



DEPARTMENT OF AGRICULTURE, FISHERIES AND FORESTRY

Statutory Document No. 174/97

DISEASES OF ANIMALS (PREVENTION) ACTS 1948 TO 1975

BOVINE SPONGIFORM ENCEPHALOPATHY (COMPENSATION) ORDER 1997

Approved by Tynwald on 20th May, 1997

Coming into operation in accordance with Regulation 1.

In exercise of the powers conferred on the Department of Agriculture, Fisheries and Forestry by section 5(2) and (3) of the Isle of Man Diseases of Animals (Prevention) Act 1953 (a) and all other powers enabling it in that behalf, the following Order is hereby made:-

Citation and Commencement

1. This Order may be cited as the Bovine Spongiform Encephalopathy (Compensation) Order 1997 and shall come into operation on the day on which it is approved by Tynwald.

2. In this Order -

"Act" means the Isle of Man Diseases of Animals (Prevention) Act 1953;

"average price" means, in respect of each month, the average price published by the Minister and the Secretary of State pursuant to paragraph 3 of Schedule 2 to the Brucellosis and Tuberculosis (England and Wales) Compensation Order 1978 (b) a Statutory Instrument of the United Kingdom;

"affected animal" means a bovine animal which is affected with the disease;

"disease" means Bovine Spongiform Encephalopathy;

"exposed animal" means a bovine animal which has been exposed to the infection of the disease;

"market value" means the price which might reasonably be obtained for the animal from a purchaser in the open market, the price being ascertained in the same manner as is set out in section 19(1) of the Isle of Man Diseases of Animals (Prevention) Act 1948(c); and in calculating that price, the fact that the animal is an affected, suspected or exposed animal shall not be taken into account unless that fact could be discovered by such inspection as a reasonably prudent purchaser would undertake;

"suspected animal" means a bovine animal which is suspected of being affected with the disease.

Application to the Disease

3. Section 5 of the Act applies to bovine spongiform encephalopathy

(a) Vol. XVIII p.197

(b) S.I.1978/1483

(c) Vol. XVII p.311

Price: 40p

Compensation

4. (1) The compensation payable for any affected or suspected animal caused to be slaughtered by the Department under section 5(1) of the Act shall be either -

- (a) its market value at the time of slaughter, or
- (b) 125% of the average price in respect of the month which occurred two months prior to the month in which the animal was slaughtered, whichever is the less.

(2) The compensation payable for any exposed animal caused to be slaughtered by the Department under section (1) of the Act shall be either -

- (a) in the case of a female animal born before 1 April 1991, 90% of the replacement value of the animal calculated in accordance with paragraph (3) or, if higher, the market value of the animal at the time of slaughter; and
- (b) in the case of a female animal born on or after 1 April 1991, 110% of the replacement value of the animal calculated in accordance with paragraph (3) or, if higher, the market value of the animal at the time of slaughter; and
- (c) in the case of a male animal, the market value of the animal, at the time of slaughter.

enhanced where the Department causes 10% or more of a herd to be slaughtered as exposed animals, by a percentage calculated in accordance with the Schedule.

(3) For the purposes of paragraphs (2) (a) and (b), the replacement value of a bovine animal is the value, at the time of valuation, of an animal in its first lactation of the same breed and quality as that animal.

(4) For the purposes of paragraph (2) and the Schedule, "herd" means the bovine animals kept on a holding which -

- (a) in the case of female animals, are in milk or in calf; and
- (b) in the case of male animals, have been used for breeding purposes, and are managed as a separate production unit at the time of service of a notice in Form D of the Bovine Spongiform Encephalopathy (Amendment) Order 1997(d).

(5) In ascertaining the percentage of a herd slaughtered for the purpose of calculating any enhancement under paragraph (2) animals slaughtered under any voluntary slaughter scheme introduced in relation to exposed animals shall be included in the calculations as if they were animals caused to be slaughtered by the Department under section (1) of the Act.

Revocation of G.C.192/90 in part

5. In Schedule 1 to the Diseases of Animals (Compensation) Order 1990(e) the words "Bovine Spongiform Encephalopathy" are revoked.

Article 4(2)

SCHEDULE

CALCULATION OF ENHANCEMENT OF COMPENSATION

1. (1) For bovine animals not in a closed herd, where the Department causes 10% or more of the herd to be slaughtered as exposed animals, the amount of compensation payable under article 4(2) (a) or (b) or (c) shall, subject to sub-paragraphs (2) and (3) be enhanced by $(10+E)\%$, where E equals half the percentage by which the percentage of the herd caused to be slaughtered exceeds 10%.
 - (2) For the purpose of calculating the enhancement under sub-paragraph (1), where the amount of compensation payable for a bovine animal under article 4(2) (a) or (b) or (c) exceeds £1,000, that amount shall be treated as £1,000.
 - (3) Where the calculation in sub-paragraph (1) above produces an enhancement percentage in excess of 25%, the amount of compensation payable shall be enhanced by 25%.
2. For bovine animals in a closed herd, where the Department causes 10% or more of the herd to be slaughtered as exposed animals, the amount of compensation payable under article 4 (2) (a) or (b) or (c) shall be enhanced by a percentage that is $1\frac{1}{2}$ times the enhancement percentage produced by the calculation in paragraph 1.
3. In this Schedule, "closed herd" means a herd into which no female bovine animal has been introduced since 1st April 1991.

MADE 24th April, 1997

**Hon. Hazel Hannan, M.H.K.,
Minister for Agriculture, Fisheries and Forestry**

Explanatory Note

(This note is not part of the Order)

This Order prescribes the amount of compensation available for bovine animals caused to be slaughtered by the Department under the Isle of Man Diseases of Animals (Prevention) Act 1948 and the Bovine Spongiform Encephalopathy Order 1988 as amended.

Slaughter is required because animals are affected with, suspected of being affected with, or have been exposed to the infection of B.S.E.

The amount of compensation is dependent on the circumstances of the individual animal, and is based on either market value or replacement value.