

POLICY NOTE

THE ANIMAL BY-PRODUCTS (MISCELLANEOUS AMENDMENTS) (SCOTLAND) REGULATIONS 2015

SSI 2015/393

The above instrument was made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972. The instrument is subject to negative procedure.

Policy Objectives

The legislative framework that governs animal by-products (“ABPs”) is the Animal By-Products (Enforcement) (Scotland) Regulations 2013 (“the ABPES”), which enforces the directly applicable Regulation (EC) No 1069/2009 (“the EU Control Regulation”), and also its accompanying Commission Regulation (EU) No 142/2011 (“the EU Implementing Regulation”). The purpose of this instrument is to amend the ABPES in order to narrow the types of ABP that may lawfully be disposed of in remote areas, ensuring compliance with European legislation. It also corrects legislative references in the ABPES, and updates the small quantities derogation in response to recent amendment of the EU Implementing Regulation.

Policy Background

The principle of derogated ABP remote areas in Scotland was first established in 2003. To take advantage of the remote areas derogation, the United Kingdom submitted a proposal to the European Commission that provided information on Scottish agriculture. This proposal highlighted the topographical, geographical, economic and social factors which affect livestock farming in the Highlands and Islands of Scotland. It also took account of the very low sheep and cattle stocking densities and sparse human population in these areas. However, it did not take account of aquaculture activities in the Highlands and Islands. The same justification for the current remote areas derogation was used when the ABPES came into force on 1 December 2013, taking advantage of Article 19 (1)(b) of the EU Control Regulation.

The way the authorisation of the disposal of ABPs in remote areas has been implemented to date means that, in Scotland’s remote areas, all species of animals falling within the categories listed in Article 19(1)(b) of the EU Control Regulation are currently allowed to be buried or burnt on site, or disposed of by other means under official supervision, which prevent the transmission of risks to public and animal health. This instrument’s principle policy aim is to change how fish mortalities and other aquaculture ABP waste (from the family *Salmonidae*) can be disposed of in the areas categorised as remote. This change is necessary following a European Commission complaint against the UK alleging breaches of Union legislation in relation to the collection and disposal of ABPs originating from aquaculture establishments in Scotland. The ABPES is, therefore, being amended, in order to specify to which species of animals the remote areas derogation should apply. Once this amendment comes into force, fish farms located in remote areas will no longer be able to send their waste to a landfill site, or the other means of disposal listed in Article 19(1)(b) of the EU Control Regulation.

This instrument also amends other ABP provisions including:

- Regulation 25 (Powers of entry and additional powers) of the ABPES, to correct the cross-reference in paragraph (3) to read “paragraph (2)(f)(i)”, as it concerns the power to take samples;
- Regulation 32 (Small quantities transitional provision) of the ABPES, as this small quantities derogation has now become a permanent measure, by virtue of Article 15 of the EU Implementing Regulation (as amended by Commission Regulation (EU) 2015/9¹); and
- the Transport of Animals (Cleansing and Disinfection) (Scotland) Regulations 2005 (SSI 2005/653), which are amended to remove a reference to the Animal By-Products (Scotland) Regulations 2003.

Consultation

The Scottish Government contacted stakeholders in May 2015 to notify them of the change in policy and inform them that a formal consultation would follow in Summer 2015. The proposal was also conveyed to industry representatives through a Fish Waste Working Group set up by the SG early in 2015, of which the Scottish Salmon Producers Organisation and the British Trout Association are members. The Scottish Government has also funded a project via Zero Waste Scotland on Scottish Fish Farm Reprocessing Options – Scoping Study, to look at Scottish fish farm waste and identify current waste disposal routes, suitable alternative ABP compliant disposal routes and the existing waste capacity in Scotland.

The formal consultation ran from 17 August to 18 September, seeking comments on the change in policy and presenting three options. The majority of responses agreed with the Scottish Government’s proposal that the ABPES remote areas derogation should apply to terrestrial livestock animals only.

Impact Assessments

There are no equality impact issues.

Financial Effects

A partial Business and Regulatory Impact Assessment (BRIA) was included with the August 2015 consultation. A full BRIA has since been completed, having regard to the consultation responses. The impact of amending the remote areas derogation on business is as follows:

- Fish and shellfish farms located within the ABP remote area will need to use an approved ABP disposal route e.g. disposal via an incineration or processing (rendering plant), or by sending it to a compost or anaerobic digestion (biogas) plant. They can no longer send their waste to a landfill site for disposal.
- Landfill sites that currently accept fish waste from fish or shellfish farms will lose any potential revenue from no longer accepting this type of waste.
- Local transporters delivering fish waste to landfill sites will no longer take place but the fish waste will still need to be transported to an approved ABP disposal site.

Scottish Government

Directorate for Agriculture, Food & Rural Communities, November 2015

¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015R0009&from=EN>