
WELSH STATUTORY INSTRUMENTS

2006 No. 1293

The Animal By-Products (Wales) Regulations 2006 (revoked)

PART 4

Approved premises and the competent authority

The competent authority

13.—(1) The National Assembly is the competent authority for the purposes of granting approvals under—

- (a) Chapter III and Chapter IV of the Community Regulation;
- (b) the Annexes to that Regulation;
- (c) Commission Regulation (EC) No. 92/2005; and
- (d) these Regulations.

(2) It is also the competent authority for—

- (a) checking intermediate plants in accordance with Articles 10(2)(d) and 10(3)(d) of the Community Regulation;
- (b) checking storage plants in accordance with Article 11(2)(b) of that Regulation;
- (c) validating and checking Category 1 and Category 2 processing plants in accordance with Articles 13(2)(c) and 13(2)(e) of that Regulation, supervising Category 1, 2 and 3 processing plants in accordance with Annex V, Chapter IV, paragraph 1 to that Regulation, and validating those plants in accordance with Annex V, Chapter V, paragraph 1 to that Regulation;
- (d) authorising the temporary use of a Category 2 processing plant for the processing of Category 1 material in accordance with Annex VI, Chapter 1, paragraph 2 to that Regulation;
- (e) checking olochemical plants in accordance with Article 14(2)(d) of that Regulation and receiving records presented in accordance with Article 14(2)(c) of that Regulation;
- (f) checking biogas plants and composting plants in accordance with Article 15(2)(c) of that Regulation;
- (g) validating and checking Category 3 processing plants in accordance with Article 17(2)(c) and 17(2)(e) of that Regulation;
- (h) authorising the temporary use of a Category 3 processing plant for the processing of Category 1 or Category 2 material in accordance with Annex VII, Chapter 1, paragraph 2 to that Regulation, or the use of a Category 2 processing plant as a collection centre in accordance with Annex IX, paragraph 3 to that Regulation;
- (i) receiving records relating to a petfood or technical plant presented in accordance with Article 18(2)(a)(iv) of that Regulation;
- (j) recognising laboratories for the purposes of analysing samples from petfood and technical plants in accordance with Article 18(2)(a)(iii) of that Regulation, receiving information

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- under Article 18(2)(a)(v) of that Regulation, and checking petfood plants and technical plants in accordance with Article 18(2)(b) of that Regulation;
- (k) supervising reprocessing in accordance with Article 25(2)(c) and (d) of that Regulation;
 - (l) carrying out inspection and supervision in accordance with Article 26 of that Regulation;
 - (m) giving instructions for the purposes of Annex II, Chapter II, paragraph 4 to that Regulation;
 - (n) receiving commercial documents presented in accordance with or under Annex II, Chapter V to that Regulation;
 - (o) authorising a representative point in the combustion chamber of an incinerator in accordance with Annex IV, Chapter II, paragraph 3 to that Regulation, and inspecting incinerators in accordance with Annex IV, Chapter VII, paragraph 8 to that Regulation ^{M1}; and
 - (p) authorising specific requirements in accordance with Annex VI, Chapter II, Part C, paragraph 14 to that Regulation ^{M2}.

(3) The use of the processes described in Annexes I to V to Commission Regulation (EC) No. 92/2005 is authorised in accordance with Articles 1 and 2 of that Regulation and the National Assembly is the competent authority for the purposes of ensuring that Article 5(3) of that Regulation is complied with.

Marginal Citations

M1 Chapter VII was added to Annex IV by Commission Regulation (EC) No. 808/2003.

M2 This paragraph was added by Commission Regulation (EC) No. 808/2003.

Approval of premises

14.—(1) No person may operate any—

- (a) category 1, 2 or 3 intermediate plant;
- (b) storage plant;
- (c) incineration or co-incineration plant;
- (d) category 1 or category 2 processing plant;
- (e) category 2 or category 3 oleochemical plant;
- (f) biogas or composting plant;
- (g) category 3 processing plant;
- (h) petfood or technical plant; or
- (i) plant that uses any of the processes described in Annexes I to V to Commission Regulation (EC) No. 92/2005,

for the storage, processing, treatment, disposal or use of animal by-products or processed products unless —

- (j) the premises;
- (k) the operator of the premises; and
- (l) the equipment (if any);

are approved for that purpose in accordance with the Community Regulation and these Regulations.

(2) The operator of approved premises must ensure that—

- (a) the premises are maintained and operated in accordance with—

- (i) the conditions of approval, and
 - (ii) the requirements of the Community Regulation and these Regulations; and
- (b) any person employed by the operator, and any person permitted to enter the premises, complies with those conditions and requirements.

(3) The operator of a high capacity incineration or co-incineration plant that incinerates or co-incinerates material referred to in Article 4(1)(b) of the Community Regulation must dispose of the ash in accordance with Annex IV, Chapter VII, paragraph 4 of the Community Regulation in the same way as the operator of a low capacity incineration plant; but for the avoidance of doubt, this provision does not apply in relation to the incineration or co-incineration of a product derived from material referred to in Article 4(1)(b) of the Community Regulation that has already been processed or treated in accordance with the Community Regulation.

(4) Any person who fails to comply with any provision of this regulation is guilty of an offence.

Biogas and composting plants

15.—(1) The provisions of Part I of Schedule 1 to these Regulations apply in a biogas and composting plant used for treating any animal by-products (including catering waste) in addition to the requirements of paragraphs 1 to 11 of Annex VI, Chapter II to the Community Regulation.

(2) In accordance with Article 6(2)(g) of and Annex VI, Chapter II, paragraph 14 to the Community Regulation—

- (a) catering waste treated in a biogas or composting plant must be treated either in accordance with Annex VI, Chapter II, paragraphs 12 or 13 of the Community Regulation or in accordance with Part II of Schedule 1 to these Regulations; and
 - (b) any other animal by-product treated in a biogas or composting plant must be treated in accordance with Annex VI, Chapter II, paragraphs 12 or 13 of the Community Regulation.
- (3) Any operator who fails to comply with this regulation is guilty of an offence.

Composting catering waste on the premises on which it originates

16. In accordance with Article 6(2)(g) of, and Annex VI, Chapter II, paragraph 14 to the Community Regulation, the provisions of that Chapter and of regulation 14(1)(f) above do not apply to the composting of Category 3 catering waste on the premises on which it originates provided that—

- (a) the decomposed material is only applied to land at those premises;
- (b) no ruminant animals or pigs are kept at the premises; and
- (c) if birds are kept at the premises the material is composted in a secure container which prevents the birds having access to it during decomposition.

Processing and intermediate plants' own checks

17.—(1) Any person who fails to comply with Article 25(1) of the Community Regulation is guilty of an offence.

(2) Any person who fails to comply with Article 25(2) of the Community Regulation is guilty of an offence.

(3) The operator must record the action taken in accordance with Article 25(2) of the Community Regulation as soon as is reasonably practicable, and failure to do so is an offence.

(4) Schedule 2 (ruminant derived fluid) has effect in relation to fluid arising from the processing of ruminant animal by-products.

Sampling at processing plants

18.—(1) If a processing plant is processing Category 1 or Category 2 material and processed proteinaceous material is to be sent to landfill (or, in the case of Category 2 material, is applied to land or sent to a biogas or composting plant) the operator must, once every week—

- (a) take from the outlet of the cooker in which the material is processed a sample of at least 50 grams of processed proteinaceous material; and
- (b) send the sample to a laboratory approved to test it for *Clostridium perfringens*.

(2) If a processing plant is processing Category 3 material and the processed proteinaceous material is intended for use in feedingstuffs the operator must, on each day that the material is consigned from the premises—

- (a) take a representative sample of the processed proteinaceous material , and
- (b) send it to a laboratory approved to test it for Salmonella and *Enterobacteriaceae*.

(3) If a processing plant is processing Category 3 material and the processed proteinaceous material is not intended for use in feedingstuffs the operator must, once every week—

- (a) take a sample of the processed proteinaceous material that is consigned from the premises; and
- (b) send the sample to a laboratory approved to test it for Salmonella and *Enterobacteriaceae*.

(4) Any person who fails to comply with any provision of this regulation is guilty of an offence.

Sampling at biogas and composting plants

19.—(1) In the case of biogas and composting plants the operator must, at intervals specified in the approval, take a representative sample of material that has been treated to the time temperature parameters specified in Part II of Schedule 1 to these Regulations or the Community Regulation and send it for testing for Salmonella and *Enterobacteriaceae* (or, in the case of material derived from catering waste, Salmonella only) in a laboratory approved to carry out those tests.

(2) In the event of tests establishing that treated material does not comply with the limits in Annex VI, Chapter II, paragraph 15 to the Community Regulation, the operator must—

- (a) immediately notify the National Assembly , giving full details of the failure, the nature of the sample and the batch from which it was derived;
- (b) ensure that no digestion residue or compost suspected or known to be contaminated is moved from the premises unless—
 - (i) it has been re-treated under the supervision of the National Assembly and re-sampled and re-tested by the National Assembly and the re-testing has shown that the re-treated digestion residue or compost complies with the standards in the Community Regulation; or
 - (ii) it is consigned for processing or incineration at an approved processing plant or incinerator or (in the case of catering waste) it is consigned to landfill; and
- (c) record the action taken in accordance with this regulation.

(3) Any person who fails to comply with any provision of this regulation is guilty of an offence.

Samples sent to laboratories

20.—(1) Whenever an operator sends a sample to a laboratory in accordance with this Part, the operator must send with the sample the following information in writing—

- (a) the name and address of the premises at which the sample was taken;
- (b) the date on which the sample was taken; and

- (c) the description and identity of the sample.
- (2) No person is to tamper with a sample taken under these Regulations with intent to affect the result of the test.
- (3) The operator must keep a record of all results of laboratory tests.
- (4) Any person who fails to comply with paragraphs (1) or (3) or who contravenes paragraph (2) is guilty of an offence.

Laboratories

21.—(1) The National Assembly may approve laboratories under this regulation to carry out one or more of the tests in this regulation if it is satisfied that they have the necessary facilities, personnel and operating procedures to do so.

(2) In deciding whether to grant or continue an approval, the National Assembly may require the laboratory to successfully undertake any quality control tests as the National Assembly reasonably thinks fit.

(3) The operator of a laboratory approved under this regulation carrying out tests for the purposes of these Regulations or the Community Regulation must do so in accordance with the following provisions, and failure to do so is an offence.

(4) A test for *Clostridium perfringens* must be carried out in accordance with the method in Part I of Schedule 3 or (if specified in the approval) with a method which conforms with ISO 7937/1997 (BS-EN 13401:1999) (Enumeration of *Clostridium perfringens*) or equivalent ^{M3}.

(5) A test for Salmonella must be carried out in accordance with one of the methods in Part II of Schedule 3 or (if specified in the approval) with a method that conforms with—

- (a) ISO 6579/2002/BS-EN 12824:1998 (Detection of Salmonella) or equivalent ^{M4}; or
- (b) NMKL 71: 1993 or equivalent ^{M5}.

(6) A test for *Enterobacteriaceae* must be carried out in accordance with the method in Part III of Schedule 3 or (if specified in the approval) with a method which conforms with ISO 7402/1993 (BS 5763: Part 10: 1993) (Enumeration of *Enterobacteriaceae*) or equivalent ^{M6}.

(7) Where tests are carried out for the detection of any of the following, the operator of a laboratory approved under this regulation must immediately notify the National Assembly and the operator of the premises if—

- (a) the tests fail to establish that the material is free from *Clostridium perfringens*;
- (b) the tests fail to establish that the material is free from Salmonella; or
- (c) the material fails the test for *Enterobacteriaceae* in paragraph 5, Part III of Schedule 3;

and failure to do so is an offence.

(8) The operator of a laboratory approved under this regulation must in relation to processed material notify the National Assembly on the last day of each month of the number, type and results of tests carried out in that month, and failure to do so is an offence.

(9) If the sample has been sent to the approved laboratory from premises outside Wales, the requirements in this regulation to notify the National Assembly must be construed as a requirement to notify the competent authority for the premises from which the sample was sent.

Marginal Citations

M3 Published by the British Standards Institute, British Standards House, 389 Chiswick High Road, London W4 4AL.

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- M4** Published by the British Standards Institute; see above.
- M5** Published by the British Standards Institute; see above.
- M6** Published by the British Standards Institute; see above.

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