STATUTORY INSTRUMENTS

2013 No. 2952

ANIMALS, ENGLAND

ANIMAL HEALTH

PUBLIC HEALTH, ENGLAND

The Animal By-Products (Enforcement) (England) Regulations 2013

Made - - - -	*18th November 2013*
Laid before Parliament	*21st November 2013*
Coming into force - -	*12th December 2013*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of, as read with paragraph 1A of Schedule 2 to, the European Communities Act 1972(**1**).

The Secretary of State has been designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures in the veterinary and phytosanitary fields for the protection of public health(**2**).

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for the reference to Commission 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(**3**)) to be construed as a reference to that instrument as amended from time to time.

(**1**) 1972 c 68.Section 2(2) is amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c 7). Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c 51).

(**2**) S.I. 1999/2027.

(**3**) OJ No L 54 26.2.2011, p 1, last amended by Commission Regulation (EU) No 717/2013 (OJ No L 201, 26.7.2013, p 31).

PART 1

Introduction

Citation, commencement and application

1.—(1) These Regulations may be cited as the Animal By-Products (Enforcement) (England) Regulations 2013.

(2) Subject to paragraph (3) these Regulations come into force on 12th December 2013.

(3) Regulation 27 and Schedule 2 come into force immediately after the coming into force of the other regulations and schedule.

(4) These Regulations apply in England.

Interpretation

2.—(1) In these Regulations—

"EU Control Regulation" means Regulation (EC) No. 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No. 1774/2002 (Animal by-products Regulation)(**4**);

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

"animal by-product requirement" means any requirement in Part 3 and any requirement in Column 2 of Schedule 1 to these Regulations as read with the provisions in Column 3 to that Schedule;

"authorised person" means a person authorised under regulation 22;

"competent authority" has the meaning given in regulation 3;

"enforcement authority" means a person exercising functions under regulation 21(1) or (2);

"premises" includes—

(a) any land, building, shed or pen;

(b) any receptacle or container;

(c) any ship; or

(d) a vehicle of any description;

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

(a) permanently rests on or is permanently attached to the seabed; or

(b) is an installation within section 16 of the Energy Act 2008(**5**).

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

(**4**) OJ No L 300, 14.11.2009, p 1, amended by Directive No 2010/63/EU of the European Parliament and of the Council (OJ No 276, 20.10.2010, p 33).
(**5**) 2008 c 32.

PART 2

The competent authority and miscellaneous provisions

The competent authority

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

Restrictions on access to animal by-products

4.—(1) Animal by-products, including catering waste, must not be brought on to any premises if farmed animals would have access to such animal by-products.

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

(a) products derived from catering waste; or

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

(3) The body or part of a body of any farmed animal that has not been slaughtered for human consumption must be held by an operator, pending consignment or disposal, in such manner as to ensure that no animal or bird will have access to it.

Use of organic fertilisers and soil improvers

5.—(1) Where organic fertilisers or soil improvers are applied to land, no person may allow pigs to have access to that land or to be fed cut herbage from such land for a period of 60 days beginning with the day on which the organic fertiliser or soil improver is applied.

(2) Paragraph (1) does not apply to the following organic fertilisers or soil improvers—

(a) manure;

(b) milk;

(c) milk-based products;

(d) milk-derived products;

(e) colostrum;

(f) colostrum products; or

(g) digestive tract content.

Collection centres

6. A processing plant for Category 2 material which is approved for the purpose of being a collection centre for Category 2 material is authorised as a collection centre.

Remote areas

7. The following areas are remote areas for the purposes of Article 19(1)(b) of the EU Control Regulation (collection, transport and disposal)—

(a) Lundy Island;

(b) the Isles of Scilly.

Placing on the market

8. The placing on the market of untreated wool and untreated hair from farms or from establishments or plants is authorised except where they present a risk of any disease communicable through those products to humans or animals.

Reporting of test results

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

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

(b) Article 21(1) (processing and placing on the market of animal by-products and derived products for feeding to farmed animals);

(c) Article 22(1) (placing on the market and use of organic fertilisers and soil improvers); and

(d) Article24(3) (pet food and other derived products) of the EU Implementing Regulation.

PART 3

Staining

Staining

10.—(1) This regulation applies to the operators of—

(a) slaughterhouses;

(b) cutting plants;

(c) game-handling establishments; and

(d) cold stores.

(2) In this part—

(a) the terms "slaughterhouse", "cutting plant" and "game-handling establishment" have the meanings given to them in regulation 5(6) of the Food Hygiene (England) Regulations 2006(**6**);

(b) "cold store" means any other premises used for the storage, under temperature controlled conditions, of fresh meat intended for sale for human consumption.

(3) Operators must, subject to paragraph (5), without undue delay, stain the following animal by-products in accordance with paragraph (4)—

(a) animal by-products defined by any of the following articles of the EU Control Regulation—

(i) Article 8(c);

(ii) Article 8(d);

(iii) Article 9(c); or

(iv) Article 9(d);

(b) whole poultry bodies where the animals are dead on arrival at the slaughterhouse;

(**6**) S.I. 2006/14 to which there are amendments not relevant to these Regulations.

(c) bodies or parts of animals which are unfit for human consumption because they show signs of disease communicable to humans or animals;

(d) bodies or parts of animals which are unfit for human consumption because they have not been presented for either ante or post mortem inspection;

(e) bodies or parts of animals which have been contaminated with any substance which may pose a threat to public or animal health; and

(f) Category 3 material that has changed through decomposition or spoilage so as to present an unacceptable risk to public or animal health.

(4) Operators must—

(a) stain the material listed in paragraph (3) with a colouring agent and using a solution of such a strength that the staining is clearly visible and remains visible after the animal by-product has been chilled or frozen;

(b) apply the stain to the whole surface of the by-product, whether by immersing the by-product in the stain, spraying it with the solution or applying the solution to it by any other equally effective means;

(c) in the case of an animal by-product not falling with paragraph (3) and weighing more than 20 kg, apply the stain after its surface has been opened by multiple and deep incisions; and

(d) in the case of an animal by-product comprising a whole poultry body, whether or not it has been eviscerated or de feathered, apply the stain after the surface of the body has been opened by multiple and deep incisions.

(5) Operators need not stain pursuant to paragraph (3)—

(a) any animal by-product which is removed, or is intended to be removed, from any premises by, or under the authority of, a veterinary surgeon for examination by or on behalf of the surgeon;

(b) any animal by-product which is mixed with green offal in a container containing mainly green offal for disposal in accordance with the EU Control Regulation;

(c) any animal by-product which is intended for use for scientific purposes and which, pending such use or removal to premises for such use in accordance the EU Control Regulation, is placed in a room and in a receptacle designed for the purpose of holding animal by-products and bearing a notice that its contents are intended for use for scientific purposes;

(d) any animal by-product which is moved immediately after generation to a processing or incineration establishment or plant approved under the EU Control Regulation via a sealed and leak-proof pipe; or

(e) a whole animal body, except a whole poultry body.

(6) No one may export stained material of the type referred to in paragraph (3) to another member State of the European Union unless that member State agrees to import the material.

(7) In paragraph 5(b) of this regulation "green offal" means the stomach and intestines of an animal and the contents of the digestive tract.

PART 4

Registration and approval

Procedure for registration of plants and establishments

11. A notification must be made in writing to the competent authority where it is made—

(a) with a view to registration in accordance with Article 23(1) (registration of operators, establishments or plants) of the EU Control Regulation; or

(b) to inform the authority of changes in accordance with Article 23(2) of that Regulation.

Notifications of competent authority in respect of registration

12. The competent authority must give notice in writing to—

(a) the operator who has notified in accordance with regulation 11, of—

(i) the registration of the operator; or

(ii) the decision not to register the operator;

(b) a registered operator, of—

(i) a prohibition made under Article 46(2) (prohibition on operations) of the EU Control Regulation;

(ii) a requirement to comply with Article 23(1)(b) or (2) of the EU Control Regulation (information on activities and up-to-date information); or

(iii) the amendment of the registration or the ending of the registration where an operator has notified the competent authority of the closure of an establishment in accordance with Article 23(2) (up-to-date information) of the EU Control Regulation.

Procedure for approval

13. Operators to whom Article 24(1) (approval of establishments or plants) of the EU Control Regulation applies, must apply in writing to the competent authority for approval, including approval after the grant of temporary approval where Article 33 of the EU Implementing Regulation (re-approval of plants and establishments after the grant of temporary approval) applies.

Notification in respect of decisions on approval

14. The competent authority must give notice in writing to—

(a) the applicant for approval, of the—

(i) grant of approval in accordance with Articles 24 (approval) and 44 (procedure for approval) of the EU Control Regulation;

(ii) grant of conditional approval in accordance with Articles 24 and 44 of the EU Control Regulation, or the extension of such approval in accordance with Article 44; or

(iii) refusal to grant approval in respect of an initial application or extension;

(b) the operator of a plant or establishment subject to conditional approval granted in accordance with Articles 24 and 44 of the EU Control Regulation, of the—

(i) grant of full approval;

(ii) extension of such approval;

(iii) imposition of conditions in accordance with Article 46(1)(c) (suspensions, withdrawals and prohibitions on operators) of the EU Control Regulation;

(iv) suspension of such approval in accordance with Article 46(1)(a) of the EU Control Regulation;

(v) withdrawal of such approval in accordance with Article 46(1)(b) of the EU Control Regulation;

(vi) making of a prohibition in accordance with Article 46(2) of the EU Control Regulation; or

(vii) refusal to extend or grant full approval;

(c) the operator of an approved plant or establishment, of the—

(i) imposition of conditions in accordance with Article 46(1)(c) of the EU Control Regulation (suspension, withdrawal);

(ii) suspension of such approval in accordance with Article 46(1)(a) of the EU Control Regulation;

(iii) making of a prohibition in accordance with Article 46(2) of the EU Control Regulation; or

(iv) withdrawal of such approval in accordance Article 46(1)(b) of the EU Control Regulation.

Reasons for decisions

15.—(1) Where a decision is made by the competent authority and notified in accordance with regulation 12 or regulation 14, the competent authority must give reasons in writing for that decision.

(2) Paragraph (1) does not apply to decisions notified under—

(a) regulation 12(a)(i);

(b) regulation 14(a)(i); or

(c) regulation 14(b)(i) or (ii).

Appeals procedure

16.—(1) Where the competent authority has made a notification to which regulation 15(1) applies, a person may appeal against it by making written representations, within 21 days of the issuing of notification of that decision, to a person appointed for the purpose by the Secretary of State.

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

(3) The appointed person must then report in writing to the Secretary of State.

(4) The Secretary of State must give to the applicant written notification of the final determination of the Secretary of State and the reasons for it.

PART 5

Offences and penalties

Compliance with animal by-product requirements

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

Obstruction

18. It is an offence—

(a) intentionally to obstruct an authorised person;

(b) without reasonable cause, to fail to give to an authorised person any information or assistance or to provide any facilities that such person may reasonably require;

(c) knowingly or recklessly to give false or misleading information to an authorised person; or

(d) to fail to produce a record or document when required to do so by an authorised person.

Corporate, partnership and unincorporated association offences

19.—(1) Where—

(a) an offence under these Regulations has been committed by a body corporate or a partnership or Scottish partnership or other unincorporated association; and

(b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of, a relevant individual (including an individual purporting to act in the capacity of a relevant individual),

the relevant individual as well as the body corporate, partnership, Scottish partnership or unincorporated association, is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), "relevant individual" means—

(a) in relation to a body corporate—

(i) a director, manager, secretary or other similar officer of the body;

(ii) where the affairs of the body are managed by its members, a member;

(b) in relation to a partnership or Scottish partnership, a partner;

(c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

(3) Proceedings for an offence under these Regulations alleged to have been committed by a partnership or an unincorporated association may be brought against the partnership or association in the name of the partnership or association.

(4) For the purpose of proceedings pursuant to paragraph (3) the following provisions apply as if the partnership or unincorporated association were a body corporate—

(a) rules of court relating to the service of documents;

(b) section 33 of the Criminal Justice Act 1925(**7**); and

(c) Schedule 3 to the Magistrates' Courts Act 1980(**8**).

(5) A fine imposed on a partnership or unincorporated association on its conviction of an offence under these Regulations is to be paid out of the funds of the partnership or association.

Penalties

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

(a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment not exceeding three months or both; or

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.

(**7**) 1925 c. 86. Subsections (1), (2) and (5) of section 33 were repealed by the Magistrates Courts Act 1952 (c. 55) section 132 and Schedule 6; subsection (3) was amended by the Courts Act 1971 (c. 23), section 56(1) and Schedule 8, Part 2, paragraph 19; subsection (4) was partially repealed by the Courts Act 2003 (c. 39) section 109(1) and (3), Schedule 8, paragraph 71 and Schedule 10

(**8**) 1980 c. 43. Paragraph 2(a) was amended by the Criminal Procedure and Investigations Act 1996 (c. 25), section 47, Schedule 1, paragraph 13; paragraph 5 was repealed by the Criminal Justice Act 1991 (c. 53), sections 25(2) and 101(2) and Schedule 13; paragraph 6 was amended by the Criminal Justice Act 2003 section 41, Schedule 3. part 2, paragraphs 51(1) and (13)(b).

PART 6

Enforcement

Enforcement authority

21.—(1) Regulation 10 is enforced by—

(a) in relation to any slaughterhouse, cutting plant or game-handling establishment, the Food Standards Agency; and

(b) in relation to any other premises, the Food Standards Agency or the food authority in whose area the premises are situated.

(2) Otherwise these Regulations are enforced by—

(a) the relevant local authority;

(b) the port health authority in relation to—

(i) the London port health district (within the meaning given by section 7(1) of the Public Health (Control of Disease) Act 1984(**9**); or

(ii) a port health district constituted by order under section 2(3) of that Act; or

(c) the Secretary of State in relation to a food hygiene establishment.

(3) Sub-paragraphs (a) and (b) of paragraph (2) do not apply where the Secretary of State directs that the enforcement duty is to be exercised in relation to cases of a particular description or any particular case by the Secretary of State.

(4) For the purposes of paragraph (2)(c) or where the Secretary of State makes a direction under paragraph (3), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.

(5) In paragraph (2)(a) "local authority" means—

(a) where there is a unitary authority, within the meaning of the Local Government Changes for England Regulations 1994(**10**), that authority;

(b) where there is not a unitary authority—

(i) in a metropolitan district, the council of that district;

(ii) in a non-metropolitan county, the council of that county or the council of a district within the county area;

(iii) in each London borough, the council of that borough;

(c) in the City of London, the Common Council; or

(d) the Council of the Isles of Scilly.

(6) In paragraph (2)(b) "port health authority" means—

(a) in relation to the London port health district, the Common Council of the City of London; or

(b) in relation to any other port health district, the port health authority for that district.

(7) In paragraph (1)(b), "food authority" means the authorities referred to in section 5(1) of the Food Safety Act 1990(**11**) other than—

(a) the council of a non-metropolitan county; and

(**9**) 1984 c. 22.
(**10**) S.I 1994/867, to which there are amendments not relevant to these Regulations.
(**11**) 1990 c. 16.

(b) the Treasurers of the Inner and Middle Temple.

(8) In paragraph 2(c) "food hygiene establishment" means an establishment referred to in Regulation 5(2) of the Food Hygiene (England) Regulations 2006 in respect of which the Food Standards Agency has enforcement functions under those Regulations.

Authorised person

22. An enforcement authority may authorise in writing such persons as the authority considers appropriate to act for the purpose of enforcing these Regulations.

Powers of entry and additional powers

23.—(1) An authorised person may, on production of that person's authority if so required for the purpose of enforcing these Regulations, the EU Control Regulation and the EU Implementing Regulation—

(a) enter and inspect premises (except premises used wholly or mainly as a dwelling-house) at any reasonable hour;

(b) take such other persons and any equipment or materials as necessary;

(c) make such examination or investigation as necessary;

(d) direct that the premises, or part of them, are left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under sub-paragraph (c);

(e) take such measurements and photographs and make such recordings as are considered necessary for the purpose of any examination or investigation under sub-paragraph (c);

(f) in the case of any article or substance found in or on the premises—

(i) take samples;

(ii) test or subject it to any process, where it appears that it has caused or is likely to cause harm to human health or to the health of animals or plants;

(iii) take possession of it and retain it for so long as is necessary—

(aa) to examine it and to exercise the power within paragraph (ii);

(bb) to ensure that it is not tampered with before examination of it is completed; and

(cc) to ensure that it is available for use as evidence in any proceedings for an offence under these Regulations;

(g) require the production of, or where the information is recorded in computerised form the furnishing of extracts from, any records which it is necessary to see for the purposes of any examination or investigation under sub-paragraph (c) and to inspect and take copies of, or of any entry in, the records;

(h) require any person to afford such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the authorised person to exercise any of the powers conferred by this regulation; or

(i) mark any animal or animal by-product as the authorised person considers necessary.

(j) An authorised officer entering any premises which are unoccupied or from which the occupier is temporarily absent must leave them as effectively secured against unauthorised entry as they were before entry.

(k) An authorised office may be accompanied by such other persons as the authorised officer considers necessary.

(2) Where an authorised person proposes to exercise the power in paragraph (1)(f)(ii), the authorised person must—

(a) if so requested by a person who at the time is present and has responsibilities in relation to those premises, cause anything which is to be done by virtue of that power to be done in that person's presence;

(b) consult such persons as appear to the authorised person appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which is proposed under that power.

(3) Where an authorised person proposes to exercise the power in paragraph (1)(f)(iii), the authorised person must, if it is practicable to do so, take a sample of the article or substance and give to a responsible person at the premises a portion of the sample marked in a manner sufficient to identify it.

(4) Where an authorised person exercises the power in paragraph (1)(f)(iii), the authorised person must leave a notice giving particulars of the article or substance sufficient to identify it and stating that possession has been taken, either—

(a) with a responsible person; or

(b) if that is impracticable, fixed in a conspicuous place at those premises.

(5) Nothing in this regulation compels the production by any person of a document which that person would be entitled to withhold production of on the grounds of legal professional privilege on an order for discovery in an action in the High Court.

Warrant

24.—(1) If, in relation to the power to enter premises under regulation 23, a justice of the peace, on written information on oath—

(a) is satisfied that there are reasonable grounds to believe that any information or material relevant to the examination or investigation under regulation 23(1)(c) is on any such premises; and

(b) is satisfied that—

(i) entry to such premises has been, or is likely to be, refused, and that notice of intention to apply for a warrant has been given to the occupier; or

(ii) an application for entry, or the giving of such a notice would defeat the object of the entry, or that the case is one of urgency, or that such premises are unoccupied or the occupier is temporarily absent,

the justice may by warrant, which continues in force for a period of one month, authorise an authorised person to enter the premises, if necessary by force.

(2) If, in relation to premises used wholly or mainly as a dwelling-house, a justice of the peace on written information on oath—

(a) is satisfied that there are reasonable grounds to believe that information or material relevant to an examination or investigation for the purpose of enforcing the EU Control Regulation, the EU Implementing Regulation or these Regulations is on such premises; and

(b) is satisfied that—

(i) entry to such premises has been, or is likely to be, refused, and that notice of intention to apply for a warrant has been given to the occupier; or

(ii) an application for entry, or the giving of such a notice would defeat the object of the entry, or that the case is one of urgency, or that such premises are unoccupied or the occupier is temporarily absent,

the justice may by warrant, which continues in force for a period of one month, authorise an authorised person to enter such premises, if necessary by force, and inspect them.

(3) Where an authorised person has been authorised under paragraph (2) to enter by warrant, the authorised person has the powers conferred by regulation 23(1)(b) to (i).

Notices served by an authorised person

25.—(1) An authorised person may serve a notice in accordance with paragraph (2) where that person—

(a) considers that there is a contravention of, or failure to comply with, an animal by-product requirement; or

(b) reasonably suspects that as a result of such contravention or failure to comply, premises constitute a risk to human or animal health.

(2) Notices may be served on the occupier of any premises, or the person in charge of or responsible for the premises or any animal by-product—

(a) requiring the disposal and, where applicable, storage pending such disposal of—

(i) animal by-products and derived products;

(ii) material in premises to which paragraph (1)(b) applies;

(b) requiring the cleansing and disinfection of premises to which paragraph (1)(b) applies and, where applicable, specifying the method for such cleansing and disinfection;

(c) prohibiting animal by-products and derived products being—

(i) moved in or brought on to premises;

(ii) moved in or brought on to premises unless in accordance with conditions specified in the notice, including a condition as to the satisfactory completion of the cleansing and disinfection in accordance with a notice as provided in sub-paragraph (b).

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

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

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

Power to disclose information for enforcement purposes

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

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

PART 7

Consequential amendments

Consequential amendments

27. Schedule 2 to these Regulations provides for consequential amendments.

PART 8

Revocations and transitional provision

Revocations

28. The following instruments are revoked—

(a) the Animal By-Products (Identification) (Amendment) (England) Regulations 2002(**12**);

(b) the Animal By-Products (Identification) (Amendment) (England) (No 2) Regulations 2002(**13**);

(c) the Animal By-Products (Identification) (Amendment) (England) Regulations 2003(**14**);

(d) the Animal By-Products (Enforcement) (England) Regulations 2011(**15**);

(e) in relation to England—

(i) the Animal By-Products (Identification) Regulations 1995(**16**);

(ii) the Animal By-Products (Identification) (Amendment) Regulations 1997(**17**).

Transitional provision

29.—(1) The collection, transport and disposal of Category 3 material in Article 10(f) of the EU Control Regulation (Category 3 material) is authorised for the period ending on 31st December 2014, where the requirements of paragraph (2) are satisfied.

(2) The requirements are—

(a) the material satisfies Article 36(3) of, and paragraphs (a) to (c) of Chapter IV of Annex IV to, the EU Implementing Regulation; and

(b) the means of disposal for such material, in addition to the means in Article 14 of the EU Control Regulation (disposal and use of Category 3 material), are disposal—

(i) in an authorised landfill without prior processing; or

(ii) where Article 21 of the EU Control Regulation is satisfied, to a biogas or composting plant for transformation in accordance with an authorisation under paragraph 2 of Section 2 of Chapter III of Annex V to the EU Implementing Regulation.

Review of these Regulations

30.—(1) The Secretary of State must from time to time—

(**12**) S.I. 2002/1619.
(**13**) S.I. 2002/3231.
(**14**) S.I. 2003/1484.
(**15**) S.I. 2011/881.
(**16**) S.I. 1995/614.
(**17**) S.I. 199720/73.

(a) carry out a review of these Regulations;

(b) set out the conclusions of the review in a report; and

(c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the EU Control Regulation and the EU Implementing Regulation are implemented in other member States.

(3) The report must in particular—

(a) set out the objectives intended to be achieved by these Regulations;

(b) assess the extent to which those objectives are achieved; and

(c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved in a less burdensome way.

(4) The first report under this regulation must be published before the end of the period of five years beginning with 30 November 2011.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

George Eustice
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

18th November 2013

SCHEDULE 1 Regulation 2

Animal By-Product Requirements

Subject matter of requirement	*Provisions containing the basic requirement*	*Provisions to be read with the provision(s) mentioned in Column 2*
1. General obligation	Article 4(1) and (2) of the EU Control Regulation	Article 3 of the EU Implementing Regulation
2. General animal health restrictions	Article 6(1) of the EU Control Regulation	Article 4 of the EU Implementing Regulation
3. Restrictions on use for feeding purposes	Article 11 of the EU Control Regulation	Regulations 4 and 5 of these Regulations and Article 5 of the EU Implementing Regulation
4. Restrictions on access to bodies	Articles 12, 13 and 21(1) of the EU Control Regulation	Regulation 4(3) of these Regulations
5. Disposal and use of Category 1 material	Article 12 of the EU Control Regulation, subject to Article 16(b) to (e) of that Regulation and Article 7 of the EU Implementing Regulation	Articles 6(3) to (5), 8(1), 9(b) and (c), 11(2), 12(2) and 15 of the EU Implementing Regulation
6. Disposal and use of Category 2 material	Article 13 of the EU Control Regulation, subject to Articles 15(2)(b) and 16(b) to (f) and (h) of that Regulation	Regulation 6 of these Regulations and Articles 6(3) to (5), 8(1), 9(b) and (c), 10(1), 11(2), 12(2), 13(1) and 15 of the EU Implementing Regulation
7. Disposal and use of Category 3 material	Article 14 of the EU Control Regulation, subject to Article 16 (b) to (h) of that Regulation and Article 7 of the EU Implementing Regulation	Regulation 29 of these Regulations and Articles 6(3) to (5), 8(1), 9(b) and (c), 10(1), 11(2), 12(2), 13(2), 15 and 36(3) of the EU Implementing Regulation
8. Collection and identification as regards category and transport	Article 21(1) to (4) of the EU Control Regulation	Article 17 of the EU Implementing Regulation
9. Traceability	Article 22(1) and (2) of the EU Control Regulation	Article 17 of the EU Implementing Regulation
10. Registration of operators, establishments and plants	Articles 23(1) and (2) and 55 of the EU Control Regulation	Regulation 11 of these Regulations and Articles 20(1) and (2) and 32(7) of the EU Implementing Regulation
11. Approval of establishments and plants	Articles 24, 44(3) and 55 of the EU Control Regulation	Regulation 13 of these Regulations and Articles 19, 32(7) and 33 of the EU Implementing Regulation
12. General hygiene conditions	Article 25 of the EU Control Regulation	Articles 9(a), 19 and 20 of the EU Implementing Regulation

Subject matter of requirement	*Provisions containing the basic requirement*	*Provisions to be read with the provision(s) mentioned in Column 2*
13. Handling of animal by-products within food businesses	Article 26 of the EU Control Regulation	
14. Own checks	Article 28 of the EU Control Regulation	
15. Hazard analysis and critical control points	Article 29(1) to (3) of the EU Control Regulation	
16. Placing on the market animal by-products and derived products for feeding to farmed animals excluding fur animals	Article 31(1) of the EU Control Regulation	Articles 21 and 24(2) of the EU Implementing Regulation
17. Placing on the market and use of organic fertilisers and soil improvers	Article 32(1) and (2) of the EU Control Regulation	Regulation 5 of these Regulations and Articles 22(1) to (3) and 36(1) of the EU Implementing Regulation
18. Collection and movement for manufacture of derived products	Article 34 of the EU Control Regulation except in so far as it relates to imports	Article 33 of the EU Control Regulation and Article 23 of the EU Implementing Regulation
19. Prohibition on use for manufacture for products not within Article 33 or 36 of the EU Control Regulation Article	Article 24(1) of the EU Implementing Regulation	Articles 33 and 36 of the EU Control Regulation
20. Placing on the market of pet food	Article 35 of the EU Control Regulation	Articles 3 and 24(3) of the EU Implementing Regulation
21. Placing on the market of other derived products	Article 36 of the EU Control Regulation	Regulation 8 of these Regulations and Articles 3 and 24(1), (2) and (4) of the EU Implementing Regulation
22. Safe sourcing	Article 37(2) of the EU Control Regulation	
23. Export	Article 43 of the EU Control Regulation	
24. Controls for dispatch	Article 48 of the EU Control Regulation	Articles 11(3), 12(3) and 31 of the EU Implementing Regulation
25. Compliance with operating standards	Articles 10(1), 21(1), 22(1) and 24(3) of the EU Implementing Regulation	Regulation 9 of these Regulations

SCHEDULE 2

Regulation 27

Consequential Amendments

The Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991

1. In regulation 2 of the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991(**18**)—

(a) in paragraph (1)(i), for "Article 7(1) or 7(2)" substitute "Article 21(1) to (3)"; and

(b) in paragraph (2), for the definition of "the Community Regulation" substitute—

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

The Foot-and-Mouth Disease (England) Order 2006

2.—(1) The Foot-and-Mouth Disease (England) Order 2006(**19**) is amended as follows.

(2) In article 2(1), after the definition of "raw milk" insert—

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

(3) In article 26, in paragraph (2)(b) for "point 5 of Section II in Part A of Chapter III of Annex VIII to Regulation (EC) No. 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption, as amended," substitute "Articles 15 and 32 of Regulation (EC) No. 1069/2009 and Articles 10 and 22 of and Section 2 of Chapter I of Annex XI to Regulation (EU) No. 142/2011".

(4) In article 27(2)(c) for "Regulation (EC) No. 1774/2002, as amended" substitute "Regulation (EC) No. 1069/2009".

(5) In Schedule 5—

(a) in paragraph 20(4), for "point 5 of Section II in Part A of Chapter III of Annex VIII to Regulation (EC) No. 1774/2002, as amended" substitute "Articles 15 and 32 of Regulation (EC) No. 1069/2009 and Articles 10 and 22 of and Section 2 of Chapter I of Annex XI to Regulation (EU) No. 142/2011"; and

(b) in paragraph 33(4), for "point 5 of Section II in Part A of Chapter III of Annex VIII to Regulation (EC) No. 1774/2002, as amended" substitute "Articles 15 and 32 of Regulation (EC) No. 1069/2009 and Articles 10 and 22 of and Section 2 of Chapter I of Annex XI to Regulation (EU) No. 142/2011".

(6) In Schedule 6—

(**18**) S.I. 1991/1624 amended by S.I. 2006/937; there are other amending instruments but none is relevant.
(**19**) S.I. 2006/182, amended by S.I. 2009/2713; there are other amending instruments but none is relevant.

(a) in paragraph 2, for "article 20 of and points A(2)(c) or (d) of Chapter VI of Annex VIII to Regulation (EC) No. 1774/2002, as amended" substitute "Article 36 of Regulation (EC) No. 1069/2009 and point 28(c) and (d) of Annex I to Regulation (EU) No. 142/2011";

(b) in paragraph 3, for "article 20 of and point A(1) of Chapter VIII to Regulation (EC) No. 1774/2002, as amended" substitute "Article 36 of Regulation (EC) No. 1069/2009 and Article 24(4) of Regulation (EU) No. 142/2011";

(c) in paragraph 5, for "point B(3)(e)(ii) of Chapter IV of Annex VIII to Regulation (EC) No. 1774/2002, as amended" substitute "point 2(b)(ii) of Chapter IV of Annex XIII to Regulation (EU) No. 142/2011";

(d) in paragraph 6, for "point B(2)(d)(iv) of Chapter IV of Annex VII to Regulation (EC) No. 1774/2002, as amended" substitute "point 3(d) of Chapter I of Annex XIV to Regulation (EU) No. 142/2011";

(e) in paragraph 7, for "points B(2), (3) or (4) of Chapter II of Annex VIII to Regulation (EC) No. 1774/2002, as amended" substitute "Chapter II of Annex XIII to Regulation (EU) No. 142/2011"; and

(f) in paragraph 8, for "points A(1), (3), or (4) of Chapter VII of Annex VIII to Regulation (EC) No. 1774/2002, as amended" substitute "Chapter VI of Annex XIII to Regulation (EU) No. 142/2011".

The Foot-and-Mouth Disease (Control of Vaccination) (England) Regulations 2006

3. For paragraph 18(4) of the Schedule to the Foot-and-Mouth Disease (Control of Vaccination) (England) Regulations 2006(**20**) substitute—

"(4) The occupier of any premises to which dung or manure is transported by authority of a licence granted under sub-paragraph (3) shall ensure that it is treated in accordance with—

(a) Articles 15 and 32 of Regulation (EC) No. 1069/2009 of the European Parliament and of the Council; and

(b) Articles 10 and 22 of and Section 2 of Chapter I of Annex XI to Commission Regulation (EU) No. 142/2011 implementing Regulation (EC) No. 1069/2009 of the European Parliament and of the Council.".

The Avian Influenza (H5N1 in Poultry) (England) Order 2006

4.—(1) The Avian Influenza (H5N1 in Poultry) (England) Order 2006(**21**) is amended as follows.

(2) In article 2—

(a) in the definition of "bird by-product", for the words "Articles 4, 5 or 6 of Regulation (EC) No 1774/2002" substitute Articles 8, 9 or 10 of Regulation (EC) No. 1069/2009";

(b) for the definition of "Regulation (EC) No. 1774/2002" substitute—

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

(c) after the definition inserted by sub-paragraph (b) insert—

""Regulation (EU) No 142/2011" means Commission 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

(**20**) S.I. 2006/183; to which there are amendments not relevant to these Regulations.
(**21**) S.I. 2006/3247.

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;".

(3) In article 3(6), for sub-paragraph (c) substitute—

"(c) the following plants if approved under Article 24 of Regulation (EC) No. 1069/2009—

(i) incineration plants;

(ii) co-incineration plants;

(iii) processing plants;

(iv) biogas plants;

(v) composting plants;

(vi) petfood plants.".

(4) In article 14—

(a) for paragraph (2) substitute—

"(2) But a veterinary inspector or an inspector acting under the direction of a veterinary inspector may licence the movement of any of the following bird by-products—

(a) processed animal protein within the meaning of paragraph 5 of Annex I to Regulation (EU) No. 142/2011 which complies with the requirements of paragraph B of Section 1 of Chapter II of Annex X to that Regulation;

(b) blood products within the meaning of paragraph 4 of Annex I to Regulation (EU) No. 142/2011 which comply with the requirements of paragraph B of Section 2 of Chapter II of Annex X to that Regulation;

(c) rendered fats within the meaning of paragraph 8 of Annex I to Regulation (EU) No. 142/2011 which comply with the requirements of paragraph B of Section 3 of Chapter II of Annex X to that Regulation;

(d) gelatine within the meaning of paragraph 12 of Annex I to Regulation (EU) No. 142/2011 which complies with the requirements of paragraph B of Section 5 of Chapter II of Annex X to that Regulation;

(e) hydrolysed protein within the meaning of paragraph 14 of Annex I to Regulation (EU) No. 142/2011 which complies with the requirements of paragraph B of Section 5 of Chapter II of Annex X to that Regulation;

(f) dicalcium phosphate which complies with the requirements of paragraph B of Section 6 of Chapter II of Annex X to Regulation (EU) No. 142/2011;

(g) tricalcium phosphate which complies with the requirements of paragraph B of Section 7 of Chapter II of Annex X to Regulation (EU) No. 142/2011;

(h) collagen within the meaning of paragraph 11 of Annex I to Regulation (EU) No. 142/2011 which complies with the requirements of paragraph B of Section 8 of Chapter II of Annex X to that Regulation;

(i) egg products which comply with the requirements of paragraph B of Section 9 of Chapter II of Annex X to Regulation (EU) No. 142/2011;

(j) processed pet food within the meaning of paragraph 20 of Annex I to Regulation (EU) No. 142/2011 which complies with the requirements of Chapter II of Annex XIII to that Regulation;

(k) raw petfood within the meaning of paragraph 21 of Annex I to Regulation (EU) No. 142/2011 which complies with Chapter II of Annex XIII;

(l) dogchews within the meaning of paragraph 17 of Annex I to Regulation (EU) No. 142/2011 which comply with the requirements of Chapter II of Annex XIII to that Regulation;

(m) processed manure and processed manure products which comply with the requirements of Section 2 of Chapter I of Annex XI to Regulation (EU) No. 142/2011;

(n) game trophies having undergone a complete taxidermy treatment ensuring their preservation at ambient temperatures within the meaning of Chapter VI of Annex XIII to Regulation (EU) No. 142/2011;

(o) those by-products which are transported to designated plants within article 3(6)(c) for disposal, treatment, transformation or use which ensures inactivation of the avian influenza virus;

(p) those products which are transported to users or collection centres authorised and registered in accordance with Article 23 of Regulation (EU) No. 142/2011 for the feeding of animals after they have been treated by a method approved by the competent authority which ensures inactivation of the avian influenza virus;

(q) untreated feathers or parts of untreated feathers produced from poultry within the meaning of paragraph 30 of Annex I to Regulation (EU) No. 142/2011 which comply with the requirements of paragraph A of Chapter VII of Annex XIII to that Regulation;

(r) poultry feathers, feathers from wild game birds or parts of such feathers which have been treated with a steam current or by another method which ensures inactivation of the avian influenza virus.";

(b) in paragraph (3), for "Annex V to Regulation (EC) No. 1774/2002" substitute "Regulation (EC) No. 1069/2009 and Annex IV to Regulation (EU) No. 142/2011"; and

(c) in paragraph (4), for "Chapter X of Annex II to Regulation (EC) No. 1774/2002" substitute "Chapter III of Annex VIII to Regulation (EU) No. 142/2011".

The Avian Influenza (H5N1 in Wild Birds) (England) Order 2006

5.—(1) The Avian Influenza (H5N1 in Wild Birds) (England) Order 2006(**22**) is amended as follows.

(2) In article 2—

(a) in the definition of "bird by-product" for the words "Articles 4, 5 or 6 of Regulation (EC) No. 1774/2002" substitute Articles 8, 9 or 10 of Regulation (EC) No. 1069/2009";

(b) for the definition of "Regulation (EC) No. 1774/2002" substitute—

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

(c) after the definition inserted by sub-paragraph (b) insert—

""Regulation (EU) No. 142/2011" means Commission 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

(**22**) S.I. 2006/3249.

implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive;".

(3) In article 13(1), for sub-paragraph (c) substitute—

"(c) the following plants if approved under Article 24 of Regulation (EC) No. 1069/2009—

(i) incineration plants;

(ii) co-incineration plants;

(iii) processing plants;

(iv) biogas plants;

(v) composting plants;

(vi) petfood plants".

(4) In Schedule 1—

(a) in paragraph 13, for sub-paragraph (2) substitute—

"(2) A veterinary inspector may not grant or direct the grant of a licence under sub-paragraph (1) unless it is for a movement of—

(a) processed animal protein within the meaning of paragraph 5 of Annex 1 to Regulation (EU) No. 142/2011 which complies with the requirements of paragraph B of Section 1 of Chapter II of Annex X to that Regulation;

(b) blood products within the meaning of paragraph 4 of Annex I to Regulation (EU) No. 142/2011 which comply with the requirements of paragraph B of Section 2 of Chapter II of Annex X to that Regulation;

(c) rendered fats within the meaning of paragraph 8 of Annex I to Regulation (EU) No. 142/2011 which comply with the requirements of paragraph B of Section 3 of Chapter II of Annex X to that Regulation;

(d) gelatine within the meaning of paragraph 12 of Annex I to Regulation (EU) No. 142/2011 which complies with the requirements of paragraph B of Section 5 of Chapter II of Annex X to that Regulation;

(e) hydrolysed protein within the meaning of paragraph 14 of Annex I to Regulation (EU) No. 142/2011 which complies with the requirements of paragraph B of Section 5 of Chapter II of Annex X to that Regulation;

(f) dicalcium phosphate which complies with the requirements of paragraph B of Section 6 of Chapter II of Annex X to Regulation (EU) No. 142/2011;

(g) tricalcium phosphate which complies with the requirements of paragraph B of Section 7 of Chapter II of Annex X to Regulation (EU) No. 142/2011;

(h) collagen within the meaning of paragraph 11 of Annex I to Regulation (EU) No. 142/2011 which complies with the requirements of paragraph B of Section 8 of Chapter II of Annex X to that Regulation;

(i) egg products which comply with the requirements of paragraph B of Section 9 of Chapter II of Annex X to Regulation (EU) No. 142/2011;

(j) processed pet food within the meaning of paragraph 20 of Annex 1 to Regulation (EU) No. 142/2011 which complies with the requirements of Chapter II of Annex XIII to that Regulation;

(k) raw pet food within the meaning of paragraph 21 of Annex I to Regulation (EU) No. 142/2011 which complies with Chapter II of Annex XIII;

(l) dogchews within the meaning of paragraph 17 of Annex I to Regulation (EU) No. 142/2011 which comply with the requirements of Chapter II of Annex XIII to that Regulation;

(m) processed manure and processed manure products which comply with the requirements of Section 2 of Chapter I of Annex XI to Regulation (EU) No. 142/2011;

(n) game trophies having undergone a complete taxidermy treatment ensuring their preservation at ambient temperatures within the meaning of Chapter VI of Annex XIII to Regulation (EU) No. 142/2011;

(o) those by-products which are transported to designated plants within article 13(1)(c), processing plants for disposal, treatment, transformation or use which ensures inactivation of the avian influenza virus;

(p) those products which are transported to users or collection centres authorised and registered in accordance with Article 23 of Regulation (EU) No. 142/2011 for the feeding of animals after they have been treated by a method approved by the competent authority which ensures inactivation of the avian influenza virus;

(q) untreated feathers or parts of untreated feathers produced from poultry within the meaning of paragraph 30 of Annex 1 to Regulation (EU) No. 142/2011 which comply with the requirements of paragraph A of Chapter VII of Annex XIII to that Regulation;

(r) poultry feathers, feathers from wild game birds or parts of such feathers which have been treated with a steam current or by another method which ensures inactivation of the avian influenza virus";

(b) in paragraph 13(3), for "Annex V to Regulation (EC) No. 1774/2002" substitute "Regulation (EC) No. 1069/2009 and Annex IV to Regulation (EU) No. 142/2011";

(c) in paragraph 13(5), for "Chapter X of Annex II to Regulation (EC) No. 1774/2002" substitute "Chapter III of Annex VIII to Regulation (EU) No. 142/2011";

(d) in paragraph 14(a), for "Regulation (EC) No. 1774/2002" substitute "Regulation (EC) No. 1069/2009 and Section 2 of Chapter I of Annex XI to Regulation (EU) No. 142/2011";

(e) in paragraph 15(a), for "Regulation (EC) No. 1774/2002" substitute "Regulation (EC) No. 1069/2009 and Section 2 of Chapter I of Annex XI to Regulation (EU) No. 142/2011".

The Cattle Identification Regulations 2007

6. For paragraph 3(3) of Schedule 3 to the Cattle Identification Regulations 2007(**23**), substitute—

"(3) If the Secretary of State does not provide a replacement, the animal to which it relates must not be moved off a holding except (under the authority of a licence granted by the Secretary of State) to—

(a) a plant approved under Article 24(1)(a), (b), (c) or (h) of Regulation (EC) No. 1069/2009 of the European Parliament and of the Council; or

(b) a registered collection centre which complies with Section 1 of Chapter II of Annex VI of Commission Regulation (EU) No. 142/2011 implementing Regulation (EC) No. 1069/2009 of the European Parliament and of the Council".

(**23**) S.I. 2007/529 to which there are amendments not relevant to these Regulations.

The Legislative and Regulatory Reform (Regulatory Functions) Order 2007

7. In Part 2 of the Schedule to the Legislative and Regulatory Reform (Regulatory Functions) Order 2007(**24**), under the cross-heading "animal health and welfare"—

(a) omit the entry "Animal By-Products Regulations 2005"; and

(b) after the entry "Veterinary Medicines Regulations 2008" insert "Animal By-Products (Enforcement) (England) Regulations 2013".

The Animal Gatherings Order 2010

8. In article 8(2) of the Animal Gatherings Order 2010(**25**), for "Animal By-Products Regulations 2005" substitute "Regulation (EC) No. 1069/2009 of the European Parliament and of the Council".

The Environmental Permitting (England and Wales) Regulations 2010

9.—(1) The Environmental Permitting (England and Wales) Regulations 2010(**26**) are amended as follows.

(2) In regulation 2(1)—

(a) omit the definition "the Animal By-Products Regulations"; and

(b) after the definition of "regulated facility" insert—

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

(3) In Section 6.8 of Chapter 6 of Schedule 1, omit paragraph 1(g) and (i).

The Transmissible Spongiform Encephalopathies (England) Regulations 2010

10.—(1) The Transmissible Spongiform Encephalopathies (England) Regulations 2010(**27**) are amended as follows.

(2) In regulation 2(1)—

(a) omit the definition of "Regulation (EC) No. 1774/2002"; and

(b) insert after the definition of "Regulation (EC) No. 882/2004"—

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

(3) In regulation 4(2), for "Regulation (EC) No 1774/2002" substitute "Regulation (EC) No 1069/2009".

(4) In Schedule 1, omit paragraph (b).

(5) In paragraph 14(2)(b)(i) of Schedule 2, for "the Animal By-Products Regulations 2005" substitute "Regulation (EC) No 1069/2009".

(6) In Schedule 6—

(a) omit paragraphs 1(2) and (3), 2(5) and 3;

(**24**) S.I. 2007/3544, amended by S.I. 2009/ 2981; there are other amending instruments but none is relevant.
(**25**) S.I. 2010/460.
(**26**) S.I. 2010/675 amended by S.I. 2010/2172, 2011/988 and 2013/390; there are other amending instruments but none is relevant.
(**27**) S.I. 2010/801, to which there are amendments not relevant to these Regulations.

(b) in paragraph 18(2), for "Regulation (EC) No. 1774/2002" substitute "Regulation (EC) No. 1069/2009"; and

(c) omit paragraph 19.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke, in relation to England, the Animal By-Products (Identification) Regulations 1995 (S.I. 1995/614) and revoke and remake the Animal By-Products (Enforcement) (England) Regulations 2011 (S.I. 2011/881) incorporating provisions relating to staining by-products from the Animal By-Products (Identification) Regulations 1995.

These Regulations enforce, in England, 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. (OJ No L 300, 14.11.2009, p 1) ("the EU Control Regulation").

They also enforce, in England, Commission 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) (OJ No L 54, 26.2.2011) ("the EU Implementing Regulation").

Under the EU Control Regulation there are obligations on operators in relation to animal by-products, including obligations as to disposal and use, prohibitions on feeding and placing on the market. In addition there are requirements for operators, plants and establishments to be registered or approved. The obligations vary according to the categorisation of the material; the higher risk animal by-product is categorised as Category 1 material, next in risk is Category 2 and then Category 3 material. The EU Implementing Regulation supplements the requirements of the EU Control Regulation.

These Regulations provide for the following.

1) The Secretary of State is designated as the competent authority and provision is made for various matters that supplement the basic requirements as set out in column 2 of Schedule 1 to these Regulations, including designation of remote areas and also access in relation to prohibitions on feeding in Article 11 of the EU Control Regulation (Part 2).

2) The staining of certain animal by-products to prevent them entering the food chain, allowing for the revocation of similar provisions in the Animal By-Products (Identification) Regulations 1995 (Part 3).

3) Procedure and appeals in respect of registration and approval (Part 4).

4) Enforcement of the requirements by providing for offences for breach of the requirements as identified in the Table to Schedule 1 (Part 5). The Table sets out the requirements of the EU Control Regulation as supplemented by the requirements of the EU Implementing Regulation and these Regulations, where applicable. The EU Control Regulation and the EU Implementing Regulation enable the competent authority, the Secretary of State, to grant authorisations in respect of such requirements. Such authorisations enable the competent authority to determine whether or not a product is a risk to human or animal health for example. A full list of all

the authorisations that are provided for under the requirements will be made available on the Defra website (www.defra.gov.uk). In addition, that website will also make available the authorisations exercised by the Secretary of State.

5) Enforcement, by appointing enforcement authorities and making provision for powers of enforcement (Part 6).

6) Consequential provisions (Part 7 and Schedule 2).

A full impact assessment of the effect that this instrument will have on the costs of business, and the voluntary sector is available on the Defra website (www.defra.gov.uk) or from the Department for Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR and is published with the Explanatory Memorandum alongside the instrument on (www.legislation.gov.uk)