
SCOTTISH STATUTORY INSTRUMENTS

2003 No. 411

The Animal By-Products (Scotland) Regulations 2003

PART 4

Approved premises and competent authorities

The competent authority

13.—(1) The Scottish Ministers shall be the competent authority for the purposes of granting approvals for the purposes of Chapter III and Chapter IV of the Community Regulation, the Annexes to that Regulation, and these Regulations.

(2) They shall also be the competent authority for—

- (a) checking intermediate plants in accordance with Articles 10(2)(d) and 10(3)(d) of the Community Regulation;
- (b) checking storage plants in accordance with Article 11(2)(b) of that Regulation;
- (c) validating and checking Category 1 and Category 2 processing plants in accordance with Articles 13(2)(c) and 13(2)(e) of that Regulation, supervising Category 1, 2 and 3 plants in accordance with Annex V, Chapter IV, paragraph 1 to that Regulation, and validating those plants in accordance with Annex V, Chapter V, paragraph 1 to that Regulation;
- (d) authorising the temporary use of a Category 2 processing plant for the processing of Category 1 material in accordance with Annex VI, Chapter 1, paragraph 2 to that Regulation;
- (e) checking oleochemical plants in accordance with Article 14(2)(d) of that Regulation and the person to whom records shall be produced in accordance with Article 14(2)(c) of that Regulation;
- (f) checking biogas plants and composting plants in accordance with Article 15(2)(c) of that Regulation;
- (g) validating and checking Category 3 processing plants in accordance with Article 17(2)(c) and 17(2)(e) of that Regulation;
- (h) authorising the temporary use of a Category 3 processing plant for the processing of Category 1 or Category 2 material in accordance with Annex VII, Chapter 1, paragraph 2 to that Regulation, or the use of a Category 2 processing plant as a collection centre in accordance with Annex IX, paragraph 3 to that Regulation;
- (i) receiving records relating to a petfood or technical plant which must be produced in accordance with Article 18(2)(a)(iv) of that Regulation;
- (j) recognising laboratories for the purposes of analysing samples from petfood and technical plants in accordance with Article 18(2)(a)(iii) of that Regulation, receiving information under Article 18(2)(a)(v) of that Regulation, and checking petfood plants and technical plants in accordance with Article 18(2)(b) of that Regulation;
- (k) carrying out inspection and supervision in accordance with Article 26 of that Regulation;

- (l) giving instructions for the purposes of Annex II, Chapter II, paragraph 4 to that Regulation(1);
- (m) the presentation of commercial documents under Annex II, Chapter V to that Regulation;
- (n) authorising a representative point in the combustion chamber of an incinerator in accordance with Annex IV, Chapter II, paragraph 3 to that Regulation, and inspecting them in accordance with Annex IV, Chapter VII, paragraph 8 to that Regulation(2); and
- (o) authorising specific requirements in accordance with Annex VI, Chapter II, Part C, paragraphs 14 and 15 to that Regulation(3).

Approval of premises

14.—(1) No person shall operate any—

- (a) category 1, 2 or 3 intermediate plant;
- (b) storage plant;
- (c) incineration or co-incineration plant;
- (d) category 1 or category 2 processing plant;
- (e) category 2 or category 3 oleochemical plant;
- (f) biogas or composting plant;
- (g) category 3 processing plant; or
- (h) petfood or technical plant,

for the storage, processing, treatment, disposal or use of animal by-products, unless the premises, the operator of the premises and any equipment are approved for that purpose in accordance with the Community Regulation and these Regulations.

(2) The operator of approved premises shall ensure that—

- (a) the premises are maintained and operated in accordance with—
 - (i) any conditions of approval; and
 - (ii) the requirements of the Community Regulation and these Regulations; and
- (b) any person employed by that operator, and any person permitted to enter the premises, complies with those conditions and requirements.

(3) The operator of a high capacity incineration plant shall dispose of the ash in accordance with Annex IV, Chapter VII, paragraph 4 to the Community Regulation in the same way as the operator of a low capacity incineration plant.

(4) Any person who fails to comply with any provision of this regulation shall be guilty of an offence.

Biogas and composting plants

15.—(1) The provisions of Part 1 of Schedule 1 shall apply in a biogas and composting plant used for treating any animal by-products (including catering waste) in addition to the requirements of paragraphs 1 to 11 of Annex VI, Chapter II to the Community Regulation.

(2) In accordance with Article 6(2)(g) of, and Annex VI, Chapter II, paragraph 14 to, the Community Regulation—

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- (1) This paragraph was added to Annex II, Chapter II by 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 (O.J. No. L 117, 13.5.2003, p. 1).
 - (2) Chapter VII was added to Annex IV by Commission Regulation (EC) No. 808/2003.
 - (3) Paragraph 14 was substituted by Commission Regulation (EC) No. 808/2003.

- (a) catering waste shall be treated in a biogas or composting plant either in accordance with Annex VI, Chapter II, paragraphs 12 or 13 to the Community Regulation or in accordance with Part II of Schedule 1; and
- (b) any other animal by-product treated in a biogas or composting plant shall be treated in accordance with Annex VI, Chapter II, paragraphs 12 or 13 to the Community Regulation.
- (3) Any person who fails to comply with this regulation shall be guilty of an offence.

Composting catering waste on the premises on which it originates

16. In accordance with Article 6(2)(g) of, and Annex VI, Chapter II, paragraph 14 to, the Community Regulation, the provisions of that Chapter and of regulation 14(1)(f) do not apply to the composting of Category 3 catering waste on the premises on which it originates, provided that—

- (a) the decomposed material is only applied to land at those premises;
- (b) no ruminant animals or pigs are kept at the premises; and
- (c) if poultry is kept at the premises, the material is composted in a secure container which prevents the poultry having access to it during decomposition.

Processing and intermediate plants' own checks

17.—(1) Any person who fails to comply with Article 25(1) of the Community Regulation shall be guilty of an offence.

(2) Any person who fails to comply with Article 25(2) of the Community Regulation shall be guilty of an offence.

(3) The operator shall record the action taken in accordance with Article 25(2) of the Community Regulation, and failure to do so shall be an offence.

Sampling at processing plants

18.—(1) If a processing plant is processing Category 1 or 2 material and the processed material is to be sent to landfill (or in the case of Category 2 material, a biogas or composting plant), the operator shall not less than once every week—

- (a) take from the outlet of the cooker in which the material is processed a sample of at least 50 grams of processed material; and
- (b) send the sample to a laboratory approved under regulation 21 to test it for *Clostridium perfringens*.

(2) In the case of Category 3 processing plants, where the processed material is intended for use in feedingstuffs, the operator shall—

- (a) take a representative sample of the material on each day that that the material is consigned from the premises; and
- (b) send the sample to a laboratory approved under regulation 21 to test it for *Salmonella* and *Enterobacteriaceae*.

(3) In the case of Category 3 processing plants, where the processed material is not intended for use in feedingstuffs, the operator shall—

- (a) take a sample, not less than once every week, of the material that is consigned from the premises; and
- (b) send the sample to a laboratory approved under regulation 21 to test it for *Salmonella* and *Enterobacteriaceae*.

(4) Any person who fails to comply with any provision of this regulation shall be guilty of an offence.

Sampling at biogas and composting plants

19.—(1) In the case of biogas and composting plants, the operator shall, at intervals specified in the approval, take a representative sample of material that has been treated to the time temperature parameters specified in Part 2 of Schedule 1 or in the Community Regulation and send it for testing for Salmonella and Enterobacteriaceae (or, in the case of material derived from catering waste, Salmonella only) in a laboratory approved under regulation 21 to carry out those tests.

(2) No person shall consign any material from a biogas or composting plant until the results of the test are received from the laboratory.

(3) In the event of tests establishing that treated material does not comply with the limits in Annex VI, Chapter II, paragraph 15 to the Community Regulation, the operator shall—

- (a) immediately notify the Scottish Ministers, giving full details of the failure, the nature of the sample and the batch from which it was derived;
- (b) ensure that no digestion residue or compost suspected or known to be contaminated is moved from the premises unless—
 - (i) it has been re-treated under the supervision of the Scottish Ministers and resampled and re-tested by the Scottish Ministers, and the re-testing has shown that the re-treated digestion residue or compost complies with the standards in the Community Regulation; or
 - (ii) it is consigned for processing or incineration at an approved processing plant or incinerator or (in the case of catering waste) it is consigned to landfill; and
- (c) record the action taken in accordance with this regulation.

(4) Any person who fails to comply with any provision of this regulation shall be guilty of an offence.

Samples sent to laboratories

20.—(1) Whenever an operator sends a sample to a laboratory in accordance with this Part, the operator shall send with the sample the following information in writing—

- (a) the name and address of the premises at which the sample was taken;
- (b) the date on which the sample was taken; and
- (c) the description and identity of the sample.

(2) No person shall tamper with a sample taken under these Regulations with intent to affect the result of the test.

(3) The operator shall keep a record of all results of laboratory tests.

(4) Any person who fails to comply with any provision of this regulation shall be guilty of an offence.

Laboratories

21.—(1) The Scottish Ministers shall approve laboratories under this regulation to carry out one or more of the tests referred to in this regulation if they are satisfied that those laboratories have the necessary facilities, personnel and operating procedures to do so.

(2) In deciding whether to grant or continue an approval, the Scottish Ministers may require the laboratory to successfully undertake any quality control tests as they reasonably think fit.

(3) The operator of a laboratory approved under this regulation carrying out tests for the purposes of these Regulations or the Community Regulation shall do so in accordance with this regulation, and failure to do so shall be an offence.

(4) A test for *Clostridium perfringens* shall be carried out in accordance with the method in Schedule 2 or (if specified in the approval) with a method which conforms with ISO 7937/1997 (BS-EN 13401:1999) (Enumeration of *Clostridium perfringens*) or equivalent⁽⁴⁾.

(5) A test for *Salmonella* shall be carried out in accordance with the method in Schedule 2 or (if specified in the approval) with a method which conforms with—

- (a) ISO 6579/2002 (BS-EN 12824:1998) (Detection of *Salmonella*) or equivalent⁽⁵⁾; or
- (b) NMKL 71: 1993 or equivalent⁽⁶⁾.

(6) A test for Enterobacteriaceae shall be carried out in accordance with the method in Schedule 2 or (if specified in the approval) with a method which conforms with ISO 7402/1993 (BS 5763: Part 10: 1993) (Enumeration of Enterobacteriaceae) or equivalent⁽⁷⁾.

(7) Where tests are carried out for the detection of any of the following, the operator of a laboratory approved under this regulation shall immediately notify the Scottish Ministers and the operator of the premises if—

- (a) the tests fail to establish that the material is free from *Clostridium perfringens*;
- (b) the tests fail to establish that the material is free from *Salmonella*; or
- (c) the material successfully passes the test for Enterobacteriaceae in paragraph 5 of Part 3 of Schedule 2,

and failure to so notify shall be an offence.

(8) The operator of a laboratory approved under this regulation shall in relation to processed material notify the Scottish Ministers immediately after the last day of each month of the number, type and results of tests carried out during that month, and failure to do so shall be an offence.

(9) Reprocessing in accordance with Article 25(2)(c) and (d) of the Community Regulation shall be carried out under the supervision of the Scottish Ministers.

(10) If the sample has been sent to the approved laboratory from premises outside Scotland, the requirements in this regulation to notify the Scottish Ministers shall be construed as a requirement to notify the competent authority for the premises from which the sample was sent.

(4) Published by the British Standards Institute, British Standards House, 389 Chiswick High Road, London W4 4AL.

(5) Published by the British Standards Institute; see above.

(6) Published by the British Standards Institute, British Standards House, 389 Chiswick High Road, London W4 4AL.

(7) Published by the British Standards Institute; see above.