
SCOTTISH STATUTORY INSTRUMENTS

2001 No. 276

The Processed Animal Protein (Scotland) Regulations 2001

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(1), in accordance with article 5(2) of Council Directive 90/667/EEC(2) 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(3), 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;

“the Commission Decision” means Commission Decision 2001/9/EC(4) 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(5);

“the Council Decision” means Council Decision 2000/766/EC(6) 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(7);

“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;

(1) S.I.1999/646, as amended, as regards Scotland, by S.S.I. 2001/171.

(2) O.J. No. L 363, 27.12.90, p.51.

(3) 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).

(4) O.J. No. L 2, 5.1.01, p.32.

(5) O.J. No. L 58, 28.2.01, p.43.

(6) O.J. No. L 306, 7.12.00, p.32.

(7) O.J. No. L 177, 30.6.01, p.60.

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994⁽⁸⁾;

“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⁽⁹⁾, which has been recorded and is capable of being reproduced.

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

4.—(1) Subject to paragraph (2) below, no person shall feed any processed animal protein to a farmed animal.

(2) The prohibition in paragraph (1) above shall not apply to—

- (a) the feeding to farmed animals other than ruminants of fishmeal—
 - (i) produced in Scotland in premises approved and used as mentioned in regulation 5, which are used for the production of the fishmeal in accordance with that approval, and transported and intermediately stored in accordance with the conditions specified in paragraphs 1, 2 and 3 of Schedule 1;
 - (ii) produced in another part of the United Kingdom in premises approved by the competent authority of that part in accordance with Annex I to the Commission

⁽⁸⁾ 1994 c. 39.

⁽⁹⁾ 2000 c. 7; section 15(1) contains a definition of electronic communication.

- Decision which are used for the production of the fishmeal in accordance with that approval and transported and intermediately stored in accordance with the conditions specified in that Annex;
- (iii) produced in another member State in premises approved by the competent authority of that member State in accordance with Annex I to the Commission Decision which are used for the production of the fishmeal in accordance with that approval and transported and intermediately stored in accordance with the conditions specified in that Annex; or
 - (iv) produced in a third country which, before being sold or supplied in Scotland, has been analysed in accordance with Commission Directive 98/88/EC⁽¹⁰⁾ and is transported directly from the border inspection post in accordance with the conditions specified in paragraphs 4 and 5 of Schedule 1 and not intermediately stored otherwise than in accordance with the conditions of paragraph 3 of that Schedule;
- (b) the feeding to farmed animals of gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive 70/524/EEC as amended⁽¹¹⁾ concerning additives in feedingstuffs;
- (c) the feeding to farmed animals of dicalcium phosphate—
- (i) produced in Scotland in premises approved and used as mentioned in regulation 6;
 - (ii) produced in another part of the United Kingdom in premises approved by the competent authority of that part in accordance with the Commission Decision and used in accordance with that approval; or
 - (iii) produced in another member State in premises approved by the competent authority of that member State in accordance with the Commission Decision and used in accordance with that approval;
- (d) the feeding to farmed animals of hydrolysed proteins—
- (i) produced in Scotland in premises approved and used as mentioned in regulation 7;
 - (ii) produced in another part of the United Kingdom in premises approved by the competent authority of that part in accordance with the Commission Decision and used in accordance with that approval; or
 - (iii) produced in another member State in premises approved by the competent authority of that member State in accordance with the Commission Decision and used in accordance with that approval; or
- (e) the feeding to farmed animals of milk and milk products.

Production of fishmeal for feeding to farmed animals other than ruminants

5.—(1) No person shall use any premises for the production of fishmeal for feeding to farmed animals other than ruminants unless—

⁽¹⁰⁾ O.J. No. L 318, 27.11.88, p.45.

⁽¹¹⁾ O.J. No. L 270, 14.12.70, p.1, as amended by Council Directive 82/471/EEC (O.J. No. L 231 21.07.82 p.8), Council Directive 84/587/EEC (O.J. No. L 319 08.12.84 p.13), Council Directive 95/69/EC (O.J. No. L 332 31.12.95 p.15), Council Directive 96/25/EC (O.J. No. L 125 23.05.96 p.35), Council Directive 96/51/EC (O.J. No. L 235 17.09.96 p.39), Commission Directive 96/66/EC (O.J. No. L 272 25.10.96 p.32), Commission Directive 97/6/EC (O.J. No. L 035 05.02.97 p.11), Commission Directive 97/72/EC (O.J. No. L 351 23.12.97 p.55), Commission Directive 98/19/EC (O.J. No. L 096 28.03.98 p.39), Council Directive 98/92/EC (O.J. No. L 346 22.1.98 p.49), Commission Regulation (EC) No. 2786/98 (O.J. No. L 347 23.12.98 p.25), Commission Regulation (EC) No. 2788/98 (O.J. No. L 347 23.12.98 p.31), Council Regulation (EC) No. 2821/98 (O.J. No. L 351 29.12.98 p.4), Council Directive 99/20/EC (O.J. No. L 80 25.03. 99 p.20), and Commission Regulation (EC) No. 45/99 (O.J. No. L 006 12.01.99 p.3).

- (a) the premises are approved for this purpose by the Scottish Ministers under this regulation; and
 - (b) transport and intermediate storage of fishmeal from the premises is in accordance with the conditions specified in paragraphs 1, 2 and 3 of Schedule 1.
- (2) On an application made to them under this regulation for the approval of premises for the production of fishmeal for feeding to farmed animals other than ruminants, the Scottish Ministers shall approve the premises for this purpose if, following an inspection of the premises by a veterinary inspector, they are satisfied that—
- (a) the premises will be dedicated only to fishmeal production;
 - (b) the premises are ABPO approved; and
 - (c) the person who will use the premises for the production of fishmeal for feeding to farmed animals other than ruminants will maintain and use the premises in accordance with the ABPO approval and ensure that fishmeal is transported from the premises and intermediately stored in accordance with the conditions specified in paragraphs 1, 2 and 3 of Schedule 1.
- (3) The person carrying on any business at premises approved under this regulation shall ensure that—
- (a) the production of fishmeal at the premises is in accordance with the approval and in compliance with the provisions of these Regulations and Schedule 1 to these Regulations subject to which the approval is granted;
 - (b) any person employed by such a person, and any person invited to the premises, complies with those provisions; and
 - (c) any inspector, and any person acting under the responsibility of an inspector, is provided with adequate facilities so as to enable the carrying out of the functions of the inspector under these Regulations in relation to the premises and that such reasonable assistance is given and access to such records (including any records held in electronic form) is given as may at any reasonable time be required for that purpose.

Production of dicalcium phosphate for feeding to farmed animals

6.—(1) No person shall use any premises for the production of dicalcium phosphate for feeding to farmed animals unless—

- (a) the premises are approved for this purpose by the Scottish Ministers under this regulation; and
 - (b) the premises are used for this purpose in accordance with the conditions specified in Schedule 2.
- (2) On an application made to them under this regulation for the approval of premises for the production of dicalcium phosphate for feeding to farmed animals, the Scottish Ministers shall approve the premises for this purpose if, following an inspection of the premises by a veterinary inspector, they are satisfied that—
- (a) the premises are ABPO approved; and
 - (b) the person who will use the premises for the production of dicalcium phosphate for feeding to farmed animals will be able to maintain and use the premises in accordance with the conditions specified in Schedule 2.
- (3) The person carrying on any business at premises approved under this regulation shall ensure that—

- (a) the production of dicalcium phosphate at the premises is in accordance with the approval and in compliance with the provisions of these Regulations and Schedule 2 to these Regulations subject to which the approval is granted;
- (b) any person employed by such a person, and any person invited to the premises, complies with those provisions; and
- (c) any inspector, and any person acting under the responsibility of an inspector, is provided with adequate facilities so as to enable the carrying out of the functions of the inspector under these Regulations in relation to the premises and that such reasonable assistance is given and access to such records (including any records held in electronic form) is given as may at any reasonable time be required for that purpose.

Production of hydrolysed protein for feeding to farmed animals

7.—(1) No person shall use any premises for the production of hydrolysed protein for feeding to farmed animals unless—

- (a) the premises are approved for this purpose by the Scottish Ministers under this regulation; and
- (b) the premises are used for this purpose in accordance with the conditions specified in Schedule 3.

(2) On an application made to them under this regulation for the approval of premises for the production of hydrolysed protein for feeding to farmed animals, the Scottish Ministers shall approve the premises for this purpose if, following an inspection of the premises by a veterinary inspector, they are satisfied that—

- (a) the premises will be dedicated only to production of hydrolysed protein for feeding to farmed animals;
- (b) the premises are ABPO approved for the production of hydrolysed protein derived from fish, feather, hides and skin; and
- (c) the person who will use the premises for the production of hydrolysed protein for feeding to farmed animals will be able to maintain and use the premises in accordance with the conditions specified in Schedule 3.

(3) The person carrying on any business at premises approved under this regulation shall ensure that—

- (a) the production of hydrolysed protein at the premises is in accordance with the approval and in compliance with the provisions of these Regulations and Schedule 3 to these Regulations subject to which the approval is granted;
- (b) any person employed by such a person, and any person invited to the premises, complies with those provisions; and
- (c) any inspector, and any person acting under the responsibility of an inspector, is provided with adequate facilities so as to enable the carrying out of the functions of the inspector under these Regulations in relation to the premises and that such reasonable assistance is given and access to such records (including any records held in electronic form) is given as may at any reasonable time be required for that purpose.

Approval of premises, suspension and withdrawal of approval

8.—(1) An application for approval of premises under regulations 5, 6 or 7—

- (a) for the production of fishmeal for feeding to farmed animals other than ruminants;
- (b) for the production of dicalcium phosphate for feeding to farmed animals; or

(c) for the production of hydrolysed protein for feeding to farmed animals, shall be made in writing to the Scottish Ministers by or on behalf of the person carrying on or proposing to carry on the business at the premises to which the application relates.

(2) The Scottish Ministers shall notify the applicant in writing of their decision on an application made in accordance with this regulation and, if any such application is refused, shall notify the applicant in writing of the reasons for the refusal.

(3) An approval of premises under regulations 5, 6 or 7 shall specify—

- (a) the name and address of the person to whom the approval is granted and the address of the approved premises;
- (b) the use of the premises for the description of production specified at paragraph (1)(a) to (c) above for which the approval is granted; and
- (c) the conditions subject to which the approval is granted.

(4) If in relation to any use of premises approved under these Regulations it appears to the Scottish Ministers that—

- (a) the premises are not ABPO approved;
- (b) the premises are being used otherwise than in accordance with the approval under regulations 5, 6 or 7 above;
- (c) any condition specified in a Schedule which relates to the approval of the premises under regulations 5, 6 or 7 above has not been complied with;
- (d) inspection of the premises for the purposes of these Regulations is being hampered; or
- (e) the production of fishmeal, dicalcium phosphate or hydrolysed protein at the premises in respect of which it is approved is no longer being carried on there,

they may decide to suspend or withdraw the approval of the premises relating to that use.

(5) Where the Scottish Ministers decide to suspend or withdraw an approval relating to the use of premises they shall give notice of the suspension or withdrawal to the person carrying on the business at the premises (or, in the case of a suspension or withdrawal under paragraph (4)(e) above, to the person formerly carrying on the business at the premises), and to any other person who appears to the Scottish Ministers to be in current occupation of the premises.

(6) A notice of suspension or withdrawal of an approval shall include the following information—

- (a) a summary of the decision of the Scottish Ministers to suspend or withdraw the approval of the premises and the use of the premises for the description of production for which the approval is suspended or withdrawn;
- (b) the reason for the suspension or withdrawal; and
- (c) the date on which the suspension or withdrawal takes effect (which may be the same date as the date on which the notice is issued).

(7) The Scottish Ministers shall not withdraw an approval unless—

- (a) it appears to the Scottish Ministers that—
 - (i) the person using or last using the premises for the description of production for which the approval is granted no longer wishes to carry on that use of the premises;
 - (ii) the description of production for which the premises are approved is no longer being carried on there;
 - (iii) if the approval is suspended, the person formerly using the premises, or any other person who it appears to the Scottish Ministers would use the premises for the description of production for which the approval is granted, will not use the premises

in accordance with the approval, or one or more of the conditions specified in the Schedule which relates to the approval; or

(iv) if the approval is not already suspended, a suspension would not enable the person using the premises for the description of production for which the approval is granted from taking action within a reasonable period after the suspension to enable the premises to be used in accordance with the approval, or one or more of the conditions specified in the Schedule which relates to the approval; and

(b) notice has been given to the person using the premises for the description of production for which the approval is granted or, where the premises are not being used for that purpose, to the person last known to the Scottish Ministers to be using the premises for that purpose, of the intention to withdraw the approval and any representations made by that person in relation to that intention have been taken into account.

(8) Where—

(a) a suspension of an approval of premises under this regulation has taken effect; or

(b) an approval is withdrawn,

the premises shall be treated as if they were not approved for the description of production for which the approval was granted and in relation to which the approval is suspended or withdrawn.

(9) The Scottish Ministers shall lift a suspension of an approval if satisfied that—

(a) the reason for the suspension no longer applies; and

(b) the person who would use the premises for the description of production for which the approval is granted will use the premises in accordance with the approval and the conditions specified in the Schedule which relates to the approval.

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

9.—(1) Subject to paragraph (2) below, no person shall sell or supply any processed animal protein intended for the feeding of any farmed animal.

(2) The prohibitions in paragraph (1) above shall not apply to the sale or supply of—

(a) fishmeal referred to in regulation 4(2)(a) for feeding to farmed animals other than ruminants;

(b) gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive [70/524/EEC](#) as amended concerning additives in feedingstuffs;

(c) dicalcium phosphate referred to in regulation 4(2)(c) for feeding to farmed animals;

(d) hydrolysed protein referred to in regulation 4(2)(d) for feeding to farmed animals; or

(e) milk and milk products.

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](#)(12).
- (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](#)(13) as applied for the purposes of the Commission Decision, of the place of destination 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;

(12) 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).

(13) O.J. No. L 221, 9.8.1991, p.30.

- (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;
 - (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.

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](#)(14).

Manufacture of feedingstuffs

12.—(1) Subject to paragraph (2) below, no person shall manufacture any feedingstuff, including petfood, destined for animals other than farmed animals which contains processed animal protein, in premises which prepare feed exclusively for those animals.

(2) If any feedingstuff is produced with no processed animal protein other than fishmeal, dicalcium phosphate or hydrolysed protein, it may be manufactured in premises which prepare feed for farmed animals other than ruminants.

Production of feedingstuffs containing fishmeal for feeding to farmed animals

13.—(1) Subject to paragraph (3) below, no person shall use any premises for the production of feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants if the premises are used for the preparation of feedingstuffs for ruminant animals.

(14) O.J. No. L 24, 30.1.98, p.9.

(2) For the purpose of paragraph 6 of Annex 1 to the Commission Decision, premises manufacturing animal feed which are not used for the preparation of feedingstuffs for ruminant animals are authorised for the production of feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants.

(3) The prohibition in paragraph (1) above shall not apply to premises used for the preparation of feedingstuffs for ruminant animals which are used for the production of feedingstuffs containing fishmeal for feeding to other animal species if–

- (a) the fishmeal satisfies the requirements of regulation 4(2)(a);
- (b) the transport and storage of feed material destined for ruminant animals is completely separate from feed material prohibited for feeding to ruminant animals;
- (c) the storage, transport manufacturing and packaging facilities for compound feedingstuffs destined for ruminant animals is completely separate; and
- (d) the person using the premises for the preparation of feedingstuffs for ruminant animals which are used for the production of feedingstuffs containing fishmeal for feeding to other animal species carries out routine tests on the feedingstuffs destined for ruminant animals to ensure that any processed animal protein the feeding of which to farmed animals is prohibited by regulation 4 above are not present in those feedingstuffs.

(4) No person shall use any premises for the production of feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants unless any feedingstuffs containing fishmeal produced at the premises are labelled clearly to indicate the words “it contains fishmeal – cannot be fed to ruminant animals”.

(5) No person shall use any vehicle for the transport of bulk feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants at the same time as it is used for the transport of any feed for ruminant animals.

(6) Where a vehicle used for the transport of bulk feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants is subsequently used for the transport of other products, the person using the vehicle for the transport of the bulk feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants shall ensure it is thoroughly cleaned and inspected before and after the transport of those bulk feedingstuffs.

Production of feedingstuffs containing dicalcium phosphate for feeding to farmed animals

14.—(1) Subject to paragraph (3) below, no person shall use any premises for the production of feedingstuffs containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants if the premises are used for the preparation of feedingstuffs for ruminant animals.

(2) For the purpose of paragraph 3 of Annex II to the Commission Decision, premises manufacturing animal feed which are not used for the preparation of feedingstuffs for ruminant animals are authorised for the production of feedingstuffs containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants.

(3) The prohibition in paragraph (1) above shall not apply to premises used for the preparation of feedingstuffs for ruminant animals which are used for the production of feedingstuffs containing dicalcium phosphate from defatted bones for other animal species if–

- (a) the dicalcium phosphate satisfies the requirements of regulation 4(2)(c);
- (b) the transport and storage of feed material destined for ruminant animals is completely separate from feed material prohibited for feeding to ruminant animals;
- (c) the storage, transport manufacturing and packaging facilities for compound feedingstuffs destined for ruminant animals is completely separate; and

(d) the person using the premises for the preparation of feedingstuffs for ruminant animals which are used for the production of feedingstuffs containing dicalcium phosphate from defatted bones for other animal species carries out routine tests on the feedingstuffs destined for ruminant animals to ensure that any processed animal protein the feeding of which to farmed animals is prohibited by regulation 4 are not present in those feedingstuffs.

(4) No person shall use any premises for the production of feedingstuffs containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants unless any feedingstuffs containing dicalcium phosphate from defatted bones produced at the premises are labelled clearly to indicate the words “it contains dicalcium phosphate from defatted bones - cannot be fed to ruminant animals”.

(5) No person shall use any vehicle for the transport of bulk feedingstuffs containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants at the same time as it is used for the transport of any feed for ruminant animals.

(6) Where a vehicle used for the transport of bulk feedingstuffs containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants is subsequently used for the transport of other products, the person using the vehicle for the transport of the bulk feedingstuffs containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants shall ensure it is thoroughly cleaned and inspected before and after the transport of those bulk feedingstuffs.

Production of feedingstuffs containing hydrolysed protein for feeding to farmed animals

15.—(1) Subject to paragraph (3) below, no person shall use any premises for the production of feedingstuffs containing hydrolysed protein for feeding to farmed animals other than ruminants if the premises are used for the preparation of feedingstuffs for ruminant animals.

(2) For the purpose of paragraph 2 of Annex III to the Commission Decision, premises manufacturing animal feed which are not used for the preparation of feedingstuffs for ruminant animals are authorised for the production of feedingstuffs hydrolysed protein for feeding to farmed animals other than ruminants.

(3) The prohibition in paragraph (1) above shall not apply to premises used for the preparation of feedingstuffs for ruminant animals which are used for the production of feedingstuffs containing hydrolysed protein for other animal species if—

- (a) the hydrolysed protein satisfies the requirements of regulation 4(2)(d);
- (b) the transport and storage of feed material destined for ruminant animals is completely separate from feed material prohibited for feeding to ruminant animals;
- (c) the storage, transport manufacturing and packaging facilities for compound feedingstuffs destined for ruminant animals is completely separate; and
- (d) the person using the premises for the preparation of feedingstuffs for ruminant animals which are used for the production of feedingstuffs containing hydrolysed protein for other animal species carries out routine tests on the feedingstuffs destined for ruminant animals to ensure that any processed animal protein the feeding of which to farmed animals is prohibited by regulation 4 are not present in those feedingstuffs.

(4) No person shall use any premises for the production of feedingstuffs containing hydrolysed protein for feeding to farmed animals other than ruminants unless any feedingstuffs containing hydrolysed protein produced at the premises are labelled clearly to indicate the words “it contains hydrolysed protein - cannot be fed to ruminant animals”.

(5) No person shall use any vehicle for the transport of bulk feedingstuffs containing hydrolysed protein for feeding to farmed animals other than ruminants at the same time as it is used for the transport of any feed for ruminant animals.

(6) Where a vehicle used for the transport of bulk feedingstuffs containing hydrolysed protein for feeding to farmed animals other than ruminants is subsequently used for the transport of other products, the person using the vehicle for the transport of the bulk feedingstuffs containing hydrolysed protein for feeding to farmed animals other than ruminants shall ensure it is thoroughly cleaned and inspected before and after the transport of those bulk feedingstuffs.

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

16.—(1) Subject to paragraph (2) below, no person shall use or store any feedingstuff, other than petfood referred to in chapter 4 of Annex I to Council Directive [92/118/EEC](#) as amended, containing any—

- (a) fishmeal;
- (b) dicalcium phosphate derived from defatted bones; or
- (c) hydrolysed protein,

on a farm where ruminant animals are kept, fattened or bred for the production of food.

(2) Paragraph (1) above shall not apply to the use or storage of any feedingstuff containing any fishmeal, dicalcium phosphate derived from defatted bones or hydrolysed protein on any farm where ruminant animals are kept if an inspector is satisfied that measures implemented on the farm are sufficient to prevent the feedingstuff being fed to those ruminant animals.

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
- (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.

(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

26.—(1) The Bovine Spongiform Encephalopathy (Feeding Stuffs and Surveillance) Regulations 1999(15) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1), after the definition of “premises” there shall be inserted the following definition—

““processed animal protein” has the same meaning as in the Processed Animal Protein (Scotland) Regulations 2001;”.

(3) In regulation 3, for paragraph (1) there shall be substituted the following paragraph—

“(1) An authorised officer shall, on producing if so required, a duly authenticated document showing the authority of that officer, have the right at all reasonable hours to enter any premises and there take such samples—

- (a) as are necessary to enable the Official ELISA tests for the identification of ruminant protein in feeding stuff intended for ruminants to be carried out; or
- (b) of any protein, feed or feeding stuff, whether or not intended for ruminants, as are necessary to enable—
 - (i) the Official ELISA tests to be carried out for the identification of ruminant protein; or
 - (ii) tests to be carried out for the identification of processed animal protein, or the identification of any type or description of processed animal protein, in the protein, feed or feeding stuff.”.

St Andrew’s House,
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27th July 2001

HENRY McLEISH
A member of the Scottish Executive