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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision in Scotland for the administration and enforcement of the “Community Regulation”, Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption (O.J. No. L 273, 10.10.2002, p.1.). They restrict what may be done in relation to such products and come into force on 1st October 2003.

They also make provision for the implementation of the following measures, which amend the Community Regulation and provide for transitional arrangements:

- (a) Commission Regulation (EC) No. 808/2003 amending Regulation (EC) No. 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption(1);
- (b) Commission Regulation (EC) No. 811/2003 implementing Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the intra-species recycling ban for fish, the burial and burning of animal by-products and certain transitional measures(2);
- (c) Commission Regulation (EC) No. 813/2003 on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the collection, transport and disposal of former foodstuffs(3);
- (d) Commission Decision 2003/320/EC on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the use in feed of used cooking oil(4);
- (e) Commission Decision 2003/321/EC on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the processing standards for mammalian blood(5);
- (f) Commission Decision 2003/326/EC on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the separation of Category 2 and Category 3 oleochemical plants(6);
- (g) Commission Decision 2003/327/EC on transitional measures under Regulation(EC) No. 1774/2002 of the European Parliament and of the Council as regards the low capacity incineration or co-incineration plants which do not incinerate or co-incinerate specified risk material or carcasses containing them(7);

Provision in Scotland for the administration and enforcement of measures in the Community Regulation in relation to export and trade between member States is intended to be made by a separate instrument.

The Community Regulation categorises the following material comprising or containing animal by-products to which these Regulations apply, as–

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(1) O.J. No. L 117, 13.5.2003, p. 1.  
(2) O.J. No. L 117, 13.5.2003, p. 14.  
(3) O.J. No. L 117, 13.5.2003, p. 22.  
(4) O.J. No. L 117, 13.5.2003, p. 24.  
(5) O.J. No. L 117, 13.5.2003, p. 30.  
(6) O.J. No. L 117, 13.5.2003, p. 42.  
(7) O.J. No. L 117, 13.5.2003, p. 44.

*Status: This is the original version (as it was originally made).*

- category 1 material where the by-products (a) are body parts of animals suspected of being infected with, confirmed with or killed in the eradication of, a transmissible spongiform encephalopathy including animals which are not farmed or wild (unless the wild animals are suspected of being infected with transmissible diseases), in particular including pet animals, zoo animals and circus animals, and experimental animals; (b) are specified risk material (“SRM”) under Regulation (EC) No. 999/2001<sup>(8)</sup>, and the entire bodies of dead animals containing SRM if it was not removed on disposal; (c) have been administered with or contain residues of certain environmental contaminants; (d) are collected from treating waste water from category 1 processing plants or premises where SRM is removed; (e) are catering waste from means of transport operating internationally; and (f) are category 1 material mixed with category 2 and 3 material;
- category 2 material where the by-products (a) are manure and digestive tract content; (b) are collected from treating waste from slaughterhouses other than the type noted above; (c) contain residues of veterinary drugs and certain contaminants; (d) are not category 1 material but are imported from non-member States and fail Community import inspections but are not re-exported or accepted under the Community import rules; (e) are animals and parts of animals that are not category 1 material that were not slaughtered for human consumption; (f) are category 2 material mixed with category 3 material; and (g) are not either category 1 or category 3 material;
- category 3 material where the by-products derive from animals which are fit for human consumption in accordance with Community legislation and are (a) parts of such animals not intended for human consumption for commercial reasons; (b) unfit parts of animals themselves fit for human consumption; (c) hides, skins, hooves, horns, pig bristles and feathers from animals identified as fit for human consumption from inspections before slaughter in a slaughterhouse; (d) non-ruminant blood from such animals; (e) derived from the production of products intended for human consumption; (f) former foodstuffs of animal origin other than catering waste no longer intended for human consumption for commercial reasons or due to defects which present no risk to humans; (g) raw milk from animals showing no clinical signs of a disease communicable through that product; (h) sea animals, except sea mammals, caught in the open sea for the purposes of fishmeal production; (i) fresh by-products from fish from plants manufacturing fish products for human consumption; (j) shells, hatchery and cracked egg by-products (and (k) blood, hides, skins, hooves, feathers, wool, horns, hair and fur) from animals showing no clinical signs of a disease communicable through that product; and (l) catering waste other than from means of transport operating internationally.

These Regulations provide as follows.

It is an offence to categorise, collect, transport, dispose, store, process or use category 1, category 2 or category 3 material other than in accordance with the Community Regulation (regulations 4, 5 and 6);

It is a specific offence to collect, transport, identify or store animal by-products other than in accordance with the Community Regulation (regulation 8).

Feeding unprocessed animal by-products to farmed animals is prohibited and access by such animals to animal by-products is controlled (regulation 9).

Regulation 10 enforces the restrictions on the use of animal by-products in Article 22 of the Community Regulation. This includes intra-species recycling, feeding catering waste to farm animals and the application of organic fertilisers on to pasture land. Regulation 11 defines pasture

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(8) Regulation (EC) No. 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (O.J. No. L 147, 31.5.2001, p.1), as amended by Commission Regulations (EC) No. 1248/2001 (O.J. No. L 173, 27.6.2001, p.12), No. 1326/2001 (O.J. No. L 177, 30.6.2001, p.60), No. 270/2002 (O.J. No. L 45, 15.2.2002, p.4), No. 1494/2002 (O.J. No. L 225, 22.8.2002, p.3), No. 260/2003 (O.J. No. L 37, 13.2.2003, p.7) and No. 650/2003 (O.J. L 95, 11.4.2003, p.15).

land. Regulation 12 permits the intra-species recycling of fish until after 1st January 2004. Until then it is permitted by a transitional measure in Part VI of Schedule 4.

Regulations 13 to 16 provide for the approval of premises for the different types of treatment of animal by-products. Regulation 16 provides that composting on premises where the composted material originated does not need approval if the conditions of that regulation are complied with.

Regulations 17 to 21 provide for checks at plants, sampling and approved laboratories.

Regulations 22 to 24 regulate the placing on the market of various processed animal by-products.

Regulations 25 to 27 provide derogations relating to the use of animal by-products for taxidermy and feeding certain specified animals. Regulation 28 permits the burial of pet animals.

Regulation 29 permits burning and burial on-site of animal by-products originating in remote areas. The remote areas in Scotland are the areas listed in Schedule 3. Regulations 30 provides for burning and burial of animal by-products on-site in the event of a disease outbreak. Regulation 31 provides for burning and burial of bees and apiculture products under certain circumstances.

Regulations 32 to 39 provide for record keeping.

Regulations 40 to 42 provide for applications, for approvals, the suspension, amendment or revocation of approvals and a review against a notice to amend, suspend or revoke an approval.

Under regulations 43 to 45 an inspector can serve a notice requiring the disposal of animal by-products or catering waste and requiring cleansing and disinfection of any vehicle, container or premises. Any notice served under these Regulations shall be complied with at the expense of the person on whom the notice is served.

Regulations 46 and 47 provide powers of entry and an offence of obstructing an inspector.

Schedule 1 makes provision for biogas and composting plants, and Schedule 2 provides for testing methods.

Schedule 4 contains transitional provisions relating to intra-species recycling of fish, disposal of former foodstuffs, used cooking oils in animal feed, disposal of mammalian blood, oleochemical plants and low capacity incinerators (regulation 50).

Schedules 5 and 6 amend the TSE (Scotland) Regulations 2003 and make consequential amendments and revocations to other statutory instruments (regulations 51 and 52).

Breach of the Regulations is an offence punishable on summary conviction by a fine up to the statutory maximum or three months imprisonment. On indictment the penalty is an unlimited fine or two years imprisonment (regulation 48).

The Regulations are enforced by the local authority except in certain specified circumstances (regulation 49).

A Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Reference Centre. Copies can be obtained from the Scottish Executive Environment and Rural Affairs Department, Pentland House, 47 Robb's Loan, Edinburgh EH14 1TY.