



STATUTORY INSTRUMENTS

S.I. No. of 2008

EUROPEAN COMMUNITIES (TRANSMISSIBLE SPONGIFORM
ENCEPHALOPATHIES AND ANIMAL BY-PRODUCTS)
REGULATIONS 2008

(Prn.)

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EUROPEAN COMMUNITIES (TRANSMISSIBLE SPONGIFORM
ENCEPHALOPATHIES AND ANIMAL BY-PRODUCTS)
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ARRANGEMENT OF REGULATIONS

Part 1

PRELIMINARY AND GENERAL

1. Citation
2. Interpretation

Part 2

SALE AND SUPPLY, ETC.

3. Placing on the market
4. Restriction on import
5. Restriction on manufacture, possession etc
6. Labelling
7. Precaution relating to farmed animals
8. Sale restricted to fixed premises

Part 3

TESTING OF ANIMALS

9. Testing of certain animals

Part 4

REGULATION OF CERTAIN ACTIVITIES

10. Approval and authorisation of certain activities
11. Burial
12. Research
13. Use of animal by-products
14. Register of fishmeal and blood product users
15. Animal by-products transport register
16. Procedure for approval and authorisation, etc

- 17. List of approvals and authorisations
- 18. Records

Part 5

AUTHORISED OFFICERS AND RELATED MATTERS

- 19. Appointment of authorised officers
- 20. Functions of authorised officers
- 21. Functions in relation to approval, etc.
- 22. Search warrant
- 23. Production of documents
- 24. Compliance notice
- 25. Appeal against compliance notice
- 26. Emergency measures

Part 6

OFFENCES AND FINAL PROVISIONS

- 27. Forgery
- 28. Service
- 29. Fees
- 30. Offences
- 31. Prosecutions
- 32. Evidence on certificate
- 33. Fixed payment notice
- 34. Savers
- 35. Revocations

Schedule

EUROPEAN COMMUNITIES (TRANSMISSIBLE SPONGIFORM
ENCEPHALOPATHIES AND ANIMAL BY-PRODUCTS)
REGULATIONS 2008

I, BRENDAN SMITH, Minister for Agriculture, Fisheries and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Regulation (EC) No. 999/2001 of the European Parliament and the Council of 22 May 2001¹, Commission Regulation (EC) No. 1248/2001 of 22 June 2001², Commission Regulation (EC) No. 1326/2001 of 29 June 2001³, Commission Regulation (EC) No. 270/2002 of 14 February 2002⁴, Commission Regulation (EC) No. 1494/2002 of 21 August 2002⁵, Commission Regulation (EC) No. 260/2003 of 12 February 2003⁶, Commission Regulation (EC) No. 650/2003 of 10 April 2003⁷, Commission Regulation (EC) No. 1053/2003 of 19 June 2003⁸, Regulation (EC) No. 1128/2003 of the European Parliament and the Council of 16 June 2003⁹, Commission Regulation (EC) No. 1139/2003 of 27 June 2003¹⁰, Commission Regulation (EC) No. 1234/2003 of 10 July 2003¹¹, Commission Regulation (EC) No. 1809/2003 of 15 October 2003¹², Commission Regulation (EC) No. 1915/2003 of 30 October 2003¹³, Commission Regulation (EC) No. 2245/2003 of 19 December 2003¹⁴, Commission Regulation (EC) No. 876/2004 of 29 April 2004¹⁵, Commission Regulation (EC) No. 1471/2004 of 18 August 2004¹⁶, Commission Regulation (EC) No. 1492/2004 of 23 August 2004¹⁷, Commission Regulation (EC) No. 1993/2004 of 19 November 2004¹⁸, Commission Regulation (EC) No. 36/2005 of 12 January 2005¹⁹, Commission Regulation (EC) No. 214/2005 of 9 February 2005²⁰, Commission Regulation (EC) No. 260/2005 of 16 February 2005²¹, Commission Regulation (EC) No. 932/2005 of 8 June 2005²², Commission

¹ O.J. No. L 147 of 31.5.2001, p.1.

² O.J. No. L 173 of 27.6.2001, p.12.

³ O.J. No. L 177 of 30.6.2001, p.60.

⁴ O.J. No. L 45 of 15.2.2002, p.4.

⁵ O.J. No. L 225 of 22.8.2002, p.3.

⁶ O.J. No. L 37 of 13.2.2003, p.7.

⁷ O.J. No. L 95 of 11.4.2003, p.15.

⁸ O.J. No. L 332 of 28.12.2000, p.91.

⁹ O.J. No. L 160 of 28.6. 2003, p.1.

¹⁰ O.J. No. L 160 of 28.6.2003, p.22.

¹¹ O.J. No. L 173 of 11.7.2003, p.6.

¹² O.J. No. L 265 of 16.10.2003, p.10.

¹³ O.J. No. L283 of 31.10.2003, p.29.

¹⁴ O.J. No. L 333 of 20.12.2003, p.28.

¹⁵ O.J. No. L 162 of 30.4.2004, p.52.

¹⁶ O.J. No. L 271 of 19.8.2004, p.24.

¹⁷ O.J. No. L 274 of 24.8.2004, p.3.

¹⁸ O.J. No. L 344 of 20.11.2004, p.12.

¹⁹ O.J. No. L 10 of 13.1.2005, p.9.

²⁰ O.J. No. L 37 of 10.2.2005, p.9.

²¹ O.J. No. L 46 of 17. 2. 2005, p.31.

²² O.J. No. L 163 of 23.6. 2005, p.1.

Regulation (EC) No. 1292/2005 of 5 August 2005²³ and Commission Regulation (EC) No. 1974/2005 of 2 December 2005²⁴, Commission Regulation (EC) No. 253/2006 of 14 February 2006²⁵, Commission Regulation (EC) No. 339/2006 of 24 February 2006²⁶ and Commission Regulation (EC) No. 657/2006 of 10 April 2006²⁷, Commission Regulation (EC) No. 688/2006 of 4 May 2006²⁸, Commission Regulation (EC) No. 1041/2006 of 7 July 2006²⁹, Regulation (EC) No. 1923/2006 of 18 December 2006 of the European Parliament and of the Council³⁰, Commission Regulation (EC) No. 722/2007 of 25 June 2007³¹, Commission Regulation (EC) No. 727/2007 of 26 June 2007³², Commission Regulation (EC) No. 1275/2007 of 29 October 2007³³, Commission Regulation (EC) No. 1428/2007 of 4 December 2007³⁴, Commission Regulation (EC) No. 21/2008 of 11 January 2008³⁵, Commission Regulation (EC) No. 315/2008 of 4 April 2008³⁶, Commission Regulation (EC) No. 357/2008 of 22 April 2008³⁷, Commission Regulation (EC) No. 571/2008 of 19 June 2008³⁸, Regulation (EC) No. 1774/2002 of the European Parliament and the Council of 3 October 2002³⁹, Commission Regulation (EC) No. 808/2003 of 12 May 2003⁴⁰, Commission Regulation (EC) No. 811/2003 of 12 May 2003⁴¹, Commission Regulation (EC) No. 668/2004 of 10 March 2004⁴², Commission Regulation (EC) No. 878/2004 of 29 April 2004⁴³, Commission Regulation (EC) No. 79/2005 of 19 January 2005⁴⁴, Commission Regulation (EC) No. 92/2005 of 19 January 2005⁴⁵, Commission Regulation (EC) No. 93/2005 of 19 January 2005⁴⁶, Commission Regulation (EC) No. 416/2005 of 11 March 2005⁴⁷, Commission Regulation (EC) No. 2067/2005 of 16 December 2005⁴⁸, Commission Regulation (EC) No. 181/2006 of 1 February 2006⁴⁹, Commission Regulation (EC) No. 197/2006 of 3 February 2006⁵⁰, Commission Regulation (EC) No. 208/2006 of 7 February 2006⁵¹, Commission Regulation (EC) No. 209/2006 of 7 February 2006⁵², Commission Regulation (EC) No. 1192/2006

²³ O.J. No. L 205 of 6.8.2005, p.3.

²⁴ O.J. No. L 317 of 3.12.2005, p.4.

²⁵ O.J. No. L 44 of 15.2.2006, p.9.

²⁶ O.J. No. L 55 of 25.2.2006, p.5

²⁷ O.J. No. L 116 of 29.4.2006, p.9.

²⁸ O.J. No. L 120 of 5.5.2006, p.10.

²⁹ O.J. No. L 187 of 8.7.2006, p.10.

³⁰ O.J. No. L 404 of 30.12.2006, p.1.

³¹ O.J. No. L 164 of 26.6.2007, p.7.

³² O.J. No. L 165 of 28.6.2007, p.8.

³³ O.J. No. L 284 of 30.10.2007, p.8.

³⁴ O.J. No. L 317 of 5.12.2007, p. 61

³⁵ O.J. No. L 94 of 5.4.2008, p. 3

³⁶ O.J. No. L 111 of 23.4.2008, p. 3

³⁷ O.J. No. L 161 of 20.6.2008, p. 4

³⁸ O.J. No. L 161 of 20.6.2008, p. 20

³⁹ O.J. No. L 273 of 10.10.2002, p.1.

⁴⁰ O.J. No. L 117 of 13.5.2003, p.1.

⁴¹ O.J. No. L 117 of 13.5.2003, p.14.

⁴² O.J. No. L 112 of 19.4.2004, p.1.

⁴³ O.J. No. L 162 of 29.4.2004, p.62.

⁴⁴ O.J. No. L 16 of 20.1.2005, p.46.

⁴⁵ O.J. No. L 19 of 21.1.2005, p.27.

⁴⁶ O.J. No. L.19 of 21.1.2005, p.34.

⁴⁷ O.J. No. L 66 of 12.3.2005, p.10

⁴⁸ O.J. No. L 331 of 17.12.2005, p.12.

⁴⁹ O.J. No. L 29 of 2.2.2006, p.31.

⁵⁰ O.J. No. L 32 of 4.2.2006, p. 13

⁵¹ O.J. No. L 36 of 8.2.2006, p.25.

⁵² O.J. No. L 36 of 8.2.2006, p.32.

of 4 August 2006⁵³, Commission Regulation (EC) No. 1678/2006 of 14 November 2006⁵⁴, Commission Regulation (EC) No. 185/2007 of 20 February 2007⁵⁵, Commission Regulation (EC) No. 829/2007 of 28 June 2007⁵⁶, Commission Regulation (EC) No. 832/2007 of 16 July 2007⁵⁷, Commission Regulation (EC) No. 1256/2007 of 25 October 2007⁵⁸, Commission Regulation (EC) No. 1432/2007 of 5 December 2007⁵⁹, Commission Regulation (EC) No. 1576/2007 of 21 December 2007⁶⁰, Commission Regulation (EC) No. 399/2008 of 5 May 2008⁶¹, Commission Regulation (EC) No. 437/2008 of 21 May 2008⁶², Commission Regulation (EC) No. 523/2008 of 11 June 2008⁶³, hereby make the following Regulations—

Part 1

PRELIMINARY AND GENERAL

Citation

1. These Regulations may be cited as the European Communities (Transmissible Spongiform Encephalopathies and Animal By-products) Regulations 2008.

Interpretation

2. (1) In these Regulations—

“Animal By-products Regulation” means Regulation (EC) No. 1774/2002 of the European Parliament and the Council of 3 October 2002 as amended by Commission Regulation (EC) No. 808/2003 of 12 May 2003, Commission Regulation (EC) No. 811/2003 of 12 May 2003, Commission Regulation (EC) No. 668/2004 of 10 March 2004, Commission Regulation (EC) No. 878/2004 of 29 April 2004, Commission Regulation (EC) No. 79/2005 of 19 January 2005, Commission Regulation (EC) No. 92/2005 of 19 January 2005, Commission Regulation (EC) No. 93/2005 of 19 January 2005, Commission Regulation (EC) No. 416/2005 of 11 March 2005, Commission Regulation (EC) No. 2067/2005 of 16 December 2005, Commission Regulation (EC) No. 181/2006 of 1 February 2006, Commission Regulation (EC) No. 197/2006 of 3 February 2006, Commission Regulation (EC) No. 208/2006 of 7 February 2006, Commission Regulation (EC) No. 209/2006 of 7 February 2006, Commission Regulation (EC) No. 1192/2006 of 4 August 2006, Commission Regulation (EC) No. 1678/2006 of 14 November 2006, Commission Regulation (EC) No. 185/2007 of 20 February 2007, Commission Regulation (EC) No. 829/2007 of 28 June 2007, Commission Regulation (EC) No. 1256/2007 of 25 October 2007, Commission Regulation (EC) No. 1432/2007 of 5 December 2007, Commission Regulation (EC) No. 1576/2007 of 21

⁵³ O.J. No. L 215 of 5.8.2007, p.10.

⁵⁴ O.J. No. L 314 of 15.11.2006, p.4.

⁵⁵ O.J. No. L 63 of 1.3.2007, p.4.

⁵⁶ O.J. No. L 191 of 21.7.2007, p.1.

⁵⁷ O.J. No. L 185 of 17.7.2007, p.7.

⁵⁸ O.J. No. L 282 of 25.10.2007, p.30.

⁵⁹ O.J. No. L 320 of 6.12.2007, p.13.

⁶⁰ O.J. No. L 340 of 22.12.2007, p.89.

⁶¹ O.J. No. L 118 of 6.5.2008, p. 12

⁶² O.J. No. L 132 of 22.5.2008, p. 7

⁶³ O.J. No. L 153 of 12.6.2008, p. 23

December 2007, Commission Regulation (EC) No. 399/2008 of 5 May 2008, Commission Regulation (EC) No. 437/2008 of 21 May 2008 and Commission Regulation (EC) No. 523/2008 of 11 June 2008;

“authorised officer” means—

- (a) a sea fisheries protection officer within the meaning of the Sea-Fisheries and Maritime Jurisdiction Act 2006 (No. 8 of 2006),
- (b) an authorised officer within the meaning of section 17A (inserted by the Diseases of Animals (Amendment) Act 2001 (No. 3 of 2001)) of the Diseases of Animals Act 1966 (No. 6 of 1966),
- (c) an authorised officer within the meaning of the European Communities (Food and Feed Hygiene) Regulations 2005 (S.I. No. 910 of 2005),
- (d) a person who, immediately before the making of these Regulations was an authorised officer within the meaning of the European Communities (Transmissible Spongiform Encephalopathies and Animal By-products) Regulations 2006 (S.I. No. 612 of 2006),
- (e) an authorised officer within the meaning of the Food Safety Authority of Ireland Act 1998 (No. 29 of 1998), or
- (f) a person appointed under Regulation 19;

“manufacture” means total or partial manufacture and includes incorporating, processing, compounding, formulating, filling, dividing up, packaging, labelling and presentation;

“Minister” means Minister for Agriculture, Fisheries and Food;

“premises” includes land (including land under water) with or without buildings, an establishment, a vehicle (including a boat, ship, hovercraft, aircraft or offshore installation (within the meaning of the Safety, Health and Welfare (Offshore Installations) Act 1987 (No. 18 of 1987)), railway wagon, container or other thing used in connection with, or ancillary to such a thing;

“purchase” includes buy, take in exchange, accept as a gift or otherwise receive;

“sell” includes offer, expose or keep for sale, invite an offer to buy, or distribute for reward or otherwise (whether directly or through another person);

“supply” means to give without reward;

“TSE Regulation” means Regulation (EC) No. 999/2001 of the European Parliament and the Council of 22 May 2001 as amended by Commission Regulation (EC) No. 1248/2001 of 22 June 2001, Commission Regulation (EC) No. 1326/2001 of 29 June 2001, Commission Regulation (EC) No. 270/2002 of 14 February 2002, Commission Regulation (EC) No. 1494/2002 of 21 August 2002, Commission Regulation (EC) No. 260/2003 of 12 February 2003, Commission

Regulation (EC) No. 650/2003 of 10 April 2003, Commission Regulation (EC) No. 1053/2003 of 19 June 2003, Regulation (EC) No. 1128/2003 of the European Parliament and the Council of 16 June 2003, Commission Regulation (EC) No. 1139/2003 of 27 June 2003, Commission Regulation (EC) No. 1234/2003 of 10 July 2003, Commission Regulation (EC) No. 1809/2003 of 15 October 2003, Commission Regulation (EC) No. 1915/2003 of 30 October 2003, Commission Regulation (EC) No. 2245/2003 of 19 December 2003, Commission Regulation (EC) No. 876/2004 of 29 April 2004, Commission Regulation (EC) No. 1471/2004 of 18 August 2004, Commission Regulation (EC) No. 1492/2004 of 23 August 2004, Commission Regulation (EC) No. 1993/2004 of 19 November 2004, Commission Regulation (EC) No. 36/2005 of 12 January 2005, Commission Regulation (EC) No. 214/2005 of 9 February 2005, Commission Regulation (EC) No. 260/2005 of 16 February 2005, Commission Regulation (EC) No. 932/2005 of 8 June 2005, Commission Regulation (EC) No. 1292/2005 of 5 August 2005 and Commission Regulation (EC) No. 1974/2005 of 2 December 2005, Commission Regulation (EC) No. 253/2006 of 14 February 2006, Commission Regulation (EC) No. 339/2006 of 24 February 2006, Commission Regulation (EC) No. 657/2006 of 10 April 2006, Commission Regulation (EC) No. 688/2006 of 4 May 2006, Commission Regulation (EC) No. 1041/2006 of 7 July 2006, Regulation (EC) No. 1923/2006 of 18 December 2006 of the European Parliament and of the Council, Commission Regulation (EC) No. 722/2007 of 25 June 2007, Commission Regulation (EC) No. 727/2007 of 26 June 2007, Commission Regulation (EC) No. 1275/2007 of 29 October 2007, Commission Regulation (EC) No. 1428/2007 of 4 December 2007, Commission Regulation (EC) No. 21/2008 of 11 January 2008, Commission Regulation (EC) No. 315/2008 of 4 April 2008, Commission Regulation (EC) No. 357/2008 of 22 April 2008 and Commission Regulation (EC) No. 571/2008 of 19 June 2008;

“vehicle” includes a trailer, container or other thing used in connection with the vehicle.

(2) A word or expression that is used in the Animal By-products Regulation, the TSE Regulation or another act of the institutions of the European Community cited in these Regulations or in the preamble to those Regulations and is also used in these Regulations, has, in these Regulations, the same meaning as in the Animal By-products Regulation, the TSE Regulation or other act cited.

Part 2

SALE AND SUPPLY, ETC.

Placing on the market

3. A person shall not place on the market or export—

- (a) a petfood, dogchew or technical product (other than those referred to in Article 20(2) and 20(3) of the Animal By-products Regulation) or a product to which Annex VIII to the Animal By-products Regulation refers,

- (b) an organic fertiliser referred to in Article 20(2) of the Animal By-products Regulation, or
- (c) a fat derivative referred to in Article 20(3) of the Animal By-products Regulation,

other than in accordance with Article 20 of the Animal By-products Regulation.

Restriction on import

4. (1) A person shall not bring into the State a bovine animal referred to in Part II of Chapter A to Annex VIII to the TSE Regulation.

(2) A person shall not have in his or her possession or under his or her control, sell or supply a bovine animal referred to in paragraph (1).

Restriction on manufacture, possession, etc.

5. (1) A person shall not manufacture a feedingstuff that may be fed to a ruminant animal or have such a feedingstuff in his or her possession or under his or her control on a premises if—

- (a) fishmeal or a feedingstuff that consists of or contains fishmeal,
- (b) hydrolysed protein or a feedingstuff that consists of or contains hydrolysed protein,
- (c) dicalcium phosphate of animal origin, tricalcium phosphate of animal origin or a feedingstuff that consists of or contains dicalcium phosphate or tricalcium phosphate of animal origin,
- (d) a blood product or bloodmeal or a feedingstuff that consists of or contains a blood product or bloodmeal, or
- (e) other processed animal protein,

is manufactured on the premises.

(2) A person shall not manufacture or have in his or her possession or under his or her control—

- (a) fishmeal or a feedingstuff that consists of or contains fishmeal,
- (b) hydrolysed protein or a feedingstuff that consists of or contains hydrolysed protein,
- (c) dicalcium phosphate of animal origin, tricalcium phosphate of animal origin or a feedingstuff that consists of or contains dicalcium phosphate or tricalcium phosphate of animal origin,
- (d) a blood product or bloodmeal or a feedingstuff that consists of or contains a blood product or bloodmeal, or
- (e) other processed animal protein,

on a premises where a feedingstuff that may be fed to a ruminant is manufactured.

(3) A person shall not have—

- (a) a substance that consists of or contains fishmeal, hydrolysed protein, a blood product, bloodmeal or other processed animal protein in his or her possession or under his or her control on a premises where a ruminant is kept, or
- (b) a ruminant in his or her possession or under his or her control on a premises where a substance that consists of or contains fishmeal, hydrolysed protein, a blood product, bloodmeal or other processed animal protein is manufactured, sold, supplied or kept.

(4) Notwithstanding paragraph (3) a person may use or store a feedingstuff consisting of or containing fishmeal or a blood product where ruminants are kept, if that person is registered in accordance with Regulation 14.

(5) A person shall not have a substance that consists of or contains dicalcium phosphate or tricalcium phosphate of animal origin in his or her possession or under his or her control on a premises where a farmed animal is kept other than in accordance with Annex IV to the TSE Regulation and the on-farm measures specified in the Schedule to these Regulations.

(6) A person shall not have a farmed animal in his or her possession or under his or her control on a premises where a substance that consists of or contains dicalcium phosphate or tricalcium phosphate of animal origin is manufactured, sold, supplied or kept other than in accordance with Annex IV to the TSE Regulation and the on-farm measures specified in the Schedule to these Regulations.

(7) Subject to paragraph (8), paragraphs (3), (4) and (5) do not apply to a—

- (a) feedingstuff packed in a hermetically sealed tin, or
- (b) dried, sealed and bagged feedingstuff if the bag weighs 20 kilograms or less, on land where a farmed animal is kept if the feedingstuff is presented and labelled in accordance with Annex IV to the TSE Regulation and is intended for, and may lawfully be, fed to a canine or feline.

(8) A person may have a feedingstuff to which paragraph (7) applies on land where a farmed animal (other than a carnivorous fur producing animal) is kept, if—

- (a) the animal does not have access to any part of the land where the feedingstuff is stored,

- (b) the feedingstuff is stored in a leak-proof container that has a closely fitting lid on a part of the lands to which the animal does not have access, and
- (c) the feedingstuff is stored in a manner that prevents contamination or contact with any other feedingstuff.

(9) In paragraphs (7) and (8), “land” includes land or premises ancillary to the first-mentioned land.

(10) Notwithstanding paragraph (3) a person may have in his or her possession or under his or her control fertiliser that consists of or is manufactured from category 3 material, if—

- (a) a farmed animal does not have access to any part of the land where the fertiliser is stored, and
- (b) the fertiliser is stored in a manner that prevents contamination or contact with any other fertiliser or feedingstuff.

Labelling

6. (1) Subject to paragraph (2), a person shall not have in his or her possession or under his or her control, sell or supply a feedingstuff that consists of or contains fishmeal, hydrolysed protein, dicalcium phosphate of animal origin, tricalcium phosphate of animal origin, a blood product, bloodmeal or other processed animal protein unless the package, container, or a label (that adheres to the package or container and may not be readily removed) and accompanying document bears a notice, in legible form, that conforms to Annex IV to the TSE Regulation.

(2) A person may bring a feedingstuff that consists of or contains a substance referred to in paragraph (1) directly from a port within the State to a specified place to label it in accordance with paragraph (1) and it is not an offence for the person to have the feedingstuff in his or her possession or under his or her control for that purpose if he or she has given advance written notice of the movement to the District Veterinary Office in whose functional area the port is located and the District Veterinary Office in whose area the specified place is located.

(3) In this Regulation, “specified place” means a place that has been notified to the Minister and is used to label a feedingstuff.

Precaution relating to farmed animals

7. A person shall not cause or permit a substance to which the Animal By-products Regulation or the TSE Regulation refers to contaminate a feedingstuff intended for feeding to a farmed animal or food intended for human consumption.

Sale restricted to fixed premises

8. (1) A person, including a person to whom a collection centre authorisation is granted, shall not sell or supply an animal by-product or cause or permit a

person to sell or supply an animal by-product except from a fixed premises. A person shall not sell or supply an animal by-product—

- (a) from a travelling shop, vehicle, or vending machine,
- (b) by mail order, or
- (c) at a trade fair, exhibition, sporting event or place where animals are sold, slaughtered, exhibited or entered in competition.

(2) A person shall not travel from house to house soliciting orders for an animal by-product.

(3) In this Regulation—

“animal by-product” means an animal by-product which a person cannot feed to an animal other than in accordance with a meat feeding licence or sell or supply other than in accordance with a collection centre authorisation;

“fixed premises” does not include a vehicle, trailer, caravan or other thing which may be transported on, in or attached to a vehicle, or any tent, awning or hut, shed, or, unroofed or temporary structure or stall, or any yard, field, roadway or casual trading area.

Part 3

TESTING OF ANIMALS

Testing of certain animals

9. (1) A person who slaughters an animal or has in his or her possession or under his or her control the carcase of, or product derived from, an animal to which Annex III to the TSE Regulation refers shall not process, sell or supply the carcase until—

- (a) a sample has been taken from the carcase by a registered veterinary practitioner (within the meaning of the Veterinary Practice Act 2005 (No 22 of 2005)),
- (b) the sample taken under subparagraph (a) has been subjected to a laboratory examination using a test listed in Chapter C, point 4 of Annex X to the TSE Regulation at a laboratory approved by the Minister or the State Laboratory, and
- (c) in the opinion of an authorised officer, the result of the laboratory examination under subparagraph (b) does not indicate the presence of transmissible spongiform encephalopathies,

other than in accordance with the direction of an authorised officer.

(2) A person who slaughters or takes into his or her possession the carcase of an animal to which Annex III to the TSE Regulation refers shall securely detain the carcase in accordance with the directions of an authorised officer and

shall not deal with the carcase or any part of a carcase other than in accordance with the directions of an authorised officer.

(3) A person shall take all necessary steps to ensure that the carcase of a bovine or ovine animal does not deteriorate to an extent that a sample taken from the carcase cannot easily be tested using a method laid down in point 3(1)(b) of Chapter C of Annex X to the TSE Regulation.

(4) In this Regulation ‘carcase’ includes the head, blood and all parts of an animal.

Part 4

REGULATION OF CERTAIN ACTIVITIES

Approval and authorisation of certain activities

10. (1) A person shall not operate a—

- (a) category 1 intermediate plant,
- (b) category 2 intermediate plant, or
- (c) category 3 intermediate plant,

other than in accordance with an approval granted for the purposes of Article 10 of the Animal By-products Regulation.

(2) A person shall not operate a storage plant other than in accordance with an approval granted for the purposes of Article 11 of the Animal By-products Regulation.

(3) A person shall not operate—

- (a) an incineration plant, or
- (b) a co-incineration plant,

to which Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000⁶⁴ does not apply, other than in accordance with an approval granted for the purposes of Article 12 of the Animal By-products Regulation.

(4) A person shall not operate a—

- (a) category 1 processing plant,
- (b) category 2 processing plant, or
- (c) category 3 processing plant,

other than in accordance with an approval granted for the purposes of Article 13 or Article 17 of the Animal By-products Regulation.

⁶⁴O.J. No. L 332 of 28.12.2000, p.91.

(5) A person shall not operate a—

- (a) category 2 oleochemical plant, or
- (b) category 3 oleochemical plant,

other than in accordance with an approval granted for the purposes of Article 14 of the Animal By-products Regulation.

(6) A person shall not operate a—

- (a) biogas plant, or
- (b) composting plant,

other than in accordance with an approval granted for the purposes of Article 15 of the Animal By-products Regulation.

(7) A person shall not operate a—

- (a) petfood plant, or
- (b) technical plant (including a plant using animal by-products for taxidermy),

other than in accordance with an approval granted for the purposes of Article 18 of the Animal By-products Regulation.

(8) A person shall not operate a collection centre for the purposes of Article 23(4) of the Animal By-products Regulation other than in accordance with an authorisation granted for the purposes of the Animal By-products Regulation.

(9) A person shall not carry out a laboratory examination for a transmissible spongiform encephalopathy (except at the national reference laboratory) other than in accordance with an approval granted for the purposes of Annex X of the TSE Regulation.

(10) A person shall not use a dye to stain specified risk material or an animal by-product other than in accordance with an approval—

- (a) granted by the Minister for the purposes of the European Communities (Specified Risk Material) Regulations 2000 (S.I. No. 332 of 2000) that was in force immediately before the making of the European Communities (Animal By-products) (Amendment) Regulations 2005 (S.I. No. 707 of 2005), or
- (b) granted for the purposes of the Animal By-products Regulation or the TSE Regulation.

(11) A person, other than a person entered in the register of fishmeal and blood product users, shall not manufacture a feedingstuff that consists of or

contains fishmeal other than in accordance with an authorisation granted for the purposes of point II(B)(c) of Annex IV to the TSE Regulation.

(12) A person, other than a person entered in the register of fishmeal and blood product users, shall not manufacture a feedingstuff that consists of or contains dicalcium phosphate or tricalcium phosphate of animal origin other than in accordance with an authorisation granted for the purposes of point II(C)(a) of Annex IV to the TSE Regulation.

(13) A person, other than a person entered in the register of fishmeal and blood product users, shall not manufacture a feedingstuff that consists of or contains a blood product or bloodmeal other than in accordance with an authorisation granted for the purposes of point II(D)(c) of Annex IV to the TSE Regulation.

(14) A person shall not operate a plant referred to, or use one of the processes described, in the Annexes to Commission Regulation (EC) No. 92/2005 of 19 January 2005 other than in accordance with an approval granted for the purposes of Article 3, as amended by Commission Regulation (EC) No. 2067/2005 of 16 December 2005, of that Regulation.

(15) A person shall not collect, transport, process, use or store category 3 material that consists of or contains milk, a milk-based product or a milk-derived product that have not been processed in accordance with Chapter V of Annex VII to the Animal By-products Regulation other than in accordance with an authorisation granted for the purposes of Article 1 of Commission Regulation (EC) No. 79/2005 of 19 January 2005.

Burial

11. (1) A person shall not dispose of or bury an animal or animal by-product or cause or permit a person to dispose of or bury an animal by-product other than under and in accordance with a licence ("burial licence") or an authorisation under paragraph (2) and, if appropriate, with the prior consent of the Minister in accordance with Articles 6 or 8 of Commission Regulation (EC) No. 811/2003 of 12 May 2003.

(2) Notwithstanding Regulation 16(8) and subject to Regulation 16(4), an authorised officer may authorise a person to bury a single animal on the farm on which the animal died and may direct the manner in which the animal is buried.

(3) A person to whom a burial licence or authorisation under paragraph (2) is granted shall take all necessary steps to ensure that burial of the animal or animal by-product to which the licence or authorisation under paragraph (2) relates does not cause nuisance, pollution or pose a threat to the environment.

(4) Nothing in this Regulation prevents the disposal of dead pet animals by burial.

Research

12. A person shall not use an animal by-product for diagnosis, education or scientific research other than under and in accordance with a licence granted by the Minister (“research licence”).

Use of animal by-products

13. (1) A person shall not—

- (a) feed an animal by-product referred to in Article 23(2)(b) of the Animal By— products Regulation to an animal of a class or description referred to in Article 23(2)(c) other than in accordance with a final user authorisation (‘meat feeding licence’), or
- (b) sell or supply an animal by-product for feeding to an animal referred to in subparagraph (a) other than in accordance with a collection centre authorisation.

(2) The holder of a meat feeding licence shall not obtain an animal by-product referred to in Article 23(2)(b) of the Animal By-products Regulation other than from a person and premises authorised in accordance with paragraph (1)(b).

(3) The holder of a collection centre authorisation shall not sell or supply an animal by-product referred to in Article 23(2)(b) of the Animal By-products Regulation other than to a person authorised in accordance with paragraph (1)(a).

(4) A person to whom a meat feeding licence is granted shall take all necessary steps to ensure that the feeding and transport of an animal by-product to which the licence relates does not cause nuisance, pollution or pose a threat to the environment.

Register of fishmeal and blood product users

14. (1) A person shall not—

- (a) engage in home compounding referred to at
 - (i) point II(B)(c)(i),
 - (ii) point II(C)(a)(i), or
 - (iii) point II(D)(c)(i)
 of Annex IV to the TSE Regulation,
- (b) have feedingstuffs containing fishmeal in his or her possession or under his or her control on a premises where farmed animals are kept, or
- (c) have feedingstuffs containing blood products or bloodmeal in his or her possession or under his or her control on a premises where farmed animals are kept,

unless his or her name is entered in the register of fishmeal and blood product users.

(2) Without prejudice to Regulation 5(4), a person to whom registration relates shall not have a ruminant in his or her possession or under his or her control or cause or permit another person to have a ruminant in his or her possession or under his or her control on a premises to which registration relates.

(3) A person shall not move or cause or permit another person to move a complete feedingstuff to which registration relates from the premises where it is manufactured.

Animal by-products transport register

15. (1) A person shall not use a vehicle to transport an animal by-product or processed product unless his or her name or any particulars that the Minister considers appropriate are entered in the register (“animal by-products transport register”).

(2) A person shall not transport an animal by-product or a processed product in a vehicle unless he or she complies with Article 7 and Annex II of the Animal By-products Regulation.

(3) This Regulation does not apply to a—

- (a) farmer (or his or her employee) transporting manure on his or her farm or directly from his or her farm to a processing plant, a biogas plant or a composting plant approved in accordance with the Animal By-products Regulation or the carcase of an animal of which he or she is the keeper directly to a premises for lawful disposal,
- (b) a person transporting category 3 material described in Article 6(1)(f) or Article 6(1)(l) of the Animal By-products Regulation directly to a premises approved, for the purposes of Article 15 of the Animal By-products Regulation,
- (c) a person who transports petfood that consists of or contains a processed product that is in a form in which it may be sold or supplied to the consumer, or
- (d) a person transporting milk from a retail premises to a premises approved under the dairy hygiene regulations.

Procedure for approval, authorisation, etc.

16. (1) The Minister may grant an approval, authorisation, licence or registration under this Part, attach conditions to an approval, authorisation, licence or registration (including conditions relating to storage of an animal by-product), revoke or vary a condition, insert a new condition, suspend, withdraw an approval, authorisation, licence or registration or refuse an application.

(2) An application for an approval, authorisation, licence or registration under this Part shall be made in a form, be accompanied by any material and contain any particulars that the Minister specifies.

(3) The Minister shall not consider an application for an approval, authorisation, licence or registration under this part if the application does not contain all the material and particulars sought by the Minister or is not accompanied by the fee (if any) set under Regulation 29.

(4) The Minister shall not consider an application for a burial licence unless, in his or her opinion, the animal or animal by-product to which the application relates is located in a place (having particular regard to the topography of the place) that is remote from another place in which the animal or animal by-product may be disposed of in a lawful manner.

(5) The Minister shall not grant a research licence unless he or she is satisfied that the applicant is qualified and competent to carry out diagnosis, education or scientific research using an animal by-product and has available suitable facilities for research and storage of animal by-products.

(6) The Minister shall not grant a meat feeding licence unless he or she is satisfied that an animal by-product—

- (a) will only be obtained from premises that operate in accordance with Regulation 10(8), and
- (b) will not be fed to an animal other than an animal to which the licence relates.

(7) Without prejudice to the generality of paragraph (1), a condition to registration in the register of fishmeal and blood product users may—

- (a) control the use of a substance to which registration relates and other conditions as are, in the opinion of the Minister, necessary ancillary or desirable for the condition aforesaid to have full effect, and
- (b) bind the person to whom registration is granted and such other person or classes of person as may be specified in the condition.

(8) Without prejudice to the generality of paragraph (1), the Minister may refuse an application, suspend or withdraw an approval, authorisation, licence or registration under this Part if, in the opinion of the Minister—

- (a) the applicant or person to whom an approval, authorisation, licence or registration is granted has been convicted of an offence under the Diseases of Animals Act 1966 or Regulations made under the European Communities Act 1972 that relates to an animal or animal product,
- (b) the applicant or person to whom an approval, authorisation, licence or registration is granted has failed to comply with a condition attached to an approval, authorisation, licence or registration,

- (c) the applicant or person to whom an approval, authorisation, licence or registration is granted is not a fit and proper person to hold an approval, authorisation, licence or registration,
- (d) without prejudice to paragraph (3), in relation to the application, information required has not been furnished or information that is false or misleading has been furnished, or
- (e) it is—
 - (i) necessary to prevent the risk or spread of animal or human disease, or
 - (ii) necessary to eradicate animal or human disease, or
 - (iii) necessary, incidental, supplementary or consequential for the purposes of giving effect to an act of the institutions of the European Communities relating to an animal, animal product, animal health or animal welfare.

(9) Without prejudice to the generality of paragraph (1), a condition to registration in the animal by-products transport register may—

- (a) control the use of a vehicle owned or operated by a person to whom registration relates and other conditions as are, in the opinion of the Minister, necessary ancillary or desirable for the condition aforesaid to have full effect,
- (b) specify the type or class of animal by-product or processed product that may be carried on the vehicle, and
- (c) bind the person to whom registration is granted and such other person or classes of person as may be specified in the condition.

(10) Without prejudice to the generality of paragraph (1), the Minister shall refuse an application or suspend or withdraw an approval, authorisation, licence or registration under this Part if the applicant or person to whom an approval, authorisation, licence or registration is granted is convicted, on indictment, of an offence under the Diseases of Animals Act 1966 (No. 6 of 1966) or other enactment relating to an animal, animal product, animal health or animal welfare.

(11) The Minister shall not grant a burial licence or shall revoke a burial licence—

- (a) if the application pertains to material referred to in Article 4(1)(a)(i) of the Animal By-products Regulation or does not contain all the material and particulars sought by him or her,
- (b) if, in his or her opinion, the animal or animal by-product may be safely and reasonably disposed of in another lawful manner, or

- (c) if, in his or her opinion, burial of an animal or animal by-product constitutes a serious risk to human or animal health.

(12) Other than in the case of paragraph (10), (11) or (13), if the Minister proposes to suspend or withdraw an approval, authorisation, licence or registration, or to refuse an application, he or she shall—

- (a) notify the applicant or holder of the approval, authorisation, licence or registration in writing of the proposal and of the reasons for the proposal, and that he or she may make representations to the Minister in relation to the proposal within 14 days of the notification,
- (b) consider a representation duly made, and
- (c) notify the applicant or holder of the approval, authorisation, licence or registration in writing of the decision and the reasons for the decision.

(13) If the Minister is of the opinion that it is necessary to prevent the risk of disease or to give effect to an act of an institution of the European Communities he or she may withdraw an approval, authorisation, licence or registration in accordance with paragraph (14).

(14) If the Minister suspends or withdraws approval, authorisation, licence or registration in accordance with this paragraph, he or she shall—

- (a) notify the applicant or holder of the approval, authorisation, licence or registration in writing of the decision and the reasons for the proposal, and that he or she may make representations to the Minister in relation to the decision within 14 days of the date of the notification,
- (b) consider a representation made, and
- (c) confirm, modify or annul the decision and notify the applicant or holder of the approval, authorisation, licence or registration in writing of the decision and the reasons for the decision.

(15) A person to whom an approval, authorisation, licence or registration is granted under this Part shall make such returns to the Minister as and when, and in such form as, the Minister may from time to time direct.

List of approvals and authorisations

17. (1) The Minister shall maintain and publish, in a manner that he or she considers appropriate, a list of approvals, authorisations, licences or registrations granted under this Part, divide the list into different classes having regard to the activity to which an approval, authorisation, licence or registration relates and include such information as he or she considers appropriate on the list.

(2) If the Minister withdraws or suspends an approval, authorisation, licence or registration under this Part or the approval, authorisation, licence or registration expires by effluxion of time, an entry on the list maintained under paragraph (1) ceases to have effect and the Minister shall, as soon as may be, after

withdrawing the approval, authorisation, licence or registration remove details of the withdrawn approval, authorisation, licence or registration from the list.

Records

18. All records pertaining to animal by-products which have been processed, stored or otherwise handled at a premises authorised, licensed, registered or approved under this Part shall be retained at that premises for two years, unless otherwise directed in writing by an authorised officer. All such records shall be made available on request and without delay for inspection by an authorised officer.

Part 5

AUTHORISED OFFICERS AND RELATED MATTERS

Appointment of authorised officers

19. (1) The Minister may, by instrument in writing, appoint such and so many persons as he or she thinks fit to be authorised officers for the purposes of some or all of these Regulations as may be specified in the instrument.

(2) The Chief Executive of the Sea Fisheries Protection Authority may, by instrument in writing, appoint such and so many of his or her officers as he or she thinks fit to be authorised officers for the purposes of some or all of these Regulations as may be specified in the instrument.

(3) The Manager of a local authority may, by instrument in writing, appoint such and so many of his or her officers as he or she thinks fit to be authorised officers for the purposes of some or all of these Regulations as may be specified in the instrument.

(4) The Minister for Communications, Energy and Natural Resources may, by instrument in writing, appoint such and so many of his or her officers as he or she thinks fit to be authorised officers for the purposes of some or all of these Regulations as may be specified in the instrument.

(5) The Chief Executive of the Health Service Executive may, by instrument in writing, appoint such and so many officers of the Executive as he or she thinks fit to be authorised officers for the purposes of some or all of these Regulations as may be specified in the instrument.

(6) The Minister, the Minister for Communications, Energy and Natural Resources, the Chief Executive of the Health Service Executive, the Chief Executive of the Sea Fisheries Protection Authority or the Manager of a local authority may terminate the appointment of an authorised officer appointed by him or her, whether or not the appointment was for a fixed period.

(7) An appointment as an authorised officer ceases—

(a) if it is terminated pursuant to paragraph (6)

(b) if it is for a fixed period, on the expiry of that period, or

- (c) if the person appointed is an officer of the Minister, the Minister for Communications, Energy and Natural Resources, the Chief Executive of the Sea Fisheries Protection Authority, the Health Service Executive or a local authority, upon the person ceasing to be such an officer.

(8) Nothing in paragraph (7) prevents the Minister, the Minister for Communications, Energy and Natural Resources, the Chief Executive of the Health Service Executive, the Chief Executive of the Sea Fisheries Protection Authority or the Manager of a local authority from reappointing as an authorised officer a person to whom that paragraph relates.

Functions of authorised officers

20. (1) If an authorised officer has reasonable cause to suspect that—

- (a) an animal by-product, feedingstuff, fertiliser or other thing to which either the Animal By-products Regulation or the TSE Regulation relates is present or may be present on the premises,
- (b) an animal by-product, feedingstuff, fertiliser or other thing to which either the Animal By-products Regulation or the TSE Regulation relates is or has been processed, stored or otherwise dealt with on the premises,
- (c) the premises has been approved, authorised, registered or licensed for a purpose specified in the Animal By-products Regulation, the TSE Regulation or these Regulations, is required to be so approved, authorised, registered or licensed or is subject to an application for approval, authorisation, registration or a licence or is ancillary to a premises aforesaid,
- (d) a document relating to an animal by-product, animal, feedingstuff, fertiliser, processed animal protein or other thing to which the Animal By-products Regulation, the TSE Regulation or these Regulations relate is or may be on the premises, or
- (e) an offence is being or has been committed under these Regulations, without prejudice to any other Act or Regulation he or she may enter a premises and the authorised officer may—
 - (i) search the premises,
 - (ii) stop a person, vehicle, vessel or container,
 - (iii) board and search a vehicle, vessel or container,
 - (iv) search a person, if the authorised officer considers it necessary,
 - (v) examine an animal, animal by-product, feedingstuff, fertiliser or other thing to which either the Animal By-products Regulation or the TSE Regulation relates, vehicle, vessel, container or other thing that may consist of or contain an animal by-product,

- (vi) take, without payment, samples, including samples of an animal by-product, feedingstuff, fertiliser or other thing to which either the Animal By-products Regulation or the TSE Regulation relates, blood, urine, faeces, hair, saliva, tissue or other thing or any article, substance or liquid as he or she may reasonably require and carry out or cause to be carried out on the samples such tests, analyses, examinations or inspections as he or she considers necessary or expedient,
- (vii) seize and detain (for so long as is necessary) an animal, animal by-product, feedingstuff, fertiliser or other thing to which either the Animal By-products Regulation or the TSE Regulation relates, vehicle, vessel or container,
- (viii) require the production of a document or thing relating to an animal by-product, feedingstuff, fertiliser or other thing to which either the Animal By-products Regulation or the TSE Regulation relates, vehicle, vessel or container,
- (ix) retain any such document or thing (for so long as is necessary),
- (x) dispose of, or require the owner or person in charge of or in possession of, an animal by-product, feedingstuff, fertiliser or other thing to which either the Animal By-products Regulation or the TSE Regulation relates, to dispose of it (or any equipment, machinery, plant or other thing used in connection with, or that may have been in contact with, an animal by-product) in such manner as the authorised officer sees fit,
- (xi) give such directions to, or request such information of, such person regarding the animal by-product, feedingstuff, fertiliser or other thing to which either the Animal By-products Regulation or the TSE Regulation relates, vessel, premises, vehicle, aircraft or container as he or she considers necessary,
- (xii) require the name and address of a person and the name and address of any other relevant person including the person to whom the animal by-product, feedingstuff, fertiliser, or other thing to which the Animal By-products Regulation or the TSE Regulation relates, vessel, vehicle, premises, aircraft or container as he or she considers necessary,
- (xiii) require of the person the ownership, identity and origin of the animal by-product, feedingstuff, fertiliser or other thing to which either the Animal By-products Regulation or the TSE Regulation relates, or
- (xiv) mark or otherwise identify such animal by-product, feedingstuff, fertiliser or other thing to which either the Animal By-products Regulation or the TSE Regulation relates or a specimen taken under subparagraph (vi).

(2) An authorised officer shall not enter, other than with the consent of the occupier, a private dwelling, unless he or she has obtained a search warrant under Regulation 22 other than if he or she has reasonable cause to suspect that, before a search warrant could be sought in relation to the dwelling, anything to which paragraph (1) relates is being or is likely to be destroyed or disposed.

(3) An authorised officer may use reasonable force, if necessary, in the exercise of his or her powers under this Regulation.

(4) An authorised officer when exercising any powers under this Regulation may be accompanied by other persons (including an employee of or person acting on behalf of the European Commission) and may take with him or her, or those persons may take with them, any equipment or materials to assist the officer in the exercise of those powers.

(5) An authorised officer is not liable in any proceedings for anything done in the purported exercise of his or her powers under this Regulation if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(6) Nothing in these Regulations operates to prejudice any power to search, or to seize or detain property, which may, apart from these Regulations, be exercised by a member of the Garda Síochána or an officer of Customs and Excise.

(7) If a member of the Garda Síochána has reasonable cause to suspect that a person has committed an offence under these Regulations, the member may without warrant arrest the person.

Functions in relation to approval, etc.

21. Notwithstanding the generality of Part 4, an authorised officer shall, in relation to an approval granted for the purposes of the Animal By-products Regulation, exercise the functions described in Article 12(4), 13(3), 14(4), 15(3), 17(3) and 18(3) of the Animal By-products Regulation and Article 5 of Commission Regulation (EC) No. 79/2005 of 19 January 2005.

Search warrant

22. (1) If a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for suspecting—

- (a) that there is in, on or under a premises, or in or on any vehicle, vessel or aircraft an animal, animal by-product or product derived from an animal by-product,
- (b) that there is in, on or under a premises, vehicle, vessel or aircraft a document, record or other thing relating to an animal, animal by-product or product derived from an animal by-product, or
- (c) that there is evidence of a contravention of the Animal By-products Regulation or these Regulations therein or thereon or thereunder, the judge may issue a search warrant.

(2) A search warrant under this Regulation shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers as the named authorised officer thinks necessary, at any time or times, within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter (if necessary by use of reasonable force) the premises, vehicle, vessel or aircraft named in the warrant.

(3) If a premises is entered pursuant to a warrant issued under this Regulation, an authorised officer so entering may exercise all or any of the powers conferred on an authorised officer under these Regulations.

Production of documents

23. A person shall on a request being made in that behalf by an authorised officer produce—

- (a) a health certificate referred to in Article 7(2) or 8(3)(a) of the Animal By-products Regulation or Article 15(1), 16(3), (5), 17 or 18 of the TSE Regulation,
- (b) a commercial document referred to in Article 7(2) or 8(3)(a) of the Animal By-products Regulation or Article 16(5) or 17 of the TSE Regulation,
- (c) an authorisation referred to in Article 8(2) of the Animal By-products Regulation,
- (d) a record referred to in Article 9, 14(2)(c) or 25(1)(d) of the Animal By-products Regulation,
- (e) an approval, authorisation, licence or registration granted in accordance with Article 10, 11, 12, 13, 14, 15, 17 or 18 of the Animal By-products Regulation or a record maintained pursuant to that approval, authorisation, licence or registration.

Compliance Notice

24. (1) Without prejudice to the generality of Regulation 20(1), if an authorised officer is of the opinion that—

- (a) the Animal By-products Regulation, the TSE Regulation or these Regulations are not being or have not been complied with or there are reasons to believe that they will not be complied with, or
- (b) there is a danger to public or animal health, he or she may, by a notice in writing (“compliance notice”) stating that opinion and served on the person who appears to be the owner, operator or person in charge of the premises, animal by-product, feedingstuff, fertiliser or other thing to which either the Animal By-products Regulation or the TSE Regulation relates or other thing to which the notice relates—
 - (i) seize and detain an animal, meat, animal by-product, feedingstuff, fertiliser or other thing to which either the Animal By-products

Regulation or the TSE Regulation relates, premises, vessel, vehicle, container or other thing, or

- (ii) require him or her to take such action as the authorised officer considers necessary.

(2) A compliance notice may—

- (a) require that an animal by-product, feedingstuff, fertiliser or other thing to which either the Animal By-products Regulation or the TSE Regulation relates be disposed of or destroyed in a manner specified in the notice,
- (b) prohibit or regulate any operation or processing on the premises to which the notice relates,
- (c) prohibit the transport or the further transport of an animal by-product, feedingstuff, fertiliser or other thing to which either the Animal By-products Regulation or the TSE Regulation relates, either absolutely or unless such conditions as may be specified in the notice are complied with,
- (d) require a person to return an animal by-product, feedingstuff, fertiliser or other thing to which either the Animal By-products Regulation or the TSE Regulation relates to the place of departure by a route which in the opinion of the authorised officer is the most direct or prudent,
- (e) require that such alterations be made to a premises or means of transport as may be specified in the notice,
- (f) require a person to secure in a manner specified by the authorised officer (if any) an animal, animal by-product, premises, feedingstuff or other thing, or
- (g) require a person to cleanse and disinfect a vehicle, premises, vessel, container or part thereof.

(3) A person shall comply with a compliance notice or a requirement of a compliance notice unless and until the notice is annulled under Regulation 24 (5) or until the notice has been withdrawn by an authorised officer.

(4) A requirement contained in a compliance notice may specify a time limit within which it is to be complied with.

(5) A requirement specified in a compliance notice may be modified or withdrawn in a further notice and the earlier notice has effect subject to the modification or withdrawal.

(6) A compliance notice may require the person in control of an animal by-product, feedingstuff, fertiliser or other thing to which either the Animal By-products Regulation or the TSE Regulation relates, premises, means of transport or other thing to choose between two or more of the requirements specified in the notice.

Appeal against compliance notice

25. (1) A person affected by a compliance notice may, within 7 days of the service of the notice, apply to the Judge of the District Court having jurisdiction in the District Court District where an animal is situated or to the Judge of the District Court having jurisdiction in the District Court District where the person bringing the appeal ordinarily resides or carries on business on the grounds that the notice or any of the terms thereof are not justified having regard to the Animal By-products Regulation, the TSE Regulation or these Regulations (in this Regulation referred to as “an appeal”).

(2) An appeal may be heard at any sitting of the District Court within the appropriate District Court District.

(3) Notice of an appeal shall contain a statement of the grounds upon which it is alleged that the notice or any of the terms thereof are not justified and shall be served on the Minister at least 48 hours prior to the hearing of the appeal.

(4) A copy of the notice of appeal shall be lodged with the District Court Clerk at least 48 hours prior to the hearing of the appeal.

(5) On the hearing of an appeal a Judge of the District Court may confirm, modify, or annul a notice.

(6) A person, including a person on whom a compliance notice has been served, shall not—

- (a) pending the determination of an appeal, deal with an animal by-product, feedingstuff, fertiliser or other thing to which either the Animal By-products Regulation or the TSE Regulation relates, premises, means of transport or other thing to which the notice relates, other than in accordance with the terms of the notice, or
- (b) after the appeal, deal with an animal by-product, feedingstuff, fertiliser or other thing to which either the Animal By-products Regulation or the TSE Regulation relates, premises, means of transport or other thing concerned other than in accordance with the compliance notice or compliance notice as modified.

Emergency measures

26. (1) Without prejudice to Regulation 20(1) or 22, if—

- (a) the person in control of an animal by-product, feedingstuff, fertiliser or other thing to which either the Animal By-products Regulation or the TSE Regulation relates, premises, means of transport or other thing fails to comply with the terms of a compliance notice within the time specified therein,
- (b) an authorised officer has reasonable grounds for believing that the terms of a compliance notice will not be complied with,

- (c) a compliance notice has been confirmed with or without modification under Regulation 25(5) and the notice has not been complied with,
- (d) an authorised officer has reasonable grounds for believing that the terms of a compliance notice which has been confirmed with or without modification under Regulation 25(5) will not be complied with, or pending the determination of an appeal, an authorised officer has reasonable grounds for believing that directions given pursuant to Regulation 25(6) have not been or shall not be complied with,

an authorised officer may at any time seize the animal by-product, feedingstuff, fertiliser or other thing to which either the Animal By-products Regulation or the TSE Regulation relates, premises, means of transport or other thing.

(2) If an animal by-product, feedingstuff, fertiliser or other thing to which either the Animal By-products Regulation or the TSE Regulation relates, premises, means of transport or other thing is seized in accordance with paragraph (1), an authorised officer may—

- (a) sell, destroy or dispose of the animal, animal by-product, feedingstuff, fertiliser or other thing or cause it to be sold, destroyed or be disposed of, or
- (b) take such other measures in relation to the animal, animal by-product, feedingstuff, fertiliser or other thing to which either the Animal By-products Regulation or the TSE Regulation relates, premises, means of transport or other thing as the authorised officer considers appropriate in the circumstances of the case.

(3) Any profits arising out of the sale, destruction or disposal of an animal by-product, feedingstuff, fertiliser or other thing to which either the Animal By-products Regulation or the TSE Regulation relates or other thing in accordance with paragraph (2) shall be paid to the owner of the animal by-product, feedingstuff, fertiliser or other thing less any expenses incurred in connection with the seizure, sale, destruction or disposal.

(4) The costs (including ancillary costs) of a measure taken under this Regulation are recoverable by the Minister, the Minister for Communications, Energy and Natural Resources, the Sea Fisheries Protection Authority, the Health Service Executive or a local authority—

- (a) as a simple contract debt in a court of competent jurisdiction from the person who was the owner of the animal, animal by-product, feedingstuff, fertiliser or other thing or means of transport at the time the measure was carried out, or
- (b) by deducting the costs from any sum due by the Minister to a person on whom a notice has been served.

Part 6

OFFENCES AND FINAL PROVISIONS

Forgery

27. (1) A person shall not forge or utter knowing it to be forged a certificate, commercial document, an approval, authorisation, registration document or licence issued pursuant to the Animal By-products Regulation, the TSE Regulation, another act of the institutions of the European Community cited in these Regulations or these Regulations or a record purporting to be kept and maintained under the Animal By-products Regulation, the TSE Regulation, another act of the institutions of the European Community cited in these Regulations or these Regulations or a document purporting to be an extract from such a document (hereafter in this Regulation referred to as “a forged document”).

(2) A person shall not alter, or utter knowing it to be so altered a certificate, commercial document, an approval, authorisation, registration document or licence granted under the Animal By-products Regulation, the TSE Regulation, another act of the institutions of the European Community cited in these Regulations or these Regulations or a record kept and maintained under the Animal By-products Regulation, the TSE Regulation, another act of the institutions of the European Community cited in these Regulations or these Regulations or an extract from such a document (hereafter in this Regulation referred to as “an altered document”).

(3) A person shall not have, without lawful authority, in his or her possession or under his or her control a forged document or an altered document.

Service

28. (1) A notice under Regulation 16, a compliance notice or a direction or requirement of an authorised officer (if in written form) shall, subject to paragraph (2), be addressed to the person concerned by name and may be served on a person—

- (a) by giving it to the person,
- (b) by leaving it at the address at which the person ordinarily resides or, where an address for service has been furnished, at that address,
- (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, where an address for service has been furnished, at that address,
- (d) by electronic communication,
- (e) if the address at which the person ordinarily resides cannot be ascertained by reasonable enquiry and the animal health and welfare notice relates to a premises, by delivering a copy to the premises or by affixing a copy in a conspicuous position on or near the premises, or
- (f) if the Minister or an authorised officer considers that the immediate giving of the notice, direction or requirement of an authorised officer

(if in written form) is required, by sending a copy, by means of a facsimile machine, to a device or facility for the reception of facsimiles located at the address at which the person ordinarily resides or carries on business or, if an address for the service of notices has been furnished by the person, that address, provided that the sender's facsimile machine generates a message confirming successful transmission of the total number of pages of the notice.

(2) If a notice under Regulation 16 or a compliance notice is to be served on a person who is the owner or keeper of a thing to which the notice relates or a transporter and the name of the person cannot be ascertained by reasonable enquiry, it may be addressed to that person by using the words “the occupant”.

(3) A person shall not, at any time within 6 months after a notice under Regulation 16 or a compliance notice is affixed under paragraph (1)(e), remove, damage or deface the notice without lawful authority.

(4) For the purposes of this Regulation, a company within the meaning of the Companies Acts is considered to be ordinarily resident at its registered office and every other body corporate or unincorporated body is considered to be ordinarily resident at its principal office or place of business.

Fees

29. (1) The Minister, the Minister for Communications, Energy and Natural Resources, the Sea Fisheries Protection Authority, the Health Service Executive or a local authority may charge a fee in respect of an application for an approval, authorisation, licence or registration, or for the performance of a function under these Regulations, such fee, not exceeding the cost, estimated by the Minister charging the fee or the Chief Executive of the Health Service Executive, of providing the service to which the fee relates.

(2) If the Minister, the Minister for Communications, Energy and Natural Resources, the Sea Fisheries Protection Authority, the Health Service Executive or a local authority charges a fee in relation to an application for an approval, authorisation, licence or registration, under these Regulations, he or she shall not consider the application unless the fee accompanies the application.

(3) A fee payable pursuant to this Regulation may be recovered by the Minister, the Minister for Communications, Energy and Natural Resources, the Sea Fisheries Protection Authority, the Health Service Executive or a local authority from the person by whom it is payable as a simple contract debt in a court of competent jurisdiction.

(4) A fee payable to a Minister of the Government pursuant to this Regulation shall be disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

(5) The Public Offices Fees Act 1879 does not apply to a fee charged pursuant to this Regulation.

Offences

30. (1) A person who—

- (a) contravenes Article 3(1), 4(2), (3), (4), 5(2), (3), (4), 6(2), (3), 7(1), (2), (5), 8(1), (2), (3), 9, 10, 11, 12, 13, 14, 15, 17, 18, 22(1), 25 or 29 of the Animal By-products Regulation,
- (b) contravenes Article 2, 7(1), (2), 8(1), (3), 9 (1), (2), 15(1), (2), 16(2), (3), (5), (6) of, or Chapter A of Annex III, Annex IV, Annex VI, Chapter A of Annex VII or Chapter C of Annex X to the TSE Regulation,
- (c) contravenes Article 9 of Commission Regulation (EC) No. 811/2003 of 12 May 2003,
- (d) contravenes Article 4 or 5 of Commission Regulation (EC) No. 878/2004 of 29 April 2004,
- (e) contravenes Article 2 of Commission Decision No. 2004/217/EC of 1 March 2004,
- (f) contravenes Article 2 or 3 of Commission Regulation (EC) No. 79/2005 of 19 January 2005,
- (g) contravenes Article 4 (as amended by Article 1(4) of Commission Regulation (EC) No. 2067/2005 of 16 December 2005) of Commission Regulation (EC) No. 92/2005 of 19 January 2005,
- (h) contravenes Article 1 of Commission Decision No. 2005/598/EC of 2 August 2005,
- (i) contravenes Articles 3, 4 (subject to part IV of the Annex), 5, 6, 7 or 8 of Commission Regulation (EC) No. 181/2006 of 1 February 2006,
- (j) places on the market or exports a processed animal protein or another processed product that could be used as feed material other than in accordance with Article 19 of the Animal By-products Regulation,
- (k) obstructs or impedes an authorised officer in the exercise of any of his or her functions under Regulation 20,
- (l) fails, without reasonable excuse, to comply with a requirement or direction made by an authorised officer under Regulation 20,
- (m) in making an application for an approval or authorisation under Regulation 10, registration under Regulation 15, a burial licence or a research licence or in purporting to give information required by an authorised officer for the performance of the officer's powers under Regulation 20 of these Regulations—

- (i) makes a statement or provides information which he or she knows to be false in a material particular or recklessly makes a statement or provides information which is false in a material particular, or
- (ii) fails to disclose any material particular,
- (n) contravenes Regulation 3, 4, 5, 6, 7, 8, 9, 10, 11(1), 12, 13, 14, 15(1), 15(2), or 18 of these Regulations,
- (o) tampers with a seal applied pursuant to the Animal By-products Regulation or an approval, authorisation, registration or licence granted under these Regulations,
- (p) contravenes a condition of a registration, approval, authorisation or licence granted under Part 4,
- (q) tampers with or interferes with an animal by-product or with a sample taken under these Regulations, or
- (r) aids or abets a contravention of the Animal By-products Regulation, the TSE Regulation, another act of the institutions of the European Communities cited in these Regulations or the preamble to these Regulations or these Regulations,

is guilty of an offence and is liable—

- (i) on summary conviction to a fine not exceeding €5,000 or to a term of imprisonment not exceeding 6 months or to both, or
 - (ii) on conviction on indictment to a fine not exceeding €250,000 or to a term of imprisonment not exceeding 3 years or to both.
- (2) In proceedings for an offence in relation to a contravention of Article 7(1) or (2) of the TSE Regulation, it is a defence for the defendant to show that point II(A) of Annex IV to the TSE Regulation applies and that the said point II(A) was, at the time of the alleged offence, complied with.
- (3) In relation to a porcine animal, the period referred to in Part IV of the Annex to Commission Regulation No.181/2006 of 1 February 2006 is, in lieu of the period stated in that Part, 60 days.
- (4) If, in proceedings for an offence in relation to a contravention of these Regulations, the Animal By-products Regulation or the TSE Regulation, it is alleged that animal protein is present in a substance and if it is proved that one or more bone spicules is or are present in the substance, it is for the defendant to prove that a prohibited animal protein was not present in the substance.
- (5) In proceedings for an offence under the TSE Regulation and under Regulation 31 it is not necessary for the prosecution to prove that the State belongs to a particular category and it is not a defence to show that the State belongs to or does not belong to a particular category.

(6) In proceedings under these Regulations, it is for the defendant to prove that a farm animal or ruminant animal did not have access to the land to which the proceedings relate.

(7) In proceedings under these Regulations, if it is not possible to determine whether a particular animal by-product is category 1 material, category 2 material, or category 3 material, it shall be treated as if it is category 1 material.

Prosecutions

31. (1) A summary offence under these Regulations may be prosecuted by—

- (a) the Minister,
- (b) the Minister for Communications, Energy and Natural Resources
- (c) the Health Service Executive
- (d) the Sea Fisheries Protection Authority, or
- (e) a local authority.

(2) If an offence under these Regulations is committed by a body corporate and it is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person who, when the offence is committed, is a director, manager, secretary or other officer of the body corporate, or a person purporting to act in any such capacity, that person, as well as the body corporate, is guilty of an offence and liable to be proceeded against and punished as if guilty of the first-mentioned offence.

(3) If the affairs of a body corporate or unincorporated body are managed by its members, paragraph (2) applies in relation to the acts and defaults of a member in connection with functions of management as if the member is a director or manager of the body corporate.

Evidence on certificate

32. (1) In proceedings for an offence consisting of a contravention of the Animal By-products Regulation, the TSE Regulation or these Regulations, a certificate purporting to be signed by a person employed at a laboratory named in the certificate stating the capacity in which that person is so employed and stating any one or more of the following, namely—

- (a) that the person received a sample submitted to the laboratory,
- (b) that, for such period as is specified in the certificate, the person had in his or her custody a sample so submitted,
- (c) that the person gave to such other person as is specified in the certificate a sample so submitted, or

- (d) that the person carried out any laboratory examination for the purpose of detecting the presence, in a sample so submitted, of a transmissible spongiform encephalopathy, or that the sample was positive for a transmissible spongiform encephalopathy, is, unless the contrary is proved, evidence of the matters stated in the certificate.

(2) A certificate purporting to be signed by an officer of the Minister and to certify that on a specific day or days or during the whole of a specified period,

- (a) a particular person or vehicle did not stand registered in the register of fishmeal and blood product users or the animal by-products transport register,
- (b) the registration of a particular person or vehicle in the register of fishmeal and blood product users or the animal by-products transport register had been revoked,
- (c) a person was or was not the holder of an approval or authorisation granted for the purposes of either the Animal By-products Regulation or the TSE Regulation under Regulation 10,
- (d) a person was or was not the holder of a burial licence, a research licence or a meat feeding licence, or
- (e) that a particular approval, authorisation, registration or licence, referred to in this paragraph, was subject to a particular condition or conditions,

is, without proof of the signature of the person purporting to sign the certificate or that he or she is an officer of the Minister, evidence, unless the contrary is shown, of the matters stated in the certificate.

(3) In proceedings for an offence under these Regulations the court may, if it considers that the interests of justice so require, direct that oral evidence of the matters stated in a certificate under paragraph (1) or (2) be given, and the court may for the purpose of receiving oral evidence adjourn the matter.

(4) In proceedings for an offence, evidence of an act of the institutions of the European Community may be given by production of a copy of the act certified by an officer of the Minister to be a copy of the act, and it is not necessary to prove the signature of the officer or that he or she is an officer of the Minister.

(5) Paragraph (4) is in addition to and not in substitution for the European Communities (Judicial Notice and Documentary Evidence) Regulations 1972 (S.I. No. 341 of 1972).

Fixed payment notice

33. (1) If an officer of the Minister, Minister for Communications, Energy and Natural Resources, the Chief Executive of the Sea Fisheries Protection Authority, the Health Service Executive or a local authority authorised by the Minister, Minister for Communications, Energy and Natural Resources, authority or executive in that behalf has reasonable grounds for suspecting that a

person is committing or has committed an offence under these Regulations, he or she may serve a notice in writing on that person stating that—

- (a) the person is alleged to have committed the offence,
 - (b) the person may during the period of 28 days from the date of the notice make to the Minister, Minister for Communications, Energy and Natural Resources, the Sea Fisheries Protection Authority, the Health Service Executive or a local authority a payment of €250 accompanied by the notice, and
 - (c) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.
- (2) If notice is given under paragraph (1)—
- (a) a person to whom the notice applies may, during the period specified in the notice, make to the Minister, the Minister for Communications, Energy and Natural Resources, the Sea Fisheries Protection Authority, the Health Service Executive or a local authority at the address specified in the notice the payment specified in the notice accompanied by the notice,
 - (b) the Minister, the Minister for Communications, Energy and Natural Resources, the Sea Fisheries Protection Authority, the Health Service Executive or a local authority may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it, and
 - (c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.
- (3) In a prosecution for an offence under these Regulations, the onus of proving that a payment pursuant to a notice under this Regulation has been made lies on the defendant.

Savers

34. (1) These Regulations are in addition to and not in substitution for—
- (a) the Diseases of Animals Act 1966 (No. 6 of 1966) and Regulations under the European Communities Act 1972 (No. 27 of 1972) that relate to an animal, product or other thing that is also subject to these Regulations, and
 - (b) any enactment or statutory instrument made under an enactment that regulates the import and placing on the market of a product not

referred to in Annex VII or VIII of the Animal By-products Regulation.

(2) An application for an approval, authorisation, licence or registration under the Regulations revoked by Regulation 35(1) may be considered and determined as if it is an application under the equivalent provisions of these Regulations.

(3) An authorisation, approval, licence, or registration granted under Regulations revoked by Regulation 35(1) remains in force and may be dealt with as if granted under the corresponding provisions of these Regulations.

(4) A compliance notice or notification (within the meaning of the Regulations revoked by Regulation 35(1)) that is in force immediately before the making of these Regulations remains in force and may be dealt with as if it were a compliance notice or notification under these Regulations.

(5) An appeal under Regulation 19 of the Regulations revoked by Regulation 35(1) that has not been determined before the making of these Regulations may be dealt with as if it were an appeal under Regulation 25.

Revocations

35. (1) The European Communities (Transmissible Spongiform Encephalopathies and Animal By-products) Regulations 2006 (S.I. No. 612 of 2006) are revoked.

(2) A reference in any enactment or statutory instrument to a statutory instrument revoked by paragraph (1) is construed and has effect as if the reference is a reference to these Regulations or the corresponding provision of these Regulations.

SCHEDULE

*Regulation 5(5).***The following are on-farm measures for the purposes of point II.C (d) — second paragraph of Annex IV to the TSE Regulation.**

A person may possess, store and feed a feedingstuff consisting of or containing dicalcium phosphate on a farm where a ruminant is present if—

1. he or she takes all necessary steps to ensure that the feedingstuff does not enter the feed chain of a ruminant,
2. he or she takes all necessary steps to ensure that the feedingstuff is not fed to a ruminant,
3. he or she ensures that the feedingstuff is stored in a closed container in an area where a ruminant does not have access,
4. he or she ensures that the feedingstuff is not fed to an animal in an area where a ruminant may be fed or may enter,
5. he or she ensures that all equipment used for the handling, storage, transportation or cleaning of the feedingstuff is not used in connection with the feeding of a ruminant, and
6. he or she maintains accurate records, for a period of five years, of all quantities of the feedingstuff consisting of or containing purchased and used and make these records available for inspection by an authorised officer.

GIVEN under my Official Seal,

2008.

BRENDAN SMITH.

Minister for Agriculture, Fisheries and Food.

EXPLANATORY NOTE.

(This note is not part of the Instrument and does not purport to be a legal interpretation)

The Regulations provide ancillary and supplementary measures necessary for a series of EC Regulations relating to transmissible spongiform encephalopathies and animal by-products to have full effect.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
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