

2015 No. 393

ANIMALS

ANIMAL HEALTH

**The Animal By-Products (Miscellaneous Amendments)
(Scotland) Regulations 2015**

Made - - - - *18th November 2015*
Laid before the Scottish Parliament *20th November 2015*
Coming into force - - *1st January 2016*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and all other powers enabling them to do so.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Animal By-Products (Miscellaneous Amendments) (Scotland) Regulations 2015 and come into force on 1st January 2016.

(2) These Regulations extend to Scotland only.

Amendment of the Animal By-Products (Enforcement) (Scotland) Regulations 2013

2.—(1) The Animal By-Products (Enforcement) (Scotland) Regulations 2013(b) are amended in accordance with this regulation.

(2) After regulation 7 (collection centres for feeding in relation to Article 18(1) of the EU Control Regulation(c)), insert—

“Disposal by means referred to in Article 19(1)(b) of the EU Control Regulation

7A.—(1) Subject to paragraph (2), for the purposes of Article 19(1)(b) of the EU Control Regulation (disposal by burning or by burial on site or by other means), the disposal by means referred to in Article 19(1)(b) of Category 1 material referred to in Article 8(a)(v) and (b)(ii) of that Regulation, Category 2 and Category 3 materials in remote areas is authorised.

(a) 1972 c.68 (“the 1972 Act”). Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”), section 27(4)). Section 2(2) was also amended by the 2006 Act, section 27(1)(a) and by the European Union (Amendment) Act 2008 (c.7) (“the 2008 Act”), Schedule, Part 1. The functions conferred upon the Minister of the Crown under the 1972 Act, section 2(2), insofar as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of the 1998 Act, section 53.

(b) S.S.I. 2013/307, to which there are amendments not relevant to these Regulations.

(c) OJ L 300, 14.11.2009, p.1, as last amended by Council Regulation (EU) No 1385/2013 (OJ L 354, 28.12.2013, p.86).

(2) Paragraph (1) does not apply to material originating from fish belonging to the family *Salmonidae*.”.

(3) In regulation 25(3) (powers of entry and additional powers), for “paragraph (2)(f)(ii)” substitute “paragraph (2)(f)(i)”.

(4) For regulation 32 (small quantities transitional provision), substitute—

“Small quantities

32.—(1) By way of derogation from Article 14 of the EU Control Regulation (disposal and use of Category 3 material), the collection, transport and disposal of small quantities of Category 3 materials as mentioned in Article 10(f) of that Regulation (products or foodstuffs of animal origin no longer intended for human consumption), by means referred to in Article 19(1)(d) of that Regulation (means other than burning or burial on site), is authorised under Article 15 of the EU Implementing Regulation (special rules on collection and disposal)(a), where the requirements of paragraph (2) are satisfied.

(2) The requirements are—

- (a) the material and its collection, transportation and disposal satisfies paragraphs (a) and (b) of Chapter IV of Annex VI to the EU Implementing Regulation;
- (b) regular checks have been carried out in accordance with paragraph (c) of Chapter IV of Annex VI to that Regulation; and
- (c) the means of disposal for such material, in addition to the means specified in Article 14 of the EU Control Regulation, are disposal—
 - (i) in an authorised landfill without prior processing; or
 - (ii) where Article 21 of the EU Control Regulation (collection and identification as regards category and transport) is satisfied, to a biogas or composting plant for transformation in accordance with an authorisation under point 2 of Section 2 of Chapter III of Annex V to the EU Implementing Regulation.”.

(5) In Schedule 1 (animal by-product requirements), in item 6 (disposal and use of Category 3 material), for the final entry in column 3 substitute “Article 15 of the EU Implementing Regulation (special rules on collection and disposal) as read with regulation 32 of these Regulations (small quantities)”.

Amendment of the Transport of Animals (Cleansing and Disinfection) (Scotland) Regulations 2005

3. For regulation 5(2) of the Transport of Animals (Cleansing and Disinfection) (Scotland) Regulations 2005 (disposal of material after cleansing)(b), substitute—

“(2) This regulation shall not apply to any material required to be disposed of in accordance with—

- (a) Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation)(c);
- (b) Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules

(a) Article 15 of the EU Implementing Regulation was amended by the insertion of a final paragraph by Commission Regulation (EU) 2015/9 amending Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive. That Regulation also repealed Article 36(3) of the EU Implementing Regulation.

(b) S.S.I. 2005/653, to which there are amendments not relevant to these Regulations.

(c) OJ L 300, 14.11.2009, p.1, as last amended by Council Regulation (EU) No 1385/2013 (OJ L 354, 28.12.2013, p.86).

as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive^(a); and

(c) the Animal By-Products (Enforcement) (Scotland) Regulations 2013.”.

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A member of the Scottish Government

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18th November 2015

^(a) OJ L 54, 26.2.2011, p.1, as most recently amended by Commission Regulation (EU) 2015/9 (OJ L 3, 7.1.2015, p.10).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Animal By-Products (Enforcement) (Scotland) Regulations 2013 (“the 2013 Regulations”) and the Transport of Animals (Cleansing and Disinfection) (Scotland) Regulations 2005 (“the 2005 Regulations”).

Regulation 2(2) authorises the disposal of animal by-product materials referred to in Article 19(1)(b) of Regulation (EC) No 1069/2009, but provides that it shall not apply to material originating from fish belonging to the family *Salmonidae*.

Regulation 2(3) amends a cross-reference in the 2013 Regulations.

Regulation 2(4) amends the small quantities provision in regulation 32 of the 2013 Regulations in accordance with Commission Regulation (EU) 2015/9. In consequence, Regulation 2(5) amends Schedule 1 to the 2013 Regulations, which sets out those animal by-product requirements the breach of which is an offence under regulation 18 of the 2013 Regulations.

Regulation 3 amends the 2005 Regulations in order to update legislative references.

A business and regulatory impact assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies can be obtained from the Scottish Government Directorate for Agriculture, Food and Rural Communities, Animal Health and Welfare Division, Saughton House, Broomhouse Drive, Edinburgh EH11 3XD.

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