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STATUTORY RULES OF NORTHERN IRELAND

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**2002 No. 225**

**Transmissible Spongiform Encephalopathy  
Regulations (Northern Ireland) 2002**

**PART VIII**

**COMMUNITY CONTROLS, OFFENCES, PENALTIES AND ENFORCEMENT**

**Community controls: powers of inspectors**

**97.**—(1) An inspector shall, on producing, if required to do so, some duly authenticated document showing his authority, have the right at all reasonable times to enter any premises (excluding premises used only as a private dwelling) for any purpose in relation to the checks and assistance referred to in Article 21 of the Community TSE Regulation.

(2) If a justice of the peace, on sworn information in writing is satisfied that there is reasonable ground for entry into any premises (excluding premises used only as a private dwelling) for any purpose as is mentioned in paragraph (1) and that either –

- (a) admission to the premises has been refused, or a refusal is expected, 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 is absent,

he may issue a warrant authorising an inspector to enter the premises for that purpose if need be by reasonable force.

(3) The occupier of premises entered by an inspector under this regulation or by virtue of a warrant issued under it, his employees and any person on the premises who is or has been in possession or charge of any mammalian meat and bone meal or processed animal protein, any animal or carcase which is or has been on the premises, or any specified risk material which is or has been on the premises, shall –

- (a) provide such reasonable facilities and reasonable assistance to the inspector and comply with such reasonable requirements as the inspector considers necessary for any purpose in relation to the checks and assistance referred to in Article 21 of the Community TSE Regulation; and
- (b) if required by an inspector, give such information as he possesses as to –
  - (i) any mammalian meat and bone meal or processed animal protein, any animal, carcase, or any specified risk material, which is or has been on the premises;
  - (ii) any animal or carcase with which any mammalian meat and bone meal or processed animal protein, any animal, carcase, or any specified risk material, which is or has been on the premises may have come into contact; and

- (iii) the location, transport and movement of any mammalian meat and bone meal, processed animal protein, any animal or carcase, or any specified risk material, which is or has been in his possession or charge.

(4) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it may take with him –

- (a) such other persons as he considers necessary to give him such assistance as he considers necessary; and
- (b) a representative of the European Commission acting for the purpose of the Community TSE Regulation or the Community Transitional Measures.

(5) If an inspector enters any unoccupied premises he shall leave them as effectively secured against unauthorised entry as he found them.

### **Obstruction**

**98.**—(1) A person shall not –

- (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 of him for the purpose of carrying out his functions under these Regulations; or
- (c) furnish to any person acting in the execution of these Regulations any information which he knows to be false or misleading.

(2) Nothing in paragraph (1)(b) shall be construed as requiring any person to answer any question or give any information if to do so might incriminate him.

### **Offences and penalties**

**99.**—(1) If a person contravenes or fails to comply with any prohibition or requirement imposed by or under these Regulations and the contravention or failure is not made an offence by any other provision of these Regulations, he shall be guilty of an offence.

(2) A person guilty of an offence under this regulation 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.

(3) A prosecution for an offence under this regulation shall not be begun after the expiry of –

- (a) three years from the commission of the offence; or
- (b) one year from its discovery by the prosecutor,

whichever is the earlier.

### **Offences due to fault of another person and defence of due diligence**

**100.**—(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 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), be a defence for the person charged to prove that he took all reasonable

precautions and exercised all due diligence to avoid the commission of the offence by himself or by a person under his control.

(3) If in any case the defence provided by paragraph (2) 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 he has previously appeared before a court in connection with the alleged offence, within one month of his first such appearance,

he 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 his possession.

(4) In paragraph (3) any reference to appearing before a court shall be construed as including a reference to being brought before a court.

### **Enforcement**

**101.** These Regulations shall be enforced by the Department or the Agency.