

Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 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)

## TITLE II

### OBLIGATIONS OF OPERATORS

#### CHAPTER II

##### Placing on the market

##### Section 4

##### Other derived products

##### *Article 35*

##### **Placing on the market of pet food**

Operators may place pet food on the market provided:

- (a) the products are derived:
  - (i) from Category 3 material, other than material referred to in Article 10(n), (o) and (p);
  - (ii) in the case of imported pet food or of pet food produced from imported materials, from Category 1 material referred to in Article 8(c), subject to conditions laid down pursuant to point (a) of the first paragraph of Article 40; or
  - (iii) in the case of raw petfood, from material referred to in Article 10(a) and (b) (i) and (ii); and
- (b) they ensure the control of risks to public and animal health by safe treatment in accordance with Article 38, where safe sourcing in accordance with Article 37 does not ensure sufficient control.

##### *Article 36*

##### **Placing on the market of other derived products**

Operators may place on the market derived products, other than the products referred to in Articles 31, 32, 33 and 35, provided:

- (a) those products are:

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*Changes to legislation: There are currently no known outstanding effects for the Regulation (EC) No 1069/2009 of the European Parliament and of the Council, Section 4. (See end of Document for details)*

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- (i) not intended for use for the feeding to farmed animals or for application to land from which such animals are to be fed; or
  - (ii) intended for feeding to fur animals; and
- (b) they ensure the control of risks to public and animal health by:
- (i) safe sourcing in accordance with Article 37;
  - (ii) safe treatment in accordance with Article 38, where safe sourcing does not ensure sufficient control; or
  - (iii) verifying that the products are only used for safe end uses in accordance with Article 39 where safe treatment does not ensure sufficient control.

### *Article 37*

#### **Safe sourcing**

- 1 Safe sourcing shall include the use of material:
- a from which no unacceptable risks to public and animal health arise;
  - b which has been collected and transported from the point of collection to the manufacturing establishment or plant under conditions which exclude risks to public and animal health; or
  - c which has been imported into [<sup>F1</sup>Great Britain] and transported from the point of first entry to the manufacturing establishment or plant under conditions which exclude risks to public and animal health.
- 2 For the purpose of safe sourcing, operators shall provide documentation of the requirements of paragraph 1, including, where necessary, proof of the safety of bio-security measures taken in order to exclude risks arising to public and animal health from starting material.

Such documentation shall be kept available to the competent authority upon request.

In the case referred to in point (c) of paragraph 1, the consignments shall be accompanied by a health certificate corresponding to a model [<sup>F2</sup>made available or published by the appropriate authority, in accordance with point (b) of Article 21(5)].

#### **Textual Amendments**

- F1** Words in Art. 37(1)(c) substituted (E.W.S.) (31.12.2020) by [The Animals, Aquatic Animal Health, Invasive Alien Species, Plant Propagating Material and Seeds \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1388\)](#), regs. 1(2)(c), **12(19)**
- F2** Words in Art. 37(2) substituted (31.12.2020) by [The Animals \(Legislative Functions\) \(EU Exit\) Regulations 2019 \(S.I. 2019/588\)](#), regs. 1, **8(20)** (with reg. 12); 2020 c. 1, Sch. 5 para. 1(1)

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### Article 38

#### Safe treatment

Safe treatment shall include application of a manufacturing process to the material used which reduces to an acceptable level risks to public and animal health arising from the material used or from other substances resulting from the manufacturing process.

It shall be ensured that the derived product poses no unacceptable risks to public and animal health, in particular by means of testing of the end product.

### Article 39

#### Safe end uses

Safe end uses shall include the use of derived products:

- (a) under conditions which pose no unacceptable risks to public and animal health; or
- (b) which may pose a risk to public and animal health, for specific purposes provided that such use is justified by objectives set out in [<sup>F3</sup>retained EU law], in particular for the protection of public and animal health.

#### Textual Amendments

- F3** Words in Regulation substituted (E.W.S.) (31.12.2020) by [The Animals, Aquatic Animal Health, Invasive Alien Species, Plant Propagating Material and Seeds \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1388\)](#), **reg. 12(2)**

### Article 40

#### Implementing measures

[<sup>F4</sup>The appropriate authority may, by regulations, lay down measures for the implementation of this Section relating to the following matters]:

- (a) conditions for the placing on the market of imported pet food or of pet food produced from imported materials, from Category 1 material referred to in Article 8(c);
- (b) conditions for the safe sourcing and movement of material to be used under conditions which exclude risks to public and animal health;
- (c) documentation as referred to in the first subparagraph of Article 37(2);
- (d) parameters for the manufacturing process as referred to in the first paragraph of Article 38, in particular as regards the application of physical or chemical treatments to the material used;
- (e) testing requirements applicable to the end product; and
- (f) conditions for the safe use of derived products which pose a risk to public or animal health.

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*Changes to legislation:* There are currently no known outstanding effects for the Regulation (EC) No 1069/2009 of the European Parliament and of the Council, Section 4. (See end of Document for details)

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F5 .....

**Textual Amendments**

- F4** Words in Art. 40 substituted (31.12.2020) by [The Animals \(Legislative Functions\) \(EU Exit\) Regulations 2019 \(S.I. 2019/588\)](#), regs. 1, **8(21)(a)** (with reg. 12); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in Art. 40 omitted (31.12.2020) by virtue of [The Animals \(Legislative Functions\) \(EU Exit\) Regulations 2019 \(S.I. 2019/588\)](#), regs. 1, **8(21)(b)** (with reg. 12); 2020 c. 1, Sch. 5 para. 1(1)

**Changes to legislation:**

There are currently no known outstanding effects for the Regulation (EC) No 1069/2009 of the European Parliament and of the Council, Section 4.