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STATUTORY RULES OF NORTHERN IRELAND

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**2015 No. 332**

**The Animal By-Products (Enforcement)  
Regulations (Northern Ireland) 2015**

**PART 1**

**INTRODUCTION**

**Citation and commencement**

1. These Regulations may be cited as the Animal By-Products (Enforcement) Regulations (Northern Ireland) 2015 and shall come into operation on 14th October 2015.

**Interpretation**

2.—(1) In these Regulations—

“the Department” means the Department of Agriculture and Rural Development;

“EU Control Regulation” means Regulation (EC) No. 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No. 1774/2002 (Animal by-products Regulation)(1);

“EU Implementing Regulation” means Regulation (EU) No. 142/2011 implementing Regulation (EC) No. 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive as amended from time to time;

“animal by-product requirement” means any requirement in Part 3 and any requirement in Column 2 of the Schedule to these Regulations as read with the provisions in Column 3 to that Schedule;

“authorised person” has the meaning given in regulation 23;

“competent authority” has the meaning given in regulation 3;

“enforcement authority” has the meaning given in regulation 22;

“premises” includes—

- (a) any land, building (including any domestic premises), shed, or pen;
- (b) any receptacle or container;
- (c) any ship; or
- (d) a vehicle of any description;

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(1) O.J. No L300, 14.11.2009, p1, last amended by Council Regulation (EU) No 1385/2013 (OJ No L 354, 28.12.2013, p.86)

“ship” includes a hovercraft, submersible craft or any other floating craft but not a vessel which—

- (a) permanently rests on or is permanently attached to the seabed; or
- (b) is an installation within section 16 of the Energy Act 2008<sup>(2)</sup>.

(2) Expressions used in these Regulations that are also used in the EU Control Regulation or the EU Implementing Regulation have the same meaning in these Regulations as they have in the EU Control Regulation or in the EU Implementing Regulation.

(3) Any reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000<sup>(3)</sup>.

(4) The Interpretation Act (Northern Ireland) 1954<sup>(4)</sup> shall apply to these Regulations as it applies to an Act of the Assembly.

## PART 2

### THE COMPETENT AUTHORITY AND MISCELLANEOUS PROVISIONS

#### **The competent authority**

3. The Department is the competent authority for the purposes of the EU Control Regulation and the EU Implementing Regulation.

#### **Access in relation to prohibitions in Article 11(1) of the EU Control Regulation**

4. In relation to a prohibition on feeding in Article 11(1) of the EU Control Regulation, the requirements of regulations 5 and 6 apply.

5.—(1) Animal by-products, including catering waste, shall not be brought on to any premises where farmed animals have access to the animal by-products.

(2) Paragraph (1) does not apply to derived products, except for—

- (a) products derived from catering waste; or
- (b) meat and bone meal derived from Category 2 material and processed animal proteins intended to be used as or in organic fertilisers and soil improvers that do not comply with the requirements of Article 32(1)(d) (placing on the market and use) of the EU Control Regulation.

6. A body or part of a body of any farmed animal that has not been slaughtered for human consumption shall be held, pending consignment or disposal, in accordance with the EU Control Regulation as read with the EU Implementing Regulation, in such manner as to ensure that any animal or bird will not have access to it.

#### **Use of organic fertilisers and soil improvers and additional waiting period for pigs in relation to the prohibition in Article 11(1)(c) of the EU Control Regulation**

7.—(1) Where organic fertilisers or soil improvers have been applied to land, in addition to the minimum waiting period that applies to farmed animals, pigs are prohibited during the additional waiting period, (resulting in a total period of 60 days from such application) from—

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(2) 2008 c. 32 (as amended)

(3) 2000 c.7, amended by the Communications Act 2003 (c.21), sections 406 and 411(2) and (3) and Schedule 17, paragraph 158

(4) 1954 c. 33 (N.I.)

- (a) having access to such land; or
  - (b) being fed cut herbage from such land.
- (2) Paragraph 1 does not apply to the following organic fertilisers or soil improvers—
- (a) manure;
  - (b) milk;
  - (c) milk-based products;
  - (d) milk derived products;
  - (e) colostrum;
  - (f) colostrum products; or
  - (g) digestive tract content.
- (3) In this regulation—
- (a) “the minimum waiting period” is the period of 21 days commencing from the date of application of organic fertilisers or soil improvers to land as provided in Article 11(1)(c) of the EU Control Regulation, as read with Article 5(2) of, and Chapter II of Annex II to, the EU Implementing Regulation;
  - (b) “the additional waiting period” is the period of 39 days commencing on the expiration of the minimum waiting period.

#### **Collection centres for feeding in relation to Article 18(1) of the EU Control Regulation**

**8.** In relation to Article 18(1) of the EU Control Regulation, and in accordance with Article 13 of the EU Implementing Regulation as read with paragraph 3 of Section 1 of Chapter II Annex VI to that Regulation, a processing plant for Category 2 material is authorised as a collection centre for Category 2 material for the purposes of Article 18(1) of the EU Control Regulation on condition that it is approved for that purpose under Article 24 of the EU Control Regulation.

#### **Remote areas for the purposes of Article 19(1)(b) of the EU Control Regulation**

- 9.** For the purposes of applying Article 19(1)(b) of the EU Control Regulation—
- (a) the Copeland Islands; and
  - (b) Rathlin Island

are categorised as remote areas.

#### **Placing on the market in relation to Article 36 of the EU Control Regulation**

**10.** In relation to Article 36 of the EU Control Regulation, and in accordance with Article 24(4) of the EU Implementing Regulation as read with point B of Chapter VII to Annex XIII of that Regulation, the placing on the market of untreated wool and hair from farms or from establishments or plants is authorised without restrictions except where they present a risk of any disease communicable through those products to humans or animals.

#### **Reporting of test results**

**11.** Operators must report to the Department the results of any tests carried out pursuant to any of the following Articles of the EU Implementing Regulation which fail to meet the standards required by those Articles—

- (a) Article 10(1) (requirements for the transforming of animal by-products and derived products into biogas and composting);

- (b) Article 21(1) (processing and placing on the market of animal by-products and derived products for feeding to farmed animals);
- (c) Article 22(1) (placing on the market and use of organic fertilisers and soil improvers); and
- (d) Article 24(3) (pet food and other derived products).

## PART 3

### STAINING

#### Staining

- 12.—(1) This regulation applies to the operators of—
- (a) slaughterhouses;
  - (b) cutting plants;
  - (c) game handling establishments; and
  - (d) cold stores.
- (2) In this Part—
- (a) the terms “slaughterhouse”, “cutting plant” and “game-handling establishment” have the meanings given to them in regulation 5(6) of the Food Hygiene Regulations (Northern Ireland)(5);
  - (b) “cold store” means any other premises used for storage, under temperature-controlled conditions, of fresh meat intended for sale for human consumption; and
  - (c) “scientific purposes” means diagnostic, educational or research purposes.
- (3) Operators must, subject to paragraph (5), without undue delay, stain the following animal by-products in accordance with paragraph (4)—
- (a) animal by-products defined by any of the following Articles of the EU Control Regulation—
    - (i) Article 8(c);
    - (ii) Article 8(d);
    - (iii) Article 9(c); or
    - (iv) Article 9(d);
  - (b) whole poultry bodies where the animals are dead on arrival at the slaughterhouse;
  - (c) bodies or parts of animals which are unfit for human consumption because they show signs of disease communicable to humans or animals;
  - (d) bodies or parts of animals which are unfit for human consumption because they have not been presented for either ante or post mortem inspection and the resulting animal by-product is not defined in Article 10 of the EU Control Regulation;
  - (e) bodies or parts of animals which have been contaminated with any substance which may pose a threat to public or animal health; and
  - (f) Category 3 material that has changed through decomposition or spoilage so as to present an unacceptable risk to public of animal health.
- (4) Operators must—

- (a) stain materials listed in paragraph (3) with a colouring agent and using a solution of such strength that the staining is clearly visible and remains visible after the animal by-product has been chilled or frozen;
  - (b) apply a stain to the whole surface of the animal by-product, whether by immersing the by-product in the stain, spraying it with the solution or applying the solution to the by-product by any other equally effective means;
  - (c) in the case of an animal by-product not falling within sub-paragraph (d) and weighing more than 20kg, apply the stain after its surface has been opened by multiple and deep incisions; and
  - (d) in the case of an animal by-product comprising a whole poultry body, whether or not it has been eviscerated or de-feathered, apply the stain after the surface of the body has been opened by multiple and deep incisions.
- (5) Operators need not stain pursuant to paragraph (3)—
- (a) any animal by-product which is removed, or is intended to be removed, from any premises by, or under the authority of, a veterinary surgeon for examination by or on behalf of the surgeon;
  - (b) any animal by-product which is mixed with green offal in a container containing mainly green offal for disposal in accordance with the EU Control Regulation;
  - (c) any animal by-product which is intended for use for scientific purposes and which, pending such use or removal to premises for such use in accordance with the EU control Regulation, is placed in a room and in a receptacle designed for the purpose of holding animal by-products and bearing a notice that its contents are intended for use for scientific purposes;
  - (d) any animal by-product which is moved immediately after generation to a processing or incineration establishment or plant approved under the EU Control Regulation via a sealed and leak-proof pipe; or
  - (e) a whole animal body, except a whole poultry body.
- (6) No one may export stained material of the type referred to in paragraph (3) to another member State of the European Union unless that member State agrees to import the material.
- (7) In paragraph 5(b) “green offal” means the stomach and intestines of an animal and the contents of the digestive tract.

## PART 4

### REGISTRATION AND APPROVAL

#### **Procedure for registration of plants and establishments**

**13.** A notification shall be made in writing to the Department, where it is made in relation to Articles 23(1) and 23(2) of the EU Control Regulation—

- (a) with a view to registration in accordance with Article 23(1); or
- (b) to inform the Department of changes in accordance with Article 23(2).

#### **Notifications of the Department in respect of registration**

**14.—(1)** The Department shall give notice in writing to—

- (a) the operator who has notified in accordance with regulation 13 of—
  - (i) the registration of such an operator; or

- (ii) the decision not to register;
- (b) a registered operator of—
  - (i) a prohibition made under Article 46(2) of the EU Control Regulation (prohibition on operations);
  - (ii) a requirement to comply with Article 23(1)(b) or (2) of the EU Control Regulation (information on activities and up to date information);
  - (iii) the amendment of the registration or the ending of the registration where an operator has notified the Department of the closure of an establishment in accordance with Article 23(2) (up to date information) of the EU Control Regulation.
- (2) Any notice served or decision made under this regulation shall be in writing and may be made subject to such conditions as are necessary to—
  - (a) ensure that the provisions of the EU Control Regulation, the EU Implementing Regulation and these Regulations are complied with; and
  - (b) protect public and animal health.

### **Approval**

**15.** Operators to whom Article 24(1) of the EU Control Regulation applies, shall apply in writing to the Department to be—

- (a) approved; or
- (b) where Article 33 of the EU Implementing Regulation applies, re-approved.

### **Notification in respect of decisions on approval**

**16.—(1)** The Department shall give notice in writing to—

- (a) the applicant for approval of the—
  - (i) grant of approval in accordance with Articles 24 and 44 of the EU Control Regulation;
  - (ii) grant of conditional approval in accordance with Articles 24 and 44 of the EU Control Regulation, or the extension of such approval in accordance with Article 44; or
  - (iii) refusal to grant approval in accordance with initial application or extension;
- (b) where conditional approval has been granted in accordance with Articles 24 and 44 of the EU Control Regulation, the operator of the plant or establishment subject to such approval, of the—
  - (i) grant of full approval;
  - (ii) extension of such approval;
  - (iii) imposition of conditions in accordance with Article 46(1)(c) of the EU Control Regulation;
  - (iv) suspension of such approval in accordance with Article 46(1)(a) of the EU Control Regulation ;
  - (v) withdrawal of such approval in accordance with Article 46(1)(b) of the EU Control Regulation;
  - (vi) making of a prohibition in accordance with Article 46(2) of the EU Control Regulation; or
  - (vii) refusal to extend or grant full approval;

- (c) the operator of an approved plant or establishment of the—
  - (i) imposition of conditions in accordance with Article 46(1)(c) of the EU Control Regulation (suspension, withdrawal);
  - (ii) suspension of such approval in accordance with Article 46(1)(a) of the EU Control Regulation;
  - (iii) making of a prohibition in accordance with Article 46(2) of the EU Control Regulation; or
  - (iv) withdrawal of such approval in accordance Article 46(1)(b) of the EU Control Regulation.

(2) Any notice served or decision made under this regulation shall be in writing and may be made subject to such conditions as are necessary to—

- (a) ensure that the provisions of the EU Control Regulation, the EU Implementing Regulation and these Regulations are complied with; and
- (b) protect public and animal health.

### **Reasons for decisions**

**17.**—(1) Where a decision is made by the Department as provided in paragraph (2), the Department shall give reasons in writing for that decision.

(2) Paragraph (1) applies to a decision made—

- (a) in respect of registration, under regulation 14(1)(a)(ii)(not to register) or regulation 14(1)(b) (prohibition, imposition of requirement, amendment or ending of registration);
- (b) in respect of an application of approval, under regulation 16(1)(a)(ii) (conditional approval), regulation 16(1)(a)(iii) (refusal) or regulation 16(1)(b)(iv) (suspension);
- (c) in respect of conditional approval, under regulation 16(1)(b)(v) (withdrawal) or regulation 16(1)(b)(vii) (refusal);
- (d) in respect of the suspension or withdrawal of full approval, under regulation 16(1)(c)(ii)(suspension) or regulation 16(1)(c)(iv)(withdrawal);
- (e) in respect of the imposition of conditions, under regulation 16(1)(b)(iii) or regulation 16(1)(c)(i);
- (f) in respect of a prohibition, under regulation 16(1)(b)(vi) or regulation 16(1)(c)(iii).

### **Appeals**

**18.**—(1) Where the Department has made a notification referred to in regulation 17(2), a person may appeal against it by making written representations to a person appointed for the purpose by the Department within 21 days of the issuing of notification of that decision.

(2) The Department may also make written representations to the appointed person concerning the decision.

(3) The appointed person shall then report in writing to the Department.

(4) The Department shall give to the appellant written notification of the final determination of the Department and the reasons for it.

(5) A person who is aggrieved by the final determination of the Department under paragraph (4) may, within 21 days of the issuing of notification of the determination, appeal against that determination to a court of summary jurisdiction.

## PART 5

### OFFENCES AND PENALTIES

#### **Offences**

19. A person who fails to comply with an animal by-product requirement commits an offence.

#### **Obstruction**

20.—(1) A person is guilty of an offence if that person—

- (a) intentionally obstructs an authorised person;
- (b) without reasonable cause, fails to give to an authorised person any information or assistance or to provide any facilities that such person may reasonably require;
- (c) knowingly or recklessly gives false or misleading information to an authorised person; or
- (d) fails to produce a record or document when required to do so by an authorised person.

(2) Nothing in paragraph (1)(b) shall be construed as requiring any person to answer any question if to do so might incriminate him.

#### **Penalties**

21. A person guilty of an offence under these Regulations is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment not exceeding three months or both; or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.

## PART 6

### ENFORCEMENT

#### **Enforcement authority**

22. These Regulations shall be enforced by the Department, the Department of the Environment or a district council within its district.

#### **Authorised person**

23.—(1) An enforcement authority may authorise in writing such persons as the authority considers appropriate to act for the purpose of enforcing these Regulations.

(2) In these Regulations, a person authorised under paragraph (1) is an “authorised person”.

#### **Powers of authorised person**

24. An authorised person may, on production, if so required, of his authority, exercise any of the powers specified in regulation 25 and regulation 27 for the purposes of enforcing these Regulations and ensuring the EU Control Regulation and EU Implementing Regulation are complied with.



## **Powers of entry and additional powers**

**25.**—(1) An authorised person has the power to enter premises at all reasonable hours.

(2) Paragraph (1) does not apply in relation to any premises which are used wholly or mainly as a private dwelling house unless a right of entry is conferred by a warrant granted under regulation 26.

(3) An authorised person may where exercising the power under paragraph (1)—

- (a) be accompanied by such other persons as the authorised person considers necessary;
- (b) take any equipment or materials required for any purpose for which the power of entry is being exercised;
- (c) make such examination and investigation as may in the circumstances be necessary;
- (d) direct that the premises, or part of them, are left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under sub-paragraph (c);
- (e) take such measurements and photographs and make such recordings as are considered necessary for the purpose of any examination or investigation under sub-paragraph (c);
- (f) in the case of any article or substance found in or on any premises—
  - (i) take samples;
  - (ii) test or subject it to any process, where it appears that it has or is likely to cause harm to human health or to the health of animals or plants;
  - (iii) take possession of it and retain it for so long as is necessary for any of the following purposes—
    - (aa) to examine it and to exercise the power within paragraph (ii);
    - (bb) to ensure that it is not tampered with before examination of it is completed; or
    - (cc) to ensure that it is available for use as evidence in any proceedings for an offence under these Regulations;
  - (iv) dispose of it, where it appears that it has or is likely to cause harm to human health or to the health of animals or plants.
- (g) require the production of, or where the information is recorded in computerised form the furnishing of extracts from, any records which it is necessary to see for the purposes of any examination or investigation under sub-paragraph (c) and to inspect and take copies of, or of any entry in, the records;
- (h) require any person to afford such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the authorised person to exercise any of the powers conferred by this regulation; or
- (i) mark any animal or animal by-product as the authorised person considers necessary.

(4) Where an authorised person proposes to exercise the power in paragraph (3)(f)(ii) in the case of any article or substance found in or on any premises, the authorised person shall—

- (a) if so requested by a person who at the time is present and has responsibilities in relation to those premises, cause anything which is to be done by virtue of that power, to be done in that person's presence;
- (b) consult such persons as appear to the authorised person appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which is proposed under that power.

(5) Where an authorised person in respect of the power in paragraph (3)(f)(iii)—

- (a) proposes to exercise that power, the authorised person shall before taking possession, if it is practicable to do so, take a sample of the article or substance and give to a responsible person at the premises a portion of the sample marked in a manner sufficient to identify it; or
  - (b) exercises that power, the authorised person shall leave a notice giving particulars of the article or substance sufficient to identify it and stating that possession has been taken under that power, such notice to be left either—
    - (i) with a responsible person; or
    - (ii) if that is impracticable, fixed in a conspicuous place at those premises.
- (6) An authorised officer entering any premises which are unoccupied or from which the occupier is temporarily absent must leave them as effectively secured against unauthorised entry as they were before entry.
- (7) Nothing in this regulation compels the production by any person of a document which that person would be entitled to withhold production of on the grounds of legal professional privilege on an order for discovery in an action in the High Court.
- (8) Nothing in paragraph (3)(g) shall be construed as requiring any person to answer any question if to do so might incriminate them.

### **Warrant**

- 26.—(1) If, in relation to the power to enter premises under regulation 25, a lay magistrate, on sworn complaint in writing—
- (a) is satisfied that there are reasonable grounds to believe that any information or material relevant to the examination or investigation under regulation 25(3)(c) is on any such premises; and
  - (b) is also satisfied that—
    - (i) admission to such premises has been, or is likely to be, refused, and that notice of intention to apply for a warrant has been given to the occupier; or
    - (ii) the application for admission, or the giving of such a notice would defeat the object of the entry, or that the case is one of urgency, or that such premises are unoccupied or the occupier is temporarily absent,

the lay magistrate may by warrant under the lay magistrate's hand, which continues in force for a period of one month, authorise an authorised person to enter the premises, if need be by force.

(2) Where an authorised person has been authorised under paragraph (1) to enter by warrant, the authorised person has the powers conferred by regulation 25(3).

### **Notices served by an authorised person**

- 27.—(1) An authorised person may serve a notice in accordance with paragraph (2) where that person—
- (a) considers that there is a contravention of, or failure to comply with an animal by-product requirement; or
  - (b) reasonably suspects that as a result of such contravention or failure to comply, premises constitute a risk to human or animal health.
- (2) An authorised person may serve a notice on the occupier of any premises, or the person considered to be in charge of or responsible for the premises or considered responsible for any animal by-product—
- (a) requiring the disposal, and, where applicable, storage pending such disposal of—

- (i) animal by-products and derived products;
- (ii) material in premises to which paragraph (1)(b) applies;
- (b) requiring the cleansing and disinfection of premises to which paragraph (1)(b) applies, and where applicable, specifying the method for such cleansing and disinfection;
- (c) prohibiting animal by-products and derived products being—
  - (i) moved in or brought on to premises;
  - (ii) moved in or brought on to premises unless in accordance with conditions specified in the notice;
  - (iii) moved in or brought on to premises referred to in paragraph (1)(b) until the satisfactory completion of cleansing and disinfection in accordance with a notice as provided in sub-paragraph (b).

(3) A notice served under paragraph (2) shall be complied with at the expense of the person on whom the notice is served, and if it is not complied with, an authorised person may arrange for it to be complied with at the expense of that person.

(4) Paragraph (1) does not apply where Article 46(1)(a) or (b) (suspensions, withdrawals and prohibitions on operations) of the EU Control Regulation applies.

(5) Any person on whom a notice is served who contravenes or fails to comply with the provisions of that notice is guilty of an offence.

#### **Power to share information for enforcement purposes**

**28.**—(1) This regulation applies to information received by an enforcement authority or an authorised person in the course of enforcing these Regulations.

- (2) That enforcement authority or authorised person may disclose the information to—
- (a) an enforcement authority;
  - (b) an authorised person; or
  - (c) any comparable enforcement authority or authorised person appointed elsewhere within the United Kingdom to enforce the EU Control Regulation and the EU Implementing Regulation for the purposes of their enforcement role.

(3) For the purposes of this regulation, “enforcement authority” includes the Food Standards Agency.

## **PART 7**

### **SMALL QUANTITIES, AMENDMENT AND REVOCATIONS**

#### **Small quantities**

**29.**—(1) The collection, transport and disposal of Category 3 material in Article 10(f) of the EU Control Regulation, is authorised under Article 19(1)(d) of that Regulation, where the requirements of paragraph (2) are satisfied.

- (2) The requirements are—
- (a) the material satisfies paragraphs (a) to (c) of Chapter IV of Annex VI to, the EU Implementing Regulation; and
  - (b) the means of disposal for such material, in addition to the means in Article 14 of the EU Control Regulation, are disposal—

- (i) in an authorised landfill without prior processing; or
- (ii) where Article 21 of the EU Control Regulation is satisfied, to a biogas or composting plant for transformation in accordance with an authorisation under paragraph 2 of Section 2 of Chapter III of Annex V to the EU Implementing Regulation.

### **Amendment and Revocations**

**30.**—(1) In regulation 12(2) of the Cattle Identification (No2) Regulations (Northern Ireland) 1998<sup>(6)</sup> for the words “the Animal By-Products Regulations (Northern Ireland) 1993<sup>(7)</sup>” substitute “the Animal By-Products (Enforcement) Regulations (Northern Ireland) 2015”.

(2) The following instruments are revoked—

- (a) The Animal By-Products (Enforcement) Regulations (Northern Ireland) 2011<sup>(8)</sup>
- (b) The Animal By-Products (Enforcement) (Amendment) Regulations (Northern Ireland) 2011<sup>(9)</sup>; and
- (c) The Animal By-Products (Enforcement) (Amendment) Regulations (Northern Ireland) 2014<sup>(10)</sup>.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 15th September 2015



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A senior officer of the Department of Agriculture  
and Rural Development

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<sup>(6)</sup> S.R. 1998 No.279 as amended by S.R. 2012 No.416  
<sup>(7)</sup> S.R. 1993 No.192 as amended by S.R. 1998 No.108 and revoked by S.R. 2002 No.210  
<sup>(8)</sup> S.R. 2011 No. 124  
<sup>(9)</sup> S.R. 2011 No. 258  
<sup>(10)</sup> S.R. 2014 No. 184