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SCOTTISH STATUTORY INSTRUMENTS

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**2002 No. 255**

**The TSE (Scotland) Regulations 2002**

**Part I**

**Introductory provisions**

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the TSE (Scotland) Regulations 2002 and shall come into force on 19th June 2002.

(2) These Regulations extend to Scotland only.

**Purpose and application**

2.—(1) Subject to paragraph (2) below, these Regulations do not apply to the production or placing on the market of the products, medical devices, starting materials, intermediate products and live animals referred to in article 1(2) of the Community TSE Regulation.

(2) In so far as necessary to avoid the cross-contamination or substitution referred to in article 2 of the Community TSE Regulation, these Regulations apply to the use of specified risk material in the production or placing on the market of any product, medical device, starting material or intermediate product referred to in article 1(2) of the Community TSE Regulation.

(3) Part III of these Regulations applies in relation to mammalian protein, mammalian meat and bone meal meat and processed animal protein intended for the feeding of animals (excluding humans).

(4) Part III of these Regulations does not apply in relation to—

- (a) catering waste; or
- (b) eggs and egg products.

**Interpretation**

3.—(1) In these Regulations, unless the context otherwise requires—

“ABPO approved”, in relation to premises, means approved under article 7, or registered under article 12, of the Animal By-Products Order 1999<sup>(1)</sup>, and “ABPO approval” shall be construed accordingly;

“Agency” means the Food Standards Agency;

“agricultural land” means land used or capable of use for the purposes of a trade or business in connection with agriculture;

“agriculture” includes fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, the use of land for

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(1) S.I.1999/646, amended by S.S.I. 2001/171.

woodlands, and horticulture (except the propagation of plants and the growing of plants within greenhouses and glass or plastic structures);

“catering waste” has the same meaning as in the Animal By-Products Order 1999;

“the Commission Decision” means Commission Decision [2001/9/EC](#)(2) concerning control measures required for the implementation of Council Decision [2000/766/EC](#) concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein;

“the Community TSE Regulation” means Regulation (EC) No. [999/2001](#) of the European Parliament and of the Council of 22nd May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies(3) as amended by the Community Transitional Measures;

“the Community Transitional Measures” means–

- (a) Commission Regulation (EC) No. [1248/2001](#) of 22nd June 2001 amending Annexes III, X and XI to Regulation (EC) No. [999/2001](#) of the European Parliament and of the Council as regards epidemio-surveillance and testing of transmissible spongiform encephalopathies(4);
- (b) Commission Regulation (EC) No. [1326/2001](#) of 29th June 2001 laying down transitional measures to permit the changeover to the Regulation of the European Parliament and of the Council (EC) No. [999/2001](#) laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies, and amending Annexes VII and XI to that Regulation(5); and
- (c) Commission Regulation (EC) No. [270/2001](#) of 14th February 2002 amending Annex XI to Regulation (EC) No. [999/2001](#) of the European Parliament and of the Council as regards bovine vertebral column and amending Regulation (EC) No. [1326/2001](#) as regards animal feeding and placing on the market of ovine and caprine animals and products thereof(6);

“cutting premises” means cutting premises as defined in the Fresh Meat (Hygiene and Inspection) Regulations 1995(7) which are licensed cutting premises under those Regulations;

“the Divisional Veterinary Manager” means the veterinary inspector appointed for the time being by the Scottish Ministers to receive information in relation to animals suspected of being affected by a TSE or animals affected by a TSE, or the carcasses of such animals, for the area in which such animals or carcasses are located;

“farmed animal” means an animal which is kept, fattened or bred for the production of food;

“feedingstuff” has the meaning given to it by section 66(1) of the Agriculture Act 1970(8), save that it shall apply to products and substances for oral feeding to any creature (other than a human being), and section 66(2)(b) of that Act shall have effect for the purposes of these Regulations as it does for the purposes of that Act;

“food” has the same meaning as in the Food Safety Act 1990(9);

(2) O.J. No. L 2, 5.1.2001, p.32.

(3) O.J. No. L 147, 31.5.2001, p.1.

(4) O.J. No. L 173, 27.6.2001, p.12.

(5) O.J. No. L 177, 30.6.2001, p.61.

(6) O.J. No. L 45, 15.2.2002, p.4.

(7) S.I. 1995/539, amended by S.I. 1995/731, 1763, 2148, 2200, 3124 and 3189, 1996/1148 and 2235, 1997/1729 and 2074 and S.S.I. 2000/62, 171 and 288, 2001/160, 358, 394 and 429 and 2002/35 and 234.

(8) 1970 c. 40. The definition of “feeding stuff” was substituted by S.I. 1991/2840.

(9) 1990 c. 16.

“justice of the peace” means a full justice as defined by section 9 of the District Courts (Scotland) Act 1975(10);

“inspector” means–

- (a) a person appointed as such for the purposes of these Regulations by the Scottish Ministers, including a veterinary inspector;
- (b) a person appointed as such for the purposes of these Regulations by the Agency, including a person designated as an OVS or as a meat hygiene inspector in accordance with regulation 8(2) of the Fresh Meat (Hygiene and Inspection) Regulations 1995;
- (c) a person appointed as such for the purposes of these Regulations by a local authority in relation to its enforcement responsibilities under these Regulations;

“livestock” means–

- (a) any creature, including a fish, kept, fattened or bred for the production of food, wool, skin or fur;
- (b) any creature other than a dog kept for use in the farming of land; and
- (c) any equine animal;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(11);

“MBM product” means any product containing mammalian meat and bone meal;

“mammalian meat and bone meal” means–

- (a) any mammalian protein (including greaves) derived from the whole or part or any part of any dead mammal by–
  - (i) the process of rendering; or
  - (ii) in the case of a product originating outside of Scotland, by an equivalent process; or
- (b) any material derived from mammalian protein,

and for this purpose “protein” means any proteinaceous material which is derived from a carcase but does not include milk or any milk product;

“monitoring notification”, in respect of any category of notifiable animal, means a notification of the death of the animal to the Scottish Ministers;

“notifiable animal” means any TSE susceptible animal in relation to which the annual programme of monitoring under article 6 of the Community TSE Regulation applies;

“OVS” means an official veterinary surgeon designated as such in accordance with regulation 8(1) of the Fresh Meat (Hygiene and Inspection) Regulations 1995;

“occupier”, in relation to any premises, means any person carrying on a business there;

“premises” means any place, including any land, building, structure (moveable or otherwise), tent or vehicle–

- (a) in which TSE susceptible animals may be bred, grazed, handled, held, kept, marketed or shown to the public;
- (b) in which processed animal protein or mammalian meat and bone meal may be handled, kept or disposed of;
- (c) in which specified risk material may be removed from a carcase of an animal, handled or kept or disposed of; or

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(10) 1975 c. 20. The definition of “full justice” was inserted by section 8 of the [Bail, Judicial Appointments etc. \(Scotland\) Act 2000 \(asp 9\)](#).

(11) 1994 c. 39.

(d) any place where blood, carcasses or parts of the carcasses derived from any creature except man may be kept;

“processed animal protein” means meat and bone meal, meat meal, bone meal, blood meal, dried plasma and other blood products, hydrolysed protein, hoof meal, horn meal, poultry offal meal, feather meal, dry greaves, fishmeal, dicalcium phosphate, gelatin and any other similar products, and includes mixtures, feedingstuffs, feed additives and premixtures, containing these products; but does not include mammalian meat and bone meal;

“production” includes the manufacture, mixing or packaging of any product, together with ancillary storage and transport operations;

“rendering” means subjecting any material at a rendering, fishmeal or other plant to any of the systems of treatment or procedures mentioned in Schedule 2 to the Animal By-Products Order 1999;

“ruminant animal” means a bovine animal, a sheep or a goat;

“scheme animal” means a bovine animal—

(a) which has been slaughtered pursuant to the purchase scheme introduced under Commission Regulation (EC) No. 716/96 adopting exceptional support measures for the beef market in the United Kingdom; or

(b) which the Scottish Ministers have caused to be slaughtered under the Animal Health Act 1981(12) for the prevention of bovine spongiform encephalopathy;

“sealed vehicle” means a vehicle sealed in accordance with regulation 42(3) below;

“slaughterhouse” means a slaughterhouse as defined in the Fresh Meat (Hygiene and Inspection) Regulations 1995 which is a licensed slaughterhouse under those Regulations;

“specified risk material” includes—

(a) any animal material which comes into contact with specified risk material after it has been removed from the carcass; and

(b) specified solid waste;

but does not include—

(i) the vertebral column of a bovine animal born and continuously reared in the United Kingdom or Portugal and slaughtered there when it was aged over 12 months but no more than 30 months; and

(ii) the vertebral column of a bovine animal born, continuously reared and slaughtered in Sweden;

“specified solid waste” means any solid matter resulting from the slaughter or death of a bovine animal, sheep or goat, or from the subsequent processing of the carcass of a bovine animal, sheep or goat, which is collated, in any part of the drainage system draining any place at which specified risk material is handled;

“TSE” means all transmissible spongiform encephalopathies with the exception of those occurring in humans;

“TSE susceptible animal” means any animal (whether it is a farmed animal or not) capable of being affected by a TSE;

“tallow” means fat derived from animal tissues by a process of rendering;

“UK specified risk material” means specified risk material derived from an animal which has died or was slaughtered in the United Kingdom;

“veterinary inspector” means a person appointed as such by the Scottish Ministers;

“young lamb stamp” means the stamp described in regulation 41(2) below.

(2) Expressions in these Regulations which appear in the Community TSE Regulation or in the Community Transitional Measures have the same meaning in these Regulations as they have for the purposes of the Community TSE Regulation or the Community Transitional Measures.

(3) Expressions in Part III of these Regulations which are not defined in paragraph (1) above and which appear in Council Decision [2000/766/EC](#)(13) concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein or the Commission Decision have the same meaning in these Regulations as they have for the purposes of those Decisions.

(4) For the purposes of these Regulations, material shall be treated as a feedingstuff whether it is used or intended to be used as a feedingstuff by itself or as an ingredient in something which is so used or intended for such use.

(5) Any person appointed by the Scottish Ministers or a local authority to be an inspector for the purposes of the Animal Health Act 1981 or the Processed Animal Protein (Scotland) Regulations 2001(14) shall be deemed to have been appointed by the Scottish Ministers or that authority to be an inspector for the purposes of these Regulations.

(6) Any obligation in these Regulations on any person to slaughter an animal shall be treated as including the person so obliged causing the animal to be slaughtered.

(7) Other than in relation to information sworn before a sheriff or a justice of the peace, and other than in relation to the service of a notice or other document in accordance with regulation 100, any reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000(15), which has been recorded and is consequently capable of being reproduced.

## Part II

### TSE Monitoring

#### **TSE monitoring**

4.—(1) An inspector may make such enquiries and carry out such investigations as that inspector considers necessary for any purpose connected with the administration or enforcement of the annual programme of monitoring under Article 6 of the Community TSE Regulation.

(2) For any such purpose an inspector shall, on producing, if required to do so, some duly authenticated document showing the authority of that inspector, have the right at all reasonable hours to enter any premises (excluding premises used only as a dwelling) to—

- (a) ascertain whether any TSE susceptible animal is being or has been kept on the premises;
- (b) ascertain whether—
  - (i) any TSE exists or has existed on the premises or any other premises; or
  - (ii) any animal which is being kept on the premises or has been kept on the premises is, or was at the time it was kept there, affected with any TSE;
- (c) collect, pen, inspect and examine any TSE susceptible animal and for that purpose may require the keeper of any such animal to arrange for the collection and penning of the animal;

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(13) O.J. No. L 306, 7.12.2000, p.32.

(14) S.S.I. 2001/276 as amended by S.S.I. 2001/383.

(15) 2000 c. 7.

- (d) inspect and examine the carcase of such an animal;
- (e) take such samples from, and make such tests in relation to, any TSE susceptible animal, or the carcase of such an animal, as that inspector considers necessary;
- (f) mark for identification purposes any TSE susceptible animal, or the carcase of such an animal, or administer or otherwise attach an electronic identification device to any TSE susceptible animal;
- (g) serve a notice to restrict or prohibit the movement of any TSE susceptible animal or the carcase of such an animal;
- (h) seize any TSE susceptible animal or the carcase of such an animal;
- (i) serve any notice in connection with the slaughter of any TSE susceptible animal;
- (j) slaughter any TSE susceptible animal;
- (k) examine any record, in whatever form the record may be held, and take copies of the record;
- (l) have access to, and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with any record; and for this purpose the inspector may require any person who has charge of or who is otherwise concerned with the operation of the computer, apparatus or material to afford to that inspector such assistance as that inspector may reasonably require and, where a record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away; and
- (m) ascertain whether there is or has been any contravention of, or failure to comply with, this Part of these Regulations or any evidence of any such contravention or failure.

(3) No person except an inspector shall remove or otherwise interfere with any mark applied to a TSE susceptible animal or the carcase of such an animal under paragraph (2)(f) above and no person except a veterinary inspector or an OVS shall remove or otherwise interfere with any electronic identification device attached to or otherwise administered to such an animal under that sub-paragraph.

(4) If a sheriff or justice of the peace, on sworn information in writing is satisfied that there are reasonable grounds for entry into any premises for any such purpose as is mentioned in paragraph (2) above and that either—

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

the sheriff or justice of the peace may by signed warrant authorise an inspector to enter the premises, if need be by using reasonable force.

(5) The occupier of premises entered by an inspector under this regulation or by virtue of a warrant issued under it, and the employees of the occupier and any person on the premises who is or has been in possession or charge of any animal or carcase which is or has been on the premises, shall—

- (a) provide such reasonable facilities to the inspector and comply with such reasonable requirements as the inspector considers necessary for any purpose connected with the administration or enforcement of the annual programme of monitoring referred to in article 6 of the Community TSE Regulation; and
- (b) if required by an inspector, give such information as that occupier possesses as to—
  - (i) any animal or carcase which is or has been on the premises;

- (ii) any other animal or carcase with which any animal or carcase which is or has been on the premises may have come into contact; and
  - (iii) the location and movement of any animal or carcase which is or has been in the possession or charge of the occupier.
- (6) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it, may be accompanied by—
- (a) such other person as that inspector considers necessary to give such assistance as that inspector considers necessary; and
  - (b) a representative of the European Commission acting for the purpose of the Community TSE Regulation or the Community Transitional Measures.
- (7) If an inspector enters any unoccupied premises, that inspector shall leave them as effectively secured against unauthorised entry as that inspector found them.

### **Movement prohibitions and restrictions of TSE susceptible animals**

5.—(1) This regulation applies where an inspector is satisfied that for any purpose connected with the administration or enforcement of the annual programme of monitoring under article 6 of the Community TSE Regulation it is necessary to prohibit or restrict the movement of any TSE susceptible animal from or to any premises.

(2) For any such purpose, and inspector may, by notice in writing served on the owner or person in charge of the animal, prohibit or restrict the movement of the animal or carcase from or to any premises described in the notice for such period and subject to such conditions as that inspector considers necessary for that purpose and specifies in the notice.

(3) During the period in which the notice is in force an inspector may renew it subject to such conditions as that inspector considers necessary for the same or a shorter period.

(4) A notice which is renewed may be renewed from time to time in a similar manner by an inspector.

(5) Where a notice is in force under this regulation the conditions of which allow movement of any animal or carcase from premises on the authority of a licence issued by an –inspector, an inspector may issue a licence for this purpose subject to such requirements or conditions as that inspector considers necessary.

(6) Where an animal or carcase is being moved under the authority of a licence issued under this Part of these Regulations, the person in charge of the animal or carcase being so moved shall carry the licence during the authorised movement and shall, on demand made by an inspector or by a police officer, produce the licence and allow a copy or extract to be taken, and shall also, on such demand, furnish the name and address of that person.

### **Slaughter of TSE susceptible animals at slaughterhouses**

6.—(1) This regulation and regulation 7 below apply where the Scottish Ministers are satisfied it is necessary to slaughter any TSE susceptible animal for any purpose connected with the administration or enforcement of the annual programme of monitoring under article 6 of the Community TSE Regulation.

(2) Where the Scottish Ministers are satisfied that it is necessary to slaughter a TSE susceptible animal at a slaughterhouse, an inspector shall so inform the occupier of the premises concerned and direct the occupier to slaughter the animal in such manner and within such period as the inspector directs.

(3) Before an inspector directs an occupier to slaughter an animal under this regulation, that inspector shall consider the hygiene, specified risk material or animal welfare requirements with which the occupier must comply at the slaughterhouse in relation to—

- (a) the slaughter of the animal; and
- (b) any related operation, including—
  - (i) the handling of the animal before and at slaughter, or the handling, storage, treatment and disposal of the carcase, any part of the carcase or any blood derived from the carcase or any part of the carcase; and
  - (ii) any operation in relation to any other animal or the slaughter of any other animal at the slaughterhouse, including the handling of any other animal before and at slaughter, or the handling, storage, treatment and disposal of the carcase, any part of the carcase or any blood derived from the carcase or any part of the carcase of any other animal.

(4) Where the inspector is satisfied that for the purpose of complying with any of these requirements the occupier must—

- (a) slaughter any other animal at the slaughterhouse; or
- (b) carry out any such related operation,

the inspector shall direct the occupier to slaughter the other animal or carry out the related operation in such manner and within such period as the inspector directs.

(5) In directing an occupier under this regulation, an inspector may direct that occupier in relation to—

- (a) the keeping and handling before and at slaughter of any animal at the slaughterhouse, whether or not it is to be slaughtered under a direction given under this regulation;
- (b) the arrangements for the slaughter at the slaughterhouse of any animal slaughtered under a direction given under this regulation; and
- (c) the treatment, storage and disposal of the carcase of any animal slaughtered at the slaughterhouse or any part of the carcase or any blood derived from the carcase or any part of the carcase.

(6) Any direction under this regulation shall be complied with at the expense of the person to whom the direction is given, except where and to the extent that the Scottish Ministers are satisfied that it is not proportionate for that person to bear some or all of that expense.

(7) Where the Scottish Ministers are satisfied that it is not proportionate for a person to whom a direction is given to bear some or all of the expense of complying with it, they shall give notice to that person of the proportion of the expense, if any, which they are satisfied the person should bear.

(8) If a direction under this regulation is not complied with, an inspector may arrange for it to be complied with and may recover the expense of such compliance from the person to whom the direction was given.

### **Slaughter of TSE susceptible animals at other premises**

7.—(1) Where the Scottish Ministers are satisfied that it is necessary to slaughter a TSE susceptible animal at premises other than a slaughterhouse a veterinary inspector shall serve a notice of intended slaughter on the owner or person in charge of the animal—

- (a) informing that owner or person of that intention; and
- (b) specifying the period within which representations from the owner or person in charge of the animal may be made to the Scottish Ministers in that regard.



(2) After considering any representations received during that period from the owner or person in charge of the animal, the Scottish Ministers shall either—

- (a) withdraw the notice of intended slaughter; or
- (b) serve a notice on the owner or person in charge of the animal confirming the intended slaughter of the animal.

(3) After service of the notice confirming the intended slaughter of the animal, the Scottish Ministers shall cause the animal to be slaughtered as soon as possible having regard to the requirements of the annual programme of monitoring referred to in Article 6 of the Community TSE Regulation.

### **Retention and seizure of carcasses etc. of TSE susceptible animals**

**8.—**(1) This regulation applies where the Scottish Ministers are satisfied that for any purpose connected with the administration or enforcement of the annual programme of monitoring under article 6 of the Community TSE Regulation it is necessary—

- (a) to require an occupier of premises to retain on the premises, under the direction of the Scottish Ministers, a carcass of a TSE susceptible animal, any part of such a carcass or any blood derived from any such carcass or part; or
- (b) to seize from any premises the carcass of a TSE susceptible animal, any part of such a carcass or any blood derived from any such carcass or part.

(2) For any such purpose an inspector may—

- (a) direct the occupier of the premises to retain on the premises a carcass of a TSE susceptible animal on the premises, any part of such a carcass or any blood derived from any such carcass or part; or
- (b) seize or dispose of—
  - (i) any carcass of a TSE susceptible animal from any premises, or any part of such a carcass, whether or not it is a carcass or part of a carcass which the occupier has been required to be retained under the direction of an inspector; or
  - (ii) any blood derived from a carcass of a TSE susceptible animal or any part of such a carcass, whether or not the carcass or part of the carcass from which the blood is derived has been required to be retained under the direction of an inspector or has been seized by an inspector.

(3) The power of an inspector to direct an occupier under this regulation to retain a carcass, part of a carcass or blood derived from any carcass or part includes the power to make directions in relation to the treatment, storage and disposal of the carcass, part or blood.

(4) Any direction under this regulation shall be complied with at the expense of the person to whom the direction is given, except where and to the extent that the Scottish Ministers are satisfied that it is not proportionate for that person to bear some or all of that expense.

(5) Where the Scottish Ministers are satisfied that it is not proportionate for a person to whom a direction is given to bear some or all of the expense of complying with it, they shall give notice to that person of the proportion of the expense, if any, which they are satisfied the person should bear.

(6) If a direction under this regulation is not complied with, an inspector may arrange for it to be complied with and may recover the expense of such compliance from the person to whom the direction was given.

### **Compensation for slaughtered TSE susceptible animals**

9.—(1) Where a TSE susceptible animal is slaughtered under regulation 6 or 7 above, the Scottish Ministers shall pay compensation to the owner of the animal in accordance with the provisions of Part I of Schedule 1 to these Regulations.

(2) The Scottish Ministers shall pay compensation in accordance with the provisions of Part II of that Schedule to the owner of any carcase, part of a carcase or blood seized or disposed of under regulation 8 above.

### **Notifications**

10.—(1) For any purpose connected with the administration or enforcement of the annual programme of monitoring referred to in Article 6 of the Community TSE Regulation, the Scottish Ministers may certify in respect of any category of notifiable animal that a monitoring notification in respect of animals in that category is required.

(2) Where—

- (a) in respect of a category of notifiable animal the Scottish Ministers have certified that a monitoring notification is required; or
- (b) the Scottish Ministers appoint an agent for the purposes of receiving notifications under this regulation on their behalf,

the Scottish Ministers shall publish by such means as they think fit, including by notice in the Edinburgh Gazette, the details of the certificate or the name of the agent, the address of the agent and other relevant contact information and the date on and after which notifications under this regulation shall be made to the agent instead of to the Scottish Ministers.

(3) Where, in respect of a category of notifiable animal, the Scottish Ministers have certified that a monitoring notification in respect of animals in that category is required—

- (a) a person who has in the possession or under the charge of that person an animal of that category, or the carcase of an animal of that category, shall, within 24 hours from the time when the animal dies or was killed or the carcase comes into the possession or charge of that person, notify the fact, and such other information as may be required by virtue of the monitoring notification, to the Scottish Ministers or, where the Scottish Ministers have appointed an agent to receive notifications under this regulation on their behalf, to that agent; and
- (b) any veterinary surgeon or other person who, in the course of the duties of that surgeon examines or inspects an animal of that category which dies during the course of those duties, or examines or inspects the carcase of such an animal, shall within 24 hours from the time when the animal dies or the carcase is examined or inspected, notify the fact, and such other information as may be required by virtue of the monitoring notification, to the Scottish Ministers or, where the Scottish Ministers have appointed an agent to receive notifications under this regulation on their behalf, to that agent.

(4) A person who has in the possession or under the charge of that person on any premises any animal or carcase in respect of which the Scottish Ministers have certified that a monitoring notification is required, shall detain it on the premises until it has been collected by or on behalf of the Scottish Ministers.

## Part III

### Animal feeding

#### *Mammalian protein and mammalian meat and bone meal*

##### **Mammalian protein**

11.—(1) Subject to paragraph (2) below, no person shall—

- (a) knowingly sell or supply for feeding to ruminant animals; or
- (b) feed to a ruminant animal,

any feedingstuff in which that person knows or has reason to suspect that any mammalian protein has been incorporated.

(2) The prohibitions in paragraph (1) above shall not apply to the feeding to an animal of any feedingstuff for research purposes in a research establishment under the authority of a licence issued by a veterinary inspector and in accordance with any conditions subject to which the licence is issued, or to the sale or supply of any feedingstuff to a research establishment for such purposes.

##### **Mammalian meat and bone meal for use in feedingstuffs for livestock**

12.—(1) Subject to paragraphs (5) and (6) below, no person shall—

- (a) sell or supply for incorporation into any feedingstuff for livestock any mammalian meat and bone meal;
- (b) use any mammalian meat and bone meal in the production of any feedingstuff for livestock;
- (c) sell or supply for feeding to livestock any feedingstuff in which any mammalian meat and bone meal has been incorporated; or
- (d) feed to livestock any feedingstuff in which any mammalian meat and bone meal has been incorporated.

(2) Subject to paragraph (6) below, no person shall undertake any production using any mammalian meat and bone meal or any MBM product on premises where any feedingstuff for livestock is produced.

(3) Subject to paragraphs (5) to (8) below, no person shall have in the possession of that person any mammalian meat and bone meal or any MBM product on any premises where—

- (a) any livestock is kept;
- (b) any feedingstuff for livestock is produced; or
- (c) any feedingstuff for livestock is stored but not produced and no livestock are kept.

(4) Subject to paragraphs (6) and (8) below, no person shall transport any mammalian meat and bone meal or any MBM product in any vehicle in which any feedingstuff for livestock is being transported.

(5) The prohibitions in paragraphs (1) and (3) above shall not apply to the feeding to an animal of any feedingstuff for research purposes in a research establishment under the authority of a licence issued by a veterinary inspector and in accordance with any conditions subject to which the licence is issued, or to the sale or supply of any feedingstuff to a research establishment for such purposes or to the possession of a feedingstuff at such an establishment for such purposes.

(6) In any proceedings for an offence under paragraphs (1) to (4) above it shall be a defence for any person charged to prove—

- (a) that that person did not know nor have reason to suspect that the material in question was mammalian meat and bone meal or contained mammalian meat and bone meal; and
  - (b) that that person had taken all reasonable steps to ensure that it was not and did not contain mammalian meat and bone meal.
- (7) In any proceedings for an offence under paragraph (3) above in relation to any MBM product it shall be a defence for any person charged to prove—
- (a) in the case of an offence under paragraph (3)(a) above, that the MBM product was in the possession of that person solely for feeding to a pet of a species which is not commonly used as livestock in the United Kingdom or to a working dog or for use as a fertiliser on a domestic garden or for house plants;
  - (b) in the case of an offence under paragraph (3)(c) above, that both the MBM product and the feedingstuff for livestock were offered for sale on those premises;
  - (c) that the MBM product was stored and used in a place which was physically separated from any place where feedingstuff for livestock was stored or to which such animals had access; and
  - (d) that adequate precautions were taken to ensure that no equipment used with the MBM product was used with the feedingstuff for livestock.
- (8) In any proceedings for an offence under paragraph (3) or (4) above it shall be a defence for any person charged to prove that at all material times both the mammalian meat and bone meal or MBM product (as the case may be) and the feedingstuff for livestock were securely packaged and that no spillage or leakage took place.
- (9) No person shall transport from or to any premises, or store in bulk at any premises, any mammalian meat and bone meal the sale or supply of which is prohibited by paragraph (1)(a) above, unless that person and the premises are registered by the Scottish Ministers for the purpose and the premises are not used for the preparation of feedingstuffs for livestock.
- (10) The Scottish Ministers shall register that person and the premises under this regulation where the occupier declares the premises are capable of being used in accordance with this Part of these Regulations.

### **Mammalian meat and bone meal for use in fertilisers on agricultural land**

**13.—**(1) No person shall sell or have in the possession of that person with a view to sale, for use as a fertiliser on agricultural land, any mammalian meat and bone meal or any material derived from or containing any mammalian meat and bone meal.

(2) No person shall use on agricultural land as a fertiliser any mammalian meat and bone meal or any material derived from or containing any mammalian meat and bone meal.

(3) Subject to paragraph (4) below, no person shall—

- (a) sell or have in the possession of that person with a view to sale, for use as a fertiliser on any land other than agricultural land; or
- (b) use as a fertiliser on any such land,

any mammalian meat and bone meal or any material derived from or containing any mammalian meat and bone meal, unless the mammalian meat and bone meal concerned was manufactured in accordance with paragraph (5) below.

(4) Nothing in paragraph (3) above shall prevent—

- (a) the sale for use on any land other than agricultural land;
- (b) the possession with a view to such sale; or
- (c) the use on any such land,

of any fertiliser consisting solely of mammalian meat and bone meal or derived from or containing mammalian meat and bone meal, if that mammalian meat and bone meal was manufactured before the date of coming into force of the contract for its purchase by the manufacturer of that fertiliser.

(5) No person shall manufacture mammalian meat and bone meal for use as or in any fertiliser except by a rendering process in which—

- (a) the particle size of the raw material prior to processing is reduced so that the maximum dimension of no particle exceeds 50 mm; and
  - (b) the material is heated to a core temperature of more than 133°C for at least 20 minutes at a pressure of at least 3 bar.
- (6) In this regulation—
- (a) mammalian meat and bone meal does not include any mammalian meat and bone meal derived solely from blood; and
  - (b) the references to mammalian meat and bone meal being “manufactured” are references to the rendering process by which the mammalian meat and bone meal concerned was derived.

#### *Processed animal protein*

#### **Feeding of processed animal protein to farmed animals**

**14.—**(1) Subject to paragraph (2) below, no person shall feed any processed animal protein to a farmed animal.

(2) The prohibition in paragraph (1) above shall not apply to—

- (a) the feeding to farmed animals (other than ruminants) of fishmeal—
  - (i) produced in Scotland in premises approved under regulation 16 below, which are used in accordance with the conditions of the approval, and transported and intermediately stored in accordance with the conditions specified in paragraphs 1, 2 and 3 of Schedule 2 to these Regulations;
  - (ii) produced in another part of the United Kingdom in premises approved by the competent authority of that part in accordance with Annex I to the Commission Decision, which are used in accordance with the conditions of the approval, and transported and intermediately stored in accordance with the conditions specified in that Annex;
  - (iii) produced in another member State in premises approved by the competent authority of that member State in accordance with Annex I to the Commission Decision, which are used in accordance with the conditions of the approval, and transported and intermediately stored in accordance with the conditions specified in that Annex; or
  - (iv) produced in a third country which—
    - before being sold or supplied in Scotland, has been analysed in accordance with Commission Directive [98/88/EC](#)(16);
    - is transported directly from the border inspection post in accordance with the conditions specified in paragraphs 4 and 5 of Schedule 2 to these Regulations; and
    - is not intermediately stored otherwise than in accordance with the conditions of paragraph 3 of that Schedule;

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(16) O.J. No. L 318, 27.11.1988, p.45.

- (b) the feeding to farmed animals of gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive [70/524/EEC](#)(17) concerning additives in feedingstuffs;
- (c) the feeding to farmed animals (other than ruminants) of dicalcium phosphate–
  - (i) produced in Scotland in premises approved and used as mentioned in regulation 17(1) and (3) below;
  - (ii) produced in another part of the United Kingdom in premises approved by the competent authority of that part in accordance with the Commission Decision and used in accordance with that approval; or
  - (iii) produced in another member State in premises approved by the competent authority of that member State in accordance with the Commission Decision and used in accordance with that approval;
- (d) the feeding to farmed animals (other than ruminants) of hydrolysed protein–
  - (i) produced in Scotland in premises approved and used as mentioned in regulation 17(2) and (3) below;
  - (ii) produced in another part of the United Kingdom in premises approved by the competent authority of that part in accordance with the Commission Decision and used in accordance with that approval; or
  - (iii) produced in another member State in premises approved by the competent authority of that member State in accordance with the Commission Decision and used in accordance with that approval; or
- (e) the feeding to farmed animals of milk and milk products.

#### **Sale or supply of processed animal protein intended for the feeding of farmed animals**

**15.**—(1) Subject to paragraph (2) below, no person shall sell or supply any processed animal protein intended for the feeding of any farmed animal.

- (2) The prohibitions in paragraph (1) above shall not apply to the sale or supply of–
  - (a) fishmeal referred to in regulation 14(2)(a) above for feeding to farmed animals (other than ruminants);
  - (b) gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive [70/524/EEC](#) concerning additives in feedingstuffs;
  - (c) dicalcium phosphate referred to in regulation 14(2)(c) above for feeding to farmed animals (other than ruminants);
  - (d) hydrolysed protein referred to in regulation 14(2)(d) above for feeding to farmed animals (other than ruminants); or
  - (e) milk and milk products.

#### **Production of fishmeal for feeding to farmed animals other than ruminants**

**16.**—(1) No person shall use any premises for the production of fishmeal for feeding to farmed animals other than ruminants unless–

- (a) the premises are approved for that purpose by the Scottish Ministers under this regulation; and
- (b) fishmeal produced at the premises–

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(17) O.J. No. L 270, 14.12.1970, p.1, as last amended by Directive [1999/70/EC](#) (O.J. No. L 80, 25.3.1999, p.20).

- (i) is not transported from the premises otherwise than in accordance with the conditions specified in paragraphs 1 and 2 of Schedule 2 to these Regulations; and
- (ii) is not intermediately stored otherwise than in accordance with the conditions specified in paragraph 3 of that Schedule.

(2) On an application made to them under this regulation for the approval of premises for the production of fishmeal for feeding to farmed animals other than ruminants, the Scottish Ministers shall approve the premises for this purpose if, following an inspection of the premises by a veterinary inspector, they are satisfied that—

- (a) the premises will be dedicated only to fishmeal production;
- (b) the premises are ABPO approved; and
- (c) the occupier of the premises will be able to ensure that fishmeal is transported from the premises and intermediately stored in accordance with the conditions specified in paragraphs 1, 2 and 3 of Schedule 2 to these Regulations.

(3) The person carrying on any business at premises approved under this regulation shall ensure that—

- (a) the production of fishmeal at the premises is in accordance with the approval and in compliance with the provisions of this regulation subject to which the approval is granted;
- (b) any person employed by that person, and any person invited to the premises, complies with those provisions; and
- (c) any inspector, and any person acting under the authority of an inspector, is provided with adequate facilities so as to enable that inspector or person to carry out functions under these Regulations in relation to the premises and that the inspector or person is given such reasonable assistance and access to such records (including any records held in electronic form) as may at any reasonable time be required for that purpose.

### **Production of dicalcium phosphate and hydrolysed protein for feeding to farmed animals other than ruminants**

17.—(1) No person shall use any premises for the production of dicalcium phosphate for feeding to farmed animals other than ruminants unless—

- (a) the premises—
  - (i) are approved for that purpose by the Scottish Ministers under this regulation; and
  - (ii) are used for that purpose in accordance with the conditions specified in Schedule 3 to these Regulations; and
- (b) transport of dicalcium phosphate to the premises is in accordance with the conditions specified in paragraph 4 of that Schedule.

(2) No person shall use any premises for the production of hydrolysed protein for feeding to farmed animals other than ruminants unless—

- (a) the premises—
  - (i) are approved for that purpose by the Scottish Ministers under this regulation; and
  - (ii) are used for that purpose in accordance with the conditions specified in Schedule 4 to these Regulations; and
- (b) transport of hydrolysed protein to the premises is in accordance with the conditions specified in paragraph 3 of that Schedule.

(3) On an application made to them under this regulation for the approval of premises for the production of dicalcium phosphate or hydrolysed protein, the Scottish Ministers shall approve the

premises for the production concerned if, following an inspection of the premises by a veterinary inspector, they are satisfied that—

- (a) the premises are ABPO approved;
  - (b) the occupier of the premises will be able to maintain and use the premises in accordance with the ABPO approval;
  - (c) in respect of an application for approval of the premises for production of dicalcium phosphate, the occupier of the premises will be able to comply with the conditions specified in Schedule 3 to these Regulations; and
  - (d) in respect of an application for approval of the premises for production of hydrolysed protein, the occupier of the premises will be able to comply with the conditions specified in Schedule 4 to these Regulations.
- (4) The occupier of premises approved under this regulation shall ensure that—
- (a) in respect of the production of dicalcium phosphate at the premises, the production is in accordance with the approval and complies with the provisions of this regulation and Schedule 3 to these Regulations subject to which the approval is granted;
  - (b) in respect of the production of hydrolysed protein at the premises, the production is in accordance with the approval and complies with the provisions of this regulation and Schedule 4 to these Regulations subject to which the approval is granted;
  - (c) any person employed by that occupier, and any person invited to the premises, complies with those provisions; and
  - (d) any inspector, and any person acting under the authority of an inspector, is provided with adequate facilities so as to enable that inspector or person to carry out functions under these Regulations in relation to the premises and that the inspector or person is given such reasonable assistance and access to such records (including any records held in electronic form) as may at any reasonable time be required for that purpose.

### **Transport and storage of processed animal protein**

**18.**—(1) No person shall transport from or to any premises, or store in bulk at any premises, any processed animal protein the sale or supply of which is prohibited by regulation 15 above, unless—

- (a) the premises are not used for the preparation of feedingstuffs for ruminant animals; and
- (b) both that person and the premises are registered for the purpose of the Commission Decision by the Scottish Ministers.

(2) The Scottish Ministers shall register premises under this regulation where the occupier declares that the premises are capable of being used in accordance with the Commission Decision.

(3) Where a vehicle used for the transport of any dicalcium phosphate or hydrolysed protein, for feeding to farmed animals other than ruminants, is subsequently used for the transport of any other products, the person using the vehicle for the transport of such dicalcium phosphate or hydrolysed protein shall ensure the vehicle is thoroughly cleaned and inspected before and after the transport of such dicalcium phosphate or hydrolysed protein.

### *Approvals of premises*

### **Applications for approval and approvals of premises**

**19.**—(1) An application for approval of premises under regulations 16 or 17 above shall be made in writing to the Scottish Ministers by or on behalf of the person carrying on or proposing to carry on the business at the premises to which the application relates.



(2) The Scottish Ministers shall notify the applicant in writing of their decision on an application made to them in accordance with this regulation; and, if they refuse to approve the premises in respect of which an application is made, they shall notify the applicant in writing of their reasons for the refusal.

(3) An approval of premises under regulations 16 or 17 above shall specify—

- (a) the name and address of the person to whom the approval is granted and the address of the approved premises;
- (b) the use of the premises for the description of production for which the approval is granted; and
- (c) the conditions subject to which the approval is granted.

(4) If the Scottish Ministers refuse to approve the premises or grant an approval subject to any condition, they shall give to the applicant a statement of—

- (a) the reasons for the refusal or the condition; and
- (b) the right of the applicant under this Part of these Regulations to appeal against the refusal or the condition and the period within which and the person to whom an appeal may be made.

### **Suspension and withdrawal of approvals**

**20.**—(1) The Scottish Ministers may suspend or withdraw an approval of any premises approved under regulations 16 or 17 above if it appears to them that—

- (a) the premises are being used otherwise than in accordance with the approval;
- (b) any condition specified in a Schedule to these Regulations which relates to the approval of the premises has not been complied with;
- (c) the premises are not ABPO approved;
- (d) inspection of the premises for the purposes of these Regulations is being hampered or denied;
- (e) a notice has been served on the occupier in relation to the use of the premises under this Part of these Regulations and—
  - (i) the Scottish Ministers are not satisfied that the action required by the notice to be taken by the occupier has been taken within the time required; and
  - (ii) as a result there is a risk that the premises are being used otherwise than in accordance with the approval, any condition specified in the approval has not been complied with or inspection of the premises for the purposes of these Regulations is being hampered or denied;
- (f) the person using the premises for the use for which they are approved no longer wishes to carry on that use of the premises; or
- (g) the premises are not being used for the use for which they are approved.

(2) Before suspending or withdrawing an approval, the Scottish Ministers shall—

- (a) give notice of the intended suspension or withdrawal to the occupier of the premises (or, in the case of a suspension or withdrawal under paragraph (1)(g) above, to the person known to the Scottish Ministers as the last person to use the premises for the use for which they are approved and to any other person who appears to them to be in current occupation of the premises); and
- (b) have regard to any representations made to them by that person in relation to the intended suspension or withdrawal.

- (3) A notice of suspension or withdrawal of an approval shall include the following information:—
- (a) a summary of the decision of the Scottish Ministers to suspend or withdraw the approval and a description of the use of the premises for which the approval is suspended or withdrawn;
  - (b) the reason for the suspension or withdrawal;
  - (c) the date on which the suspension or withdrawal takes effect, which—
    - (i) in respect of a suspension, may be the same date as the date on which the notice is given; and
    - (ii) in respect of a withdrawal, must be not less than 21 days after the date on which the notice is given;
  - (d) in respect of a suspension, the matters which must be remedied for the suspension to be lifted;
  - (e) a statement of the right of the person to whom the notice is given to appeal under regulation 21 below against the suspension or withdrawal and the period within which and the person to whom an appeal may be made; and
  - (f) in respect of a withdrawal, any conditions for the protection of public or animal health to which any continued use of the premises for an approved use after the withdrawal takes effect is subject pending an appeal.
- (4) Where a suspension of an approval of premises under this regulation has taken effect the premises shall be treated as if they were not approved for the use for which the approval is suspended.
- (5) The Scottish Ministers shall lift a suspension of an approval where—
- (a) they are satisfied that—
    - (i) the reason for the suspension no longer applies; and
    - (ii) the person who would use the premises for the use for which they are approved will use the premises in accordance with the approval and the conditions of the approval; or
  - (b) the determination of an appeal under regulation 21 below against the suspension is that the approval should not have been suspended.
- (6) Where the Scottish Ministers lift a suspension they shall give notice thereof to the person to whom they gave notice of the suspension.
- (7) Premises may continue to be used by the occupier for a use for which an approval is withdrawn during the period of 21 days after the notification to the occupier of the withdrawal.
- (8) After the expiry of this period the premises may not be used for the use for which the approval is withdrawn unless before the period expired an appeal was made in accordance with regulation 21 below and the appeal has not been finally disposed of or abandoned.
- (9) Where the Scottish Ministers have given notice of a decision to withdraw the approval of premises the occupier of the premises shall not use the premises for that use except in accordance with any conditions for the protection of public or animal health included in the notice of withdrawal.

## Appeals

**21.—**(1) Where in respect of any premises the Scottish Ministers have given notice of a decision under this Part of these Regulations—

- (a) to refuse to approve any premises;
- (b) to grant an approval of any premises subject to conditions;
- (c) to suspend the approval of any premises; or

(d) to withdraw the approval of any premises,  
the person to whom the notice is given may, within 21 days of being notified of the decision, appeal against the decision to the person specified in the notice.

(2) An appeal under this regulation shall be made by written statement given to the person specified in the notice accompanied by a brief explanation of the ground of the appeal and such other information and documents as the notice may specify.

(3) Where on an appeal under this regulation the person hearing the appeal determines that—

- (a) the grant of an approval should not have been refused;
- (b) unreasonable conditions have been attached to the grant of an approval; or
- (c) an approval should not have been suspended or withdrawn,

the Scottish Ministers shall give effect to that determination.

### *Feedingstuffs*

#### **Manufacture of feedingstuffs containing processed animal protein**

**22.**—(1) Subject to paragraph (2) below, no person shall manufacture any feedingstuff, including petfood, which is destined for animals other than farmed animals, and which contains processed animal protein, in premises which prepare feed for farmed animals.

(2) If any feedingstuff is produced with no processed animal protein other than fishmeal, dicalcium phosphate or hydrolysed protein, it may be manufactured in premises which prepare feed for farmed animals other than ruminants.

#### **Production of feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants**

**23.**—(1) Subject to paragraph (3) below, no person shall use any premises for the production of feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants unless—

- (a) the premises are not used for the preparation of feedingstuffs for ruminant animals; and
- (b) the premises are registered for the purpose of paragraph 6 of Annex I to the Commission Decision by the Scottish Ministers.

(2) The Scottish Ministers shall register premises under this regulation where the occupier declares that the premises are capable of being used for the production of feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants in accordance with paragraph 6 of Annex I to the Commission Decision.

(3) The prohibition in paragraph (1) above shall not apply to the use of premises for the production of feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants and for the preparation of feedingstuffs for ruminant animals if—

- (a) the fishmeal satisfies the requirements of regulation 14(2)(a) above;
- (b) the transport to or from the premises or the storage at the premises of feed material destined for ruminant animals is completely separate from feed material prohibited for feeding to ruminant animals;
- (c) the storage, manufacturing and packaging facilities at the premises and the transport to or from the premises, of compound feedingstuffs destined for ruminant animals is completely separate from feed material prohibited for feeding to ruminant animals; and
- (d) the person using the premises for the preparation of feedingstuffs for ruminant animals which are used for the production of feedingstuffs containing fishmeal for feeding to other

animal species carries out routine tests on the feedingstuffs destined for ruminant animals to ensure that any processed animal protein the feeding of which to farmed animals is prohibited by regulation 14 above are not present in those feedingstuffs.

(4) No person shall produce any feedingstuff containing fishmeal for feeding to farmed animals other than ruminants unless the packaging of the feedingstuff is labelled clearly to indicate the words “it contains fishmeal– cannot be fed to ruminant animals”.

(5) No person shall use any vehicle for the transport of bulk feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants at the same time as the vehicle is used for the transport of any feed for ruminant animals.

(6) Where a vehicle used for the transport of bulk feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants is subsequently used for the transport of other products, the person using the vehicle for the transport of the bulk feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants shall ensure it is thoroughly cleaned and inspected before and after the transport of those bulk feedingstuffs.

#### **Production of feedingstuffs containing dicalcium phosphate and hydrolysed protein for feeding to farmed animals other than ruminants**

24.—(1) Subject to paragraph (4) below, no person shall use any premises for the production of feedingstuffs containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants unless—

- (a) the premises are not used for the preparation of feedingstuffs for ruminant animals; and
- (b) the premises are registered for the purpose of paragraph 3 of Annex II to the Commission Decision by the Scottish Ministers.

(2) Subject to paragraph (4) below, no person shall use any premises for the production of feedingstuffs containing hydrolysed protein for feeding to farmed animals other than ruminants unless—

- (a) the premises are not used for the preparation of feedingstuffs for ruminant animals; and
- (b) the premises are registered for the purpose of paragraph 2 of Annex III to the Commission Decision by the Scottish Ministers.

(3) The Scottish Ministers shall register premises under this regulation where the occupier declares that the premises are capable of being used for the production of—

- (a) feedingstuffs containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants in accordance with paragraph 3 of Annex II to the Commission Decision; or
- (b) feedingstuffs containing hydrolysed protein for feeding to farmed animals other than ruminants in accordance with paragraph 2 of Annex III to the Commission Decision.

(4) The prohibitions in paragraphs (1) and (2) above shall not apply to the use of premises for the preparation of feedingstuffs for ruminant animals which are used for the production of feedingstuffs containing dicalcium phosphate from defatted bones, or hydrolysed protein, for other animal species, if—

- (a) in respect of dicalcium phosphate, it satisfies the requirements of regulation 14(2)(c) above;
- (b) in respect of hydrolysed protein, it satisfied the requirements of regulation 14(2)(d) above;
- (c) the transport to or from the premises or the storage at the premises of feed material destined for ruminant animals is completely separate from feed material prohibited for feeding to ruminant animals;

- (d) the storage, manufacturing and packaging facilities at the premises and the transport to or from the premises, of compound feedingstuffs destined for ruminant animals is completely separate from feed material prohibited for feeding to ruminant animals; and
  - (e) the person using the premises carries out routine tests on the feedingstuffs destined for ruminant animals to ensure that any processed animal protein the feeding of which to farmed animals is prohibited by regulation 14 above are not present in those feedingstuffs.
- (5) No person shall produce any feedingstuff containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants unless the packaging of the feedingstuff is labelled clearly to indicate the words “this feedingstuff contains dicalcium phosphate from defatted bones – cannot be fed to ruminant animals”.
- (6) No person shall produce any feedingstuff containing hydrolysed protein for feeding to farmed animals other than ruminants unless the packaging of the feedingstuff is labelled clearly to indicate the words “this feedingstuff contains hydrolysed protein – cannot be fed to ruminant animals”.
- (7) No person shall use any vehicle for the transport of bulk feedingstuffs for feeding to farmed animals other than ruminants containing dicalcium phosphate from defatted bones or hydrolysed protein at the same time as the vehicle is used for the transport of any feed for ruminant animals.
- (8) Where a vehicle used for the transport of bulk feedingstuffs containing dicalcium phosphate from defatted bones, or hydrolysed protein, for feeding to farmed animals other than ruminants, is subsequently used for the transport of other products, the person using the vehicle for the transport of such bulk feedingstuffs shall ensure the vehicle is thoroughly cleaned and inspected before and after the transport of those bulk feedingstuffs.

#### **Use and storage of feedingstuffs containing fishmeal, dicalcium phosphate or hydrolysed protein**

25.—(1) Subject to paragraph (2) below, no person shall use or store any feedingstuff, other than petfood referred to in chapter 4 of Annex I to Council Directive [92/118/EEC\(18\)](#), containing any—

- (a) fishmeal;
- (b) dicalcium phosphate derived from defatted bones; or
- (c) hydrolysed protein,

on a farm where ruminant animals are kept, fattened or bred for the production of food.

(2) Paragraph (1) above shall not apply to the use or storage of any feedingstuff containing any fishmeal, dicalcium phosphate derived from defatted bones or hydrolysed protein on any farm where ruminant animals are kept if measures are implemented on the farm which are sufficient to prevent the feedingstuff being fed to those ruminant animals.

#### *Administration and enforcement*

#### **Records relating to mammalian meat and bone meal and processed animal protein**

26.—(1) Any person who consigns mammalian meat and bone meal or processed animal protein shall keep for a period of not less than two years from the date of consignment (or, in the case of mammalian meat and bone meal or processed animal protein produced outside Scotland, for a period of not less than two years from the date on which it was imported into the United Kingdom) a record indicating—

- (a) the date and nature of the material consigned;

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(18) O.J. No. L 62, 15.3.1993, p.49.

- (b) the weight consigned and, unless consigned loose, the number and weight of the packages, pallets or other containers in which it is consigned;
  - (c) the destination of the consignment;
  - (d) the name and address of the consignee;
  - (e) the registration number of the vehicle in which it is consigned; and
  - (f) the name and address of the operator of that vehicle.
- (2) Any person receiving a consignment of mammalian meat and bone meal or processed animal protein shall keep for a period of not less than two years from the date of receipt of the consignment a record indicating—
- (a) the date on which it was received and the nature of the material received;
  - (b) its weight on receipt and, unless consigned loose, the number and weight of the packages, pallets or other containers in which it was consigned;
  - (c) the place from which it was consigned;
  - (d) the name and address of the person by whom it was consigned;
  - (e) the registration number of the vehicle in which it was consigned; and
  - (f) the name and address of the operator of that vehicle.
- (3) Any person receiving a consignment of mammalian meat and bone meal or processed animal protein shall keep for a period of not less than two years from the date of any use, disposal or further consignment of the material used, disposed of or further consigned a record indicating—
- (a) in the case of any use, the nature of the material used and details of each use, the weight of any part of the consignment incorporated into a product and the nature and date of manufacture of any such product;
  - (b) in the case of disposal, the weight disposed of, the date of such disposal, and the place in which, method by which and name of the person by whom it was disposed of; and
  - (c) in the case of further consignment, the information required by paragraph (1) above.
- (4) Any person who controls a vehicle in which mammalian meat and bone meal or processed animal protein is transported shall keep, for a period of not less than two years from the date on which transport of a particular consignment of such protein commenced (or, in the case of an import, from the date on which that material entered Scotland), a record of—
- (a) the person and place from which that consignment was transported and the nature of the material consigned;
  - (b) the date on which it was collected from that person;
  - (c) the weight consigned and, unless consigned loose, the number and weight of the packages, pallets or other containers in which it is consigned;
  - (d) the registration number, and the name and address of the driver, of the vehicle in which it was transported and, if the vehicle includes a trailer, the number of the trailer;
  - (e) the person and place to which it was to be or was delivered; and
  - (f) the date or intended date of delivery to that person.
- (5) The driver of a vehicle in which a consignment of mammalian meat and bone meal or processed animal protein is transported shall have a document recording the information required by paragraph (4) above in the possession of that driver at all times when that driver is in charge of that vehicle.
- (6) In relation to a vehicle not having a registration number, the requirement to keep a record of the registration number pursuant to paragraphs (1)(e), (2)(e) and (4)(d) above shall be a requirement

to keep such details as permit the identification of the vehicle in which the consignment was transported.

(7) Where a vehicle is used for the transport of bulk feedingstuffs for feeding to farmed animals other than ruminants containing—

- (a) fishmeal for feeding to farmed animals other than ruminants;
- (b) dicalcium phosphate from defatted bones; or
- (c) hydrolysed protein,

the person using the vehicle for the transport of such bulk feedingstuffs shall keep, for a period of not less than two years from the date of such transport, a record of each cleaning and inspection of the vehicle required by regulation 23(6) or 24(8) above.

### **Cleansing and disinfection**

27.—(1) Any person who produces mammalian meat and bone meal or any MBM product shall ensure the thorough cleansing and disinfection of any premises or equipment used for such production before they are used for any other purpose except the production of a fertiliser that is not for use on agricultural land.

(2) Subject to paragraphs (3) and (4) below, any person who stores or transports mammalian meat and bone meal or an MBM product, or who makes any arrangement for such storage or transport, shall ensure the thorough cleansing and disinfection of any premises, vehicle or equipment used for such storage or transport as soon as possible after the storage or transport ceases and in any event before they are used for any other purpose.

(3) It shall be a defence for any person charged with an offence of failure to comply with paragraph (2) above to prove that at all material times the mammalian meat and bone meal or MBM product (as the case may be) was securely packaged and that no spillage or leakage took place.

(4) It shall be a defence for any person charged with an offence of failure to comply with paragraph (2) above by virtue of any arrangement made by that person to show that that person took all reasonable steps to ensure that the premises, equipment or vehicle in question were thoroughly cleansed and disinfected in accordance with that paragraph.

(5) An inspector may serve on the occupier of any premises or on the owner or operator of vehicle or equipment on or in which there is, or has been—

- (a) any mammalian meat and bone meal; or
- (b) any MBM product

a notice requiring that person to cleanse and disinfect, at the expense of that person and in such a manner and within such period as may be specified in the notice, all or any part of the premises or vehicle or any equipment or any other thing used in connection with any such mammalian meat and bone meal or MBM product.

(6) If any person on whom a notice is served under paragraph (5) above fails to comply with the requirements of the notice, an inspector may, without prejudice to any proceedings arising out of such default, carry out or cause to be carried out the requirements of the notice, and the amount of any expenses reasonably incurred by the inspector in doing so shall be recoverable from the person in default by the authority on whose behalf the inspector served the notice.

### **Powers of inspectors**

28.—(1) An inspector may make such enquiries and carry out such investigations as considered necessary for any purpose connected with the administration or enforcement of the provisions of this Part of these Regulations.

(2) For such purposes, an inspector shall, on producing, if required to do so, some duly authenticated document showing the authority of that inspector, have the right at all reasonable hours to enter any premises (excluding premises used only as a dwelling) to—

- (a) ascertain whether any—
  - (i) TSE susceptible animal; or
  - (ii) any mammalian meat and bone meal or processed animal protein, or any feed or feedingstuff,is being or has been kept on the premises;
- (b) ascertain whether—
  - (i) any TSE exists or has existed on the premises or any other premises; or
  - (ii) any animal which is being kept on the premises or has been kept on the premises is, or was at the time it was kept there, affected with any TSE;
- (c) collect, pen, inspect and examine any TSE susceptible animal and for this purpose may require the keeper of any such animal to arrange for the collection and penning of the animal;
- (d) inspect and examine—
  - (i) any mammalian meat and bone meal or processed animal protein;
  - (ii) any feedingstuff;
  - (iii) any production, storage, transport or other operation carried out under this Part of these Regulations and anything used for the marking and identification of any mammalian meat and bone meal or processed animal protein or feedingstuff; or
  - (iv) the carcass of TSE susceptible animal;
- (e) make such tests and take such samples from any mammalian meat and bone meal, processed animal protein or feedingstuff, or TSE susceptible animal, or the carcass of such an animal, as that inspector considers necessary;
- (f) mark for identification purposes any mammalian meat and bone meal, processed animal protein or feedingstuff, or TSE susceptible animal, or the carcass of such an animal;
- (g) serve a notice to restrict or prohibit the movement of any mammalian meat and bone meal, processed animal protein or feedingstuff, TSE susceptible animal or the carcass of such an animal;
- (h) serve a notice under regulation 29(2) or (3) below or carry out or cause to be carried out the requirements of such a notice in terms of regulation 29(4) below;
- (i) seize any mammalian meat and bone meal or processed animal protein or feedingstuff, TSE susceptible animal or the carcass of such an animal;
- (j) serve any notice in connection with such seizure;
- (k) slaughter any TSE susceptible animal or serve any notice in connection with the slaughter of the animal;
- (l) serve a notice requiring any cleansing and disinfection or carry out or cause to be carried out any cleansing and disinfection;
- (m) examine any record, in whatever form the record may be held, and take copies of the record;
- (n) have access to, and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with any record; and for this purpose may require any person who has charge of or who is otherwise concerned with the operation of the computer, apparatus or material to afford to that inspector such assistance as that



inspector may reasonably require and, where a record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away; or

- (o) ascertain whether there is or has been any contravention of, or failure to comply with, this Part of these Regulations or any evidence of any such contravention or failure.

(3) No person except an inspector shall remove or otherwise interfere with any mark applied under paragraph (2)(f) above.

(4) If a sheriff or justice of the peace, on sworn information in writing is satisfied that there are reasonable grounds for entry into any premises for any purpose as is mentioned in paragraph (2) above and that either—

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

the sheriff or justice of the peace may issue a warrant authorising an inspector to enter the premises for that purpose if need be by reasonable force.

(5) The occupier of premises entered by an inspector under this regulation or by virtue of a warrant issued under it, and the employees of the occupier 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, or any animal or carcase, which is or has been on the premises, shall—

- (a) provide such reasonable facilities to the inspector and comply with such reasonable requirements as the inspector considers necessary for any purpose connected with the administration or enforcement of this Part of these Regulations; and
- (b) if required by an inspector, give such information as the occupier possesses as to—
  - (i) any mammalian meat and bone meal or processed animal protein, or any animal or carcase 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, or any animal or carcase, 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 or processed animal protein, or any animal or carcase, which is or has been in the possession or charge of the occupier.

(6) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it may be accompanied by—

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

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

(8) Any notice under this regulation shall be complied with at the expense of the person on whom the notice is served.

(9) If a notice under this regulation is not complied with, an inspector may arrange for it to be complied with at the expense of the person on whom the notice is served.

**Disposal and recall of mammalian meat and bone meal and MBM products**

**29.**—(1) Paragraph (2) below applies where an inspector finds—

- (a) any mammalian meat and bone meal or any MBM product possessed or transported in contravention of regulation 12(3) or (4) above; or
- (b) any processed animal protein sold or supplied in contravention of regulation 15(1) above.

(2) Where this paragraph applies an inspector may serve a notice on the person in possession of the mammalian meat and bone meal, MBM product or processed animal protein requiring that person to dispose of it, and any other mammalian meat and bone meal, MBM product or processed animal protein with which it has come into contact, in such manner and within such period as may be specified in the notice.

(3) An inspector may serve on any person who has sold or supplied—

- (a) any feedingstuff the sale or supply of which is prohibited by regulation 11(1) or 12(1)(c), or which the inspector reasonably suspects of being so prohibited; or
- (b) any processed animal protein the sale or supply of which is prohibited by regulation 15(1) above or which the inspector reasonably suspects of being so prohibited,

a notice requiring that person to collect at the expense of that person that feedingstuff or processed animal protein from the person to whom that person supplied or sold it, or from such other person to whom it may have subsequently been supplied or sold, and to transport it to such place and within such period as may be specified in the notice.

(4) If any person on whom a notice is served under paragraph (2) or (3) above fails to comply with the requirements of the notice, an inspector may, without prejudice to any proceedings arising out of such default, carry out or cause to be carried out the requirements of the notice, and the amount of any expenses reasonably incurred by the inspector in doing so shall be recoverable from the person in default by the authority on whose behalf the inspector served the notice.

**Part IV****Specified Risk Material***Introductory provisions***Interpretation of expressions used in this Part**

**30.**—(1) For the purposes of this Part of these Regulations material shall be treated as a cosmetic, pharmaceutical or medical product whether it is used or intended for use as such by itself or as an ingredient or additive in something which is so used or intended for such use.

(2) The provisions of this Part of these Regulations shall apply to specified risk material from scheme animals, save that the provisions appearing in the first column of the Table in Schedule 5 to these Regulations shall apply only to the extent, and subject to the modifications, specified in the corresponding entry in the second column of that Table.

**Presumptions that food intended for human consumption**

**31.**—(1) For the purposes of this Part of these Regulations any food commonly used for human consumption shall, if placed on the market or offered, exposed or kept for placing on the market, be presumed, until the contrary is proved, to have been placed on the market or, as the case may be, to have been or to be intended for placing on the market, for human consumption.

(2) The following, namely—

- (a) any food commonly used for human consumption which is found on premises used for the preparation, storage or placing on the market of that food; and
- (b) any article or substance commonly used in the manufacture of food for human consumption which is found on premises used for the preparation, storage or placing on the market of that food,

shall be presumed, until the contrary is proved, to be intended for placing on the market, or for manufacturing food for placing on the market, for human consumption.

(3) Any article or substance capable of being used in the composition or preparation of any food commonly used for human consumption which is found on premises on which that food is prepared shall, until the contrary is proved, be presumed to be intended for such use.

### *Carcases and specified risk material*

#### **Removal of specified risk material**

**32.** Subject to regulations 33 to 37, no person shall contravene or fail to comply with points 1 and 5 of Part A of Annex XI to the Community TSE Regulation.

#### **Removal of specified risk material from carcasses in slaughterhouses**

**33.**—(1) Subject to paragraphs (2) and (3) below, in relation to specified risk material which is removed as required by the Community TSE Regulation and these Regulations, the occupier of a slaughterhouse shall ensure that the specified risk material is removed from the rest of the carcass as soon as it is reasonably practicable after the animal was slaughtered and before the carcass is presented for inspection pursuant to regulation 37(1) below.

(2) In the case of a carcass of a sheep or goat which was aged over 12 months or had at least one permanent incisor erupted through the gum at the time of slaughter—

- (a) no person shall remove the spinal cord from such a carcass except in a licensed slaughterhouse or a licensed cutting premises in accordance with regulation 35 below; and
- (b) where such a carcass of a sheep or goat is dressed for human consumption in a slaughterhouse, the specified risk material except the spinal cord shall be removed in accordance with paragraph (1) above and the rest of the carcass shall be consigned to a licensed slaughterhouse or licensed cutting premises for removal of the spinal cord in accordance with regulation 35 below.

(3) In the case of the carcass of a bovine animal which was accompanied at the time of slaughter by a slaughter certificate under the Beef Assurance Scheme as described in Schedule 1 to the Fresh Meat (Beef Controls) (No. 2) Regulations 1996<sup>(19)</sup>—

- (a) no person shall remove the vertebral column from such a carcass except in a licensed cutting premises; and
- (b) where such a carcass of a bovine animal is dressed for human consumption in a slaughterhouse, the specified risk material except the vertebral column shall be removed in accordance with paragraph (1) above and the rest of the carcass shall be consigned to a licensed cutting premises for removal of the vertebral column in accordance with regulation 36 below.

(4) Without prejudice to the storage requirements of regulation 51 below, the occupier of a slaughterhouse shall ensure that the specified risk material does not come into contact with any other

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<sup>(19)</sup> S.I. 1996/2097, amended by S.I. 1996/2522 and S.S.I. 2000/62 and 449.

animal material (except animal material derived from animals tested for the presence of a TSE which is required to be disposed of as if it were specified risk material) while in the slaughterhouse.

(5) An occupier of a slaughterhouse in possession of any material derived from a carcase of an animal in relation to which there is carried out (whether by an inspector or on behalf of the occupier or any other person) any test for the presence of a TSE shall, if the occupier disposes of the material before a negative result in respect of the test is received, ensure that the material is stained, stored and consigned for disposal as if it were specified risk material.

(6) Material which is not specified risk material may be separated from intestines which have been removed from the carcase before the intestines are stained.

(7) In the case of specified risk material which is intended to be examined by or on behalf of an inspector or a veterinary surgeon, the specified risk material shall not be stained until after the completion of the examination.

(8) Notwithstanding the definition of specified risk material in regulation 3(1) above—

- (a) where the carcase of a sheep or goat containing spinal cord which is specified risk material is consigned to a licensed slaughterhouse or licensed cutting premises for removal in accordance with regulation 35 below; or
- (b) where the carcase of a bovine animal containing vertebral column which is specified risk material is consigned to licensed premises for removal in accordance with regulation 36 below or has been imported in accordance with the Community TSE Regulation and the Community Transitional Measures,

the carcase shall not be regarded as specified risk material for the purposes of these Regulations.

#### **Removal of specified risk material from carcasses elsewhere**

**34.—**(1) Subject to the following provisions of this regulation, when specified risk material is removed from the carcase of a ruminant animal elsewhere than in a slaughterhouse, the occupier of the premises at which the specified risk material is removed shall ensure that it is removed as soon as is reasonably practicable after the death of the animal and that it is stained blue immediately, and in any event before the carcase is frozen.

(2) Without prejudice to the storage requirements of regulation 51 below, the occupier of those premises shall ensure that the specified risk material does not come into contact with any other animal material while on the premises and that it is disposed of in accordance with these Regulations.

(3) In the case of specified risk material which is intended to be examined by or on behalf of an inspector, the specified risk material shall not be stained until after the completion of the examination.

(4) The provisions of this regulation shall not apply in the case of a post-mortem examination carried out by a veterinary surgeon or a veterinary practitioner at a farm, provided that veterinary surgeon or practitioner makes arrangements for the disposal of the whole of the carcase by burial there.

#### **Removal of spinal cord of sheep and goats**

**35.—**(1) Where a carcase of a sheep or goat is consigned as referred to in regulation 33(2)(b) above to a licensed slaughterhouse or licensed cutting premises the occupier of that slaughterhouse or cutting premises shall ensure that the spinal cord is removed in accordance with paragraph (2) below from the rest of the carcase at the premises as soon as practicable after the arrival of the carcase there and before the carcase is presented for inspection pursuant to regulation 37(3) below.

(2) Removal of spinal cord under paragraph (1) above shall be carried out by—

- (a) longitudinally splitting the whole vertebral column; or

(b) removing a longitudinal section of the whole vertebral column containing the whole spinal cord.

(3) If the spinal cord is removed at any premises other than a slaughterhouse or cutting premises for the purposes of veterinary or scientific examination, after that examination both the spinal cord and the vertebral column shall be stained blue and disposed of as specified risk material in accordance with this Part of these Regulations.

#### **Removal of vertebral column of bovine animals**

**36.**—(1) Where a carcase of a bovine animal containing vertebral column which is specified risk material—

- (a) is consigned as referred to in regulation 33(3)(b) above to licensed cutting premises; or
- (b) is imported and transported in accordance with the Community TSE Regulation or the Community Transitional Measures to licensed cutting premises,

the occupier of that cutting premises shall ensure that the vertebral column is removed from the rest of the carcase at the premises as soon as is practicable after the arrival of the carcase there and before the carcase is presented for inspection pursuant to regulation 37(3) below.

(2) In this regulation, “carcase” means any whole carcase, half carcase or quarter carcase.

(3) If the vertebral column which is specified risk material is removed at any premises other than a slaughterhouse or licensed cutting premises for the purposes of veterinary or scientific examination, after that examination both the spinal cord and the vertebral column shall be stained blue and disposed of as specified risk material in accordance with this Part of these Regulations.

#### **Inspection of carcasses in slaughterhouses and cutting premises**

**37.**—(1) The occupier of any slaughterhouse shall permit an inspector, or a person acting under the responsibility of an inspector, to—

- (a) inspect the carcase of any ruminant animal slaughtered there, so that the inspector or person can check whether the requirements of the Community TSE Regulation and these Regulations have been complied with; and
- (b) mark each carcase which has been so checked and found to comply with the requirements of the Community TSE Regulation and these Regulations.

(2) The occupier of any slaughterhouse shall give to any inspector or, or a person acting under the responsibility of an inspector, such reasonable assistance as the inspector or person may require.

(3) The occupier of a licensed slaughterhouse or licensed cutting premises shall permit an inspector or a person acting under the responsibility of an inspector, to inspect the carcase of any bovine animal or the carcase of any sheep or goat consigned there so that the inspector or person can check whether the specified risk material has been removed from the carcase in accordance with the Community TSE Regulation and this Part of these Regulations, and the occupier shall give to any such inspector or person such reasonable assistance as that inspector or person shall require.

#### **Prohibition on placing on the market of non-compliant carcasses for human consumption**

**38.** No person shall place on the market the carcase of any bovine animal, sheep or goat for human consumption unless it has been inspected, and if appropriate marked as required by regulation 37 above and on such inspection found to comply with the requirements specified in regulation 37 above.

**Staining of specified risk material**

**39.**—(1) No person shall contravene or fail to comply with point 7 of Part A of Annex XI to the Community TSE Regulation.

(2) Subject to paragraph (3) below, the occupier of a slaughterhouse or a cutting premises shall ensure that, after its removal, specified risk material is stained blue.

(3) In the case of scheme animals, the occupier of a slaughterhouse shall ensure that, after its removal, specified risk material is stained yellow.

(4) In this Part of these Regulations “stained blue” in relation to any material means being treated (whether by immersion, spraying or other application) with a 0.5% weight/volume solution of the colouring agent Patent Blue V (E131, 1971 Colour Index No. 42051(20)) in such a way that the colouring is clearly visible—

- (a) in the case of specified risk material other than the head of a sheep or goat, over the whole surface of the material; and
- (b) in the case of the head of a sheep or goat, over the whole of the cut surface and majority of the head,

except that, if the tongue is to be removed, this shall be done immediately after slaughter and the head shall be stained immediately after the removal of the tongue.

(5) In this Part of these Regulations “stained yellow” in relation to any material means being treated (whether by immersion, spraying or other application) with a 0.5% weight/volume solution of the colouring agent Tartrazine (E102, Colour Index No. 19140) in such a way that the colouring is clearly visible over the whole surface of the material.

(6) The requirement to stain specified risk material shall not apply—

- (a) if the specified risk material is to be sent to a veterinary or medical school, laboratory, hospital or similar institution for instructional, diagnostic or research purposes; or
- (b) to specified risk material which is intended to be used at premises licensed under regulation 56 below.

(7) Where specified risk material has been stained, the occupier of any premises at which such material is stored or handled and, in the case of a place [any premises?] licensed under this Part of these Regulations, the operator of that place, [occupier of those premises?] shall take appropriate measures to ensure that colouring remains visible—

- (a) in the case of stained specified risk material other than the head of a sheep or goat, over the whole surface of the material; and
- (b) in the case of the head of a sheep or goat, over the whole of the cut surface and the majority of the head,

until the stained specified risk material is incinerated or rendered.

(8) Where specified risk material is required to be stained but has not been so stained, the occupier of any premises at which such material is stored or handled and, in the case of any premises of which an operator is licensed under this Part of these Regulations, the occupier of those premises shall, as soon as practicable after the occupier becomes aware that the specified risk material was required to be stained, inform the Scottish Ministers and detain the specified risk material until it has been inspected or collected on behalf of the Scottish Ministers or the Scottish Ministers have informed the occupier that it may be disposed of in accordance with the requirements of the Community TSE Regulation or this Part of these Regulations.

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(20) Colour Index is published by the Society of Dyers and Colourists at Perkin House, 82 Grattan Road, Bradford, West Yorkshire BD1 2JB.

### **Consignment of specified risk material after removal from carcasses**

**40.** Once specified risk material has been removed from the carcass and treated in accordance with the Community TSE Regulation and this Part of these Regulations, including any material treated as if it were specified risk material in accordance with regulation 33(4) above, or, in the case of specified solid waste, recovered from the drainage system, the person responsible for its removal or recovery shall, without unreasonable delay, send it directly to—

- (a) a licensed collection centre;
- (b) a licensed rendering plant;
- (c) a licensed incinerator;
- (d) premises licensed under regulation 56 below; or
- (e) a veterinary or medical school, laboratory, hospital or similar institution for instructional, diagnostic or research purpose.

### **Young lamb stamp**

**41.—(1)** Where a sheep or goat is slaughtered in a slaughterhouse, and at the time of slaughter it was aged not more than 12 months or it had no permanent incisor teeth erupted, the carcass of the animal shall be marked with the young lamb stamp.

(2) The young lamb stamp shall consist of a circular mark 5 centimetres in diameter containing in legible form in letters 1 cm high “MHS” and “YL”, and shall be applied by an inspector, or a meat technician acting under the responsibility of an OVS, and no other person shall apply the young lamb stamp or possess the equipment for applying the stamp.

(3) No person shall use any stamp so resembling the young lamb stamp, or in such a way, as to be likely to suggest that any carcass other than a carcass of a sheep or goat which had no permanent incisors erupted, is such a carcass.

(4) The Agency may, in relation to any slaughterhouse, appoint as meat technicians such number of persons as are necessary to assist the inspectors in carrying out their functions under paragraph (2) above.

### **Presence of an inspector**

**42.—(1)** An inspector, or meat technician acting under the responsibility of an OVS, shall be present at any slaughterhouse where any carcass of a sheep or goat that is not marked with a young lamb stamp is being loaded for delivery to a licensed slaughterhouse or to licensed cutting premises and that inspector or technician shall supervise the loading.

(2) An inspector, or meat technician acting under the responsibility of an OVS, shall be present at any licensed slaughterhouse or licensed cutting premises where any carcass of a sheep or goat that is not marked with a young lamb stamp is being unloaded, and that inspector or technician shall supervise the unloading.

(3) Immediately after the loading referred to in paragraph (1) above the delivery vehicle shall be sealed by an inspector, or meat technician acting under the responsibility of an OVS, and no other person may seal such a vehicle.

(4) On arrival at a licensed slaughterhouse or licensed cutting premises a sealed vehicle shall be unsealed by an inspector, or meat technician acting under the responsibility of an OVS, and no other person may unseal such a vehicle.

(5) The Agency may, in relation to any licensed slaughterhouse or licensed cutting premises, appoint as meat technicians such number of persons as are necessary to assist the inspectors in carrying out their functions under this regulation.

**Transport of unmarked carcasses of sheep and goats**

43.—(1) No person shall transport from a slaughterhouse a carcass of a sheep or goat suitable for human consumption that is not marked with a young lamb stamp, except—

- (a) when all specified risk material has been removed from the carcass;
- (b) to licensed cutting premises that are co-located with the slaughterhouse; or
- (c) to a licensed slaughterhouse or licensed cutting premises after the carcass has been inspected and health marked in accordance with the Fresh Meat (Hygiene and Inspection) Regulations 1995, provided it is transported in a sealed vehicle.

(2) No person shall transport a carcass in accordance with paragraph (1) above unless the carcass is accompanied by a document indicating—

- (a) the name, address and licence number of the slaughterhouse from which the carcass is being transported; and
- (b) where the carcass is being transported to a licensed slaughterhouse or licensed cutting premises, the name, address and licence number of those premises.

**Possession of unmarked carcasses of sheep and goats**

44. No person shall have in their possession elsewhere than in a licensed slaughterhouse, in a sealed vehicle or at licensed cutting premises a carcass of a sheep or goat intended for sale for human consumption containing spinal cord, unless it is stamped with a young lamb stamp.

**Laceration of central nervous tissue**

45.—(1) No person shall contravene or fail to comply with point 4 of Part A of Annex XI to the Community TSE Regulation.

(2) No person shall use any meat which is derived from a bovine, ovine or caprine animal that has been slaughtered in contravention of paragraph (1) above in the preparation of any food for human consumption or any feedingstuff.

*Prohibitions on placing on market and use of specified risk material***Prohibition on placing on market and use of specified risk material for human consumption**

46.—(1) No person shall place on the market any specified risk material, or any food containing specified risk material, for human consumption.

(2) No person shall use any specified risk material in the preparation of food for human consumption.

(3) No person shall place on the market any specified risk material for use in the preparation of any food for human consumption.

(4) For the purposes of this regulation “specified risk material” includes anything derived from it.

**Prohibition on feeding specified risk material to animals**

47.—(1) Subject to paragraph (2) below, no person shall—

- (a) place on the market any specified risk material for any feedingstuff, or any feedingstuff containing specified risk material;
- (b) use any specified risk material in the preparation of any feedingstuff; or



(c) place on the market any specified risk material for use in the preparation of any feedingstuff.

(2) Paragraph (1) above shall not apply to—

(a) the placing on the market of any specified risk material; or

(b) the use of any specified risk material,

in the preparation of any feedingstuff for feeding to any animal for research purposes in a research establishment licensed under these Regulations in accordance with any conditions subject to which the licence is issued.

(3) Subject to paragraph (4) below, no person shall place on the market any specified risk material, or any feedingstuff which that person knows or has reason to suspect contains any specified risk material, for feeding to any animal.

(4) Paragraph (3) above shall not apply to the placing on the market of any feedingstuff to a research establishment licensed under these Regulations in accordance with any conditions subject to which the licence is issued.

(5) Subject to paragraph (6) below, no person shall feed to any animal—

(a) any specified risk material;

(b) any feedingstuff which that person knows or has reason to suspect contains any specified risk material; or

(c) a whole carcase or any part of a sheep, goat or bovine animal from which specified risk material has not been removed in accordance with these Regulations.

(6) Paragraph (5)(a) and (b) above shall not apply to the feeding to any animal of any specified risk material or feedingstuff for research purposes in a research establishment licensed under these Regulations and in accordance with any conditions subject to which the licence is issued.

(7) For the purposes of this regulation—

(a) “specified risk material” includes anything derived from it;

(b) a feedingstuff shall be treated as containing specified risk material if it contains anything derived from it; and

(c) “animal” does not include a human being.

(8) It shall be a defence for any person charged with an offence under this regulation to prove that that person did not know or have any reason to believe that the material or the feedingstuff in relation to which that person is charged, contained specified risk material.

### **Specified risk material for use in cosmetic, pharmaceutical and medical products**

**48.**—(1) No person shall sell any UK specified risk material for use in the preparation or manufacture of any cosmetic, pharmaceutical or medical product.

(2) No person shall use any UK specified risk material in the preparation or manufacture of any ingredient to be sold for use in the preparation or manufacture of a cosmetic, pharmaceutical or medical product.

(3) The prohibitions in paragraphs (1) and (2) above shall apply to anything derived from UK specified risk material as if it were UK specified risk material.

(4) It shall be a defence for any person charged with an offence under paragraph (1) or (2) above to prove that that person did not know or have any reason to believe that the material was, or was derived from, UK specified risk material.

**Mechanically recovered meat**

49.—(1) No person shall contravene or fail to comply with point 3 of Part A of Annex XI to the Community TSE Regulation.

(2) No person shall use any mechanically recovered meat which is derived from a bovine, ovine or caprine animal in the preparation of any food for human consumption or any feedingstuff.

*Prohibitions on collection, transport, rendering,  
incineration etc. and storage of specified risk material*

**Use of premises for collection, rendering, incineration etc. of specified risk material**

50. No person shall use any premises for any purpose in connection with—

- (a) the collection of specified risk material;
- (b) the rendering or incineration of specified risk material, or any other manner of disposal or destruction of specified risk material,

unless the occupier of the premises is licensed to use the premises for the purpose under this Part of these Regulations by the Licensing Authority.

**Storage of specified risk material**

51.—(1) Subject to paragraph (2) below, no person shall store specified risk material in the same room on any premises as any food, feedingstuff or any cosmetic, pharmaceutical or medical product.

(2) The requirement in paragraph (1) above shall not apply where an inspector has under this paragraph approved the storage of specified risk material in the same room as any food, feedingstuff or any cosmetic, pharmaceutical or medical product, on being satisfied that the arrangements for storage will ensure the adequate separation of the specified risk material from the food, feedingstuff or product.

- (3) No person shall store specified risk material otherwise than in an impervious container which—
- (a) contains nothing but specified risk material;
  - (b) is labelled as containing specified risk material;
  - (c) is not left uncovered when containing specified risk material; and
  - (d) after use for such storage, is thoroughly washed and disinfected before being used for any other purpose.

**Transport of specified risk material**

52.—(1) No person shall transport specified risk material unless—

- (a) the specified risk material is in a container marked with the words “specified risk material”, the place of destination and the name of the person to whom it is being sent; and
- (b) that person provides a written statement to the person to whom it is sent of the premises from which the specified risk material was collected for delivery.

(2) No person shall transport specified risk material unless it is—

- (a) transported in a container which—
  - (i) is not being used at the same time to transport any material other than specified risk material; and
  - (ii) is impervious; and

(b) kept covered at all times while in the container except when necessary for loading into the container or examination by an inspector.

(3) Any person transporting specified risk material shall ensure that the container in which the specified risk material is transported is thoroughly washed and disinfected before being used for any other purpose.

#### **Procedure for bringing in specified risk material from England, Wales or Northern Ireland**

**53.**—(1) No person shall bring specified risk material into Scotland from England, Wales or Northern Ireland unless—

- (a) it is stained in accordance with the Community TSE Regulation and with legislation having effect in, as the case may be, England, Wales or Northern Ireland and corresponding to the provisions of this Part of these Regulations relating to staining; or
- (b) it is exempt from the requirement to stain under that legislation by virtue of provisions corresponding to regulation 39(6) above;

(2) Any person bringing specified risk material into Scotland from England, Wales or Northern Ireland shall immediately transport it to one of the destinations specified in regulation 40 above.

#### **Procedure for bringing in carcasses containing specified risk material from England, Wales or Northern Ireland**

**54.**—(1) No person shall bring a carcass of a sheep or goat which contains spinal cord which is specified risk material into Scotland from England, Wales or Northern Ireland unless it is transported in a sealed vehicle, in accordance with the provisions of legislation having equivalent effect, as the case may be, in England, Wales or Northern Ireland to the provisions of regulation 43, to a licensed slaughterhouse or licensed cutting premises for removal of the spinal cord in accordance with regulation 35.

(2) No person shall bring a carcass of a bovine animal which contains vertebral column which is specified risk material into Scotland from England, Wales or Northern Ireland unless it is transported direct to a licensed cutting premises for removal of the vertebral column in accordance with regulation 36.

### *Licensing*

#### **Licensing of premises**

**55.**—(1) The Licensing Authority may—

- (a) license any occupier of premises to use the premises for any use in connection with—
  - (i) the collection or transport of specified risk material; or
  - (ii) the rendering or incineration of specified risk material, or any other manner of disposal or destruction of specified risk material; and
- (b) license any occupier of a slaughterhouse or cutting premises to use the slaughterhouse or cutting premises in connection with—
  - (i) the removal referred to in regulation 35 of the spinal cord, or any part of the spinal cord, from the vertebral column of a sheep or goat; or
  - (ii) the removal referred to in regulation 36 of the vertebral column of a bovine animal,

subject to such conditions as the Authority believes are necessary to ensure the occupier is able to comply with the requirements of Part A of Annex XI to the Community TSE Regulation and these Regulations which apply to the use concerned.

(2) On an application made to the Licensing Authority for a licence under this regulation, the Authority shall grant a licence if, following an inspection of the premises by an inspector, it is satisfied that—

- (a) the occupier of the premises has in place facilities, procedures and methods of operation sufficient for the occupier to be able to comply with such of the requirements of Part A of Annex XI to the Community TSE Regulation which apply to the use to which the application relates;
- (b) in respect of an application for a licence to use premises in connection with rendering of specified risk material, the premises have the facilities specified in Part I of Schedule 6 to these Regulations sufficient to enable the occupier of the premises to render the specified risk material at the premises by one of the methods specified in Part II of that Schedule; and
- (c) there is no significant risk that inspection on behalf of the Authority of the use of the premises will be hampered or denied.

(3) In considering applications for a licence for the purposes of this regulation the Licensing Authority may (in addition to any other relevant matters) have regard to the need for the efficient enforcement of this Part of these Regulations.

(4) In this Part of these Regulations—

- (a) in relation to slaughterhouses and cutting premises “the Licensing Authority” is the Agency;
- (b) in relation to any other premises, “the Licensing Authority” is the Scottish Ministers;
- (c) “licensed collection centre” means premises used for any use in connection with the collection or transport of specified risk material which its occupier is licensed by the Licensing Authority under this Part of these Regulations to use for a purpose which would otherwise be subject to a prohibition by this Part of these Regulations;
- (d) “licensed incinerator” and “licensed rendering plant” means an incinerator or, as the case may be, a rendering plant, which its occupier is licensed by the Licensing Authority under this Part of these Regulations to use for a purpose which would otherwise be subject to a prohibition by this Part of these Regulations; and
- (e) “licensed slaughterhouse” and “licensed cutting premises” means a slaughterhouse or, as the case may be, cutting premises, which its occupier is licensed by the Licensing Authority under this Part of these Regulations for use for a purpose which would otherwise be subject to a prohibition by this Part of these Regulations.

### **Licensing of premises for the use of specified risk material in production or research**

**56.**—(1) The Scottish Ministers may license the occupier of any premises to use premises for—

- (a) the use of specified risk material in the production referred to in Article 2 of the Community TSE Regulation; or
- (b) the use of specified risk material or other source of TSE infectivity in relation to keeping live animals used in or intended for research,

subject to such conditions as they believe are necessary to ensure the occupier of the premises is able to comply with the separation and production requirements of that Article which apply to the production or the keeping concerned.

(2) On an application made to them under this regulation for a licence the Scottish Ministers shall grant a licence if, following an inspection of the premises by a veterinary inspector, they are satisfied that—

- (a) the occupier of the premises has in place facilities and procedures for tracing through the production or keeping to which the application relates which are sufficient to trace all specified risk material delivered to the premises and able to show that—
  - (i) all specified risk material delivered to the premises is used for the purpose for which it was delivered or is disposed of in accordance with such conditions as they may specify in the licence; or
  - (ii) no product produced at the premises is used as, or in connection with or in the production of, any food or feedingstuff or any cosmetic, pharmaceutical or medical product; and
- (b) the use of the specified risk material in the production or keeping concerned does not give rise to risk—
  - (i) to human health; or
  - (ii) with the exception of the health of the animals for whose keeping the licence is required, animal health.
- (3) The occupier of any premises licensed under this regulation shall—
  - (a) ensure that the use of the premises for the licensed purpose is in accordance with—
    - (i) the conditions of the licence; and
    - (ii) the provisions of this Part of these Regulations, and Schedule 5 to, these Regulations relating to that use;
  - (b) ensure that any person employed by that occupier, and any person invited to the premises, complies with these conditions.
- (4) The occupier of any premises licensed under this regulation shall permit an inspector, or a person acting under the responsibility of an inspector, to—
  - (a) inspect any carcase, part carcase, blood, specified solid waste or specified risk material on the premises to enable the inspector to check whether the requirements of Part A of Annex XI to the Community TSE Regulation which apply to the premises are complied with there; and
  - (b) inspect any operation at the premises in connection with the removal, collection, transport, disposal or destruction of specified risk material to enable the inspector to check whether the requirements of Part A of Annex XI to the Community TSE Regulation which apply to the operation are complied with there,and shall give to an inspector, or any person acting under the responsibility of the inspector, such reasonable assistance as that inspector may require.
- (5) No person shall carry out any operation in relation to specified risk material at premises for which the occupier is licensed under this regulation except in accordance with any conditions specified in the licence.

### **Applications for licences**

**57.**—(1) An application for a licence under this Part of these Regulations shall be made in writing to the Licensing Authority by or on behalf of the occupier of the premises to which the application relates.

(2) The Licensing Authority shall notify the applicant in writing of the decision of the authority on an application made to it in accordance with this regulation.

(3) A licence under this Part of these Regulations shall specify—

- (a) the name and address of the person to whom the licence is granted and the address of the licensed premises;

- (b) the use of the premises for which the licence is granted; and
  - (c) the conditions subject to which the licence is granted.
- (4) If the Authority refuses to grant a licence to the occupier of premises or grants a licence subject to any condition it shall give to the applicant a statement of—
- (a) the reasons for the refusal or the condition; and
  - (b) the right of the applicant under this Part of these Regulations to appeal against the refusal or the condition and the period within which and the person to whom an appeal may be made.

### **Requirements of use of licensed premises**

- 58.**—(1) An occupier licensed to use premises under this Part of these Regulations shall—
- (a) ensure that the use of the premises for the licensed use is in accordance with the conditions of the licence;
  - (b) ensure that any person employed by that occupier, and any person invited to the premises, complies with these conditions.
- (2) An occupier licensed to use premises under this Part of these Regulations shall permit an inspector, or a person acting under the responsibility of an inspector, to—
- (a) inspect any carcass, part carcass, blood, specified solid waste or specified risk material on the premises to enable the inspector to check whether the requirements of Part A of Annex XI to the Community TSE Regulation which apply to the premises are complied with there; and
  - (b) inspect any part of the premises, any facility or any operation at the premises in connection with the removal, collection, transport, disposal or destruction of specified risk material to enable the inspector to check whether the requirements of Part A of Annex XI to the Community TSE Regulation which apply to the operation are complied with there,
- and shall give to an inspector, or any person acting under the responsibility of the inspector, such reasonable assistance as that inspector may require.
- (3) No person shall carry out any operation in relation to specified risk material at premises for which the occupier is licensed under this regulation except in accordance with the requirements of the Community TSE Regulations and of these Regulations and with any conditions specified in the licence.

### **Suspension of licences**

- 59.**—(1) The Licensing Authority may suspend a licence of any premises licensed under this Part of these Regulations if it appears to the Authority that—
- (a) the premises are being used otherwise than in accordance with—
    - (i) the licence; or
    - (ii) this Part of these Regulations or Schedule 5 to these Regulations;
  - (b) any condition specified in the licence has not been complied with;
  - (c) inspection of the premises for the purposes of these Regulations is being hampered or denied; or
  - (d) a notice has been served on the occupier in relation to the use of the premises under this Part of these Regulations and the Authority is not satisfied that the action required by the notice to be taken by the occupier has been taken within the time required.
- (2) Before suspending a licence the Licensing Authority shall—

- (a) give notice of the intended suspension to the occupier of the premises; and
  - (b) have regard to any representations made to the Authority by that person in relation to the intended suspension.
- (3) A notice of suspension of a licence shall include the following information:—
- (a) a summary of the decision of the Licensing Authority to suspend the licence and a description of the use of the premises for which the licence is suspended;
  - (b) the reason for the suspension;
  - (c) the date on which the suspension takes effect (which may be the same date as the date on which the notice is issued);
  - (d) the matters which must be remedied for the suspension to be lifted; and
  - (e) a statement of the right of the person to whom the notice of suspension is given to appeal under this Part of these Regulations against the suspension and the period within which and the person to whom an appeal may be made.
- (4) Where a suspension of a licence of premises under this regulation has taken effect the premises shall be treated as if they were not licensed for the use for which the licence is suspended.
- (5) The Licensing Authority shall lift a suspension of a licence where—
- (a) it is satisfied that—
    - (i) the reason for the suspension no longer applies; and
    - (ii) the person who would use the premises for the use for which they are licensed will use the premises in accordance with the licence and the conditions of the licence; or
  - (b) the determination of an appeal under this Part of these Regulations against the suspension is that the licence should not have been suspended.
- (6) Where the Licensing Authority lifts a suspension it shall give notice of this to the person to whom it gave notice of the suspension.

### **Revocation of licences**

- 60.**—(1) The Licensing Authority may revoke a licence of any premises licensed under this Part of these Regulations if it appears to the Authority that—
- (a) the premises are being used otherwise than in accordance with—
    - (i) the licence; or
    - (ii) this Part of these Regulations or Schedule 5 to these Regulations;
  - (b) any condition specified in the licence has not been complied with;
  - (c) inspection of the premises for the purposes of these Regulations is being hampered or denied;
  - (d) a notice has been served on the occupier in relation to the use of the premises under this Part of these Regulations and the Authority is not satisfied that the action required by the notice to be taken by the occupier has been taken within the time required;
  - (e) the premises are not being used for the purpose for which the occupier is licensed.
- (2) Before revoking a licence the Licensing Authority shall—
- (a) give notice of the intended revocation to the occupier of the premises; and
  - (b) have regard to any representations made to the Authority by that person in relation to the intended revocation.
- (3) A notice of revocation of a licence shall include the following information:—

- (a) a summary of the decision of the Licensing Authority to revoke the licence and a description of the use of the premises for which the licence is revoked;
- (b) the reason for the revocation;
- (c) the date on which the revocation takes effect, which may not be before the period of 21 days after the date on which the notice is given;
- (d) a statement of the right of the person to whom notice of revocation is given to appeal against the revocation;
- (e) a statement—
  - (i) that, for the protection of public or animal health pending an appeal, continued use of the premises for the use for which the licence is revoked is prohibited; or
  - (ii) of any conditions for the protection of public or animal health to which any continued use of the premises for a licensed use is subject pending an appeal.

(4) Subject to paragraph (7) below, where a statement under paragraph (3)(e)(ii) is included in a notice of revocation of a licence, premises may continue to be used by the occupier for a use for which a licence is revoked during the period of 21 days after the notification to the occupier of the revocation.

(5) After the expiry of the period referred to in paragraph (4) above, the premises may not be used for the use for which the licence is revoked unless before the period expired an appeal was made in accordance with regulation 61 below and the appeal has not been finally disposed of or abandoned.

(6) Where the Licensing Authority has given notice of a decision to revoke the licence and the notice of revocation included a statement under paragraph (3)(e)(i) above, the occupier of the premises shall not use the premises for the use for which the licence is revoked.

(7) Where the Licensing Authority has given notice of a decision to revoke the licence and the notice of revocation included a statement under paragraph (3)(e)(ii) above, the occupier of the premises shall not use the premises for the use for which the licence is revoked except in accordance with any conditions specified in the statement.

### **Appeals against/review in relation to suspension and revocation of licences**

**61.**—(1) Where in respect of any premises the Licensing Authority has given notice of a decision under this Part of these Regulations—

- (a) to refuse to license any occupier of any premises;
- (b) to grant a licence of any occupier of any premises subject to conditions;
- (c) to suspend the licence of any occupier of any premises; or
- (d) to revoke the licence of any occupier of any premises,

the person to whom the notice is given may, within 21 days of being notified of the decision, appeal against the decision to the person specified in the notice.

(2) An appeal under this regulation shall be made by written statement given to the person specified in the notice accompanied by a brief explanation of the ground of the appeal and such other information and documents as may be so specified.

(3) Where on an appeal under this regulation the person hearing the appeal determines that—

- (a) the grant of a licence should not have been refused the appeal;
- (b) unreasonable conditions have been attached to the grant of a licence; or
- (c) a licence should not have been suspended or revoked,

the Licensing Authority shall give effect to that determination.



### *Collection centres and incinerators*

#### **Collection centres**

**62.**—(1) Any person delivering specified risk material to a licensed collection centre shall state in writing to the operator of the collection centre concerned the place from which that specified risk material was collected for delivery to that collection centre.

(2) No person shall take delivery of specified risk material at a collection centre, or operate a collection centre for specified risk material, unless it has been licensed and has sufficient facilities for storing and handling specified risk material in a manner which keeps it separate from other animal material.

(3) The operator of a licensed collection centre shall ensure that—

- (a) without prejudice to the storage requirements of regulation 51 above, all specified risk material in the collection centre is kept separate from all other animal material; and
- (b) all equipment used in relation to the collection or storage of specified risk material that comes into contact with such material is thoroughly washed and disinfected before that operator uses the equipment or allows it to be used in relation to the collection or storage of any other material.

(4) No person shall consign specified risk material from a licensed collection centre except to a licensed incinerator or a licensed rendering plant.

#### **Incinerators**

**63.**—(1) Any person delivering specified risk material to a licensed incinerator shall state in writing to the operator of the incinerator concerned the place from which that specified risk material was collected for delivery to that incinerator.

(2) No person shall operate an incinerator incinerating specified risk material unless—

- (a) the incinerator has been licensed as having suitable facilities to incinerate specified risk material in accordance with paragraph (4) below;
- (b) that person disposes of the ash in a way that does not pose a risk to human or animal health; and
- (c) the incinerator is equipped with a refractory lining.

(3) The operator of a licensed incinerator shall make a consignment record on the arrival of specified risk material at the premises and shall keep that record for a period of not less than two years from the date of arrival.

(4) The operator of a licensed incinerator shall incinerate all specified risk material delivered to that operator to a standard specified in the licence and in such a way that all moisture is removed, the material is reduced to ash and the ash is disposed of in accordance with the terms of the licence.

(5) No person shall remove specified risk material from a licensed incinerator unless it has been completely incinerated.

### *Rendering plants*

#### **Delivery of specified risk material to rendering plants**

**64.**—(1) Any person delivering specified risk material to a licensed rendering plant shall state in writing to the operator of the rendering plant concerned the place from which that specified risk material was collected for delivery to that rendering plant.

(2) No person shall take delivery of specified risk material at a rendering plant, or operate a rendering plant for specified risk material, unless at the time of the delivery it is licensed under this Part of these Regulations as having the facilities specified in Part I of Schedule 6 to these Regulations sufficient to enable it to separate the specified risk material into protein and tallow by one of the methods specified in Part II of that Schedule.

(3) The occupier of a licensed rendering plant shall ensure that all containers, receptacles and vehicles which have been used for the transport of specified risk material are cleaned, washed and disinfected before they leave the premises.

### **Storage etc. of specified risk material at rendering plants**

**65.**—(1) Subject to paragraph (2) below, and without prejudice to the storage requirements of regulation 51 above, the operator of a licensed rendering plant shall ensure that all specified risk material in the rendering plant is kept and stored separately from all other material, handled separately from other material and rendered separately from other material.

(2) The operator of a licensed rendering plant may keep, handle, store or render specified risk material at the plant together with other material at the plant provided—

- (a) all of that material is kept, handled, stored and rendered at the plant in accordance with the requirements of these Regulations applying to specified risk material; and
- (b) the operator keeps a record for a period of not less than two years of the exact quantity of the specified risk material and the other material together with which the specified risk material is kept, handled, stored and rendered.

(3) For the purposes of this Part of these Regulations, references to specified risk material shall include references to any—

- (a) specified risk material kept, handled, stored or rendered together with other material; and
- (b) any other material together with which the specified risk material is kept, handled, stored or rendered.

### **Rendering of specified risk material**

**66.**—(1) The operator of a licensed rendering plant will ensure that specified risk material is processed without undue delay and in any event within seven days of delivery using one of the methods described in Part II of Schedule 6 to these Regulations.

(2) No person shall move from the unclean section of a licensed rendering plant, as so specified by the occupier in accordance with paragraph 3 of Part I of Schedule 6 to the Regulations, into the clean section as so specified without first changing the working clothes and footwear of that person and disinfecting the latter.

(3) The operator of a licensed rendering plant shall ensure (except as provided by paragraph (4) below) that any equipment used for processing specified risk material is used only for that purpose.

(4) Subject to paragraph (5) below, the Scottish Ministers may, on application by the operator of a licensed rendering plant, consent to the use for other purposes of equipment previously used for processing specified risk material.

(5) No consent given under paragraph (4) above shall be effective until the Scottish Ministers have indicated in writing that they are satisfied that the equipment concerned has been cleaned in accordance with any conditions specified in that consent.

(6) No person shall take equipment or utensils from the unclean section of a licensed rendering plant into the clean section of a licensed rendering plant unless that equipment and those utensils are first washed and disinfected.

(7) The occupier of a licensed rendering plant shall ensure that systematic measures are taken to control birds, rodents, insects and other vermin on the premises.

(8) The occupier of a licensed rendering plant shall ensure that the premises and equipment on the premises are kept in a good state of repair and that measuring equipment is regularly calibrated.

### **Rendered material**

**67.**—(1) After any specified risk material has been rendered at a licensed rendering plant the operator of the plant shall ensure that the rendered material is placed in a container labelled “specified risk material” and disposed of—

- (a) by burial at a landfill site for which there exists a current waste management licence granted under section 35 of the Environmental Protection Act 1990, or permit granted under the Pollution Prevention and Control (Scotland) Regulations 2000<sup>(21)</sup> or the Pollution Prevention and Control (England and Wales) Regulations 2000<sup>(22)</sup>;
- (b) as specified in the licence; or
- (c) by sending to a licensed incinerator.

(2) An operator of a licensed rendering plant shall ensure that rendered material produced from any specified risk material—

- (a) is consigned from the plant for disposal by burial; or
- (b) is disposed of by burial,

unless the specified risk material has been processed at the plant in accordance with method 4 prescribed in Part II of Schedule 6 to these Regulations.

(3) Material rendered from animal material, other than specified risk material from scheme animals, shall be disposed of by burning in a manner which has been authorised under the Environmental Protection Act 1990, the Pollution Prevention and Control (Scotland) Regulations 2000 or the Pollution Prevention and Control (England and Wales) Regulations 2000.

### *Administration and enforcement*

#### **Records**

**68.**—(1) Any person who consigns any specified risk material for transport from any premises shall make on consignment a record of each consignment showing—

- (a) the date on which the specified risk material was consigned from the premises;
- (b) the quantity and description of the material;
- (c) the destination to which it was consigned; and
- (d) the name of the haulier transporting it.

(2) Any person who transfers any specified risk material from any part of any premises licensed for the collection, disposal or destruction of any specified risk material to another part of the premises shall make on transfer a record of each transfer showing the date on which the specified risk material was transferred and the quantity and description of the material transferred.

(3) A person who collects any specified risk material from any premises for the purpose of transporting it shall make on collection a record showing—

- (a) the address of the premises from which the material was collected;

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(21) S.S.I. 2000/323.

(22) S.I. 2000/1973.

- (b) the date on which the material was collected;
- (c) the quantity and description of the material; and
- (d) the destination to which it is to be taken,

and shall ensure this record accompanies the specified risk material during transport.

(4) A person who receives any specified risk material collected from any premises shall make on receipt a record showing—

- (a) the address of the premises from which the material was collected;
- (b) the date on which the material is received;
- (c) the quantity and description of the material; and
- (d) name and address of the haulier who transported it.

(5) In addition to any records the person is required to make under paragraphs (1) and (4) above, an occupier of rendering premises (other than part-rendering premises) shall make a record of any specified risk material that person renders at the premises showing—

- (a) the weight rendered and the date of rendering;
- (b) the temperature of the material achieved during rendering;
- (c) in a batch system, the period during which the material was rendered;
- (d) the particle size to which the material was reduced before rendering;
- (e) if appropriate, the pressure to which the by-products are subjected during rendering;
- (f) if appropriate, the feed rate of the material;
- (g) if appropriate, the fat re-cycling rate;
- (h) the quantity and description of rendered material produced;
- (i) in the case of all rendered material—
  - (i) the method of disposal;
  - (ii) the quantity disposed of;
  - (iii) the date of disposal;
  - (iv) the name of the haulier; and
  - (v) the address of the disposal premises.

(6) In addition to any records the person is required to make under paragraphs (1) and (4) above, an occupier of part-rendering premises shall make a record of any specified risk material that person part-renders at the premises showing—

- (a) the weight part-rendered and the date of part-rendering; and
- (b) the quantity and description of part-rendered material produced.

(7) Any record required to be made under this regulation shall be kept by or on behalf of the person who is required to make it for a period of not less than two years from the date on which the record is made.

### **Cleansing and disinfection**

**69.**—(1) If an inspector suspects that any vehicle, container or premises constitute a disease risk, that inspector may serve a notice on the person in charge of the vehicle or container, or on the occupier of the premises, requiring the vehicle, container or premises to be cleansed and disinfected.

(2) The notice may—

- (a) specify the method of cleansing and disinfection;

- (b) specify the method of disposal of any specified risk material remaining in the vehicle, container or premises; and
- (c) prohibit the movement of specified risk material into the vehicle or container or on to the premises until such time as the required cleansing and disinfection has been satisfactorily completed.

### **Powers of inspectors**

**70.**—(1) An inspector shall, on producing, if required to do so, some duly authenticated document showing the authority of the inspector, have the right at all reasonable hours to enter any premises (excluding premises used only as a dwelling) to—

- (a) ascertain whether any—
  - (i) TSE susceptible animal; or
  - (ii) any specified risk material,is being or has been kept on the premises;
- (b) ascertain whether—
  - (i) any TSE exists or has existed on the premises or any other premises; or
  - (ii) any animal which is being kept on the premises or has been kept on the premises is, or was at the time it was kept there, affected with any TSE;
- (c) collect, pen, inspect and examine any TSE susceptible animal and for this purpose may require the keeper of any such animal to arrange for the collection and penning of the animal;
- (d) inspect and examine—
  - (i) specified risk material; or
  - (ii) the carcase of TSE susceptible animal;
- (e) take such samples from, and make such tests in relation to, any—
  - (i) TSE susceptible animal;
  - (ii) carcase of such an animal;
  - (iii) specified risk material or any other material appearing to that inspector to be derived from an animal;
  - (iv) food or feedingstuff;
  - (v) cosmetic, pharmaceutical or medical product,as that inspector considers necessary;
- (f) mark for identification purposes any specified risk material or TSE susceptible animal, or the carcase of such an animal;
- (g) serve on the person in charge of a TSE susceptible animal, or the person in possession of the carcase of any such animal or in possession of any specified risk material, a notice—
  - (i) to restrict or prohibit the movement of the TSE susceptible animal, carcase or specified risk material; or
  - (ii) in respect of any such carcase or specified risk material, to require the person to dispose of the carcase or specified risk material in the manner and period specified in the notice;
- (h) seize any specified risk material, TSE susceptible animal or the carcase of such an animal;
- (i) serve a notice requiring any cleansing and disinfection or carry out or cause to be carried out any cleansing and disinfection ;

- (j) serve any notice—
    - (i) in connection with the seizure any specified risk material, TSE susceptible animal or the carcase of such an animal; or
    - (ii) under regulation 69 above;
  - (k) inspect—
    - (i) the premises; or
    - (ii) any equipment at the premises;
  - (l) inspect any facility, operation or procedure at the premises, including—
    - (i) any means of preparing, manufacturing, treating (including subjecting to heat or cold) food or specified risk material; or
    - (ii) any facility, operation or procedure at the premises in connection with the removal, collection, transport, disposal or destruction of specified risk material;
  - (m) serve any licence, suspension of a licence, withdrawal of a licence or revocation of a licence under this Part of these Regulations;
  - (n) serve any direction under regulation 72 below;
  - (o) examine any record, in whatever form the record may be held, and take copies of the record;
  - (p) have access to, and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with any record; and for this purpose may require any person who has charge of or who is otherwise concerned with the operation of the computer, apparatus or material to afford to that inspector such assistance as that inspector may reasonably require and, where a record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away; or
  - (q) ascertain whether there is or has been any contravention of, or failure to comply with, this Part of these Regulations or any evidence of any such contravention or failure.
- (2) No person except an inspector shall remove or otherwise interfere with any mark applied under paragraph (1)(f) above.
- (3) If a sheriff or justice of the peace, on sworn information in writing—
- (a) is satisfied that there are reasonable grounds for entry into any premises for any such purpose as is mentioned in paragraph (1) above; and
  - (b) is satisfied either that—
    - (i) admission to the premises has been refused or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier; or
    - (ii) 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 temporarily absent,
- the sheriff or justice of the peace may by signed warrant authorise an inspector to enter the premises, if need be by using reasonable force.
- (4) The occupier of premises entered by an inspector under this regulation or by virtue of a warrant issued under it, and the employees of that occupier 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, or any animal or carcase, which is or has been on the premises, shall—
- (a) provide such reasonable facilities to the inspector and comply with such reasonable requirements as the inspector considers necessary for any purpose connected with the administration or enforcement of this Part of these Regulations; and

- (b) if required by an inspector, give such information as that occupier possesses as to—
  - (i) any mammalian meat and bone meal or processed animal protein, or any animal or carcase 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, or any animal or carcase, 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 or processed animal protein, or any animal or carcase, which is or has been in the possession or charge of the occupier.
- (5) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it may be accompanied by—
  - (a) such other person as that inspector considers necessary to give such assistance as that inspector considers necessary; and
  - (b) a representative of the European Commission acting for the purpose of the Community TSE Regulation or the Community Transitional Measures.
- (6) If an inspector enters any unoccupied premises, that inspector shall leave them as effectively secured against unauthorised entry as that inspector found them.

#### **Recall, seizure and destruction of feedingstuffs**

71.—(1) An inspector may serve on any person in whose possession is found any feedingstuff containing specified risk material, except a feedingstuff prepared for use at premises licensed for that use under regulation 56 above, a notice requiring that person to dispose of the material, and any other material with which it has come into contact, in such manner and within such period as may be specified in the notice.

(2) An inspector may serve on any person who has sold or supplied any feedingstuff containing specified risk material a notice requiring that person to collect at their own expense that product from the person to whom that person supplied or sold it, or from such other person to whom it may have subsequently been supplied or sold, and to transport it to such place and within such time as may be specified in the notice.

(3) If any person on whom a notice is served under paragraph (1) or (2) above fails to comply with the requirements of the notice, an inspector may, without prejudice to any proceedings arising out of such default, carry out or cause to be carried out the requirements of the notice.

(4) The amount of any expenses reasonably incurred by or on behalf of an inspector acting pursuant to paragraph (3) above shall be recoverable as a debt by that inspector or by any person under whose authority that inspector is acting from the person who was in default of the notice, unless that person took all reasonable steps to comply with the notice.

#### **Directions**

72.—(1) If the Scottish Ministers or the Agency are satisfied that specified risk material cannot be disposed of under the provisions of these Regulations, whether for reasons of mechanical breakdown of equipment or otherwise, the Scottish Ministers or the Agency may give written directions to the owner or person in control of the specified risk material for its disposal in a safe manner in accordance with the conditions of the derogation in point 8 of Part A of Annex XI to the Community TSE Regulation, and the person to whom such directions are given shall comply with them.

(2) In the event of any person not complying with those directions, the Scottish Ministers or the Agency may make arrangements for the disposal of the specified risk material at the expense of the owner or person in control of the material.

### **Compliance with notices**

73.—(1) Any notice served under this Part of these Regulations shall be complied with at the expense of the person on whom the notice is served.

(2) If a notice served under this Part of these Regulations is not complied with, an inspector may arrange for it to be complied with at the expense of the person on whom the notice is served.

### **Slaughterhouse staff training**

74. The occupier of any slaughterhouse where specified risk material is removed from carcasses pursuant to this regulation shall arrange or establish in consultation with an OVS a staff training programme to train staff to comply with those requirements of this Part of these Regulations which they perform on those premises.

### **Compliance in relation to employees**

75.—(1) An occupier of any premises used for the purposes of a business in course of which any commercial operation with respect to food or food sources is carried out shall take all practicable steps to secure compliance by any of the employees of that occupier with the provisions of these Regulations which apply to those operations in relation to those premises.

(2) In this regulation “commercial operation” and “food source” have the same meanings as in the Food Safety Act 1990(23).

### **Inspection and seizure of suspected food**

76.—(1) The following provisions of the Food Safety Act 1990 shall apply for the purposes of this Part of these Regulations as they apply for the purposes of sections 8, 14 or 15 of that Act and any reference in them to the Act shall be construed as a reference to this Part of these Regulations—

- (a) section 9 (inspection and seizure of suspected food), subject to the modification that it shall apply to an inspector as it applies to an authorised officer of a food authority;
- (b) section 30(8) (evidence of certificate of analysis or examination); and
- (c) section 44 (protection of officers acting in good faith), subject to the modifications that it shall apply to a person appointed as an inspector for the purpose of these Regulations by a local authority or the Agency as it applies to an authorised officer of a food authority.

(2) On an inspection for the purposes of this Part of these Regulations of any food intended for human consumption an inspector may certify that the food fails to comply with a provision of this Part.

(3) Where any food is certified as mentioned in paragraph (2) above it may be treated for the purposes of section 9 of the Food Safety Act 1990 as failing to comply with food safety requirements.

## **Part V**

### **Control and eradication of TSEs**

#### **Notification of animals suspected of being affected by a TSE**

77.—(1) Any person who has in the possession of that person or under the charge of that person an animal suspected of being affected by a TSE, and any veterinary surgeon or other person who,

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(23) 1990 c. 16.



in the course of the duties of such person, examines or inspects any such animal, shall, with all practicable speed, notify the fact to the Divisional Veterinary Manager.

(2) Any person who has in the possession of that person or under the charge of that person on any premises an animal suspected of being affected by a TSE, shall detain it on the premises until it has been examined by a veterinary inspector.

(3) Subject to paragraph (4), below, any person who, in the course of a laboratory examination of the carcase of an animal, reasonably suspects the presence of a TSE, shall—

- (a) with all practicable speed, notify the fact to the Divisional Veterinary Manager;
- (b) retain the sample examined and the remainder of the carcase until its disposal has been authorised in writing by a veterinary inspector; and
- (c) if required in writing to do so by a veterinary inspector, surrender any samples, in whatever form, to such an inspector.

(4) Paragraph (3) above shall not apply to any TSE which has been introduced deliberately into an animal, a carcase or a sample—

- (a) in any laboratory; or
- (b) on any premises, whether or not a laboratory, licensed by the Scottish Ministers under regulation 56 above.

#### **Measures for the purposes of Chapter IV of the Community TSE Regulation**

**78.**—(1) An inspector may make such enquiries and carry out such investigations as that inspector considers necessary for any purpose connected with the administration or enforcement of Chapter IV of the Community TSE Regulation.

(2) For any such purpose an inspector shall, on producing, if required to do so, some duly authenticated document showing the authority of that inspector, have the right at all reasonable hours to enter any premises (excluding premises used only as a dwelling) to—

- (a) ascertain whether any TSE susceptible animal is being or has been kept on the premises;
- (b) ascertain whether—
  - (i) any TSE exists or has existed on the premises or any other premises; or
  - (ii) any animal which is being kept on the premises or has been kept on the premises is, or was at the time it was kept there, affected with any TSE;
- (c) collect, pen, inspect and examine any TSE susceptible animal and for this purpose may require the keeper of any such animal to arrange for the collection and penning of the animal;
- (d) inspect and examine the carcase of such an animal;
- (e) take such samples and make such tests in relation to any TSE susceptible animal, or the carcase of such an animal, as that inspector considers necessary;
- (f) mark for identification purposes any TSE susceptible animal, or the carcase of such an animal, or administer or otherwise attach an electronic identification device to any TSE susceptible animal;
- (g) serve a notice to restrict or prohibit the movement of any TSE susceptible animal or the carcase of such an animal;
- (h) seize any TSE susceptible animal, the carcase of such an animal any part of such a carcase or any blood, and serve any notice in connection with the seizure;
- (i) give any direction under regulation 82 below;
- (j) serve any notice in connection with the slaughter of any TSE susceptible animal;

- (k) slaughter any TSE susceptible animal;
- (l) serve a notice requiring any cleansing and disinfection or carry out or cause to be carried out any cleansing and disinfection;
- (m) examine any record, in whatever form the record may be held, and take copies of the record;
- (n) have access to, and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with any record; and for this purpose may require any person who has charge of or who is otherwise concerned with the operation of the computer, apparatus or material to afford to that inspector such assistance as that inspector may reasonably require and, where a record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away; or
- (o) ascertain whether there is or has been any contravention of, or failure to comply with, this Part of these Regulations or any evidence of any such contravention or failure.

(3) No person except an inspector shall remove or otherwise interfere with any mark applied to a TSE susceptible animal or the carcase of such an animal under paragraph (2)(f) above and no person except a veterinary inspector or an OVS shall remove or otherwise interfere with any electronic identification device attached to or otherwise administered to such an animal under that sub-paragraph.

(4) If a sheriff or justice of the peace, on sworn information in writing—

- (a) is satisfied that there are reasonable grounds for entry into any premises for any such purpose as is mentioned in paragraph (2) above; and
- (b) is satisfied either that—
  - (i) admission to the premises has been refused or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier; or
  - (ii) 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 temporarily absent,

the sheriff or justice of the peace may by signed warrant authorise an inspector to enter the premises, if need be by using reasonable force.

(5) The occupier of premises entered by an inspector under this regulation or by virtue of a warrant issued under it, and the employees of that occupier and any person on the premises who is or has been in possession or charge of any animal or carcase which is or has been on the premises, shall—

- (a) provide such reasonable facilities to the inspector and comply with such reasonable requirements as the inspector considers necessary for any purpose connected with the administration or enforcement of Chapter IV of the Community TSE Regulation; and
- (b) if required by an inspector, give such information as that occupier possesses as to—
  - (i) any animal or carcase which is or has been on the premises;
  - (ii) any other animal or carcase with which any animal or carcase which is or has been on the premises may have come into contact; and
  - (iii) the location and movement of any animal or carcase which is or has been in the possession or charge of the occupier.

(6) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it may be accompanied by—

- (a) such other person as that inspector considers necessary to give such assistance as that inspector considers necessary; and

(b) a representative of the European Commission acting for the purpose of the Community TSE Regulation or the Community Transitional Measures.

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

#### **Movement prohibitions and restrictions of any TSE susceptible animals for the purposes of Chapter IV of the Community TSE Regulation**

**79.**—(1) This regulation applies where an inspector is satisfied that for any purpose connected with the administration or enforcement of Chapter IV of the Community TSE Regulation it is necessary to prohibit or restrict the movement of any TSE susceptible animal, whether or not the animal is suspected of being affected by a TSE, from or to any premises.

(2) For any such purpose an inspector may, by notice in writing served on the owner or person in charge of any animal, prohibit or restrict the movement of the animal from or to any premises described in the notice for such period and subject to such conditions as that inspector considers necessary for that purpose and specifies in the notice.

(3) During the period in which the notice is in force an inspector may renew it subject to such conditions as that inspector considers necessary for the same or a shorter period.

(4) A notice which is renewed may be renewed from time to time in a similar manner by an inspector.

(5) Where a notice is in force under this regulation the conditions of which allow movement of any animal suspected of being affected by a TSE from premises on the authority of a licence issued by an inspector, an inspector may issue a licence for this purpose subject to such conditions as that inspector considers necessary.

(6) Where an animal or carcase is being moved under the authority of a licence issued under this Part of these Regulations, the person in charge of the animal or carcase being so moved shall carry the licence during the authorised movement and shall, on demand made by an inspector or by a police officer, produce the licence and allow a copy or extract to be taken, and shall also, on such demand, furnish the name and address of that person.

#### **Slaughter of TSE susceptible animals at slaughterhouses for the purposes of Chapter IV of the Community TSE Regulation**

**80.**—(1) This regulation and regulation 81 below apply where the Scottish Ministers are satisfied it is necessary to slaughter any TSE susceptible animal for the purposes of Chapter IV of the Community TSE Regulation.

(2) Where the Scottish Ministers are satisfied that it is necessary for these purposes to slaughter a TSE susceptible animal at a slaughterhouse, an inspector shall so inform the occupier of the premises concerned and direct the occupier to slaughter the animal in such manner and within such period as the inspector directs.

(3) Before an inspector directs an occupier to slaughter an animal under this regulation, that inspector shall consider the hygiene, specified risk material or animal welfare requirements with which the occupier must comply at the slaughterhouse in relation to—

(a) the slaughter of the animal; and

(b) any related operation, including—

(i) the handling of the animal before and at slaughter, or the handling, storage, treatment and disposal of the carcase, any part of the carcase or any blood derived from the carcase or any part of the carcase; and

- (ii) any operation in relation to any other animal or the slaughter of any other animal at the slaughterhouse, including the handling of any other animal before and at slaughter, or the handling, storage, treatment and disposal of the carcass, any part of the carcass or any blood derived from the carcass or any part of the carcass of any other animal.

(4) Where the inspector is satisfied that for the purpose of complying with any of these requirements the occupier must—

- (a) slaughter any other animal at the slaughterhouse; or
- (b) carry out any such related operation,

the inspector shall direct the occupier to slaughter the other animal or carry out the related operation in such manner and within such period as the inspector directs

(5) In directing an occupier under this regulation, an inspector may direct that occupier in relation to—

- (a) the keeping and handling before and at slaughter of any animal at the slaughterhouse, whether or not it is to be slaughtered under a direction given under this regulation;
- (b) the arrangements for the slaughter at the slaughterhouse of any animal slaughtered under a direction given under this regulation; and
- (c) the treatment, storage and disposal of the carcass of any animal slaughtered at the slaughterhouse or any part of the carcass or any blood derived from the carcass or any part of the carcass.

(6) Any direction under this regulation shall be complied with at the expense of the person to whom the direction is given.

(7) If a direction under this regulation is not complied with, an inspector may arrange for it to be complied with at the expense of the person to whom the direction is given.

#### **Slaughter of TSE susceptible animals at other premises for the purposes of Chapter IV of the Community TSE Regulation**

**81.**—(1) Where the Scottish Ministers are satisfied that it is necessary for the purposes of Chapter IV of the Community TSE Regulation to slaughter a TSE susceptible animal at premises other than premises licensed under the Fresh Meat (Hygiene and Inspection) Regulations 1995<sup>(24)</sup> a veterinary inspector shall serve a notice of intended slaughter on the owner or person in charge of the animal—

- (a) informing that owner or person of that intention; and
- (b) specifying the period within which representations from the owner or person in charge of the animal may be made to the Scottish Ministers in that regard.

(2) After considering any representations received during that period from the owner or person in charge of the animal, the Scottish Ministers shall either—

- (a) withdraw the notice of intended slaughter; or
- (b) serve a notice on the owner or person in charge of the animal confirming the intended slaughter of the animal.

(3) After service of the notice confirming the intended slaughter of the animal, the Scottish Ministers shall cause the animal to be slaughtered as soon as possible having regard to the requirements of the annual programme of monitoring referred to in Article 6 of the Community TSE Regulation.

<sup>(24)</sup> S.I. 1995/539, amended by S.I. 1995/731, 1763, 2148, 2200, 3124 and 3189, 1996/1148 and 2235, 1997/1729 and 2074 and S.S.I. 2000/62, 171 and 288 and 2001/160, 358, 394 and 429 and 2002/35 and 234.

### **Retention, seizure and disposal of carcasses etc. of TSE susceptible animals for the purposes of Chapter IV of the Community TSE Regulation**

**82.**—(1) This regulation applies where the Scottish Ministers are satisfied that for any purpose connected with the administration or enforcement of Chapter IV of the Community TSE Regulation it is necessary—

- (a) to require an occupier of premises to retain on the premises under the direction of the Scottish Ministers a carcass of a TSE susceptible animal, any part of such a carcass or any blood derived from any such carcass or part; or
- (b) to seize from any premises the carcass of a TSE susceptible animal, any part of such a carcass or any blood derived from any such carcass or part.

(2) For any such purpose an inspector may—

- (a) direct the occupier of the premises to retain on the premises a carcass of a TSE susceptible animal on the premises, any part of such a carcass or any blood derived from any such carcass or part; or
- (b) seize or dispose of—
  - (i) any carcass of a TSE susceptible animal from any premises, or any part of such a carcass, whether or not it is a carcass or part of a carcass which the occupier has been required to be retained under the direction of an inspector; or
  - (ii) any blood derived from a carcass of a TSE susceptible animal or any part of such a carcass, whether or not the carcass or part of the carcass from which the blood is derived has been required to be retained under the direction of an inspector or has been seized by an inspector.

(3) Directions from an inspector to an occupier under this regulation to retain a carcass, part of a carcass or blood derived from any carcass or part may include directions in relation to the treatment, storage and disposal of the carcass, part or blood.

(4) Any direction under this regulation shall be complied with at the expense of the person to whom the direction is given.

(5) If a direction under this regulation is not complied with, an inspector may arrange for it to be complied with at the expense of the person to whom the direction is given.

### **Compensation for slaughtered TSE susceptible animals**

**83.**—(1) Where a TSE susceptible animal is slaughtered under regulation 80 or 81 above the Scottish Ministers shall pay compensation to the owner of the animal in accordance with the provisions of Part III of Schedule 1 to these Regulations.

(2) The Scottish Ministers shall pay compensation in accordance with the provisions of Part IV of that Schedule to the owner of any carcass, part of a carcass or blood seized or disposed of under regulation 82 above.

### **Prohibition of sale, supply and use of milk from affected or suspected animals**

**84.**—(1) Subject to paragraph (2) below, no person shall knowingly—

- (a) sell or supply for human consumption or for feeding to a farmed animal or poultry;
- (b) use in the manufacture of any product for sale or supply for human consumption or for feeding to an animal or poultry; or
- (c) feed to an animal or poultry,

any milk which that person knows or has reason to suspect has been produced by a bovine animal suspected of being affected by bovine spongiform encephalopathy, a bovine animal in which the

presence of bovine spongiform encephalopathy has been officially confirmed or any bovine animal referred to in Article 13 of, and point 1(a) of Annex VII to, the Community TSE Regulation as being at risk of being affected by bovine spongiform encephalopathy.

- (2) The prohibitions in paragraph (1) above shall not apply—
- (a) to the feeding to its own calf of any milk produced by a cow;
  - (b) to the feeding to an animal or poultry of any milk for research purposes in a research establishment under the authority of a licence as may be granted by the Scottish Ministers and in accordance with any conditions subject to which the licence is granted; or
  - (c) to the sale or supply of any milk to such a research establishment for those purposes.

## Part VI

### Article 15(2) of and Chapter B of Annex VIII to the Community TSE Regulation

#### **Notification of progeny etc. of TSE suspect and confirmed animals**

**85.**—(1) Any person who has in the possession of that person or under the charge of that person any—

- (a) any animal of first generation progeny of—
  - (i) a female bovine animal infected with a TSE;
  - (ii) a BSE-confirmed ovine or caprine animal; or

(b) any semen, embryos or ova derived from any such bovine, ovine or caprine animal,

and any veterinary surgeon or other person who, in the course of the duties of such person, examines or inspects any such progeny, semen, embryos or ova, shall, with all practicable speed, notify the fact to the Divisional Veterinary Manager.

(2) Any person who has in the possession of that person or under the charge of that person on any premises any animal which that person reasonably suspects is an animal of first generation progeny of, or semen, embryos or ova derived from, a female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal, shall detain it on the premises until it has been examined by a veterinary inspector.

(3) Any person who, in the course of a laboratory examination of the carcase of an animal, or any semen, embryos or ova derived from an animal, reasonably suspects that it is an animal of first generation progeny of, or semen, embryos or ova derived from, a female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal, shall—

- (a) with all practicable speed, notify the fact to the Divisional Veterinary Manager;
- (b) retain the sample examined and the remainder of the carcase until its disposal has been authorised in writing by a veterinary inspector; and
- (c) if required in writing to do so by a veterinary inspector, surrender any samples, in whatever form, to such an inspector.

#### **Measures to administer and enforce Article 15(2) of, and Chapter B of Annex VIII to, the Community TSE Regulation**

**86.**—(1) An inspector may make such enquiries and carry out such investigations as that inspector considers necessary for any purpose connected with the administration or enforcement of Article 15(2) of, and Chapter B of Annex VIII to, the Community TSE Regulation.

(2) For such purposes an inspector shall, on producing, if required to do so, some duly authenticated document showing the authority of that inspector, have the right at all reasonable hours to enter any premises (excluding premises used only as a dwelling) to—

- (a) ascertain whether any animal of first generation progeny of, or semen, embryos or ova derived from, a female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal, is being or has been kept on the premises;
- (b) collect, pen, inspect and examine any animal of first generation progeny of, or semen, embryos or ova derived from, a female bovine animal infected with any TSE or a BSE-confirmed ovine or caprine animal, and for this purpose may require the keeper of any such animal to arrange for the collection and penning of the animal;
- (c) inspect and examine and take such samples and make such tests as that inspector considers necessary from any—
  - (i) female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
  - (ii) animal of first generation progeny of, or semen, embryos or ova derived from, a female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
  - (iii) carcase of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal; or
  - (iv) carcase of an animal of first generation progeny of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal;
- (d) mark for identification purposes, or administer or otherwise attach an electronic identification device to, any—
  - (i) female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
  - (ii) animal of first generation progeny of, or semen, embryos or ova derived from, a female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
  - (iii) carcase of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal; or
  - (iv) carcase of an animal of first generation progeny of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal;
- (e) serve a notice to restrict or prohibit the movement, or issue a licence in connection with the movement, of—
  - (i) any female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
  - (ii) any animal of first generation progeny of, or semen, embryos or ova derived from, a female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
  - (iii) any carcase of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal; or
  - (iv) any carcase of an animal of first generation progeny of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal;
- (f) seize or dispose of—
  - (i) any female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;

- (ii) any animal of first generation progeny of, or semen, embryos, ova or blood derived from, a female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
  - (iii) any carcase of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal; or
  - (iv) any carcase of an animal of first generation progeny of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal;
- (g) serve any notice in connection with the slaughter of, or slaughter–
- (i) any female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal; or
  - (ii) any animal of first generation progeny of, or semen, embryos or ova derived from, a female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
- (h) give a direction under regulation 90 below;
- (i) serve a notice requiring any cleansing and disinfection or carry out or cause to be carried out any cleansing and disinfection;
- (j) examine any record, in whatever form the record may be held, and take copies of the record;
- (k) have access to, and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with any record; and for this purpose may require any person who has charge of or who is otherwise concerned with the operation of the computer, apparatus or material to afford to that inspector such assistance as that inspector may reasonably require and, where a record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away; or
- (l) ascertain whether there is or has been any contravention of, or failure to comply with, this Part of these Regulations or any evidence of any such contravention or failure.
- (3) No person except an inspector shall remove or otherwise interfere with any mark applied to any animal or carcase under paragraph (2)(d) above and no person except a veterinary inspector shall remove or otherwise interfere with any electronic identification device attached to or otherwise administered to such an animal under that sub-paragraph.
- (4) If a sheriff or justice of the peace, on sworn information in writing–
- (a) is satisfied that there are reasonable grounds for entry into any premises for any such purpose as is mentioned in paragraph (2) above; and
  - (b) is satisfied either that–
    - (i) admission to the premises has been refused or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier; or
    - (ii) 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 temporarily absent,
- the sheriff or justice of the peace may by signed warrant authorise an inspector to enter the premises, if need be by using reasonable force.
- (5) The occupier of premises entered by an inspector under this regulation or by virtue of a warrant issued under it, and the employees of that occupier and any person on the premises who is or has been in possession or charge of any animal or carcase 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



- connected with the administration or enforcement of Article 15(2) of, and Chapter B of Annex VIII to, the Community TSE Regulation; and
- (b) if required by an inspector, give such information as that occupier possesses as to—
- (i) any animal or carcase which is or has been on the premises;
  - (ii) any other animal or carcase with which any animal or carcase which is or has been on the premises may have come into contact;
  - (iii) any semen, embryos or ova derived from any female bovine animal infected with TSE or a BSE-confirmed ovine or caprine animal; and
  - (iv) the location and movement of any animal or carcase, or any semen, embryos or ova derived from female bovine animals infected with a TSE or BSE-confirmed ovine or caprine animal, which is or has been in the possession or charge of that person.
- (6) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it may be accompanied by—
- (a) such other person as that inspector considers necessary to give such assistance as that inspector considers necessary; and
  - (b) a representative of the European Commission acting for the purpose of the Community TSE Regulation or the Community Transitional Measures.
- (7) If an inspector enters any unoccupied premises, that inspector shall leave them as effectively secured against unauthorised entry as that inspector found them.

**Movement prohibitions and restrictions: Article 15(2) of, and Chapter B of Annex VIII to, the Community TSE Regulation**

**87.**—(1) This regulation applies where an inspector is satisfied that for any purpose connected with the administration or enforcement of Article 15(2) of, and Chapter B of Annex VIII to, the Community TSE Regulation it is necessary to prohibit or restrict the movement from or to any premises of any—

- (a) female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
  - (b) animal of first generation progeny of, or semen, embryos or ova derived from, a female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
  - (c) carcase of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal; or
  - (d) carcase of an animal of first generation progeny of female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal.
- (2) For any such purpose an inspector may, by notice in writing served on the owner or person in charge of any animal, prohibit or restrict the movement of the animal, carcase or semen, embryos or ova from or to any premises described in the notice for such period and subject to such conditions as that inspector considers necessary for that purpose and specifies in the notice.
- (3) During the period in which the notice is in force a veterinary inspector may renew it subject to such conditions as that inspector considers necessary for the same or a shorter period.
- (4) A notice which is renewed may be renewed from time to time in a similar manner by a veterinary inspector.
- (5) Where a notice is in force under this regulation the conditions of which allow movement of any animal, carcase or semen, embryos or ova from premises on the authority of a licence issued by a veterinary inspector, a veterinary inspector may issue a licence for this purpose subject to such conditions as that inspector considers necessary.

(6) Where an animal, carcase or semen, embryos or ova is or are being moved under the authority of a licence issued under this Part of these Regulations, the person in charge of the animal, carcase or semen, embryos or ova being so moved shall carry the licence during the authorised movement and shall, on demand made by an inspector or by a police officer, produce the licence and allow a copy or extract to be taken, and shall also, on such demand, furnish the name and address of that person.

**Slaughter at slaughterhouses: Article 15(2) of, and Chapter B of Annex VIII to, the Community TSE Regulation**

**88.**—(1) This regulation and regulation 89 below apply where, for the purposes of the administration or enforcement of Article 15(2) of, and Chapter B of Annex VIII to, the Community TSE Regulation the Scottish Ministers are satisfied that it is necessary to slaughter—

- (a) any female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal; or
- (b) any animal of first generation progeny of—
  - (i) a female bovine animal infected with a TSE; or
  - (ii) a BSE-confirmed ovine or caprine animal.

(2) Where the Scottish Ministers are satisfied that it is necessary for these purposes to slaughter an animal of a description referred to in paragraph (1) above at premises licensed under the Fresh Meat (Hygiene and Inspection) Regulations 1995 an inspector shall so inform the occupier of the premises concerned and direct the occupier to slaughter the animal in such manner and within such period as the inspector directs.

(3) Before an inspector directs an occupier to slaughter an animal under this regulation, that inspector shall consider the hygiene, specified risk material or animal welfare requirements with which the occupier must comply at the slaughterhouse in relation to—

- (a) the slaughter of the animal; and
- (b) any related operation, including—
  - (i) the handling of the animal before and at slaughter, or the handling, storage, treatment and disposal of the carcase, any part of the carcase or any blood derived from the carcase or any part of the carcase; and
  - (ii) any operation in relation to any other animal or the slaughter of any other animal at the slaughterhouse, including the handling of any other animal before and at slaughter, or the handling, storage, treatment and disposal of the carcase, any part of the carcase or any blood derived from the carcase or any part of the carcase of any other animal.

(4) Where the inspector is satisfied that for the purpose of complying with any of these requirements the occupier must—

- (a) slaughter any other animal at the slaughterhouse; or
- (b) carry out any such related operation,

the inspector shall direct the occupier to slaughter the other animal or carry out the related operation in such manner and within such period as the inspector directs.

(5) In directing an occupier under this regulation, an inspector may direct that occupier in relation to—

- (a) the keeping and handling before and at slaughter of any animal at the slaughterhouse, whether or not it is to be slaughtered under a direction given under this regulation;
- (b) the arrangements for the slaughter at the slaughterhouse of any animal slaughtered under a direction given under this regulation; and

- (c) the treatment, storage and disposal of the carcase of any animal slaughtered at the slaughterhouse or any part of the carcase or any blood derived from the carcase or any part of the carcase.
- (6) Any direction under this regulation shall be complied with at the expense of the person to whom the direction is given.
- (7) If a direction under this regulation is not complied with, an inspector may arrange for it to be complied with and may recover the expense of such compliance from the person to whom the direction was given.

**Slaughter at other premises: Article 15(2) of, and Chapter B of Annex VIII to, the Community TSE Regulation**

**89.**—(1) Where the Scottish Ministers are satisfied that it is necessary to slaughter an animal of a description referred to in regulation 88(1) above at premises other than premises licensed under the Fresh Meat (Hygiene and Inspection) Regulations 1995 a veterinary inspector shall serve a notice of intended slaughter on the owner or person in charge of the animal—

- (a) informing that owner or person of that intention; and
- (b) specifying the period within which representations from the owner or person in charge of the animal may be made to the Scottish Ministers in that regard.

(2) After considering any representations received during that period from the owner or person in charge of the animal, the Scottish Ministers shall either—

- (a) withdraw the notice of intended slaughter; or
- (b) serve on the owner or person in charge of the animal confirming the intended slaughter of the animal.

(3) After service of the notice confirming the intended slaughter of the animal, the Scottish Ministers shall cause the animal to be slaughtered as soon as possible having regard to the requirements of Article 15(2) of, and Chapter B of Annex VIII to, Community TSE Regulation.

**Retention and seizure of carcasses etc.: Article 15(2) of, and Chapter B of Annex VIII to, the Community TSE Regulation**

**90.**—(1) This regulation applies where for any purpose connected with the administration or enforcement of Article 15(2) of, and Chapter B of Annex VIII to, Community TSE Regulation, the Scottish Ministers are satisfied that it is necessary—

- (a) to require an occupier of premises to retain on the premises under the direction of the Scottish Ministers—
  - (i) any female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
  - (ii) any animal of first generation progeny of, or semen, embryos or ova derived from, a female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
  - (iii) any carcase of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal;
  - (iv) any carcase of an animal of first generation progeny of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal; or
  - (v) any part of such a carcase or any blood derived from any such carcase or part; or
- (b) to seize from any premises any such animal, semen, embryos, ova, carcase, part of a carcase or blood.

(2) For such purpose an inspector may—

- (a) direct the occupier of the premises to retain on the premises any such animal, semen, embryos, ova, carcase, part of a carcase or blood; or
- (b) seize or dispose of any such animal, semen, embryos, ova, carcase, part of a carcase or blood whether or not it is an animal, semen, embryos, ova, a carcase, part of a carcase or blood which the occupier has been required to be retained under the direction of an inspector.

(3) Directions from an inspector to an occupier under this regulation may include directions in relation to the treatment, storage and disposal of the animal or semen, embryos, ova, the carcase, part of the carcase or blood.

(4) Any direction under this regulation shall be complied with at the expense of the person to whom the direction is given.

(5) If a direction under this regulation is not complied with, an inspector may arrange for it to be complied with and any costs reasonably incurred by an inspector in respect of such an arrangement shall be recoverable as a debt from the person who has failed to comply with the direction.

### **Compensation for slaughtered animals**

**91.**—(1) Where an animal is slaughtered under regulation 88 or 89 above, the Scottish Ministers shall pay compensation to the owner of the animal in accordance with the provisions of Part V of Schedule 1 to these Regulations.

(2) The Scottish Ministers shall pay compensation in accordance with the provisions of Part VI of that Schedule to the owner of any animal, semen, embryos, ova, carcase, part of a carcase or blood seized or disposed of under regulation 90 above.

### **Offspring slaughter**

**92.** Schedule 7 to these Regulations shall have effect for the purpose of continuing the implementation of Council Decision [98/256/EC](#) (25) (concerning emergency measures to protect against bovine spongiform encephalopathy, amending Decision [94/474/EC](#) and repealing Decision [96/239/EC](#)) in relation to offspring of bovine animals.

### **Cleansing and disinfection**

**93.**—(1) A veterinary inspector may serve on the occupier of any premises on which there is, or has within 56 days been, any—

- (a) female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
- (b) animal of first generation progeny of, or semen, embryos or ova derived from, a female bovine animal infected with a TSE or a BSE-confirmed ovine or caprine animal;
- (c) carcase of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal; or
- (d) carcase of an animal of first generation progeny of a female bovine animal infected with a TSE or carcase of a BSE-confirmed ovine or caprine animal,

a notice requiring that person to cleanse and disinfect, at the expense of that person and in such a manner and within such period as may be specified in the notice, all or any part of the premises or any equipment or any other thing used in connection with any such animal or carcase.

(25) O.J. No. L 113, 15.4.98, p.32. Council Decision [98/256/EC](#) remains in force as a transitional measure by virtue of Article 1(1) of Commission Regulation (EC) No. [1326/2001](#) and section D of Annex XI to the Community TSE Regulation (added by Article 3(3) of, and Annex IV to, Commission Regulation (EC) No. [1326/2001](#)).

(2) If any person on whom a notice is served under paragraph (1) above fails to comply with the requirements of the notice, an inspector may, without prejudice to any proceedings arising out of such default, carry out or cause to be carried out the requirements of the notice, and the amount of any expenses reasonably incurred by the inspector in doing so shall be recoverable from the person in default by the authority on whose behalf the inspector served the notice.

## Part VII

### Sampling and laboratory methods

#### Sampling and laboratory methods

**94.** No person shall use any premises for the sampling and laboratory testing for the presence of a TSE unless the premises are used for those purposes in accordance with the methods and protocols laid down in Chapter C of Annex X to the Community TSE Regulation.

## Part VIII

### Community controls, offences, penalties and enforcement

#### Community controls: powers of inspectors

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

(2) If a sheriff or justice of the peace, on sworn information in writing—

- (a) is satisfied that there are reasonable grounds for entry into any premises for any purpose as is mentioned in paragraph (1) above; and
- (b) is satisfied either that—
  - (i) admission to the premises has been refused, or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier; or
  - (ii) 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 temporarily absent,

the sheriff or justice of the peace may by signed warrant authorise an inspector to enter the premises, if need be by using reasonable force.

(3) The occupier of premises entered by an inspector under this regulation or by virtue of a warrant issued under it, and the employees of that occupier 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 that occupier possesses as to—

- (i) any mammalian meat and bone meal or processed animal protein, any animal or 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 or 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 or processed animal protein, any animal or carcase, or any specified risk material, which is or has been in the possession or charge of the occupier.
- (4) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it may be accompanied by—
- (a) such other person as that inspector considers necessary to give that inspector such assistance as that inspector 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, that inspector shall leave them as effectively secured against unauthorised entry as that inspector found them.

### **Obstruction**

**96.**—(1) No person shall—

- (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 for the purpose of carrying out the functions of that person under these Regulations; or
- (c) furnish to any person acting in the execution of these Regulations any information which that person so furnishing knows to be false or misleading in a material particular.

(2) Nothing in paragraph (1)(b) above or in any other provision of these Regulations requiring the giving of assistance or information shall be construed as requiring any person to answer any question if to do so might incriminate that person.

### **Offences and penalties**

**97.**—(1) If a person contravenes or fails to comply with any provision of these Regulations or a direction of the Scottish Ministers or the Agency under regulation 72 above, that person shall be guilty of an offence and 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.

(2) Where an offence under these Regulations committed by a body corporate or a partnership is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or similar officer of the body corporate, or any person who was purporting to act in any such capacity (or in the case of a partnership, a partner or a person who was purporting to act as such), that person as well as the body corporate or the partnership, as the case may be, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, the provisions of paragraph (2) above shall apply in relation to the acts and defaults of a member in connection with the functions of management of the member as if the member were a director of the body corporate.

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

**98.**—(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 a person 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) below, be a defence for the person charged to prove that all reasonable precautions were taken and all due diligence exercised to avoid the commission of the offence by the person charged or by a person under the control of such person.

(3) If in any case the defence provided by paragraph (2) above 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 at the earlier of—

- (a) seven clear days before the trial diet; or
- (b) one month after the first appearance of that person before a court in connection with the alleged offence,

that person 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 the possession of the person charged.

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

### **Enforcement**

**99.**—(1) Part II and Part IV of these Regulations shall be enforced—

- (a) in relation to premises which are—
  - (i) licensed under the Fresh Meat (Hygiene and Inspection) Regulations 1995;
  - (ii) licensed under the Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995<sup>(26)</sup>;
  - (iii) licensed under the Wild Game Meat (Hygiene and Inspection) Regulations 1995<sup>(27)</sup>;
  - (iv) combined premises as defined in the Meat Products (Hygiene) Regulations 1994<sup>(28)</sup>; and
  - (v) combined premises as defined in the Minced Meat and Meat Preparations (Hygiene) Regulations 1995<sup>(29)</sup>,

by the Agency or by the Scottish Ministers; and

- (b) in relation to any other premises, by the local authority.

(2) The other Parts of these Regulations shall be enforced by the local authority.

<sup>(26)</sup> S.I. 1995/540, amended by S.I. 1995/1763, 2148, 2200 and 3205, 1997/1729 and S.S.I. 2001/62, 171 and 288 and 2002/87 and 234.

<sup>(27)</sup> S. I. 1995/2148, amended by S.I. 1995/3205 and S.S.I. 2000/02.

<sup>(28)</sup> S. I. 1994/3082, amended by S.I. 1995/539, 1763, 2200 and 3205, 1996/683 and 1499 and S.S.I. 2000/62, 171 and 288 and 2001/160, 358, 394 and 429 and 2002/35.

<sup>(29)</sup> S. I. 1995/3205, amended by S.I. 1996/3124, S.S.I. 2000/62, 171 and 288, 2001/358, 394 and 429 and 2002/35.

(3) The Scottish Ministers may direct, in relation to cases of a particular description or any particular case, that an enforcement duty imposed on a local authority under this regulation shall be discharged by the Scottish Ministers and not by the local authority.

## Part IX

### Supplementary provisions

#### Service of notices and other documents

**100.**—(1) Any notice or other document to be given or served on any person under or in relation to these Regulations may be given or served either—

- (a) by delivering it to that person;
- (b) in the case of an incorporated body, by delivering it to their secretary or clerk at their registered or principal office, or by sending it by post to that person at that office; or
- (c) in the case of any other person, by leaving it, or sending it by post to that person, at the usual or last known address of that person.

(2) Where a notice or other document is to be given or served on the owner, proprietor, operator or occupier of any premises and it is not practicable after reasonable enquiry to ascertain the name and address of the person to or on whom it should be given or served, or the premises are unoccupied, the document may be given or served by addressing it to the person concerned by the description of “owner”, “proprietor”, “operator” or “occupier” of the premises (naming them) and—

- (a) by delivering it to some person on the premises; or
- (b) if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

#### Amendments

**101.** The amendments set out in Schedule 8 to these Regulations shall have effect.

#### Revocations and savings and transitional provisions

**102.**—(1) Subject to the savings and transitional provisions in the following provisions of this regulation, the enactments specified in the first column of Part I of Schedule 9 to these Regulations shall be revoked to the extent specified in the corresponding entry in the third column of that Schedule.

(2) Part II of Schedule 9 to these Regulations has effect for the purpose of making savings in respect of things done under the Bovine Spongiform Encephalopathy (No. 2) Order 1996<sup>(30)</sup> and the Bovine Spongiform Encephalopathy Compensation Order 1996<sup>(31)</sup> having effect at the coming into force of these Regulations.

(3) Part III of Schedule 9 to these Regulations has effect for the purpose of making savings in respect of things done under the Specified Risk Material Order 1997<sup>(32)</sup> having effect at the coming into force of these Regulations.

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<sup>(30)</sup> S.I. 1996/3183, as amended by S.I. 1997/2387, S.I. 1998/3071 and S.I. 1999/921.

<sup>(31)</sup> S.I. 1997/3184, as amended by S.I. 1997/2365.

<sup>(32)</sup> S.I. 1997/2964, as amended by S.S.I. 2000/344, 2001/4, 287 and 288



(4) Part IV of Schedule 9 to these Regulations has effect for the purpose of making savings in respect of things done under the Specified Risk Material Regulations 1997(**33**) having effect at the coming into force of these Regulations.

(5) Part V of Schedule 9 to these Regulations has effect for the purpose of making savings in respect of things done under the Fertilisers (Mammalian Meat and Bone Meal) (Conditions of Manufacture) Regulations 1998(**34**) having effect at the coming into force of these Regulations.

(6) Part VI of Schedule 9 to these Regulations has effect for the purpose of making savings in respect of things done under the Sheep and Goats Spongiform Encephalopathy Order 1998(**35**), the Sheep and Goats Spongiform Encephalopathy Regulations 1998(**36**) and the Sheep and Goats Spongiform Encephalopathy (Compensation) Order 1998(**37**), having effect at the coming into force of these Regulations.

(7) Part VII of Schedule 9 to these Regulations has effect for the purpose of making savings in respect of things done under the Bovine Spongiform Encephalopathy (Feeding Stuffs and Surveillance) Regulations 1999(**38**) having effect at the coming into force of these Regulations.

(8) Part VIII of Schedule 9 to these Regulations has effect for the purpose of making savings in respect of things done under the BSE Monitoring (Scotland) Regulations 2001(**39**) having effect at the coming into force of these Regulations.

(9) Part IX of Schedule 9 to these Regulations has effect for the purpose of making savings in respect of things done under the Processed Animal Protein (Scotland) Regulations 2001(**40**) having effect at the coming into force of these Regulations.

St Andrew's House,  
Edinburgh  
27th May 2002

*Ross Finnie*  
A member of the Scottish Executive

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(33) S.I. 1997/2965, as amended by S.I. 1997/3062, S.I. 1998/2405 (as amended by S.I. 1998/2431), S.I. 1999/539 and S.S.I.2000/62, 345, 2001/3, 86 and 2001/288.

(34) S.I. 1998/955.

(35) S.I. 1998/1645.

(36) S.I. 1998/1646.

(37) S.I. 1998/1647, as amended by S.S.I. 2002/1.

(38) S.I. 1999/882 as amended by S.S.I. 2001/276.

(39) S.S.I. 2001/231, as amended by S.S.I. 2002/1.

(40) S.S.I. 2001/276 as amended by S.S.I. 2001/383.