

2019 No. 945

ANIMALS, ENGLAND

ANIMAL HEALTH

The Cattle Compensation (England) Order 2019

<i>Made</i> - - - -	<i>20th May 2019</i>
<i>Laid before Parliament</i>	<i>21st May 2019</i>
<i>Coming into force</i> - -	<i>1st July 2019</i>

The Secretary of State makes this Order, with the approval of the Treasury, in exercise of the powers conferred by section 32(3) of the Animal Health Act 1981(a).

Citation and commencement

1. This Order may be cited as the Cattle Compensation (England) Order 2019 and comes into force on 1st July 2019.

Interpretation

2.—(1) In this Order—

“the Act” means the Animal Health Act 1981;

“animal” means domestic cattle, buffalo or bison;

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

“cattle passport” means a cattle passport as defined in, and issued in accordance with, the Cattle Identification Regulations 2007(b);

“enzootic bovine leukosis” means infection with the enzootic bovine leukosis virus;

“market value” means, in relation to an animal slaughtered for brucellosis, tuberculosis or enzootic bovine leukosis, 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 neither affected nor suspected of being affected with that disease;

“relevant date” means—

(a) 1981 c. 22. See section 86(1) for the definition of “the Minister”. Functions conferred under the Act were transferred, so far as exercisable by the Secretaries of State for Scotland and Wales, to the Minister of Agriculture, Fisheries and Food by S.I. 1999/3141. Functions of the Minister of Agriculture, Fisheries and Food were further transferred to the Secretary of State by S.I. 2002/794.

(b) S.I. 2007/529, amended by S.I. 2017/101 and prospectively amended by S.I. 2018/1238, to come into force on exit day; there are other amending instruments but none is relevant.

- (a) in respect of an animal slaughtered for brucellosis, the date on which a notice requiring slaughter of the animal is served pursuant to article 20 of the Brucellosis (England) Order 2015(a);
- (b) in respect of an animal slaughtered for enzootic bovine leukosis, the date on which a notice requiring slaughter of the animal is served pursuant to article 12 of the Enzootic Bovine Leukosis (England) Order 2000(b);
- (c) in respect of an animal slaughtered for tuberculosis—
 - (i) the date on which a positive skin test for the animal is read;
 - (ii) the date on which an inconclusive skin test for the animal, resulting in its being classified as a reactor and therefore consistent with its being affected with tuberculosis, is read;
 - (iii) where a last skin test carried out before slaughter is negative, or no skin test has been carried out, the date on which a clinical sample is taken from the animal for the purposes of any other diagnostic test for tuberculosis;
 - (iv) where no diagnostic test for tuberculosis has been carried out, or where tests have been carried out on the animal with negative results, but the animal is slaughtered because it has been exposed to infection as a result of contact with, or close proximity to, an animal that is affected or suspected of being affected with tuberculosis, the relevant date for that affected or suspected animal;
 - (v) where no diagnostic test for tuberculosis has been carried out but the animal is slaughtered because, following clinical examination by a veterinary surgeon, it is found to be affected or suspected of being affected with tuberculosis, the date of that examination;

“sale price data” means data relating to the price obtained on sale that is compiled in relation to domestic cattle from store markets, prime markets, rearing calf sales, breeding sales and dispersal sales in Great Britain;

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

(2) In paragraph (1), “skin test” means the single intradermal comparative cervical tuberculin test for tuberculosis.

Compensation for an animal slaughtered for brucellosis, tuberculosis or enzootic bovine leukosis

3. Subject to article 4, where the Secretary of State causes an animal to be slaughtered under section 32(1) of the Act in its application to brucellosis, tuberculosis or enzootic bovine leukosis, compensation payable under section 32(3) is to be determined in accordance with this Order.

Animal slaughtered for reasons of tuberculosis where the owner is licensed to remove the animal to a slaughter house of the owner’s choice

4.—(1) This article applies where—

- (a) the Secretary of State causes an animal to be slaughtered under section 32(1) of the Act in its application to tuberculosis, and
- (b) an inspector has served a notice under article 15(1) of the Tuberculosis (England) Order 2014(c) and the owner is licensed to remove the animal to a slaughter house of the owner’s choice.

(2) No compensation is payable under article 3 where the owner receives a commercial payment for the value of the slaughtered animal from the slaughter house operator.

(a) S.I. 2015/364.
 (b) S.I. 2000/2056, to which there are amendments not relevant to this Order.
 (c) S.I. 2014/2383, to which there are amendments not relevant to this Order.

Calculation of compensation

5.—(1) Where the conditions in article 6 are met, compensation payable by the Secretary of State under section 32(3) of the Act is to be determined in accordance with this article.

(2) For domestic cattle (other than in the circumstances mentioned in paragraph (3)(a)), compensation is to be calculated in accordance with paragraph 2 of the Schedule.

(3) The compensation payable for the following type of animal is the market value as determined in accordance with an order made under section 34(7)(a) of the Act^(a), subject to any reduction applicable in accordance with the Schedule—

- (a) domestic cattle, where paragraph 3(2)(b) of the Schedule applies and the Secretary of State decides to act in accordance with that provision, or
- (b) a buffalo or bison.

Conditions for receipt of compensation payment

6. The conditions referred to in article 5(1) are that—

- (a) the animal must be identified by means of ear tags at the time of removal for slaughter,
- (b) a cattle passport for the animal must be presented to the Secretary of State, or an agent acting on behalf of the Secretary of State, before or at the time of removal for slaughter, and
- (c) where the Secretary of State so requests, for the purpose of verifying a person's claim to ownership of an animal, that person must declare that, to the best of the person's knowledge, there is no other person who may claim such ownership.

Saving

7. The expiry of the Cattle Compensation (England) Order 2012^(b) on 1st July 2019 does not affect any calculation of compensation or payment made by the Secretary of State under the provisions of that Order and notified to the owner before the expiry of that Order.

20th May 2019

Robert Goodwill
Minister of State
Department for Environment, Food and Rural Affairs

We approve

20th May 2019

David Rutley
Craig Whittaker
Two of the Lords Commissioners of Her Majesty's Treasury

(a) The Individual Ascertainment of Value (England) Order 2019 (S.I. 2019/946).

(b) S.I. 2012/1379, as amended by S.I. 2015/1838, 2018/754.

SCHEDULE

Article 5

Calculation of compensation

PART 1

Method of calculation

Interpretation

1. In this Schedule—

“category” means a category of animal set out in the table in paragraph 9(5);

“non-pedigree animal” means an animal that is not a pedigree animal;

“pedigree animal” means a purebred breeding animal which is entered or registered in the main section of a breeding book, and for which a zootechnical certificate has been issued by a breed society that has been recognised by the Secretary of State under Article 4 of Regulation (EU) 2016/1012;

“pedigree category” means a category consisting of pedigree animals which meet the conditions set out in paragraph 9(3);

“Regulation (EU) 2016/1012” means Regulation (EU) 2016/1012 of the European Parliament and of the Council on zootechnical and genealogical conditions for the breeding, trade in and entry into the Union of purebred breeding animals, hybrid breeding pigs and the germinal products thereof^(a).

The average market price

2.—(1) Subject to paragraphs 4, 6, 7 and 8, the compensation payable to the owner of an animal is the average market price for the category into which the animal falls at the relevant date.

(2) The average market price for each category is to be derived from sales of animals in that category occurring during the relevant period.

(3) For the purposes of this paragraph and paragraph 3, the relevant period is—

(a) in the case of non-pedigree animals, the period of one month ending on the twentieth day of the month preceding that in which the relevant date falls;

(b) in the case of pedigree animals, the period of six months ending on the twentieth day of the month preceding that in which the relevant date falls.

(4) The average market price for a category for which sale price data have been collected is the amount obtained by dividing the sum of the amounts obtained by way of sale prices for all the animals in that category sold during the relevant period by the total number of animals in that category so sold.

No sale price data or inadequate sale price data

3.—(1) This paragraph applies where either there are no available sale price data, or the Secretary of State considers there to be inadequate sale price data, for calculating the average market price for a category of animal.

(2) Where this paragraph applies—

(a) OJ No L 171, 29.6.2016, p. 66.

- (a) the average market price is the most recently ascertained average market price for the relevant category of animal;
- (b) but if the most recently ascertained average market price was ascertained more than two months before the relevant date, the Secretary of State may instead decide to pay compensation at the level of the market value of the animal in question, as determined in accordance with an order made under section 34(7)(a) of the Act^(a).

Compensation payable following delays in testing for tuberculosis

4.—(1) Compensation payable for an animal is to be calculated using the formula set out in paragraph (2) where—

- (a) a notice has been served under article 8(1) of the Tuberculosis (England) Order 2014;
- (b) there is a failure to carry out the tuberculosis test by the latest date specified in the notice,
- (c) a test has subsequently been carried out, and
- (d) the animal has been slaughtered following that test.

(2) The formula referred to in paragraph (1) is $A \times B$ where—

- (a) A is the average market price for the category into which the animal falls at the relevant date (or the market value as determined in the circumstances identified in article 5(3)), and
- (b) B is the figure specified in sub-paragraph (3).

(3) Where the interval between the latest date specified in the notice and the date of the test is—

- (a) not more than 60 days, B is 1;
- (b) more than 60 but not more than 90 days, B is 0.75;
- (c) more than 90 but not more than 180 days, B is 0.5;
- (d) more than 180 days, B is 0.05.

(4) The Secretary of State must notify the owner in writing of any decision to reduce compensation following a delay in testing for tuberculosis of more than 60 days after the latest date specified in the notice, giving the reasons for the decision and explaining that the owner may make written representations to a person appointed by the Secretary of State in accordance with paragraph 5.

Review of decision to reduce compensation under paragraph 4

5.—(1) Before the end of 21 days beginning with the day after that on which the notification under paragraph 4(4) is received, the owner may make written representations to a person appointed by the Secretary of State for the purpose of reviewing the decision to reduce the compensation, and provide a copy of such representations to the Secretary of State.

(2) Before the end of 14 days beginning with the day after that on which written representations under sub-paragraph (1) are received by the Secretary of State, the Secretary of State may make written representations to the appointed person, and provide a copy of such representations to the owner.

(3) The appointed person must consider any written representations made under sub-paragraphs (1) and (2) and, before the end of 28 days beginning with the day after that on which the period described in sub-paragraph (2) ends, must report in writing to the Secretary of State with a recommended course of action resulting from the review.

(4) The Secretary of State must consider the report of the appointed person before making a decision on whether to maintain, amend or withdraw the decision under paragraph 4 and, before the end of 28 days beginning with the day after that on which the report of the appointed person is

(a) The Individual Ascertainment of Value (England) Order 2019 (S.I. 2019/946).

received by the Secretary of State, must notify the owner of the decision and provide a copy of the report of the appointed person.

Tuberculosis compensation reduction due to unclean animal presented for slaughter

6.—(1) The compensation payable in respect of an animal's slaughter is 50% of the compensation which would otherwise be payable in accordance with paragraphs 2 to 5 where—

- (a) the animal is presented for slaughter for reasons of tuberculosis, and
- (b) the official veterinarian at the slaughter house is of the opinion that the animal is not in a clean condition in accordance with the requirement in point 4 of Chapter 4 of Section 1 of Annex 3 to Regulation (EC) No 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin^(a).

(2) The Secretary of State must notify the owner in writing of the reason for the decision to reduce compensation in accordance with sub-paragraph (1).

Tuberculosis compensation reduction for an animal brought into a herd where the animal is subsequently slaughtered for reasons of tuberculosis

7.—(1) The compensation payable in respect of an animal's slaughter is 50% of the compensation which would otherwise be payable in accordance with paragraphs 2 to 5 where—

- (a) an owner brings the animal into a herd in circumstances where that herd has already lost its tuberculosis-free status, and
- (b) the animal is subsequently affected with tuberculosis before the herd regains its tuberculosis-free status.

(2) The Secretary of State must notify the owner in writing of the reason for the decision to reduce compensation in accordance with sub-paragraph (1).

(3) The reduction in compensation under sub-paragraph (1) does not apply where, before the herd lost its tuberculosis-free status, it was accredited under a cattle health scheme licensed by the Cattle Health Certification Standards (UK)^(b) in respect of tuberculosis.

Tuberculosis compensation where both paragraphs 6 and 7 apply

8.—(1) This paragraph applies where both paragraphs 6 and 7 apply in respect of an animal.

(2) Where this paragraph applies, the compensation payable in respect of the animal's slaughter is 50% of the compensation which would otherwise be payable in accordance with paragraphs 2 to 5.

(3) The Secretary of State must notify the owner in writing of the reason for the decision to reduce compensation in accordance with sub-paragraph (2).

PART 2

Categories

Determination of category

9.—(1) The Secretary of State must determine from the table in sub-paragraph (5) the category into which an animal falls at the relevant date and may appoint an agent for the purpose of that determination.

(a) OJ No L 139, 30.4.2004, p. 55, as last amended by Commission Regulation (EU) 2017/1981 (OJ No L 285, 1.11.2017, p. 10).

(b) Cattle Health Certification Standards (UK) operate from Dairy House, Unit 31, Abbey Park, Stareton, Kenilworth, Warwickshire, CV8 2LY and an electronic mail address at info@checs.co.uk.

(2) For the purpose of the determination, the date of birth of the animal is the date shown on the cattle passport for the animal and the age of the animal is to be calculated accordingly.

(3) For an animal to fall within a pedigree category—

(a) the animal must—

(i) be a pedigree animal which meets the requirements set out in Chapter 4 of Regulation (EU) 2016/1012 for entry in the main section of a herd-book for pure-bred breeding animals of the bovine species and be entered in the main section of such a herd-book before the relevant date, and

(ii) be entire, and

(b) the pedigree certificate in respect of that animal must be presented to the Secretary of State, or an agent acting on behalf of the Secretary of State, not later than 10 days after the relevant date.

(4) An animal which does not meet the conditions specified in sub-paragraph (3) is treated for the purposes of calculating compensation as a non-pedigree animal.

(5) The categories of domestic cattle are as follows—

<i>Male</i>	<i>Female</i>
Beef Sector – non-pedigree	
Up to and including 3 months	Up to and including 3 months
Over 3 months up to and including 6 months	Over 3 months up to and including 6 months
Over 6 months up to and including 9 months	Over 6 months up to and including 9 months
Over 9 months up to and including 12 months	Over 9 months up to and including 12 months
Over 12 months up to and including 16 months	Over 12 months up to and including 16 months
Over 16 months up to and including 20 months	Over 16 months up to and including 20 months
Over 20 months, breeding bulls	Over 20 months, calved
Over 20 months, non-breeding bulls	Over 20 months, not calved
Dairy Sector – non-pedigree	
Up to and including 3 months	Up to and including 3 months
Over 3 months up to and including 6 months	Over 3 months up to and including 6 months
Over 6 months up to and including 12 months	Over 6 months up to and including 12 months
Over 12 months up to and including 16 months	Over 12 months up to and including 16 months
Over 16 months up to and including 20 months	Over 16 months up to and including 20 months
Over 20 months	Over 20 months up to and including 84 months, calved
	Over 20 months up to and including 84 months, not calved
	Over 84 months
Beef Sector – pedigree	
Up to and including 6 months	Up to and including 6 months
Over 6 months up to and including 12 months	Over 6 months up to and including 12 months
Over 12 months up to and including 24 months	Over 12 months up to and including 24 months
Over 24 months	Over 24 months, not calved
	Over 24 months up to and including 36 months, calved
	Over 36 months, calved
Dairy Sector – pedigree	
Up to and including 2 months	Up to and including 2 months
Over 2 months up to and including 12 months	Over 2 months up to and including 10 months
Over 12 months up to and including 24 months	Over 10 months up to and including 18 months
Over 24 months	Over 18 months, not calved
	Over 18 months up to and including 36 months, calved

Over 36 months up to and including 84 months,
calved
Over 84 months, calved

EXPLANATORY NOTE

(This note is not part of the Order)

This Order replaces the Cattle Compensation (England) Order 2012 (S.I. 2012/1379), which expires on 1st July 2019.

The Order provides for rates of compensation where the Secretary of State causes an animal to be slaughtered under section 32(1) of the Animal Health Act 1981 (c. 22) in its application to brucellosis, tuberculosis or enzootic bovine leukosis (article 3), subject to the exception set out in article 4(2)(b).

Article 5 provides that the amount of compensation payable on the slaughter of domestic cattle is either the average market price for the category into which the slaughtered animal falls at the relevant date (defined in article 2), calculated in accordance with Part 1 of the Schedule; but where there are no, or inadequate, sale price data available for the relevant category of cattle, the Secretary of State may instead calculate the compensation by reference to the market value of the animal as ascertained in accordance with the Individual Ascertainment of Value (England) Order 2019 (S.I. 2019/946).

Article 4(3)(b) provides that the amount of compensation payable on the slaughter of a buffalo or bison is the market value of that animal, ascertained in accordance with the Individual Ascertainment of Value (England) Order 2019.

The levels of compensation are set out in the Schedule. Compensation is reduced from the average market price for the relevant category of animal that is slaughtered for the control of tuberculosis where there has been a delay of more than 60 days on the part of the owner in arranging for the tuberculosis testing of animals (paragraph 4 of the Schedule). There is a provision for the owner to request a review by a person appointed by the Secretary of State of such a decision to reduce the compensation payable (paragraph 5 of the Schedule). Other reductions to the compensation payable are made in accordance with paragraphs 6, 7 and 8 of the Schedule.

Paragraph 9 of the Schedule contains a table setting out the categories on which the average market prices are based by reference to the sex, age, livestock type (beef or dairy) and status of the cattle (pedigree or non-pedigree) and, if female, whether calved or not calved. The average market price for each category is published every month on the website of the Department for Environment, Food and Rural Affairs at www.gov.uk/publications.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.