

SCHEDULE 5

Regulation 5

Feedingstuffs

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PART 1

Restrictions on feeding proteins to animals

Prohibition on feeding animal protein to ruminants

1.—(1) For the purposes of Article 7 and point (b) of Part I of Annex IV to the Community TSE Regulation it is an offence to—

- (a) feed to any ruminant animal;
- (b) supply for feeding to any ruminant animal; or
- (c) permit any ruminant animal to have access to,

any animal protein (or anything containing animal protein) other than the proteins specified in point A(a) of Part II of Annex IV to that Regulation.

(2) It is an offence to bring onto any premises where ruminant animals are kept, or to possess on such premises, anything prohibited by this paragraph, other than—

- (a) food intended for human consumption;
- (b) in accordance with paragraph 3;
- (c) premises registered under paragraph 8(6), 10(5) or 12(8); or
- (d) where authorised by an inspector and suitable measures are in place to ensure that ruminant animals do not have access to it.

Prohibition on feeding animal protein to non-ruminants

2.—(1) For the purposes of Article 7(2) of, and point (a) of Part I of Annex IV to, the Community TSE Regulation it is an offence to—

- (a) feed to any pig, poultry, horse or any farmed non ruminant animal;
- (b) supply for feeding to any such animal; or
- (c) allow any such animal to have access to,

anything in relation to which this paragraph applies.

(2) Subject to sub paragraph (3), the prohibition in sub paragraph (1) applies in relation to—

- (a) processed animal protein;
- (b) gelatine of ruminant origin;
- (c) blood products;
- (d) hydrolysed protein;
- (e) dicalcium phosphate and tricalcium phosphate of animal origin; and
- (f) petfood containing animal protein.

(3) The prohibition in sub paragraph (1) does not apply in relation to—

- (a) the protein specified in point A(a) of Part II of Annex IV to the Community TSE Regulation;
- (b) fishmeal (and feedingstuffs containing it) that has been produced, labelled, transported and stored in accordance with the conditions in point B of that Part;
- (c) dicalcium phosphate and tricalcium phosphate (and feedingstuffs containing them) that have been produced, labelled, transported and stored in accordance with the conditions in point C of that Part;
- (d) blood products derived from non ruminants (and feedingstuffs containing them) that have been produced, labelled, transported and stored in accordance with the conditions in point D of that Part;
- (e) in the case of feeding to fish, blood meal derived from non ruminants (and feedingstuffs containing it) that has been produced, labelled, transported and stored in accordance with the conditions in point D of that Part; and
- (f) tuber and root crops (and feedingstuffs containing such products) in which bone spicules have been detected if authorised by the Scottish Ministers following a risk assessment in accordance with point A(d) of that Part.

(4) In this paragraph “protein” includes any feedingstuffs containing animal protein.

(5) It is an offence to bring onto any premises where any animals specified in sub paragraph (1) are kept anything prohibited by this paragraph, or to possess it on such premises other than—

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- (a) food intended for human consumption;
- (b) in accordance with paragraph 3; or
- (c) where authorised by an inspector and suitable measures are in place to ensure that animals specified in sub paragraph (1) do not have access to it.

Exceptions

3. Paragraphs 1(2) and 2(5) do not apply to—

- (a) petfood for feeding to pets (including working dogs) on those premises;
- (b) organic fertiliser or soil improver produced and used in accordance with 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⁾ and the Animal By Products (Scotland) Regulations 2003⁽²⁾ and paragraph 18,

provided that—

- (i) it is not fed to any farmed animals;
- (ii) it is not stored or handled in parts of the premises—
 - (aa) to which farmed animals have access; or
 - (bb) where feedingstuffs for farmed animals are stored or handled;
- (iii) it does not come into contact with—
 - (aa) feedingstuffs permitted to be fed to farmed animals; or
 - (bb) handling equipment used in connection with any such feedingstuffs; and
- (iv) farmed animals do not have access to petfood at any time and do not have access to organic fertiliser or soil improver until it has been applied to the land and the no grazing period specified in regulation 11(1) of the Animal By Products (Scotland) Regulations 2003 has expired.

Movement prohibitions and restrictions of animals

4. Where an inspector has reasonable grounds to believe that a TSE susceptible animal has been fed or has had access to—

- (a) specified risk material;
- (b) any material which the inspector has reasonable grounds to believe carries the risk of TSE infectivity; or
- (c) animal protein for which the inspector cannot establish the origin or the TSE infectivity risk,

the inspector may serve a notice on the owner or person in charge of the animal prohibiting or restricting the movement of the animal from the premises described in the notice.

Killing of animals

5.—(1) Where an inspector has reasonable grounds to believe that a TSE susceptible animal has been fed or has had access to any material referred to in paragraph 4, the inspector may serve a notice on the owner or person in charge of the animal in accordance with this paragraph.

(2) The notice may either—

(1) O.J. No. L 273, 10.10.02, p.1 as last amended by Commission Regulation (EC) No. 209/2006 (O.J. No. L 36, 8.2.06, p.25).

(2) S.S.I. 2003/411, amended by S.S.I. 2006/3.

- (a) require the owner or person in charge of the animal to kill it and dispose of it as specified in the notice; or
- (b) require the owner or person in charge of the animal to keep it on such premises and in such manner as the notice provides, in which case the inspector shall ensure that the cattle passport of any bovine animal is stamped with the words “Not for human consumption”.

Compensation

6.—(1) Where an animal is killed under paragraph 5, the Scottish Ministers may pay compensation if they consider it appropriate in all the circumstances and shall give their decision on whether or not to pay compensation in writing.

(2) The compensation is the market value of the animal at the time it is killed, established in accordance with the procedure in regulation 11, with the owner paying any fee for nominating the valuer and the valuer’s fee.

(3) The appeals procedure in regulation 10 applies in relation to the decision of the Scottish Ministers.

Slaughter or sale for human consumption

7. It is an offence to consign for slaughter for human consumption or to slaughter for human consumption any TSE susceptible animal the passport for which has been stamped under paragraph 5.

PART 2

Production of protein and feedingstuffs

Fishmeal for feeding to non-ruminant farmed animals

8.—(1) Any person producing fishmeal intended for feeding to non ruminant farmed animals shall do so in accordance with point B(a) of Part II of Annex IV to the Community TSE Regulation.

(2) Any person producing feedingstuffs containing fishmeal intended for feeding to non ruminant farmed animals shall do so—

- (a) in accordance with point B(c) of that Part, in premises authorised by the Scottish Ministers for the purposes of that point;
- (b) in accordance with point B(c)(i) of that Part, for home compounders registered by the Scottish Ministers for the purposes of that point; or
- (c) in accordance with point B(c) (ii) of that Part, in premises authorised by the Scottish Ministers for the purposes of that point.

(3) Any person packaging the feedingstuffs shall label them in accordance with point B(d) of that Part, and any documentation accompanying the feedingstuffs shall be in accordance with that point.

(4) Any person transporting the feedingstuffs in bulk shall do so in accordance with the first sentence of point B(e) of that Part.

(5) Any person using a vehicle previously used to transport such feedingstuffs to transport feedingstuffs for ruminants shall comply with the second sentence of point B(e) of that Part.

(6) The occupier of any farm where ruminants are kept shall comply with the first paragraph of point B(f) of that Part unless the Scottish Ministers are satisfied that the provisions of the second paragraph of that point are complied with and have registered the farm under that paragraph.

Offences relating to fishmeal and feedingstuffs containing fishmeal

- 9.—(1) Failure to comply with paragraph 8 is an offence.
- (2) It is an offence for a home compounder registered under paragraph 8(2)(b) to—
- (a) keep ruminant animals;
 - (b) consign feedingstuffs containing fishmeal (whether complete or partly complete) produced by the home compounder from the home compounder’s holding; or
 - (c) use feedingstuffs containing fishmeal with a crude protein content of 50% or more in the production of complete feedingstuffs.
- (3) It is an offence for any person producing feedingstuffs in accordance with point B(c)(ii) of Part II of Annex IV to the Community TSE Regulation to—
- (a) fail to ensure that feedingstuffs destined for ruminants are kept in separate facilities in accordance with the first indent of that point;
 - (b) fail to ensure that feedingstuffs destined for ruminants are manufactured in accordance with the second indent; or
 - (c) fail to make and keep a record in accordance with the third indent.

Feedingstuffs containing dicalcium phosphate or tricalcium phosphate for feeding to non ruminant farmed animals

- 10.—(1) Any person producing feedingstuffs containing dicalcium phosphate or tricalcium phosphate for feeding to non ruminant farmed animals shall do so—
- (a) in accordance with point C(a) of Part II of Annex IV to the Community TSE Regulation, in an establishment authorised by the Scottish Ministers for the purposes of that point;
 - (b) in accordance with point C(a)(i) of that Part, for home compounders registered by the Scottish Ministers for the purposes of that point; or
 - (c) in accordance with point C(a)(ii) of that Part in an establishment authorised by the Scottish Ministers for the purposes of that point.
- (2) Any person packaging the feedingstuffs shall label them in accordance with point C(b) of that Part, and any documentation accompanying the feedingstuffs shall be in accordance with that point.
- (3) Any person transporting those feedingstuffs in bulk shall do so in accordance with the first sentence of point C(c) of that Part.
- (4) Any person using a vehicle previously used to transport such feedingstuffs to transport feedingstuffs for ruminants shall comply with the second sentence of point C(c) of that Part.
- (5) The occupier of any farm where ruminants are kept shall comply with the first paragraph of point C(d) of that Part unless the Scottish Ministers are satisfied that the provisions of the second paragraph of that point are complied with and have registered the farm under that paragraph.

Offences relating to feedingstuffs containing dicalcium phosphate or tricalcium phosphate for feeding to non-ruminant animals

- 11.—(1) Failure to comply with paragraph 10 is an offence.
- (2) It is an offence for a home compounder registered under paragraph 10(1)(b) to—
- (a) keep ruminant animals;
 - (b) consign feedingstuffs containing dicalcium phosphate or tricalcium phosphate (whether complete or partly complete) from the home compounder’s holding; or

- (c) use feedingstuffs containing dicalcium phosphate or tricalcium phosphate with a phosphorus content of 10% or more in the production of complete feedingstuffs.
- (3) It is an offence for any person producing feedingstuffs in accordance with point C(a)(ii) of Part II of Annex IV to the Community TSE Regulation to—
- (a) fail to ensure that feedingstuffs destined for ruminants are manufactured in accordance with the first indent of that point;
 - (b) fail to ensure that they are kept in separate facilities in accordance with the second indent; or
 - (c) fail to make and keep a record in accordance with the third indent.

Blood products and blood meal

- 12.—(1) Any person who produces—
- (a) blood products, or feedingstuffs containing blood products, intended for feeding to non-ruminant farmed animals; or
 - (b) blood meal, or feedingstuffs containing blood meal, intended for feeding to fish,
- shall ensure that the blood comes from a slaughterhouse that is registered with the Scottish Ministers for the purposes of point D(a) of Part II of Annex IV to the Community TSE Regulation and that either—
- (i) is not used to slaughter ruminants; or
 - (ii) has in place a control system in accordance with the second paragraph of point D(a) of that Part to ensure that ruminant blood is kept separate from non ruminant blood, and has been authorised for the purpose by the Scottish Ministers.
- (2) The occupier of the slaughterhouse shall consign the blood in accordance with point D(a) of Part II of Annex IV to the Community TSE Regulation, and any transporter shall transport it in accordance with that point.
- (3) Any person producing blood products or blood meal shall do so in accordance with either the first or the second paragraph of point D(b) of that Part.
- (4) Any person producing feedingstuffs containing blood products or blood meal shall do so—
- (a) in accordance with point D(c) of that Part, in an establishment authorised by the Scottish Ministers for the purposes of that point;
 - (b) in accordance with point D(c)(i) of that Part, for home compounders registered by the Scottish Ministers for the purposes of that point; or
 - (c) in accordance with point D(c)(ii) of that Part, in an establishment authorised by the Scottish Ministers for the purposes of that point.
- (5) Any person packaging the feedingstuffs shall label them in accordance with point D(d) of that Part, and any documentation accompanying the feedingstuffs shall be in accordance with that point.
- (6) Any person transporting the feedingstuffs in bulk shall do so in accordance with the first sentence of point D(e) of that Part.
- (7) Any person using a vehicle previously used to transport such feedingstuffs to transport feedingstuffs for ruminants shall comply with the second sentence of point D(e) of that Part.
- (8) The occupier of any farm where ruminants are kept shall comply with the first paragraph of point D(f) of that Part unless the Scottish Ministers are satisfied that the provisions of the second paragraph of that point are complied with and have registered the farm under that paragraph.

Offences relating to feedingstuffs containing blood products or blood meal

13.—(1) Failure to comply with paragraph 12 is an offence.

(2) It is an offence for any person collecting blood in accordance with the second paragraph of point D(a) of Part II of Annex IV to the Community TSE Regulation to fail to—

- (a) slaughter animals in accordance with the first indent of that paragraph;
- (b) collect, store, transport or package blood in accordance with the second indent of that paragraph; or
- (c) regularly sample and analyse blood in accordance with the third indent of that paragraph.

(3) It is an offence for any person producing blood products or blood meal in accordance with the second paragraph of point D(b) of that Part to fail to—

- (a) ensure that the blood is processed in accordance with the first indent of that paragraph;
- (b) keep raw material and finished product in accordance with the second indent of that paragraph; or
- (c) sample in accordance with the third indent of that paragraph.

(4) It is an offence for any person producing feedingstuffs in accordance with point D(c)(ii) of Part II of Annex IV to the Community TSE Regulation to—

- (a) fail to ensure that feedingstuffs are manufactured in accordance with the first indent of that point;
- (b) fail to ensure that they are kept in separate facilities in accordance with the second indent; or
- (c) fail to make and keep a record in accordance with the third indent.

(5) It is an offence for a home compounder registered under paragraph 12(4)(b) to—

- (a) keep ruminant animals where blood products are used;
- (b) keep animals other than fish where blood meal is used;
- (c) consign feedingstuffs containing blood products or blood meal (whether complete or partly complete) from the home compounder's holding; or
- (d) use feedingstuffs containing blood products or blood meal with a total protein content of 50% or more in the production of complete feedingstuffs.

Change in use of equipment

14. It is an offence to use equipment used to produce feedingstuffs for non ruminant animals under paragraph 8, 10 or 12, for the production of feedingstuffs for ruminant animals, unless authorised in writing by an inspector.

Conditions applying to the storage and transport of bulk quantities of protein products and feedingstuffs containing such proteins

15.—(1) It is an offence to store or transport—

- (a) bulk processed animal protein (other than fishmeal); or
- (b) bulk products, including feedingstuffs, organic fertilisers, and soil improvers containing such proteins,

except in accordance with point C(a) of Part III of Annex IV to the Community TSE Regulation.

(2) It is an offence to store or transport bulk fishmeal, bulk dicalcium phosphate, bulk tricalcium phosphate, blood products derived from non ruminants or blood meal derived from non ruminants,

except in accordance with points C(b) and C(c) of Part III of Annex IV to the Community TSE Regulation.

(3) In addition to the requirements of sub paragraphs (1) and (2), it is an offence to transport bulk processed animal protein or any of the materials specified in sub paragraph (2) unless the transporter is registered with the Scottish Ministers for that purpose.

Conditions applying to the manufacture and transport of petfood or feedingstuffs

16.—(1) It is an offence to manufacture, store, transport or package feedingstuffs, including petfood, that contain blood products of ruminant origin or processed animal protein, other than fishmeal, except in accordance with point D of Part III of Annex IV to the Community TSE Regulation.

(2) It is an offence to manufacture or transport petfood containing dicalcium or tricalcium phosphate or blood products of non ruminant origin except in accordance with point D of that Part.

Export of processed animal protein to third countries

17.—(1) In accordance with point E(1) of Part III of Annex IV to the Community TSE Regulation it is an offence to export processed animal proteins derived from ruminants, and anything containing such proteins.

(2) It is an offence to export processed animal proteins derived from non ruminants (and anything containing such proteins) except in accordance with point E(2) of that Part and an agreement in writing between the United Kingdom and the competent authority of the third country.

Fertilisers

18.—(1) It is an offence to sell or supply for use as a fertiliser on agricultural land, or to possess with the intention of such sale or supply, any—

- (a) mammalian protein (other than ash) derived from animal by products classified as Category 2 material in Regulation (EC) No. 1774/2002; or
- (b) ash derived from the incineration of animal by products classified as Category 1 material in that Regulation.

(2) It is an offence to use anything prohibited in sub paragraph (1) on agricultural land as a fertiliser.

(3) In this paragraph—

- (a) “agricultural land” means land used or capable of use for the purposes of a trade or business in connection with agriculture; and
- (b) “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 woodland, and horticulture (except the propagation of plants and the growing of plants within greenhouses, glass structures or plastic structures).

Record keeping for transport etc. of reject petfood

19.—(1) Any person who supplies, transports or receives any petfood containing animal protein that is not intended for use as petfood shall—

- (a) record—
 - (i) the name of the manufacturer;
 - (ii) the date of supply and receipt;

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- (iii) the premises of origin and destination;
 - (iv) the quantity of petfood; and
 - (v) the nature of the animal protein contained in the petfood; and
- (b) keep those records for 2 years.
- (2) The consignor shall ensure that the petfood is labelled with the information referred to in sub paragraph (1) or is accompanied by documentation that contains that information.
- (3) Any person who fails to comply with this paragraph is guilty of an offence.

Cross-contamination of materials originating from premises where processed animal proteins (except fishmeal) are in use

20. It is an offence to supply an ingredient of a feedingstuff if that ingredient is produced on premises where any processed animal protein (except fishmeal) is used in any manufacturing process unless the label or accompanying documentation indicates this.

Registration of home compounders and transporters

21.—(1) The Scottish Ministers shall register home compounders and transporters under this Schedule if they are satisfied that the provisions of the Community TSE Regulation and these Regulations will be complied with.

- (2) The registration shall be in writing, and shall specify—
- (a) the name of the home compounder or transporter;
 - (b) the address of their premises; and
 - (c) the purpose for which it is granted.
- (3) It may be made subject to such conditions as are necessary to—
- (a) ensure that the provisions of the Community TSE Regulation and these Regulations will be complied with; and
 - (b) protect public or animal health.
- (4) If the Scottish Ministers refuse to register a home compounder or transporter or grant registration subject to conditions—
- (a) they shall—
 - (i) give their reasons in writing; and
 - (ii) explain the right of the applicant to make written representations to a person appointed by the Scottish Ministers; and
 - (b) the appeals procedure in regulation 10 applies.

Duties of home compounders and transporters

22. Any home compounder or transporter registered under this Schedule who fails to ensure that—

- (a) any condition of the registration; and
- (b) the requirements of the Community TSE Regulation and these Regulations,

are complied with is guilty of an offence.

Suspension and amendment of registration of home compounders and transporters

23.—(1) The Scottish Ministers may suspend or amend any registration granted under this Schedule if—

- (a) any of the conditions under which it was granted is not fulfilled; or
 - (b) they are satisfied that the provisions of the Community TSE Regulation or these Regulations are not being complied with.
- (2) A suspension or amendment—
- (a) shall have immediate effect if the Scottish Ministers consider it necessary for the protection of public or animal health; and
 - (b) otherwise, shall not have effect for at least 21 days from notification of the suspension or amendment.
- (3) Notification of the suspension or amendment shall—
- (a) be in writing;
 - (b) state when it comes into effect;
 - (c) give the reasons; and
 - (d) explain the right of the person who has been notified to make written representations to a person appointed by the Scottish Ministers.
- (4) The appeals procedure in regulation 10 applies.

(5) If the suspension or amendment does not have immediate effect and representations are made under regulation 10, the suspension or amendment shall not have effect until the final determination of the appeal by the Scottish Ministers unless they consider that it is necessary for the protection of public or animal health for the suspension or amendment to have effect before then.

Revocation of registration of home compounders and transporters

24.—(1) The Scottish Ministers may revoke any registration of a home compounder or transporter granted under this Schedule if they are not satisfied that the Community TSE Regulation or these Regulations will be complied and if—

- (a) the registration is currently suspended and the period for appeal under regulation 10 has expired or they have upheld the suspension following such appeal;
- (b) they have previously suspended it and there is further non compliance with the Community TSE Regulation or these Regulations; or
- (c) they are satisfied that the transporter or home compounder no longer requires to be registered for the purpose for which registration was granted.

(2) If the Scottish Ministers make a revocation under paragraph (1)(b) or (c) the appeals procedure in regulation 10 applies but the revocation remains in force during that appeals procedure.

Savings

25. Any registration of premises for the production of feedingstuffs containing dicalcium phosphate for feeding to farmed animals other than ruminants granted under regulation 24(3) of the TSE (Scotland) Regulations 2002⁽³⁾ and in force immediately before the coming into force of these Regulations shall have effect as if it was an authorisation to use an establishment for the production of feedingstuffs containing dicalcium phosphate granted under paragraph 10(1)(a) or (c) of this Schedule.

(3) [S.S.I. 2002/255](#), relevant amending instrument is [S.S.I. 2005/469](#).

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