



STATUTORY INSTRUMENTS

S.I. No. of 2008

DISEASES OF ANIMALS ACT 1966 (TRANSMISSIBLE SPONGIFORM
ENCEPHALOPATHIES) (FERTILISERS & SOIL IMPROVERS) ORDER
2008

(Prn.)

**DISEASES OF ANIMALS ACT 1966 (TRANSMISSIBLE SPONGIFORM
ENCEPHALOPATHIES) (FERTILISERS & SOIL IMPROVERS) ORDER
2008**

WHEREAS Article 1(2) of Commission Regulation (EC) No. 181/2006¹ of 1 February 2006 provides that Member States may apply stricter national rules than those provided in that Regulation as regards the way organic fertilisers and soil improvers are used where such rules are justified on animal health or public health grounds;

AND whereas I am of the opinion that such national rules are necessary to prevent the risk of disease and, in particular, transmissible spongiform encephalopathies;

NOW, I, BRENDAN SMITH, Minister for Agriculture, Fisheries and Food, in exercise of the powers conferred on me by sections 3 and 13 of the Diseases of Animals Act 1966 (No. 6 of 1966) as adapted by the Agriculture, Food and Rural Development (Alteration of Name of Department and Title of Minister) Order 2007 (S.I. No. 705 of 2007), hereby order as follows:

1. (1) This Order may be cited as the Diseases of Animals Act 1966 (Transmissible Spongiform Encephalopathies) (Fertilisers & Soil Improvers) Order 2008.

(2) A word or expression that is used in this Order and is also used in the European Communities (Transmissible Spongiform Encephalopathies and Animal By-products) Regulations 2008 (S.I. No. 252 of 2008) has, in this Order, the same meaning as in those Regulations.

2. (1) A person shall not have in his or her possession or under his or her control or use on any land a fertiliser or soil improver that consists of or is manufactured using category 2 material or category 3 material.

(2) Article 2(1) does not apply to—

(a) manure, the contents of the digestive tract, milk or colostrum, whether or not that material has been transformed in a biogas plant or in a composting plant approved in accordance with Article 15, or in a technical plant approved in accordance with Article 18, of the Animal By-products Regulation,

(b) a fertiliser or soil improver that consists of or is manufactured using category 3 material (other than material described in Article 6(1)(a), (b), (c) except feathers, (d), (e) or (k) of the Animal By-products

¹O.J. No. L 29 of 2.2.2006, p.31.

Regulation), if the category 3 material has been transformed in a biogas plant or in a composting plant approved in accordance with Article 15, or in a technical plant approved in accordance with Article 18, of the Animal By-products Regulation,

- (c) a fertiliser or soil improver that consists of or is manufactured using processed animal protein if the processed animal protein has been transformed in a technical plant approved in accordance with Article 18 of the Animal By-products Regulation,
- (d) a fertiliser or soil improver that consists of or is manufactured using processed animal protein if the processed animal protein has been sourced from a plant approved in accordance with Article 17 of the Animal By-products Regulation, and processed in a composting or biogas plant which is—
 - (i) not located on or adjacent to a premises where animals are kept for farming purposes,
 - (ii) approved in accordance with Article 15 of the Animal By-products Regulation, and
 - (iii) licensed in accordance with Article 3 of this Order.

(3) Notwithstanding paragraph (2)(a) milk and colostrum that has not undergone heat treatment as provided for in Commission Regulation (EC) No. 1662/2006 of 6 November 2006² or has not been transformed in a biogas plant or in a composting plant approved in accordance with Article 15, or in a technical plant approved in accordance with Article 18 of the Animal By-products Regulation may not be spread on or adjacent to any lands to which farmed animals have access.

3. (1) A person shall not use a composting plant or biogas plant to produce a fertiliser or soil improver that consists of or is manufactured using processed animal protein except under and in accordance with a licence (“animal protein fertiliser licence”).

(2) The Minister may grant an animal protein fertiliser licence, attach conditions to an animal protein fertiliser licence, revoke or vary a condition, revoke an animal protein fertiliser licence or refuse an application.

(3) An application for an animal protein fertiliser licence shall be made in a form, be accompanied by any material and contain any particulars that the Minister specifies.

(4) The Minister shall not grant an animal protein fertiliser licence unless he or she is satisfied that the applicant is qualified and competent to carry out the operations to which the licence relates and has available suitable facilities for the storage of processed animal proteins.

²O.J.No. L 320 of 18.11.2006, p.1.

(5) Without prejudice to the generality of paragraph (2), the Minister may refuse an application or revoke an animal protein fertiliser licence if, in the opinion of the Minister—

- (a) the applicant or person to whom an animal protein fertiliser licence 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 relate to an animal or animal product,
- (b) the applicant or person to whom an animal protein fertiliser licence is granted has failed to comply with a condition attached to a licence or approval,
- (c) the applicant or person to whom an animal protein fertiliser licence is granted is not a fit and proper person to hold a licence,
- (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,
 - (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, including the Animal By-products Regulation, relating to animal health or welfare.

(6) Other than in the case of paragraph (5)(a) or (e), if the Minister proposes to revoke an animal protein fertiliser licence or to refuse an application, he or she shall—

- (a) notify the licence holder or applicant 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 made, and
- (c) notify the licence holder or applicant of the decision and the reasons for the decision.

(7) If the Minister revokes an animal protein fertiliser licence or refuses an application in accordance with this paragraph, he or she shall—

- (a) notify the licence holder or applicant in writing of the decision and the reasons for the decision, 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 licence holder or applicant of the decision and the reasons for the decision.

(8) A person to whom an animal protein fertiliser licence is granted shall make such returns to the Minister as and when, and in such form as, the Minister may from time to time direct.

(9) The Minister shall maintain and publish, in a manner that he or she considers appropriate, a list of animal protein fertiliser licences, and include such information, as he or she considers appropriate on the list.

(10) If the Minister revokes an animal protein fertiliser licence or the licence expires through effluxion of time, an entry on the list maintained under paragraph (9) shall cease to have effect and the Minister shall, as soon as may be, after revocation remove details of the animal protein fertiliser licence from the list.

4. A person shall not allow a farmed animal have access to any land where a fertiliser or soil improver that consists of or is manufactured using category 2 material, other than manure, or category 3 material is spread or otherwise used—

- (a) for 21 days, or
- (b) in the case of a porcine animal, 60 days,

after the fertiliser or soil improver is spread or otherwise used.

5. A person shall not—

- (a) permit a farmed animal have access to a fertiliser or soil improver that consists of or is manufactured using category 2 material or category 3 material, or
- (b) allow a fertiliser or soil improver that consists of or is manufactured using category 2 or category 3 material come into contact with a feed-stuff.

6. (1) A person shall not make an ensiled crop or hay or cause an ensiled crop or hay to be made from a crop grown on land on which a fertiliser or soil improver that consists of or is manufactured using category 2 or category 3 material has been spread or otherwise used during the previous 21 days.

(2) A person shall not have in his or her possession or under his or her control an ensiled crop or hay to which paragraph (1) refers.

(3) Notwithstanding Article 4 and paragraph (1) a person shall not spread or otherwise use a fertiliser or soil improver that consists of or is manufactured using processed animal protein on land that, at the time of spreading, is covered with grass or other herbage grazed by or used as a feedingstuff for farmed animals.

7. A person who sells or supplies a fertiliser or soil improver that consists of or is manufactured using category 2 or category 3 material shall keep such records as the Minister specifies and make them available for inspection on request by an authorised officer.

8. (1) The Diseases of Animals Act 1966 (Transmissible Spongiform Encephalopathies) (Fertilisers & Soil Improvers) Order 2006 (S.I. No. 615 of 2006) is revoked.

(2) This order is in addition to and not in substitution for the European Communities (Transmissible Spongiform Encephalopathies and Animal By-products) Regulations 2008 (S.I. No. 252 of 2008).

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)

This order regulates the use of organic fertilisers and soil improvers consisting of or manufactured from animal by-products to minimise the risk of transmissible spongiform encephalopathies (TSEs) and other animal diseases.

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