| <i>Laid before Parliament</i> | <i>13th December 2005</i> |
| <i>Coming into force</i> - - | <i>1st February 2006</i> |

The Secretary of State, in exercise of the powers conferred by section 32(3) of the Animal Health Act 1981(a) and now vested in her(b), with the approval of the Treasury, makes the following Order:

Title, commencement and application

1.—(1) This Order may be cited as the Cattle Compensation (England) Order 2005 and shall come into force on 1st February 2006.

(2) This Order applies in England only.

Interpretation

2. In this Order—

“affected animal” means—

- (a) in relation to brucellosis, a bovine animal which is affected with brucellosis;
- (b) in relation to tuberculosis, a cow which is affected with tuberculosis of the udder or is giving tuberculosis milk, or a bovine animal which is affected with tuberculosis emaciation, or is excreting or discharging tuberculosis material, or is affected with a chronic cough or shows any other clinical signs of tuberculosis;
- (c) in relation to enzootic bovine leukosis, a bovine animal that is affected with enzootic bovine leukosis or is infected with the bovine leukosis virus;

“average market price” means—

- (a) in respect of a non-pedigree bovine category, for any given month, a price calculated in accordance with paragraph 1 of Schedule 1;

(a) 1981 c.22. See section 86(1) for the definition of “the Minister” and “the Ministers”.
(b) Functions conferred under the 1981 Act on “the Minister” and “the Ministers” are now exercisable by the Secretary of State. Functions of “the Ministers” 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).

(b) in respect of a pedigree bovine category, for any given month, a price calculated in accordance with paragraph 2 of Schedule 1;

“bovine animal” means any domestic cattle of the genus *Bos*, buffalo or bison;

“bovine category” means a category of bovine animal of the genus *Bos* set out in the table in Part 2 of Schedule 1;

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

“cattle passport” has the same meaning as in the Cattle Identification Regulations 1998(a);

“market value” in relation to a bovine animal slaughtered for brucellosis, tuberculosis or enzootic bovine leukosis means the price which may reasonably have been obtained for it at the time of valuation from a purchaser in the open market if the animal was not an affected animal or a suspected animal;

“non-pedigree animal” means a bovine animal of the genus *Bos* which has not been issued with a pedigree certificate by a recognised breed society, or an animal for which, by the day of the assessment of the category into which the animal falls, the pedigree certificate has not been presented to the Secretary of State or an agent acting on her behalf;

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

“pedigree animal” means a bovine animal of the genus *Bos* in respect of which a pedigree certificate has been issued by a recognised breed society and presented to the Secretary of State or an agent acting on her behalf by the day of the assessment of the category into which the animal falls;

“pedigree bovine category” means a bovine category consisting of pedigree animals;

“reactor” means, in relation to tuberculosis or brucellosis, a bovine animal which gives rise to a reaction to a relevant test which is consistent with its being affected with tuberculosis or brucellosis.

“recognised breed society” means a breeders’ organisation or association which fulfils the conditions of Council Decision 84/247/EEC 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(b);

“relevant test” means a skin test or other diagnostic test for tuberculosis or brucellosis;

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

“suspected animal” means—

(a) in relation to brucellosis or tuberculosis, a bovine animal which is suspected of being infected with tuberculosis or brucellosis and includes a reactor; and

(b) in relation to Enzootic Bovine Leukosis, the same as in the Enzootic Bovine Leukosis (England) Order 2000(c); and

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

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

3.—(1) Subject to article 5, where the Secretary of State causes a bovine animal to be slaughtered under the powers conferred by section 32 of the Animal Health Act 1981 in its application to —

(a) brucellosis,

(b) tuberculosis, or

(c) enzootic bovine leukosis,

(a) S.I. 1998/871 to which there are amendments not relevant to this Order.

(b) OJ No. L125, 12.05.1984, p.58.

(c) S.I. 2000/2056.

compensation is payable in relation to those animals which are identified by means of eartags and a cattle passport in accordance with the requirements of the Cattle Identification Regulations 1998 and shall be determined in accordance with the following provisions of this article.

(2) The compensation payable by the Secretary of State in respect of buffalo or bison shall be at the level of its market value as ascertained under the Individual Ascertainment of Value (England) Order 2005(a).

(3) Subject to paragraph (7), the compensation payable in respect of a bovine animal of the genus *Bos* shall be at the level of the average market price for the bovine category into which that animal falls at the relevant date.

(4) The Secretary of State shall determine the bovine category into which a bovine animal of the genus *Bos* falls at the relevant date and for the purposes of that determination, the date of birth of that animal shall be as shown on its cattle passport and the age of the animal shall be calculated accordingly.

(5) For the purposes of this article, relevant date means—

- (a) in respect of animals slaughtered for brucellosis or enzootic bovine leukosis, the date on which a notice requiring the slaughter of the animal is served pursuant to article 19 of the Brucellosis (England) Order 2000(b) or article 12 of the Enzootic Bovine Leukosis (England) Order 2000 respectively;
- (b) in respect of affected animals or suspected animals slaughtered for tuberculosis—
 - (i) the date on which a positive or inconclusive skin test for that animal is read; or
 - (ii) where the skin test is negative, or no skin test has been carried out, the date on which a clinical sample is taken from that animal for the purposes of any other relevant test; or
 - (iii) where no other relevant test has been carried out, but the animal has been slaughtered because it has been exposed to infection as a result of contact with, or close proximity to, an affected or suspected animal, the same date as the relevant date for that affected or suspected animal.

(6) The Secretary of State may appoint an agent to act on her behalf for the purposes of the determination referred to in paragraph (4).

(7) In any case where, in accordance with paragraph 1(3) or paragraph 2(3) of Schedule 1, the Secretary of State considers that sales price data for any particular bovine category in any given month are inadequate, or such data are unavailable, she 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 2005.

Revocation

4. The Orders set out in Schedule 2 are revoked in so far as they apply in England.

Savings

5. In relation to any bovine animal for which compensation has been calculated under the provisions of the Orders referred to in article 4 prior to 1st February 2006, that calculation shall continue to apply.

27th November 2005

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

(a) S.I. 2005/3434.
(b) S.I. 2000/2055.

We approve

8th December 2005

Vernon Coaker
Gillian Merron

Two of the Lords Commissioners of her Majesty's Treasury

SCHEDULE 1

Articles 2 and 3

Calculation of Compensation

PART 1

Calculation of the average market price for bovine animals of the genus *Bos*

1.—(1) The average market price for each non-pedigree bovine category shall be calculated in respect of each month from data collected in Great Britain relating to the sale prices of animals of that category in the preceding month.

(2) Subject to sub-paragraph (3), it shall be the amount obtained by dividing the sum of those sale prices by the total number of animals of that category for which sale price data have been collected.

(3) Where, in respect of any non-pedigree bovine category in any given month, the Secretary of State considers that the sale price data collected pursuant to sub-paragraph (1) are inadequate, or where no such data are available, the average market price for the month shall be the most recently ascertained average market price for the same category, where one has been previously calculated.

2.—(1) The average market price for each pedigree bovine category shall be calculated in respect of each month from data collected in Great Britain relating to the sale price of animals of that category in the preceding six months.

(2) Subject to sub-paragraph (3) it shall be the amount obtained by dividing the sum of those sale prices by the total number of animals in that category for which sale price data have been collected.

(3) Where, in respect of any particular pedigree bovine category in any given month, there is no available sale price data for any of the preceding six months or the Secretary of State considers that the available data for every one of these months is inadequate, the average market price for the month shall be the most recently ascertained average market price for the same category, where one has been previously calculated.

3. The sale price data referred to in paragraphs 1 and 2 shall be collected from store markets, prime markets, rearing calf sales, breeding sales and dispersal sales.

PART 2

Bovine categories for bovine animals of the genus *Bos*

Table of Bovine Categories

| <i>Male</i> | <i>Female</i> |
|---|---------------------------------|
| Beef Sector – non-pedigree animal | |
| Up to 3 months | Up to 3 months |
| Over 3 months up to 6 months | Over 3 months up to 6 months |
| Over 6 months up to 9 months | Over 6 months up to 9 months |
| Over 9 months up to 12 months | Over 9 months up to 12 months |
| Over 12 months up to 16 months | Over 12 months up to 16 months |
| Over 16 months up to 20 months | Over 16 months up to 20 months |
| 20 months and over | 20 months and over |
| Breeding bulls 20 months and over | Calved |
| Dairy Sector – non-pedigree animal | |
| Up to 3 months | Up to 3 months |
| Over 3 months up to 6 months | Over 3 months up to 6 months |
| Over 6 months up to 12 months | Over 6 months up to 12 months |
| Over 12 months up to 16 months | Over 12 months up to 16 months |
| Over 16 months up to 20 months | Over 16 months up to 20 months |
| 20 months and over | 20 months and over |
| | Calved |
| Beef Sector – pedigree animal | |
| 6 months up to 12 months | 6 months up to 12 months |
| Over 12 months up to 24 months | Over 12 months up to 24 months |
| Bull 24 months and over | 24 months and over (not calved) |
| | Calved under 36 months |
| | Calved 36 months and over |
| Dairy Sector – pedigree animal | |
| Up to 2 months | Up to 2 months |
| Over 2 months up to 12 months | Over 2 months up to 10 months |
| Over 12 months up to 24 months | Over 10 months up to 18 months |
| Bull 24 months and over | 18 months and over not calved |
| | Calved under 36 months |
| | Calved 36 months and over |

SCHEDULE 2

Article 4

Revocations

| <i>Orders revoked</i> | <i>References</i> |
|--|-------------------|
| The Brucellosis and Tuberculosis (England and Wales) Compensation Order 1978 | SI 1978/1483 |
| The Brucellosis and Tuberculosis (England and Wales) Compensation (Amendment) Order 1981 | SI 1981/1412 |
| The Brucellosis and Tuberculosis (England and Wales) Compensation (Amendment) Order 1996 | SI 1996/1352 |
| The Brucellosis and Tuberculosis (England and Wales) Compensation (Amendment) Order 1998 | SI 1998/2073 |
| The Enzootic Bovine Leukosis (Compensation) Order 1980 | SI 1980/80 |

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes and replaces the Brucellosis and Tuberculosis (England and Wales) Compensation Order 1978 and the Enzootic Bovine Leukosis (Compensation) Order 1980 insofar as they apply in England only.

The Order provides for rates of compensation where the Secretary of State causes a bovine animal to be slaughtered under section 32 of the Animal Health Act 1981 in its application to brucellosis, tuberculosis or enzootic bovine leukosis.

Under this Order the amount of compensation payable on slaughter of a bovine animal, in the case of buffalo or bison, is the market value of that animal, ascertained in accordance with the Individual Ascertainment of Value (England) Order 2005, S.I. 2005/3434, and in the case of a bovine animal of the genus *Bos* is either the average market price for the bovine category into which the slaughtered animal falls at the relevant date, calculated in accordance with Part 1 of the Schedule, or the market value of the animal. Again, market value is ascertained in accordance with the Individual Ascertainment of Value Order 2005.

The bovine categories in this Order are defined by the breed, age, sex, pedigree status and breeding history of the animal and the average market price for each category shall be published every month on the Department for Environment, Food and Rural Affairs' website at www.defra.gov.uk.

This Order is made under Section 32(3) of the Animal Health Act 1981, which provides that orders made under it shall be subject to annulment in pursuance of a resolution of either House of Parliament. The Individual Ascertainment of Value (England) Order 2005 is made under Section 34(7) of the Animal Health Act 1981, which gives the Secretary of State the power to make orders for prescribing the mode of ascertainment of value of an animal slaughtered and does not require that orders made under this section be laid before Parliament. The provisions governing individual valuation therefore appear in this separate Order.

A full regulatory impact assessment of the effect this instrument will have on the costs of business is available from Area 104, TB Division, Department for Environment, Food and Rural Affairs, 1A Page Street, London, SW1P 4PQ.

STATUTORY INSTRUMENTS

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