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SCOTTISH STATUTORY INSTRUMENTS

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**2002 No. 255**

**The TSE (Scotland) Regulations 2002**

Part IV

Specified Risk Material

*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 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 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 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 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.