

---

SCOTTISH STATUTORY INSTRUMENTS

---

**2001 No. 276**

**AGRICULTURE**

**The Processed Animal Protein (Scotland) Regulations 2001**

<i>Made</i>	- - - -	<i>27th July 2001</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>31st July 2001</i>
<i>Coming into force</i>	- -	<i>1st August 2001</i>

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972<sup>M1</sup> and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Marginal Citations**

**M1** 1972 c.68. Section 2(2) was amended by the [Scotland Act 1998 \(c.46\)](#), [Schedule 8](#), paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the 1972 Act, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act.

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Processed Animal Protein (Scotland) Regulations 2001, and shall come into force on 1st August 2001.

(2) These Regulations extend to Scotland only.

**Interpretation**

2.—(1) In these Regulations—

“ABPO approved”, in relation to premises, means approved under article 7 of the Animal By-Products Order 1999<sup>M2</sup>, in accordance with article 5(2) of Council Directive [90/667/EEC](#)<sup>M3</sup> laying down the veterinary rules for the disposal and processing of animal waste, for its placing on the market and for the prevention of pathogens in feedingstuffs of animal or fish origin and amending Directive [90/425/EEC](#)<sup>M4</sup>, for the purpose of rendering low risk animal by products; and “ABPO approval” shall be construed accordingly;

“catering waste” has the same meaning as in the Animal By-Products Order 1999;

*Status: Point in time view as at 19/06/2002.*

*Changes to legislation: There are currently no known outstanding effects for the The Processed Animal Protein (Scotland) Regulations 2001 (revoked). (See end of Document for details)*

“the Commission Decision” means Commission Decision [2001/9/EC](#)<sup>M5</sup> concerning control measures required for the implementation of Council Decision [2000/766/EC](#) concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein, as amended by Commission Decision [2001/165/EC](#)<sup>M6</sup>;

“the Council Decision” means Council Decision [2000/766/EC](#)<sup>M7</sup> concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein, as amended by Commission Regulation (EC) No. [1326/2001](#)<sup>M8</sup>;

“farmed animal” means an animal which is kept, fattened or bred for the production of food;

“inspector” means—

- (a) a person appointed as such for the purposes of these Regulations by the Scottish Ministers, including a veterinary inspector; and
- (b) a person appointed as such for the purposes of these Regulations by a local authority in relation to its enforcement responsibilities under these Regulations;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994<sup>M9</sup>;

“premises” includes any place, stall or moveable structure;

“processed animal protein” means meat and bone meal, meat meal, bone meal, blood meal, dried plasma and other blood products, hydrolysed protein, hoof meal, horn meal, poultry offal meal, feather meal, dry greaves, fishmeal, dicalcium phosphate, gelatin and any other similar products including mixtures, feedingstuffs, feed additives and premixtures, containing these products; and

“veterinary inspector” means a person appointed by the Scottish Ministers as a veterinary inspector.

(2) Expressions in these Regulations which are not defined in paragraph (1) above and which appear in the Council Decision or the Commission Decision have the same meaning in these Regulations as they have for the purposes of the Decision in which they appear.

(3) For the purposes of these Regulations and their application, material shall be treated as a feedingstuff whether it is used or intended to be used as a feedingstuff by itself or as an ingredient in something which is so used or intended for such use.

(4) For the purposes of these Regulations any person appointed to be an inspector for the purposes of the Animal Health Act 1981 shall be deemed to have been appointed by the Scottish Ministers to be an inspector.

(5) Any reference in these Regulations to a Schedule or regulation is, unless the context otherwise requires, a reference to a Schedule to, or a regulation of, these Regulations.

(6) 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>M10</sup>, which has been recorded and is capable of being reproduced.

#### Marginal Citations

**M2** [S.I. 1999/646](#), as amended, as regards Scotland, by [S.S.I. 2001/171](#).

**M3** O.J. No. L 363, 27.12.90, p.51.

**M4** O.J. No. L 224, 18.8.90, p.29, as amended by Council Directive 90/539/EEC (O.J. No. L 303 31.10.90 p.6), Council Directive 90/667/EEC (O.J. No. L 363 27.12.90 p.51), Council Directive 91/68/EEC (O.J. No. L 046 19.02.91 p.19), Council Directive 91/174/EEC (O.J. No. L 085 05.04.91 p.37), Council Directive 91/496/EEC (O.J. No. L 268 24.09.91 p.56), Council Directive 91/628/EEC (O.J. No. L 340 11.12.91 p.17), Council Directive 92/60/EEC (O.J. No. L 268 14.09.92 p.75), Council

Directive 92/65/EEC (O.J. No. L 268 14.09.92 p.54, and Council Directive 92/118/EEC (O.J. No. L 62, 15.3.93, p.49).

**M5** O.J. No. L 2, 5.1.01, p.32.

**M6** O.J. No. L 58, 28.2.01, p.43.

**M7** O.J. No. L 306, 7.12.00, p.32.

**M8** O.J. No. L 177, 30.6.01, p.60.

**M9** 1994 c.39.

**M10** 2000 c.7; section 15(1) contains a definition of electronic communication.

### Application

**3.**—(1) These Regulations apply in relation to processed animal protein intended for the feeding of animals (excluding humans).

(2) These Regulations do not apply in relation to—

- (a) catering waste; or
- (b) eggs and egg products.

### Feeding processed animal protein to farmed animals

<sup>F1</sup>**4.** .....

#### Textual Amendments

**F1** Regs. 4-9 revoked (with application in accordance with [reg. 2](#) of the amending S.S.I.) by [The TSE \(Scotland\) Regulations 2002 \(S.S.I. 2002/255\)](#), [reg. 1\(1\)](#), [sch. 9 Pt. 1](#) (with [reg. 102](#), [sch. 9 Pt. 9](#))

### Production of fishmeal for feeding to farmed animals other than ruminants

<sup>F1</sup>**5.** .....

#### Textual Amendments

**F1** Regs. 4-9 revoked (with application in accordance with [reg. 2](#) of the amending S.S.I.) by [The TSE \(Scotland\) Regulations 2002 \(S.S.I. 2002/255\)](#), [reg. 1\(1\)](#), [sch. 9 Pt. 1](#) (with [reg. 102](#), [sch. 9 Pt. 9](#))

### Production of dicalcium phosphate for feeding to farmed animals

<sup>F1</sup>**6.** .....

#### Textual Amendments

**F1** Regs. 4-9 revoked (with application in accordance with [reg. 2](#) of the amending S.S.I.) by [The TSE \(Scotland\) Regulations 2002 \(S.S.I. 2002/255\)](#), [reg. 1\(1\)](#), [sch. 9 Pt. 1](#) (with [reg. 102](#), [sch. 9 Pt. 9](#))

### Production of hydrolysed protein for feeding to farmed animals

<sup>F1</sup>**7.** .....

*Status: Point in time view as at 19/06/2002.*

*Changes to legislation: There are currently no known outstanding effects for the The Processed Animal Protein (Scotland) Regulations 2001 (revoked). (See end of Document for details)*

**Textual Amendments**

**F1** Regs. 4-9 revoked (with application in accordance with [reg. 2](#) of the amending S.S.I.) by [The TSE \(Scotland\) Regulations 2002 \(S.S.I. 2002/255\)](#), [reg. 1\(1\)](#), [sch. 9 Pt. 1](#) (with [reg. 102](#), [sch. 9 Pt. 9](#))

**Approval of premises, suspension and withdrawal of approval**

**<sup>F1</sup>8.** .....

**Textual Amendments**

**F1** Regs. 4-9 revoked (with application in accordance with [reg. 2](#) of the amending S.S.I.) by [The TSE \(Scotland\) Regulations 2002 \(S.S.I. 2002/255\)](#), [reg. 1\(1\)](#), [sch. 9 Pt. 1](#) (with [reg. 102](#), [sch. 9 Pt. 9](#))

**Sale or supply of processed animal protein intended for the feeding of farmed animals**

**<sup>F1</sup>9.** .....

**Textual Amendments**

**F1** Regs. 4-9 revoked (with application in accordance with [reg. 2](#) of the amending S.S.I.) by [The TSE \(Scotland\) Regulations 2002 \(S.S.I. 2002/255\)](#), [reg. 1\(1\)](#), [sch. 9 Pt. 1](#) (with [reg. 102](#), [sch. 9 Pt. 9](#))

**Trade with other member States**

**10.**—(1) Subject to paragraphs (2) and (3) below, no person shall send any processed animal protein to another member State.

(2) If the conditions specified in paragraph (3) below are met, the prohibitions in paragraph (1) above shall not apply to—

- (a) processed animal protein not intended for the feeding of any farmed animal;
- (b) fishmeal referred to in regulation 4(2)(a), transported and intermediately stored in accordance with Schedule 1, for feeding to farmed animals other than ruminants;
- (c) gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive [70/524/EEC](#) concerning additives in feedingstuffs;
- (d) dicalcium phosphate referred to in regulation 4(2)(c), produced in accordance with Schedule 2, for feeding to farmed animals;
- (e) hydrolysed protein referred to in regulation 4(2)(d), produced in accordance with Schedule 3, for feeding to farmed animals;
- (f) milk and milk products; or
- (g) petfood referred to in chapter 4 of Annex I to Directive [92/118/EEC](#)<sup>M11</sup>.

(3) The conditions referred to in paragraph (2) above are—

- (a) the member State of destination—
  - (i) has authorised receipt of processed animal protein from the United Kingdom for the purposes of article 3(1)(a) of the Commission Decision; and

- (ii) has authorised processed animal protein from the United Kingdom to be sent only to premises in the member State of destination other than premises producing feedingstuffs for farmed animals;
  - (b) the processed animal protein is accompanied by an official certificate as laid down in Annex V to the Commission Decision or, in the case of dicalcium phosphate or hydrolysed protein, an official certificate as laid down in Annex IV to the Commission Decision;
  - (c) the processed animal protein is—
    - (i) transported in sealed, covered containers or vehicles, in such a way as to prevent loss; and
    - (ii) conveyed directly to a petfood or feed plan in the member State of destination; and
  - (d) notice is given to a veterinary inspector by or on behalf of the person sending the processed animal protein in sufficient time and manner to enable the Scottish Ministers to inform the competent authority of the member State of destination, in accordance with the ANIMO procedure established under Commission Decision [91/398/EEC](#)<sup>M12</sup> as applied for the purposes of the Commission Decision,<sup>F2</sup>... of the place of destination of each consignment sent.
- (4) Where processed animal protein has been sent to another member State and the member State of destination, in accordance with the ANIMO procedure established under Commission Decision [91/398/EEC](#) as applied for the purposes of the Commission Decision, has not informed the Scottish Ministers that the consignment has arrived, the Scottish Ministers shall immediately take the appropriate action which, in their opinion, is necessary or expedient for the purposes of article 3(1)(e) of the Commission Decision.
- (5) Subject to paragraphs (6) and (7) below, no person shall import any processed animal protein from another member State.
- (6) If the conditions specified in paragraph (7) below are met, the prohibitions in paragraph(5) above shall not apply—
- (a) to processed animal protein not intended for the feeding of any farmed animal;
  - (b) to fishmeal referred to in regulation 4(2)(a) above, transported and intermediately stored in accordance with Schedule 1, for feeding to farmed animals other than ruminants;
  - (c) to gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive [70/524/EEC](#) concerning additives in feeding stuffs;
  - (d) to dicalcium phosphate referred to in regulation 4(2)(c) above, produced in accordance with Schedule 2, for feeding to farmed animals;
  - (e) to hydrolysed protein referred to in regulation 4(2)(d) above, produced in accordance with Schedule 3, for feeding to farmed animals;
  - (f) to milk and milk products; or
  - (g) to petfood referred to in chapter 4 of Annex I to Directive [92/118/EEC](#).
- (7) The conditions referred to in paragraph (6) above are—
- (a) the Scottish Ministers—
    - (i) have authorised receipt of processed animal protein from the member State for the purposes of article 3(1)(a) of the Commission Decision; and
    - (ii) have authorised processed animal protein from the member State to be sent only to premises in Scotland other than premises producing feedingstuffs for farmed animals;
  - (b) before the processed animal protein is imported, the person who intends to import it has given notice of the proposed import to a veterinary inspector;

**Status:** Point in time view as at 19/06/2002.

**Changes to legislation:** There are currently no known outstanding effects for the The Processed Animal Protein (Scotland) Regulations 2001 (revoked). (See end of Document for details)

- (c) the processed animal protein is accompanied by an official certificate as laid down in Annex V to the Commission Decision or, in the case of dicalcium phosphate or hydrolysed protein, an official certificate as laid down in Annex IV to the Commission Decision;
- (d) the processed animal protein is—
  - (i) transported in sealed, covered containers or vehicles, in such a way as to prevent loss; and
  - (ii) conveyed directly to a petfood or feed plant in the member State of destination; and
- (e) notice is given to a veterinary inspector by or on behalf of the person sending the processed animal protein in sufficient time and manner to enable the Scottish Ministers to inform the competent authority of the member State of origin, in accordance with the ANIMO procedure established under Commission Decision [91/398/EEC](#) as applied for the purposes of the Commission Decision, of the arrival of each consignment sent.

#### Textual Amendments

- F2** Words in reg. 10(3)(d) omitted (12.11.2001) by virtue of [The Processed Animal Protein \(Scotland\) Amendment Regulations 2001 \(S.S.I. 2001/383\)](#), regs. 1, **2(2)**

#### Marginal Citations

- M11** O.J. No. L 62, 15.3.93, p.49, as amended by Commission Decision 94/466/EC (O.J. No. L 190 26.07.94 p.26), Commission Decision 94/723/EC (O.J. No. L 288 09.11.94 p.48), Commission Decision 95/338/EC (O.J. No. L 200 24.08.95 p.35), Commission Decision 95/339/EC (O.J. No. L 200 24.08.95 p.36), Commission Decision 96/103/EC (O.J. No. L 024 31.01.96 p.28), Commission Decision 96/340/EC (O.J. No. L 129 30.05.96 p.35), Commission Decision 96/405/EC (O.J. No. L 165 04.07.96 p.40), Council Directive 96/90/EC (O.J. No. L 013, 16.01.97 p.24), Council Directive 97/79/EC (O.J. No. L 024 30.01.98 p.31), and Commission Decision 1999/724/EC (O.J. No. L 290, 12.11.99, p.32).
- M12** O.J. No. L 221, 9.8.1991, p.30.

#### Trade with third countries

**11.—(1)** Subject to paragraphs (2) and (3) below, no person shall export any processed animal protein to a third country.

(2) If the conditions specified in paragraph (3) below are met, the prohibitions in paragraph (1) above shall not apply to—

- (a) processed animal protein not intended for the feeding of any farmed animal;
- (b) fishmeal referred to in regulation 4(2)(a), transported and intermediately stored in accordance with Schedule 1, for feeding to farmed animals other than ruminants;
- (c) gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive [70/524/EEC](#) concerning additives in feedingstuffs;
- (d) dicalcium phosphate referred to in regulation 4(2)(c), produced in accordance with Schedule 2, for feeding to farmed animals;
- (e) hydrolysed protein referred to in regulation 4(2)(d), produced in accordance with Schedule 3, for feeding to farmed animals;
- (f) milk and milk products; or
- (g) petfood referred to in chapter 4 of Annex I to Directive [92/118/EEC](#).

(3) The conditions referred to in paragraph (2) above are—

- (a) the third country of destination has entered into an agreement with the United Kingdom for the purposes of article 3(2)(a) of the Commission Decision—
    - (i) that processed animal protein imported from the United Kingdom is authorised to be sent only to premises other than premises producing feedingstuffs for farmed animals; and
    - (ii) that it will not authorise the export of processed animal protein imported from the United Kingdom unless it is incorporated in a product destined for final use as feed for animals which are not kept, fattened or bred for the production of food; and
  - (b) the processed animal protein is accompanied by an official certificate as laid down in Annex V to the Commission Decision or, in the case of dicalcium phosphate or hydrolysed protein, an official certificate as laid down in Annex IV to the Commission Decision.
- (4) Subject to paragraphs (5) and (6) below, no person shall import any processed animal protein from a third country.
- (5) If the condition specified in paragraph (6) below is met, the prohibitions in paragraph (4) above shall not apply to—
- (a) processed animal protein not intended for the feeding of any farmed animal;
  - (b) fishmeal referred to in regulation 4(2)(a), transported and intermediately stored in accordance with Schedule 1, for feeding to farmed animals other than ruminants;
  - (c) gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive [70/524/EEC](#) as amended concerning additives in feedingstuffs;
  - (d) dicalcium phosphate referred to in regulation 4(2)(c), produced in accordance with Schedule 2, for feeding to farmed animals;
  - (e) hydrolysed protein referred to in regulation 4(2)(d), produced in accordance with Schedule 3, for feeding to farmed animals;
  - (f) milk and milk products; or
  - (g) petfood referred to in chapter 4 of Annex I to Directive [92/118/EEC](#).
- (6) The condition referred to in paragraph (5) above is that the processed animal protein is dealt with in accordance with the conditions laid down in article 8 of Directive [97/78/EC](#)<sup>M13</sup>.

**Marginal Citations**

**M13** O.J. No. L 24, 30.1.98, p.9.

**Manufacture of feedingstuffs**

<sup>F3</sup>**12.** . . . . .

**Textual Amendments**

**F3** Regs. 12-16 revoked (with application in accordance with [reg. 2](#) of the amending S.S.I.) by [The TSE \(Scotland\) Regulations 2002 \(S.S.I. 2002/255\)](#), [reg. 1\(1\)](#), [sch. 9 Pt. 1](#) (with [reg. 102](#), [sch. 9 Pt. 9](#))

**Production of feedingstuffs containing fishmeal for feeding to farmed animals**

<sup>F3</sup>**13.** . . . . .

*Status: Point in time view as at 19/06/2002.*

*Changes to legislation: There are currently no known outstanding effects for the The Processed Animal Protein (Scotland) Regulations 2001 (revoked). (See end of Document for details)*

**Textual Amendments**

**F3** Regs. 12-16 revoked (with application in accordance with [reg. 2](#) of the amending S.S.I.) by [The TSE \(Scotland\) Regulations 2002 \(S.S.I. 2002/255\)](#), [reg. 1\(1\)](#), [sch. 9 Pt. 1](#) (with [reg. 102](#), [sch. 9 Pt. 9](#))

**Production of feedingstuffs containing dicalcium phosphate for feeding to farmed animals**

**F3 14.** .....

**Textual Amendments**

**F3** Regs. 12-16 revoked (with application in accordance with [reg. 2](#) of the amending S.S.I.) by [The TSE \(Scotland\) Regulations 2002 \(S.S.I. 2002/255\)](#), [reg. 1\(1\)](#), [sch. 9 Pt. 1](#) (with [reg. 102](#), [sch. 9 Pt. 9](#))

**Production of feedingstuffs containing hydrolysed protein for feeding to farmed animals**

**F3 15.** .....

**Textual Amendments**

**F3** Regs. 12-16 revoked (with application in accordance with [reg. 2](#) of the amending S.S.I.) by [The TSE \(Scotland\) Regulations 2002 \(S.S.I. 2002/255\)](#), [reg. 1\(1\)](#), [sch. 9 Pt. 1](#) (with [reg. 102](#), [sch. 9 Pt. 9](#))

**Use and storage of feedingstuffs containing fishmeal, dicalcium phosphate or hydrolysed protein**

**F3 16.** .....

**Textual Amendments**

**F3** Regs. 12-16 revoked (with application in accordance with [reg. 2](#) of the amending S.S.I.) by [The TSE \(Scotland\) Regulations 2002 \(S.S.I. 2002/255\)](#), [reg. 1\(1\)](#), [sch. 9 Pt. 1](#) (with [reg. 102](#), [sch. 9 Pt. 9](#))

**Records relating to processed animal protein**

**17.—(1)** Any person who consigns processed animal protein shall keep records for two years from the date of consignment (or, in the case of processed animal protein produced outside the United Kingdom, for two years from the date on which it was imported into the United Kingdom) a record indicating—

- (a) the date of consignment and the nature of the processed animal protein consigned;
- (b) the weight consigned and, unless consigned loose, the number and weight of the packages, pallets or other containers in which it is consigned;
- (c) the destination of the consignment;
- (d) the name and address of the consignee;
- (e) the registration number of the vehicle in which the consignment is transported; and
- (f) the name and address of the operator of that vehicle.



(2) Any person receiving a consignment of processed animal protein shall keep for two years from the date of receipt of the consignment a record indicating—

- (a) the date on which it was received and the nature of the processed animal protein received;
- (b) its weight on receipt and, unless consigned loose, the number and weight of the packages, pallets or other containers in which it was consigned;
- (c) the place from which it was consigned;
- (d) the name and address of the person by whom it was consigned;
- (e) the registration number of the vehicle in which it was consigned; and
- (f) the name and address of the operator of that vehicle.

(3) Any person receiving a consignment of processed animal protein shall keep for two years from the date of any use, disposal or further consignment a record indicating—

- (a) in the case of any use, the nature of the processed animal protein and details of each use, the weight of any part of the consignment incorporated into a product and the nature and date of manufacture of any such product;
- (b) in the case of disposal, the weight disposed of, the date of such disposal, and the place in which, method by which and name of the person by whom it was disposed of; and
- (c) in the case of further consignment, the information required by paragraph (1) above.

(4) Any person who controls a vehicle in which processed animal protein is transported shall keep, for two years from the date on which transport of a particular consignment of such protein commenced (or, in the case of an import, from the date on which that material entered the Scotland), a record of—

- (a) the person and place from which that consignment was transported and the nature of the processed animal protein consigned;
- (b) the date on which it was collected from that person;
- (c) the weight consigned, and, unless consigned loose, the number and weight of the packages, pallets or other containers in which it is consigned;
- (d) the registration number, and the name and address of the driver, of the vehicle in which it was transported and, if the vehicle includes a trailer, the number of the trailer;
- (e) the person and place to which it was to be or was delivered; and
- (f) the date or intended date of delivery to that person.

(5) The driver of a vehicle in which a consignment of processed animal protein is transported shall have a document recording the information required by paragraph (4) above in the possession of that driver at all times when that driver is in charge of that vehicle.

(6) In relation to a vehicle not having a registration number, the requirement to keep a record of the registration number pursuant to paragraphs (1)(e), (2)(e) and (4)(d) above shall be a requirement to keep such details as permit the identification of the vehicle in which the consignment was transported.

### **Powers of entry**

**18.**—(1) An inspector shall, on producing, if required to do so, some duly authenticated document showing the inspector's authority, have the right at all reasonable hours to enter any premises (excluding premises used only as a dwelling) for the purpose of ascertaining whether—

- (a) there is or has been on the premises any contravention of any provisions of these Regulations; or

*Status: Point in time view as at 19/06/2002.*

*Changes to legislation: There are currently no known outstanding effects for the The Processed Animal Protein (Scotland) Regulations 2001 (revoked). (See end of Document for details)*

(b) there is on the premises any evidence of any contravention of any provisions of these Regulations.

(2) If a justice of the peace or sheriff, on sworn information in writing, is satisfied that there is reasonable ground for entry into any premises (excluding premises used only as a dwelling) for any such purpose as is mentioned in paragraph (1) above and that either—

- (a) admission to the premises has been refused, or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier; or
- (b) an 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 the premises are unoccupied or the occupier temporarily absent,

the justice or sheriff may by signed warrant authorise an inspector to enter the premises, if need be by reasonable force.

(3) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it, may be accompanied by such other persons as that inspector considers necessary, and on leaving any unoccupied premises entered by virtue of such a warrant shall leave them as effectively secured against unauthorised entry as prior to entry.

### **Sampling and other checks and examinations**

**19.**—(1) An inspector shall have power to carry out all checks and examinations necessary for the enforcement of these Regulations.

(2) An inspector may—

- (a) take samples (and, if necessary, send the samples for laboratory testing) from any protein, feed or feedingstuff;
- (b) examine any record (including any record held in electronic form) believed by that inspector to be relevant to any checks and examinations under these Regulations;
- (c) seize, detain and require the production of any record which that inspector has reason to believe may be required as evidence in proceedings under any of the provisions of these Regulations;
- (d) be accompanied by such other person as that inspector considers necessary to carry out any checks and examinations under these Regulations;
- (e) inspect any production, storage, transport or other operation carried out under these Regulations and anything used for the marking and identification of protein, feed or feedingstuff; and
- (f) be accompanied by a representative of the Commission acting for any purposes of the Commission related to these Regulations.

### **Obstruction**

**20.**—(1) No person shall—

- (a) intentionally obstruct any person acting in the execution of these Regulations;
- (b) without reasonable cause, fail to give to any person acting in the execution of these Regulations any assistance or information which that person may reasonably require for the purpose of carrying out functions under these Regulations; or
- (c) furnish to any person acting in the execution of these Regulations any information which is known to be false or misleading when it is so furnished.

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

### **Offences by bodies corporate**

**21.**—(1) Where an offence under these Regulations committed by a body corporate or a partnership is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or similar officer of the body corporate, or any person who was purporting to act in any such capacity (or in the case of a partnership, a partner or a person who was purporting to act as such), that officer or person as well as the body corporate or the partnership, as the case may be, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, the provisions of paragraph (1) above shall apply in relation to the acts and defaults of a member in connection with the members' functions of management as if the member were a director of the body corporate.

### **Offences and penalties**

**22.** A person contravening or failing to comply with any provision of these Regulations, shall be guilty of an offence and shall be liable—

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

### **Offences due to fault of another person and defence of due diligence**

**23.**—(1) Where the commission by any person of an offence under any of the provisions of these Regulations is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this paragraph of this regulation whether or not proceedings are taken against the first-mentioned person.

(2) In any proceedings for an offence under any of the provisions of these Regulations, it shall, subject to paragraph (3) below, be a defence for the person charged to prove that all reasonable precautions were taken and all due diligence exercised to avoid the commission of the offence by that person or by a person under that person's control.

(3) If in any case the defence provided by paragraph (2) above involves the allegation that the commission of the offence was due to an act or default of another person, or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless—

- (a) at least seven clear days before the hearing; and
- (b) where that person has previously appeared before a court in connection with the alleged offence, within one month of that first appearance,

that person has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in the possession of the person charged.

(4) In paragraph (3) above any reference to appearing before a court shall be construed as including a reference to being brought before a court.

### **Enforcement**

**24.**—(1) Except as provided in paragraph (2) below, these Regulations shall be enforced by the local authority.

*Status: Point in time view as at 19/06/2002.*

*Changes to legislation: There are currently no known outstanding effects for the The Processed Animal Protein (Scotland) Regulations 2001 (revoked). (See end of Document for details)*

(2) The Scottish Ministers may direct, in relation to cases of a particular description or any particular case, that the duty imposed on a local authority under this regulation shall be discharged by the Scottish Ministers and not by the local authority.

**Service of notices and other documents**

**25.**—(1) Any notice or other document to be given or served on any person under these Regulations may be given or served either—

- (a) by delivering it to that person;
- (b) in the case of an incorporated body, by delivering it to their secretary or clerk at their registered or principal office, or by sending it by post at that office; or
- (c) in the case of any other person, by leaving it, or sending it by post, at the usual or last known address of that person.

(2) Where a notice or other document is to be given or served on the owner, proprietor, operator or occupier of any premises and it is not practicable after reasonable enquiry to ascertain the name and address of the person to or on whom it should be given or served, or the premises are unoccupied, the document may be given or served by addressing it to the person concerned by the description of “owner”, “proprietor”, “operator” or “occupier” of the premises (naming them) and—

- (a) by delivering it to some person on the premises; or
- (b) if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

**Amendment of the Bovine Spongiform Encephalopathy (Feeding Stuffs and Surveillance) Regulations 1999**

<sup>F4</sup>**26.** .....

**Textual Amendments**

**F4** Reg. 26 revoked (with application in accordance with [reg. 2](#) of the amending S.S.I.) by [The TSE \(Scotland\) Regulations 2002 \(S.S.I. 2002/255\)](#), [reg. 1\(1\)](#), [sch. 9 Pt. 1](#) (with [reg. 102](#), [sch. 9 Pt. 9](#))

St Andrew’s House, Edinburgh

*HENRY McLEISH*  
A member of the Scottish Executive

SCHEDULE 1

Regulations 4(2)(a) and 5

CONDITIONS FOR THE TRANSPORT OF FISHMEAL FOR FEEDING TO FARMED ANIMALS OTHER THAN RUMINANTS

**F51.** .....

**Textual Amendments**

**F5** Schs. 1-3 revoked (with application in accordance with [reg. 2](#) of the amending S.S.I.) by [The TSE \(Scotland\) Regulations 2002 \(S.S.I. 2002/255\)](#), [reg. 1\(1\)](#), **sch. 9 Pt. 1** (with [reg. 102](#), [sch. 9 Pt. 9](#))

**F52.** .....

**Textual Amendments**

**F5** Schs. 1-3 revoked (with application in accordance with [reg. 2](#) of the amending S.S.I.) by [The TSE \(Scotland\) Regulations 2002 \(S.S.I. 2002/255\)](#), [reg. 1\(1\)](#), **sch. 9 Pt. 1** (with [reg. 102](#), [sch. 9 Pt. 9](#))

**F53.** .....

**Textual Amendments**

**F5** Schs. 1-3 revoked (with application in accordance with [reg. 2](#) of the amending S.S.I.) by [The TSE \(Scotland\) Regulations 2002 \(S.S.I. 2002/255\)](#), [reg. 1\(1\)](#), **sch. 9 Pt. 1** (with [reg. 102](#), [sch. 9 Pt. 9](#))

**F54.** .....

**Textual Amendments**

**F5** Schs. 1-3 revoked (with application in accordance with [reg. 2](#) of the amending S.S.I.) by [The TSE \(Scotland\) Regulations 2002 \(S.S.I. 2002/255\)](#), [reg. 1\(1\)](#), **sch. 9 Pt. 1** (with [reg. 102](#), [sch. 9 Pt. 9](#))

**F55.** .....

**Textual Amendments**

**F5** Schs. 1-3 revoked (with application in accordance with [reg. 2](#) of the amending S.S.I.) by [The TSE \(Scotland\) Regulations 2002 \(S.S.I. 2002/255\)](#), [reg. 1\(1\)](#), **sch. 9 Pt. 1** (with [reg. 102](#), [sch. 9 Pt. 9](#))

SCHEDULE 2

Regulation 6

CONDITIONS FOR THE PRODUCTION OF DICALCIUM PHOSPHATE FOR FEEDING TO FARMED ANIMALS

**F51.** .....

**Status:** Point in time view as at 19/06/2002.

**Changes to legislation:** There are currently no known outstanding effects for the The Processed Animal Protein (Scotland) Regulations 2001 (revoked). (See end of Document for details)

.....

**Textual Amendments**

**F5** Schs. 1-3 revoked (with application in accordance with [reg. 2](#) of the amending S.S.I.) by [The TSE \(Scotland\) Regulations 2002 \(S.S.I. 2002/255\)](#), [reg. 1\(1\)](#), [sch. 9 Pt. 1](#) (with [reg. 102](#), [sch. 9 Pt. 9](#))

**F52.** .....

.....

**Textual Amendments**

**F5** Schs. 1-3 revoked (with application in accordance with [reg. 2](#) of the amending S.S.I.) by [The TSE \(Scotland\) Regulations 2002 \(S.S.I. 2002/255\)](#), [reg. 1\(1\)](#), [sch. 9 Pt. 1](#) (with [reg. 102](#), [sch. 9 Pt. 9](#))

**F53.** .....

.....

**Textual Amendments**

**F5** Schs. 1-3 revoked (with application in accordance with [reg. 2](#) of the amending S.S.I.) by [The TSE \(Scotland\) Regulations 2002 \(S.S.I. 2002/255\)](#), [reg. 1\(1\)](#), [sch. 9 Pt. 1](#) (with [reg. 102](#), [sch. 9 Pt. 9](#))

SCHEDULE 3

Regulation 7

CONDITIONS FOR THE PRODUCTION OF HYDROLYSED PROTEIN FOR FEEDING TO FARMED ANIMALS

**F51.** .....

.....

**Textual Amendments**

**F5** Schs. 1-3 revoked (with application in accordance with [reg. 2](#) of the amending S.S.I.) by [The TSE \(Scotland\) Regulations 2002 \(S.S.I. 2002/255\)](#), [reg. 1\(1\)](#), [sch. 9 Pt. 1](#) (with [reg. 102](#), [sch. 9 Pt. 9](#))

**F52.** .....

.....

**Textual Amendments**

**F5** Schs. 1-3 revoked (with application in accordance with [reg. 2](#) of the amending S.S.I.) by [The TSE \(Scotland\) Regulations 2002 \(S.S.I. 2002/255\)](#), [reg. 1\(1\)](#), [sch. 9 Pt. 1](#) (with [reg. 102](#), [sch. 9 Pt. 9](#))

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations give effect in Scotland to Council Decision [2000/766/EC](#) (O.J. No. L 306, 7.12.00, p.32) concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein as amended by Commission Regulation (EC) [No. 1326/2001](#) (O.J. No. L 177, 30.6.01, p.60), and Commission Decision [2001/9/EC](#) (O.J. No. L 2, 5.1.01, p.32) concerning control measures required for the implementation of Council Decision [2000/766/EC](#) as amended by Commission Decision [2001/165/EC](#) (O.J. No. L 58, 28.2.01, p.43). Regulation 2 contains definitions. These include a definition of farmed animal as an animal which is kept, fattened or bred for the production of food. Regulation 3 provides that the Regulations apply in relation to processed animal protein intended for the feeding of farmed animals, and that the Regulations do not apply in relation to catering waste or eggs and egg products. Subject to exceptions, regulation 4 prohibits the feeding of processed animal protein to farmed animals.

Regulation 5 and Schedule 1 make provision in relation to the production of fishmeal for feeding to farmed animals other than ruminants. This includes provision for the approval of premises, use of premises and transport, including intermediate storage of fishmeal from approved premises. Regulations 6 and 7 and Schedules 2 and 3 respectively make similar provision in relation to the production, and approval of premises for the production, of dicalcium phosphate and hydrolysed protein for feeding to farmed animals.

Regulation 8 makes provision for approval of premises, suspension and withdrawal of approval. Regulation 9 makes provision for the sale or supply of processed animal protein intended for the feeding of farmed animals. Regulation 10 makes provision for the trade with other member States and regulation 11 makes provision for trade with third countries.

Regulation 12 makes provision for the manufacture of feedingstuffs. Regulation 13 makes provision for the production of feedingstuffs containing fishmeal for feeding to farmed animals. Regulation 14 makes provision for the production of feedingstuffs containing dicalcium phosphate for feeding to farmed animals. Regulation 15 makes provision for the production of feedingstuffs containing hydrolysed protein for feeding to farmed animals. Regulation 16 makes provision for the use and storage of feedingstuffs containing fishmeal, dicalcium phosphate or hydrolysed protein.

Regulation 17 imposes requirements in respect of records relating to processed animal protein and regulation 18 makes provision in respect of powers of entry. Regulation 19 provides for sampling and other checks and examinations. Regulation 20 provides offences of obstruction and regulation 21 makes provision for offences by bodies corporate. Regulation 22 makes provision for offences and penalties. Regulation 23 makes provision for offences due to the fault of another person and the defence of due diligence. Regulation 24 makes provision for enforcement of the Regulations and regulation 25 makes provision for the service of notices and other documents and regulation 26 amends the Bovine Spongiform Encephalopathy (Feeding Stuffs and Surveillance) Regulations 1999.

A Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies can be obtained from the Scottish Executive Rural Affairs Department, Pentland House, 47 Robb's Loan, Edinburgh EH14 1TY.

**Status:**

Point in time view as at 19/06/2002.

**Changes to legislation:**

There are currently no known outstanding effects for the The Processed Animal Protein (Scotland) Regulations 2001 (revoked).