



**Cynulliad Cenedlaethol Cymru
The National Assembly for Wales**

ADRODDIAD GAN Y PWYLLGOR DEDDFAU LEGISLATION COMMITTEE REPORT

**The BSE Monitoring (Wales) (Amendment) Regulations 2001
SI 2001/4048 (W.339)**

These regulations amend the BSE Monitoring (Wales) Regulations 2001 (SI 2001/2360) (W.197), to give effect to the obligations in article 1.1 of Commission Regulation (EC) (No. 1248/2001).

Standing Order 11.5

Having had the opportunity of looking at an early draft of these regulations the legal advisers to the Committee were able to identify a number of points, some of which were taken into account in the made SI. The following points remained, however, and were raised with the appropriate Minister under SO 11.4.

Regulation 2(3)

It was queried why the words “in which they appear” are included given that, as defined, there is only one “Commission Regulation”.

Regulation 2(4)(c)

It was queried why the substituted wording requires notification within 24 hours of death or examination/inspection. Given that the definition of “notifiable bovine animal” only covers an animal which has died, examination/inspection will always be of a dead animal. It thus appeared that the requirement should be simply to notify within 24 hours of the examination/inspection.

Minister's response

The Minister has responded in a letter dated 26 February 2002 which is annexed to this report.

In respect of the point arising in relation to regulation 2(3) the Minister explains that the words "in which they appear" were included because of the reference in the definition to Regulation 1248/2001 and Regulation 999/2001.

In relation to the point concerning regulation 2(4)(c) the Minister accepts that the reference to notification within 24 hours of death is superfluous.

Conclusions

"the Commission Regulation"

The definition of "the Commission Regulation" which is inserted into the BSE Monitoring (Wales) Regulations by regulation 2(2)(a) only encompasses Regulation 1248/2001. The reference to Regulation 999/2001 is there only as part of the description of the effect of Regulation 1248/2001.

Thus in the wording which regulation 2(3) substitutes in the BSE Monitoring (Wales) Regulations, the reference to expressions "which appear in the Commission Regulation" can only apply to expressions in Regulation 1248/2001. Accordingly, the subsequent reference to "the Commission Regulation in which they appear" cannot be effective to include expressions used in Regulation 999/2001.

Regard has been had to the fact that regulation 2(1) of the BSE Monitoring (Wales) Regulations uses the form "unless the context otherwise requires". It is not considered that this assists, however, since without reference to the definition the wording substituted by regulation 2(3) could not be given any meaning at all.

As a further point it is noted that the words "Commission Regulation" are substituted for "Commission Decisions" in regulation 4(4)(h) of the BSE Monitoring (Wales) Regulations by regulation 2(7). Since Regulation 1248/2001 merely amends Regulation 999/2001, however, it is thought that the substituted wording should probably have covered both Regulations.

The Committee is accordingly obliged to invite the Assembly to pay special attention to the definition of “the Commission Regulation” as inserted by regulation 2(2)(a) and the manner in which that term is used in the provisions inserted by regulation 2(3) and (7) on the basis that the drafting appears to be defective.

Regulation 2(4)(c)

As accepted by the Minister the reference to notification within 24 hours of death is superfluous. The requirement should simply have been to notify within 24 hours of the examination or inspection.

The Committee is accordingly obliged to invite the Assembly to pay special attention to the substituted wording in regulation 2(4)(c) on the basis that the drafting is defective.

General Observations

Regulation 3(1)

It would have been helpful to the user to identify the regulation in which the definition appears. Eg. –

“... shall be amended by substituting for the definition of “notifiable bovine animal” in paragraph (1) of regulation 2 (Interpretation) the following definition – “.

Regulation 3(2)

Again it would have been helpful to the user to identify the regulation in which the definition is to be found. Eg. –

“... shall be amended by substituting for the definition of “notifiable bovine animal” in regulation 2 (Interpretation) the following definition –“.

Mick Bates AM
Chair, Legislation Committee

16 April 2002