

SCHEDULE 6

Regulation 5(e)

Feedingstuffs

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- Signature
Explanatory Note

PART 1

Restrictions on feeding proteins to animals

Prohibition on feeding animal protein to ruminants

1.—(1) For the purposes of Article 7(1) (prohibitions concerning animal feeding) of, and point (b) of Part I of Annex IV (extension of the prohibition provided for in Article 7(1)) to the EU 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) and, if authorised by the Scottish Ministers following a risk assessment, point A(d) of Part II of Annex IV to that Regulation (derogations from the prohibitions provided for in Article 7(1) and (2), and specific conditions for the application of such derogations).

(2) It is an offence to bring onto any premises where ruminant animals are kept, or to possess on such premises, anything (other than food intended for human consumption) prohibited by sub#paragraph (1), except—

- (a) in accordance with paragraph 3; or
- (b) where authorised by an inspector and suitable measures are in place to ensure that ruminant animals do not have access to the animal protein specified in the authorisation.

(3) Sub-paragraph (2) does not apply where the premises are registered to use and store the relevant animal protein under paragraph 8(6), 9(6)(b), 11(5) or 13(9).

(4) The prohibition in sub-paragraph (1) does not apply in relation to liquid milk replacers containing fishmeal provided that—

- (a) the fishmeal has been produced, labelled, transported and used in accordance with point BA of Part II of Annex IV to the EU TSE Regulation; and
- (b) the liquid milk replacer is intended for, and fed only to, unweaned, ruminant farmed animals in accordance with point A(e) of that Part.

Prohibition on feeding animal protein to non-ruminants

2.—(1) For the purposes of Article 7(2) (prohibitions concerning animal feeding) of, and point (a) of Part I of Annex IV (extension of the prohibition provided for in Article 7(1)) to, the EU 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;

- (f) petfood containing animal protein; and
 - (g) raw petfood consisting of 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 EUTSE Regulation (derogations from the prohibitions provided for in Article 7(1) and (2), and specific conditions for the application of such derogations);
 - (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) feed materials of plant origin (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) (a) are kept anything prohibited by this paragraph, or to possess it on such premises other than—
- (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)(a) do not have access to it.

Exceptions

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

- (a) raw petfood consisting of animal protein or anything incorporated into petfood for feeding to pets (including working dogs) on those premises; or
- (b) anything incorporated into organic fertiliser or soil improver produced and used in accordance with Regulation (EC) No. 1774/2002 and the Animal By#Products (Scotland) Regulations 2003(1) and paragraph 19,

provided that—

- (i) it is not fed to any farmed animals;
- (ii) it is not stored or handled, or fed to pets (including working dogs), 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

(1) S.S.I. 2003/411, amended by S.S.I. 2006/3 and 530, 2007/1 and 2009/7.

- (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—

- (i) 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; and
- (ii) if it is a bovine animal, seize its cattle passport.

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—

- (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 must ensure that the cattle passport of any bovine animal is stamped with the words “Not for human consumption”.

(3) The inspector must ensure that all the animals specified for killing in the notice in subparagraph (2)(a) are killed and disposed of.

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 give their decision on whether or not to pay compensation in writing.

(2) The compensation for—

- (a) a bovine animal is the value established in accordance with paragraphs 9 and 10 of Schedule 3;
- (b) an ovine or caprine animal is the value established in accordance with paragraph 24 of Schedule 4; and
- (c) an animal that is not bovine, ovine or caprine 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 any decision of the Scottish Ministers under this paragraph.

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 cattle 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 must do so in accordance with point B(a) of Part II of Annex IV to the EU TSE Regulation (derogations from the prohibitions provided for in Article 7(1) and (2), and specific conditions for the application of such derogations).

(2) Any person producing feedingstuffs containing fishmeal intended for feeding to non-ruminant farmed animals must 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 must label them in accordance with point B(d) of that Part, and any documentation accompanying the feedingstuffs must be in accordance with that point.

(4) Any person transporting the feedingstuffs in bulk must 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 must comply with the second sentence of point B(e) of that Part.

(6) The occupier of any farm where ruminants are kept must 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.

Fishmeal for feeding to unweaned, ruminant farmed animals

9.—(1) Any person producing raw fishmeal for use in feed for unweaned, ruminant farmed animals must do so in accordance with point BA(a) of Part II of Annex IV to the EU TSE Regulation (derogations from the prohibitions provided for in Article 7(1) and (2), and specific conditions for the application of such derogations).

(2) Any person producing feed for unweaned, ruminant farmed animals must, if the feed contains fishmeal, produce that feed only in premises authorised for that purpose by the Scottish Ministers in accordance with points BA(c) and BA(d) of that Part.

(3) Any person packaging milk replacers containing fishmeal intended for unweaned, ruminant farmed animals, must clearly mark the product in accordance with point BA(e) of that Part, and any documentation accompanying the product must be in accordance with that point.

(4) Any person transporting the milk replacers in bulk must do so in accordance with the first sentence of point BA(f) of that Part.

(5) Any person using a vehicle previously used to transport such milk replacers for the transport of other feedingstuffs for ruminants must comply with the second sentence of point BA(f) of that Part.

(6) The occupier of any farm where feedingstuffs containing fishmeal are to be used and ruminants are kept must ensure that—

- (a) measures are in place to prevent such feedingstuffs being fed to ruminants, other than as permitted by point A(e) of that Part; and
- (b) before the feedingstuffs are brought on to the relevant holding, the occupier of the holding has registered the holding with the Scottish Ministers in accordance with the second sentence of point BA(g) of that Part.

Offences relating to fishmeal and feedingstuffs containing fishmeal

10.—(1) Failure to comply with paragraph 8 or 9 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 EU 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;
- (c) fail to make and keep a record in accordance with the third indent; and
- (d) fail to carry out routine tests in accordance with the fourth indent.

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

11.—(1) Any person producing feedingstuffs containing dicalcium phosphate or tricalcium phosphate for feeding to non-ruminant farmed animals must do so—

- (a) in accordance with point C(a) of Part II of Annex IV to the EU TSE Regulation (derogations from the prohibitions provided for in Article 7(1) and (2), and specific conditions for the application of such derogations), 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 must label them in accordance with point C(b) of that Part, and any documentation accompanying the feedingstuffs must be in accordance with that point.

(3) Any person transporting those feedingstuffs in bulk must 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 must comply with the second sentence of point C(c) of that Part.

(5) The occupier of any farm where ruminants are kept must 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

12.—(1) Failure to comply with paragraph 11 is an offence.

(2) It is an offence for a home compounder registered under paragraph 11(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 EU TSE Regulation (derogations from the prohibitions provided for in Article 7(1) and (2), and specific conditions for the application of such derogations) 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

13.—(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,

must 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 EU TSE Regulation (derogations from the prohibitions provided for in Article 7(1) and (2), and specific conditions for the application of such derogations) 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 must consign the blood in accordance with point D(a) of Part II of Annex IV to the EU TSE Regulation, and any transporter must transport it in accordance with that point.

(3) Any person producing blood products or blood meal must do so in accordance with either the first or the second paragraph of point D(b) of that Part.

(4) Any person producing blood products or blood meal for the use described in the second paragraph of point D(b) of Part II of Annex IV to the EU TSE Regulation must—

- (a) have in place the control system specified in that paragraph to ensure that products of ruminant origin are kept separate from products of non-ruminant origin; and
 - (b) be authorised by the Scottish Ministers for the purpose.
- (5) Any person producing feedingstuffs containing blood products or blood meal must 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.
- (6) Any person packaging the feedingstuffs must label them in accordance with point D(d) of that Part, and any documentation accompanying the feedingstuffs must be in accordance with that point.
- (7) Any person transporting the feedingstuffs in bulk must do so in accordance with the first sentence of point D(e) of that Part.
- (8) Any person using a vehicle previously used to transport such feedingstuffs to transport feedingstuffs for ruminants must comply with the second sentence of point D(e) of that Part.
- (9) The occupier of any farm where ruminants are kept must 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

- 14.—(1) Failure to comply with paragraph 13 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 EU TSE Regulation (derogations from the prohibitions provided for in Article 7(1) and (2), and specific conditions for the application of such derogations) 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 EU 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 13(5)(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

15.—(1) It is an offence to use equipment used to produce feedingstuffs for non#ruminant animals under paragraph 8, 11 or 13, for the production of feedingstuffs for ruminant animals, unless authorised in writing by an inspector.

(2) It is an offence to use equipment used to produce feedingstuffs for unweaned, ruminant farmed animals under paragraph 9, for the production of feedingstuffs for weaned, ruminant farmed 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

16.—(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 EU TSE Regulation (general implementing conditions).

(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 EU 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

17.—(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 EU TSE Regulation (general implementing conditions).

(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

18.—(1) It is an offence to export processed animal proteins derived from ruminants, and anything containing such proteins, otherwise than in accordance with point E(1) of Part III of Annex IV to the EU TSE Regulation (general implementing conditions).

(2) Sub-paragraph (1) does not apply to the export of processed petfood (including canned petfood) that contains processed animal proteins derived from ruminants, provided that it has undergone treatment and is labelled in accordance with Regulation (EC) No. 1774/2002.

(3) 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 any agreement in writing between the United Kingdom and the competent authority of the third country.

Fertilisers

19.—(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

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

- (a) record—
 - (i) the name of the manufacturer;
 - (ii) the date of supply and receipt;
 - (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 must 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) Failure to comply with this paragraph is an offence.

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

21. 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.