
STATUTORY INSTRUMENTS

1998 No. 1135

AGRICULTURE

The Bovines and Bovine Products (Trade) Regulations 1998

<i>Made</i>	- - - -	<i>29th April 1998</i>
<i>Laid before Parliament</i>		<i>29th April 1998</i>
<i>Coming into force</i>	- -	<i>1st May 1998</i>

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to the common agricultural policy of the European Community, acting jointly in exercise of the powers conferred on them by that section, hereby make the following Regulations:

Title, commencement and extent

1. These Regulations may be cited as the Bovines and Bovine Products (Trade) Regulations 1998, shall come into force on 1st May 1998 and shall extend to Great Britain.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires:

“additional mark” means a mark conforming with Schedule 2 below;

“bovine animal” includes buffalo of the species *Bubalis bubalis* and *Bison bison*;

“bovine embryo” means an embryo of a bovine animal;

“the Council Decision” means Council Decision [98/256/EC](#)⁽³⁾ concerning emergency measures to protect against bovine spongiform encephalopathy;

“controlled bovine by-product” means:

- (a) an amino acid;
- (b) a peptide;
- (c) tallow;
- (d) a tallow product not within (e) below; or

(1) S.I.1972/1811.

(2) 1972 c. 68.

(3) OJNo. L113, 15.4.98, p.32.

- (e) a product, derived by saponification, transesterification or hydrolysis from tallow, produced in the United Kingdom from any part of a bovine animal slaughtered in the United Kingdom which is liable to enter the human food or animal feed chain or is destined for use in cosmetics, medical or pharmaceutical products;

“the Department” means the Department of Agriculture for Northern Ireland;

“despatch” includes carry;

“eligible goods” means any fresh meat, minced meat, meat preparation or meat product derived from bovine animals which—

- (a) satisfy the conditions set out in paragraphs 6 and 7 of Annex II to the Council Decision; and
- (b) originated in a herd which satisfies the conditions set out in paragraphs 2 to 5 of Annex II to the Council Decision;

“establishment” includes any premises;

“fresh meat” has the same meaning as in Council Directive [64/433/EEC](#)(4);

“inspector” means—

- (a) a person appointed as such by the Minister, including a veterinary inspector;
- (b) a person appointed as such by a local authority in relation to its enforcement responsibilities under these Regulations; and
- (c) any veterinary surgeon appointed under regulation 3(6)(b) or (d) below;

“local authority” means—

- (a) in England—
- (i) as respects each local government area in respect of which there is a unitary authority established by an order under section 17 of the Local Government Act 1992(5), that authority;
- (ii) as respects each London Borough, district or non-metropolitan county, the council of that borough, district or county;
- (iii) where there is a Port Health Authority, that authority in addition to the authority specified in paragraphs (i) or (ii) above;
- (iv) as respects the City of London, the Common Council; and
- (v) as respects the Isle of Scilly, the Council of the Isles of Scilly;
- (b) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(6); and
- (c) in Wales—
- (i) as respects each county or county borough the council of that county or county borough; and
- (ii) where there is a Port Health Authority, that authority in addition to the authority specified in paragraph (i) above;

“meat product” and “other products of animal origin” have the same meaning as in Council Directive [77/99/EEC](#)(7);

(4) Council Directive [64/433/EEC](#) has been amended and consolidated by Council Directive [91/497/EEC](#) (OJ No. L268, 24.9.91, p.69).

(5) [1992 c. 19](#).

(6) [1994 c. 39](#).

(7) OJ No. L126, 31.1.77, p.85, as amended and updated by Council Directive [92/5/EEC](#) (OJ No. L57, 2.3.92, p.1).

“minced meat” and “meat preparation” have the same meaning as in Council Directive [94/65/EC](#)(8);

“the Minister” means, in relation to England, the Minister of Agriculture, Fisheries and Food and, in relation to Scotland or Wales, the Secretary of State;

“the Northern Ireland Regulations” means the Bovines and Bovine Products (Trade) Regulations (Northern Ireland) 1998(9);

“officer” means a person commissioned by the Commissioners of Customs and Excise;

“operator”, in respect of an establishment used or proposed to be used for the production of controlled bovine by-products or the preparation of relevant goods, means the person carrying on or proposing to carry on the production of controlled bovine by-products or the preparation of relevant goods at the establishment;

“premises” includes any place, stall or moveable structure;

“official seal” means a seal of a kind described in Schedule 3 to these Regulations;

“prepare” in relation to any relevant goods (otherwise than when they are under official control) includes—

- (a) manufacture;
- (b) production;
- (c) any form of processing or treatment;
- (d) packaging or re-packaging;
- (e) presenting, labelling or wrapping;
- (f) storing;
- (g) handling;
- (h) loading and unloading; and
- (i) transporting,

and “preparation” shall be construed accordingly;

“relevant goods” means—

- (a) fresh meat;
- (b) any minced meat or meat preparation;
- (c) any meat product or other product of animal origin;
- (d) food for domestic carnivores; or
- (e) any—
 - (i) gelatin, di-calcium phosphate, tallow or tallow product not in (ii) below;
 - (ii) product derived from tallow by saponification, transesterification or hydrolysis; or
 - (iii) amino acid, peptide or collagen,

which is liable to enter the human food or animal feed chain or is destined for use in cosmetics or medical or pharmaceutical products,

derived from a bovine animal which was not slaughtered in the United Kingdom;

“vertebral column” includes any part thereof;

“veterinary inspector” means a person appointed as a veterinary inspector by the Minister;

(8) OJ No. L368, 31.12.94, p.10.

(9)

“XAP approval number” in relation to any establishment approved under regulation 7 below, means the number given to the establishment by an inspector in relation to that approval; and “XAP relevant goods” means relevant goods other than relevant goods of a type referred to in paragraph (e) of the definition of “relevant goods” above.

(2) Expressions in these Regulations which are not defined in paragraph (1) above and which appear in the Council Decision have the same meaning in these Regulations as in that Decision.

Trade in live bovine animals, bovine embryos and products derived from bovine animals

3.—(1) Subject to paragraph (2) below, no person shall despatch from Great Britain to a member State or a third country, bring to any place in Great Britain for the purpose of such despatch or consign for the purpose of such despatch, any—

- (a) live bovine animal or bovine embryo;
- (b) meat meal, bonemeal or meat and bonemeal derived from any mammal; or
- (c) animal feed or fertiliser containing any meat meal, bonemeal or meat and bonemeal derived from any mammal.

(2) Nothing in paragraph (1) above shall prohibit the despatch, bringing or consignment of any food destined for domestic carnivores by reason only that such food contains meat meal, bonemeal or meat and bonemeal derived from any mammal, provided that those materials do not originate from the United Kingdom and each stage in the preparation of the food which took place in the United Kingdom took place at an establishment approved under regulation 7 below in accordance with the requirements of that approval.

(3) Subject to paragraphs (4) and (5) below, no person shall despatch from Great Britain to a member State or a third country, bring to any place in Great Britain for the purpose of such despatch or consign for the purpose of such despatch, any—

- (a) meat derived from a bovine animal slaughtered in the United Kingdom;
- (b) product derived from a bovine animal slaughtered in the United Kingdom which is liable to enter the human food or animal feed chain; or
- (c) material derived from a bovine animal slaughtered in the United Kingdom which is destined for use in cosmetics or medical or pharmaceutical products.

(4) The prohibitions in paragraph (3) above shall not apply in relation to any type of eligible goods which satisfy the requirements referred to in regulation 3(7) of the Northern Ireland Regulations in respect of eligible goods of that type.

(5) The prohibitions in paragraph (3) above shall not apply in relation to any controlled bovine by-product produced in an establishment registered under regulation 5 below where—

- (a) in the case of a controlled bovine by-product other than a by-product of a type referred to in paragraphs (d) and (e) of the definition of controlled bovine by-products in regulation 2(1) above—
 - (i) it is accompanied by a health certificate issued by a veterinary inspector specifying that it was produced in compliance with the conditions specified in Annex 1 to the Council Decision and attesting to the frequency of the official controls carried out; and
 - (ii) the Commission of the European Communities has set the date referred to in article 4(6) of the Council Decision in respect of that type of controlled bovine by-product and that date has passed; or
- (b) in the case of a controlled bovine by-product of a type referred to in paragraphs (d) and (e) of the definition of controlled bovine by-products in regulation 2(1) above, the

Commission of the European Communities has set the date referred to in Article 4(6) of the Council Decision in respect of tallow and that date has passed; and
the implementation of official controls at the establishment has been inspected for the purpose of article 4(5) of the Council Decision.

(6) No person shall despatch from Great Britain to a member State or a third country, bring to any place in Great Britain for the purpose of such despatch or consign for the purpose of such despatch any relevant goods unless—

- (a) each stage of the preparation of those goods which took place in the United Kingdom took place in an establishment approved—
 - (i) by the Minister under regulation 7 below; or
 - (ii) in the case of a stage of preparation taking place in Northern Ireland, by the Department under regulation 8 of the Northern Ireland Regulations;
- (b) in respect of relevant goods other than those of a type referred to in paragraph (e)(ii) of the definition of relevant goods in regulation 2(1) above, each stage of the preparation of those goods which took place in the United Kingdom took place under the supervision of a veterinary surgeon appointed by the Minister or, in the case of a stage of preparation taking place in Northern Ireland, by the Department;
- (c) in respect of relevant goods of a type referred to in paragraph (e)(ii) of the definition of relevant goods in regulation 2(1) above, each stage of the preparation of those goods which took place in the United Kingdom took place under the supervision of an inspector or, in the case of a stage of preparation taking place in Northern Ireland, by a person appointed as such by the Department;
- (d) in respect of any XAP relevant goods, the goods are accompanied by a health certificate issued by a veterinary surgeon appointed by the Minister or, in the case of goods prepared in Northern Ireland, by the Department—
 - (i) stating that they were prepared in an establishment approved by the Minister under regulation 7 below or, in the case of goods prepared in Northern Ireland, by the Department under regulation 8 of the Northern Ireland Regulations;
 - (ii) stating that the conditions referred to in articles 9, 10, 11, 12 and 13 of the Council Decision are met in respect of the goods, identifying all establishments approved under regulation 7 below where they were obtained, processed, handled or stored and identifying all labels and their serial numbers in respect of those goods; and
 - (iii) stating in respect of any relevant goods of a type referred to in paragraph (a) of the definition of relevant goods in regulation 2(1) above, that the identity of all labels and their serial numbers in respect of the goods has been stated in the “Identification of Meat” section of the certificate referred to in Annex IV to Council Directive [64/433/EEC](#) in respect of the goods and that the words “produced in accordance with Council Decision [98/256/EC](#)” have been added to that and any other certificate accompanying the goods;
- (e) in respect of any relevant goods of a type referred to in paragraph (a) of the definition of “relevant goods” in regulation 2(1) above, the health marks on the goods have not been removed;
- (f) in respect of any relevant goods of a type referred to in paragraph (e) of the definition of “relevant goods” in regulation 2(1) above, there is a clear indication, either by means of a label affixed to the goods or on their packaging—
 - (i) of the identity of the establishment at which the goods were produced;
 - (ii) that the goods were produced in accordance with the Council Decision; and

- (iii) that the goods are suitable for use in human food, animal feed, cosmetics or medical or pharmaceutical products;
- and
- (g) the goods are despatched in accordance with Part III of the Products of Animal Origin (Import and Export) Regulations 1996⁽¹⁰⁾.

Production of bovine by-products and consignment and placing on the market of bovine meat, products and certain by-products

4.—(1) No person shall produce any gelatin or collagen, derived from a bovine animal slaughtered in the United Kingdom, which is liable to enter the human food or animal feed chain or is destined for use in cosmetics or medical or pharmaceutical products.

(2) No person shall produce any gelatin or collagen derived from a bovine animal not slaughtered in the United Kingdom, which is liable to enter the human food or animal feed chain or is destined for use in cosmetics or medical or pharmaceutical products, except in an establishment approved by the Minister under regulation 7.

(3) No person shall consign or bring to an establishment registered under regulation 5 below material derived from a bovine animal which includes any part of the vertebral column of such an animal unless he ensures that—

- (a) any such material is contained in an impervious container which is clearly labelled to indicate that it contains bovine vertebral column; and
- (b) any other material derived from a bovine animal carried in the same consignment is contained in a separate impervious container which is clearly labelled as not containing bovine vertebral column.

(4) No person shall bring to any place in Great Britain, or consign from any place in Great Britain, for the purpose of despatch from Great Britain to a member State or a third country, any fresh meat which has been despatched from an establishment (including a Community approved border inspection post) in Northern Ireland or the territory of another member State unless—

- (a) it is accompanied by a veterinary certificate issued by an official veterinarian or a certificate issued by the competent authority in respect of any border inspection post; and
- (b) it is transported in an officially sealed vehicle, the seal of which has not been broken except for the purposes of an official inspection.

(5) No person shall bring to any establishment approved under regulation 7 below or consign from any place in Great Britain to such an establishment any product, by-product or material referred to in paragraph (6) below unless the establishment and member State where it was produced are clearly indicated, either by means of a label affixed to it or on its packaging or in a document accompanying it.

(6) The products, by-products and material referred to in paragraph (5) above are—

- (a) any gelatin, di-calcium phosphate, tallow, product derived from tallow by saponification, transesterification or hydrolysis, any other tallow product, or any amino acid, peptide or collagen, which is liable to enter the human food or animal feed chain or is destined for use in cosmetics or medical or pharmaceutical products; and
- (b) any raw materials for use in the production of any such products, derived from bovine animals which have not been slaughtered in the United Kingdom.

⁽¹⁰⁾ S.I. 1996/3124.

(7) No person shall store, sell or otherwise supply, or offer, expose or advertise for sale or supply, or consign or despatch to any other person, any product or by-product referred to in paragraph (8) below unless he ensures that—

- (a) the establishment at which that product or by-product was produced; and
- (b) the unsuitability of that product or by-product for use in human food, animal feed, cosmetics or medical or pharmaceutical products,

is clearly indicated, either by means of a label affixed to the product or by-product or on its packaging or in a document accompanying it.

(8) The products and by-products referred to in paragraph (7) above are any gelatin, di-calcium phosphate, collagen, tallow, products derived from tallow by saponification, transesterification or hydrolysis or any other tallow products, produced otherwise than for human food, animal feed, cosmetics or medical or pharmaceutical products from raw materials derived from bovine animals slaughtered in the United Kingdom.

(9) No person shall place on the market in Great Britain any fresh meat, minced meat, meat preparation or meat product—

- (a) which bears an additional mark or the labelling or packaging of which bears an additional mark; or
- (b) which bears the mark or label set out in Schedule 3 or 4 to the Northern Ireland Regulations.

Registration of establishments for the production of controlled bovine by-products

5.—(1) No person shall use any premises for the production of any type of controlled bovine by-product unless those premises are registered by the Minister under this regulation for the production of that type of controlled bovine by-product.

(2) The Minister on an application made to him for the registration of an establishment under this regulation—

- (a) shall register the establishment to which the application relates—
 - (i) for the production of controlled bovine by-products of the types referred to in paragraphs (a), (b) and (c) of the definition of controlled bovine by-products in regulation 2(1) above if, following an inspection of that establishment by a veterinary inspector, he is satisfied that the controlled bovine by-products of the type to be produced there will be produced in accordance with the appropriate conditions specified in Annex I to the Council Decision; or
 - (ii) for the production of controlled bovine by-products of the types referred to in paragraphs (d) and (e) of the definition of controlled bovine by-products in regulation 2(1) above if, following an inspection of that establishment by a veterinary inspector, he is satisfied that the controlled bovine by-products of those types to be produced there will be produced using tallow produced in establishments registered under this regulation,

and, in either such case, he is satisfied that no vertebral column derived from any bovine animal will be used there in the production of such by-products; or

- (b) shall refuse so to register that establishment if he is not so satisfied.

(3) An application for registration of an establishment under this regulation shall be made in writing to the Minister by the operator of the establishment to which the application relates.

(4) The Minister shall notify the applicant in writing of his decision on the application; and, if he refuses to register an establishment, he shall notify the applicant in writing of his reasons for refusal.

(5) No person shall produce—

- (a) any type of controlled bovine by-product otherwise than in accordance with the conditions in Annex I to the Council Decision which apply to the production of controlled bovine by-products of that type; and
- (b) any controlled bovine by-product of a type referred to in paragraphs (a), (b) and (c) of the definition of controlled bovine by-products in Regulation 2(1) above except under the supervision of a veterinary inspector,

and no vertebral column derived from any bovine animal shall be used in any such production.

(6) The operator of an establishment at which any controlled bovine by-product is produced shall ensure that the establishment, and the suitability of the controlled by-product for use in human food, animal feed, cosmetics or medical or pharmaceutical products, is clearly indicated, either by means of a label affixed to the by-product, or on its packaging or in a document accompanying it.

(7) The operator of an establishment registered under this Regulation shall ensure that—

- (a) any person employed by him, or any person invited to the establishment, complies with the provisions of these Regulations relating to the registration of the establishment;
- (b) at each stage of the production of each type of controlled bovine by-product at the establishment, the provisions of these Regulations relating to the production of controlled bovine by-products of that type at the establishment are complied with there; and
- (c) any inspector, and any person acting under the responsibility of an inspector, is provided with adequate facilities so as to enable him to carry out his functions under these Regulations in relation to the establishment and that he is given such reasonable assistance and access to such records (including any records held in electronic form) as he may at any reasonable time require for that purpose.

(8) The operator of an establishment registered under this Regulation shall give the Minister written notice of any material change he intends to make—

- (a) of the suppliers of the materials used by him at that establishment in the manufacture of controlled bovine by-products; or
- (b) of any facilities or processes used at that establishment in the manufacture of such by-products,

before making any such change.

(9) Where, in relation to any establishment registered under this Regulation the Minister is satisfied that—

- (a) any requirement relating to the registration of the establishment has not been complied with;
- (b) the operator of the establishment has failed to give notice to the Minister as required under paragraph (8) above; or
- (c) the production of controlled bovine by-products at the establishment in respect of which it was registered is no longer being carried on there,

he may withdraw the registration relating to that establishment and, where he does so, he shall give notice to the operator in writing that the registration is withdrawn and of the reason for withdrawing it.

Use of controlled bovine by-products and other products

6.—(1) Subject to the following provisions of this regulation, no person shall use any—

- (a) controlled bovine by-product; or
- (b) gelatin or collagen derived from a bovine animal (whether slaughtered in the United Kingdom or elsewhere) which has been produced in the United Kingdom,

in the production of any product which is liable to enter the human food chain or animal feed chain or is destined for use as or in any cosmetics or medical or pharmaceutical product.

(2) The prohibitions in paragraph (1)(a) above shall not apply to the use of a controlled bovine by-product produced in accordance with regulation 5 above or, in the case of a controlled bovine by-product produced in Northern Ireland, in accordance with the Northern Ireland Regulations.

(3) The prohibitions in paragraph (1)(b) above shall not apply to the use of gelatin or collagen produced—

- (a) in an establishment approved under regulation 7 below or, in the case of gelatin or collagen produced in Northern Ireland, in an establishment approved under regulation 8 of the Northern Ireland Regulations; or
- (b) before 1st May 1998 in an establishment which the Minister is satisfied would have complied with the conditions for approval under regulation 7 below at the time of production if those conditions had been in force at that time and which has subsequently been approved under that regulation.

Approval of establishments for the preparation of relevant goods

7.—(1) No person shall use any premises—

- (a) for any stage of preparation of any type of XAP relevant goods which are destined for despatch to another member State or a third country; or
- (b) for the production of any relevant goods of a type referred to in paragraph (e) of the definition of relevant goods in regulation 2(1) above (whether or not those goods are destined for despatch to another member State or a third country),

unless those premises are approved by the Minister under this regulation for the preparation of relevant goods of that type.

(2) The Minister on an application made to him for the approval of an establishment under this regulation—

- (a) shall approve the establishment to which the application relates if, following an inspection of that establishment by a veterinary inspector, he is satisfied that the establishment complies with the requirements of paragraph (3) below; or
- (b) shall refuse to approve that establishment if he is not so satisfied.

(3) The requirements for the approval of an establishment under this regulation are—

- (a) there is in operation at the establishment a system which ensures it is possible to identify the origin of the raw material contained in any relevant goods despatched from that establishment and to trace that raw material through each stage of preparation of the goods at the establishment;
- (b) there is in operation at the establishment a system for recording all amounts of incoming and outgoing materials, which ensures it is possible to cross-check consignments entering or leaving the establishment;
- (c) that all relevant goods are unloaded, processed or treated, stored, handled, loaded and transported separately, or at different times, from products which do not comply with the conditions set out in articles 9, 10, 11, 12 and 13 of the Council Decision;
- (d) in respect of the preparation at the establishment of any XAP relevant goods, that—
 - (i) they are unloaded, stored, handled and loaded under official supervision;
 - (ii) the methods of operation comply with the requirements in Schedule 1 to these Regulations;

- (iii) they are stored in cold stores in chambers which are not used at the same time for storing any bovine products, by-products or materials which do not comply with the conditions set out in articles 9, 10, 11, 12 and 13 of the Council Decision and are kept locked under the seal of a veterinary inspector when he is not present; and
 - (iv) they are transported in means of transport sealed by a veterinary inspector or a person acting under his responsibility;
 - (e) in respect of the preparation at the establishment of any relevant goods other than relevant goods of a type referred to in paragraphs (d) or (e) of the definition of “relevant goods” in regulation 2(1) above, and subject to paragraph (f) below, that they are marked or labelled with the additional mark; and
 - (f) that any relevant goods prepared at the establishment which are destined for placing on the market in the United Kingdom do not bear the additional mark or, if they do, that it is removed or cancelled in accordance with paragraph (11) below.
- (4) An application for approval of an establishment under this regulation shall be made in writing to the Minister by the operator of the establishment to which the application relates.
- (5) The Minister shall notify the applicant in writing of his decision on the application; and, if he refuses to approve the establishment, he shall notify the applicant in writing of his reasons for refusal.
- (6) In approving an establishment under this regulation the Minister shall determine how the requirements set out in Schedule 1 to these Regulations are to apply to the establishment, as indicated in that Schedule.
- (7) The operator of an establishment approved under this regulation shall ensure that all relevant goods prepared there, other than—
- (a) relevant goods of a type referred to in paragraphs (d) and (e) of the definition of relevant goods in regulation 2(1) above; or
 - (b) relevant goods destined for placing on the market in the United Kingdom,
- are marked or labelled with the additional mark at the time they are prepared.
- (8) The additional mark shall be applied by persons acting under the responsibility of a veterinary inspector; and no other persons shall apply the additional mark or possess or use the instruments or labels intended for applying or bearing the additional mark.
- (9) No person shall produce, modify, store, sell or otherwise supply, or offer, expose or advertise for sale or supply, or consign or despatch to any other person—
- (a) an instrument intended for the application of the additional mark;
 - (b) any label or packaging bearing an additional mark; or
 - (c) an official seal,
- except in accordance with the instructions of an inspector.
- (10) An operator of an establishment approved under this regulation shall ensure that at the time any instrument, label, packaging or official seal is delivered to him or to the establishment, or otherwise to his order, he notifies an inspector for the purpose of enabling any inspector or person acting under the responsibility of an inspector to put the instrument, label, packaging or official seal into a store at the establishment (maintained under the responsibility of an inspector) or (in the case of an instrument, label or packaging) to give instructions for the use of the instrument, label or packaging at the establishment.
- (11) The operator of an establishment approved under this regulation shall ensure, in respect of any relevant goods prepared there which are destined for placing on the market in the United Kingdom and which bear the additional mark, that the mark is removed or cancelled at whichever of the following times is the first to occur—

- (a) the time when, for any reason other than the removal of the additional mark, the goods cease to be eligible for despatch from Great Britain in accordance with these Regulations; or
 - (b) the time when the goods leave the establishment.
- (12) The operator of an establishment approved under this regulation shall ensure that—
- (a) any person employed by him, or any person invited to the establishment, complies with the requirements of this regulation relating to the approval of the establishment;
 - (b) at each stage of the preparation of any type of relevant goods at the establishment the requirements of these Regulations relating to the preparation of relevant goods of that type at the establishment are complied with there; and
 - (c) any inspector, and any person acting under the responsibility of an inspector, is provided with adequate facilities so as to enable him to carry out his functions under these Regulations in relation to the establishment and that he is given such reasonable assistance and access to such records (including any records held in electronic form) as he may at any reasonable time require for that purpose.
- (13) The operator of an establishment approved under this regulation shall give the Minister written notice of, and shall obtain his agreement to, any material change he intends to make—
- (a) to any of the required methods of operation at the establishment in relation to which it has been approved; or
 - (b) to any facilities or processes used at that establishment in the preparation of relevant goods, before making any such change.
- (14) Where, in relation to any establishment approved under this regulation the Minister is satisfied that—
- (a) any requirement in relation to the approval of the establishment has not been complied with;
 - (b) the operator of the establishment has failed to give notice to the Minister as required under paragraph (13) above; or
 - (c) the preparation of relevant goods at the establishment in respect of which it was approved is no longer being carried on there,
- the Minister may withdraw the approval relating to that establishment and, where he does so, he shall give notice to the operator in writing that the approval is withdrawn and of the reason for withdrawing it.

Fees

- 8.—(1)** The Minister may charge reasonable fees in respect of costs reasonably incurred by him or on his behalf in connection with—
- (a) the issue of any health certificate, any application of an additional mark or official seal by or on behalf of an inspector appointed by him or any purchase of labels or instruments by or on behalf of such an inspector for the purpose of applying an additional mark or an official seal;
 - (b) the registration of an establishment under regulation 5 above;
 - (c) the approval of an establishment under regulation 7 above; or
 - (d) the inspection or supervision of establishments registered or approved for the purposes of these Regulations.

(2) Where the Minister has notified the operator of any establishment of a fee charged for the purposes of these Regulations in respect of the establishment, the operator shall pay to the Minister the amount of the fee so charged.

(3) A fee charged for the purposes of these Regulations shall be recoverable by the Minister as a civil debt.

Powers to stop and search vehicles and vessels and detain goods

9.—(1) At any time while a vehicle or vessel is—

- (a) within the limits of or entering or leaving a port or any land adjacent to a port and occupied wholly or mainly for the purposes of activities carried on at the port;
- (b) at, entering or leaving an aerodrome; or
- (c) at, entering or leaving an approved wharf, transit shed, customs warehouse or free zone,

an officer or an inspector may, for the purposes of the enforcement of these Regulations, stop and search the vehicle or vessel.

(2) Where at any place (including any place which is referred to in paragraph (1) above) an officer or an inspector has reasonable grounds to suspect that any vehicle or vessel is or may be carrying a consignment of any goods which are—

- (a) of a kind described in regulation 3(1) or (3) or 4(1), (2), (6) or (8) above;
- (b) relevant goods;
- (c) controlled bovine by-products; or
- (d) any part of the vertebral column of a bovine animal,

and which he reasonably suspects may be illegal, he may search that vehicle or vessel.

(3) Where an officer or an inspector has stopped and searched a vehicle or vessel under paragraph (1) above or has searched a vehicle or a vessel under paragraph (2) above, he may detain for not more than three working days any goods which he reasonably suspects may be illegal.

(4) Any goods detained under this regulation shall be dealt with during the period of their detention in such manner as the officer or inspector detaining the goods may direct, at the expense of the person who is or appears to be in control of the consignment.

(5) Goods are “illegal” for the purposes of this regulation if—

- (a) they are falsely described on their packaging, wrapping, label or any container in which they are placed, or in any health certificate or a document accompanying them;
- (b) in the case of any goods of a kind described in—
 - (i) regulation 3(1) or (3) or 4(6) above, they are being brought or consigned in contravention of regulation 3(1) or (3) or 4(5), as the case may be;
 - (ii) regulation 4(1) or (2), they have been produced in contravention of those provisions;
 - (iii) regulation 4(8), there has been a contravention of regulation 4(7) in relation to any of them;
- (c) in the case of relevant goods—
 - (i) they have been prepared in contravention of any provision of these Regulations relating to the goods; or
 - (ii) they are being brought, despatched or consigned in contravention of regulation 3(6) above;
- (d) in the case of controlled bovine by-products, they were produced in contravention of regulation 5 above; or

(e) in the case of vertebral column of a bovine animal, the goods are not in an impervious container clearly labelled in accordance with regulation 4(3) above.

(6) For the purposes of paragraph (1) above a “port”, an “aerodrome”, an “approved wharf”, “transit shed”, “customs warehouse” and “free zone” have the same meanings as they respectively have in the Customs and Excise Management Act 1979(11).

Powers of entry

10.—(1) An inspector shall, on producing, if required to do so, some duly authenticated document showing his authority, have the right at all reasonable hours to enter any premises (excluding premises used only as a dwelling) for the purpose of ascertaining whether—

- (a) there is or has been on the premises any contravention of any provisions of these Regulations; or
- (b) there is on the premises any evidence of any contravention of any provisions of these Regulations.

(2) If a justice of the peace, on sworn information in writing is satisfied that there is reasonable ground for entry into any premises (excluding premises used only as a dwelling) for any such purpose as is mentioned in paragraph (1) above and that either—

- (a) admission to the premises has been refused, or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier; or
- (b) an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent,

the justice may by warrant signed by him authorise an inspector to enter the premises, if need be by reasonable force.

(3) In the application of this regulation to Scotland any reference to a justice of the peace includes a reference to the sheriff and to a magistrate.

Seizure of illegal goods

11.—(1) Where an inspector has a reasonable suspicion that a consignment of any—

- (a) goods of a kind described in regulation 3(1) or (3) or 4(1), (2), (6) or (8) above;
- (b) relevant goods;
- (c) controlled bovine by-products; or
- (d) any part of the vertebral column of a bovine animal,

is illegal, he may require the person in control of any commercial documentation or health certificate accompanying the consignment to deliver that documentation or certificate and any copies to him on demand.

(2) Where an inspector exercises the power conferred by paragraph (1) above or where, otherwise than in relation to the exercise of that power he has such a suspicion in respect of any such consignment, he may, in respect of the consignment or any part of it—

- (a) give notice that, until the notice is withdrawn, it may not be removed or may not be removed except to some place specified in the notice;
- (b) give notice that it must be removed at the expense of the person who is or appears to be in control of the consignment to some place specified in the notice and kept there at that

person's expense until the notice is withdrawn or an order is made under paragraphs (6) or (7) below; or

(c) seize it and remove it in order to have it dealt with by a justice of the peace.

(3) Where an inspector exercises the power conferred by paragraph (2) above, he shall as soon as is reasonably practicable, and in any event within the period of 21 days beginning on the day on which he exercises that power, determine whether he is satisfied that the consignment is not illegal.

(4) Where the inspector is satisfied that the consignment is not illegal, he shall—

- (a) return any health certificate or commercial documentation which has been delivered to him;
- (b) withdraw any notice given pursuant to paragraph (2)(a) or (b) above relating to the consignment; and
- (c) return anything which he has seized and which, in the case of food, is not unfit for human consumption.

(5) Where the inspector is satisfied that the consignment is illegal, he shall inform the person in charge of the consignment of his intention to have it dealt with by a justice of the peace and—

- (a) any person who may be liable for prosecution in respect of the consignment shall, if he attends before the justice of the peace by whom the matter falls to be dealt with, be entitled to be heard and to call witnesses; and
- (b) the justice of the peace may, but need not, be a member of the court before which any person is charged with any offence in relation to the consignment.

(6) If it appears to a justice of the peace, on the basis of such evidence as he considers to be appropriate in the circumstances, that a consignment is illegal, he shall, unless he is satisfied that there is no relevant risk in respect of the consignment (or any part of it) if it is returned to the owner, order—

- (a) the consignment to be destroyed or otherwise disposed of so as to prevent it from being despatched to another member State or a third country; and
- (b) any expenses reasonably incurred in connection with such destruction or disposal and (where the consignment was seized pursuant to paragraph (2)(c) above) in connection with storage prior to destruction, to be defrayed by the owner of the consignment.

(7) Where the justice of the peace is satisfied that there is no relevant risk in respect of the consignment if it is returned to the owner, he shall order the consignment to be returned to the owner.

(8) For the purposes of paragraphs (6) and (7) above, the "relevant risk" in respect of a consignment is the risk that—

- (a) in the case of a consignment of any goods of a kind described in—
 - (i) regulation 3(1) or (3) or 4(6) above, the owner will despatch some or all of those goods to another member State or a third country;
 - (ii) regulation 4(1) or (2), the owner will produce goods in contravention of those provisions;
 - (iii) regulation 4(8), the owner will contravene regulation 4(7) in relation to any of them;
- (b) in the case of a consignment of relevant goods, the owner will despatch some or all of those goods to another member State or a third country;
- (c) in the case of a consignment of controlled bovine by-products, the owner will use some or all of those by-products in any product liable to enter the human food or animal feed chain or in any cosmetics or medical or pharmaceutical product; or
- (d) in the case of vertebral column of a bovine animal, the owner will consign some or all of that material in contravention of regulation 4(3) above.

- (9) A consignment is “illegal” for the purposes of this regulation if—
- (a) it is falsely described on its packaging, wrapping, label or any container in which it is placed, or in any health certificate or commercial documentation accompanying it;
 - (b) in the case of a consignment of any goods of a kind described in:
 - (i) Regulation 3(1) or (3) or 4(6) above, they are being brought or consigned in contravention of Regulation 3(1) or (3) or 4(5), as the case may be;
 - (ii) Regulation 4(1) or (2), they have been produced in contravention of those provisions;
 - (iii) Regulation 4(8), there has been a contravention of Regulation 4(7) in relation to any of them;
 - (c) in the case of a consignment of relevant goods:
 - (i) it contains goods prepared in contravention of any provision of these Regulations relating to the goods; or
 - (ii) it contains goods being brought, despatched or consigned in contravention of Regulation 3(6) above;
 - (d) in the case of a consignment of controlled bovine by-products, it contains goods produced in contravention of Regulation 5 above; or
 - (e) in the case of vertebral column of a bovine animal, the goods are not in an impervious container clearly labelled in accordance with Regulation 4(3) above.
- (10) In the application of this Regulation to Scotland:
- (a) any reference to a justice of the peace includes a reference to the sheriff and to a magistrate;
 - (b) paragraph (5)(b) above shall not apply; and
 - (c) any order made under paragraph (6) above shall be sufficient evidence in any proceedings in relation to these Regulations of the fact that the consignment in question was falsely described.

Sampling and other checks and examinations

12.—(1) An inspector shall have power to carry out all checks and examinations necessary for the enforcement of these Regulations.

- (2) An inspector may—
- (a) take samples (and, if necessary, send the samples for laboratory testing) from any product or material;
 - (b) examine any record (including any record held in electronic form) which he believes to be relevant to any checks and examinations under these Regulations;
 - (c) seize, detain and require the production of any such record which he has reason to believe may be required as evidence in proceedings under any of the provisions of these Regulations;
 - (d) take with him such other person as he considers necessary to carry out any checks and examinations under these Regulations;
 - (e) require any person who is or appears to be in control of any goods of a kind described in regulation 3(1) or (3) above, or any relevant goods, controlled bovine by-products or other products or material of a kind described in regulation 4 above, to arrange, at his own expense, for those goods or products to be removed from any store, vehicle, vessel, container, packing or wrapping;
 - (f) carry out inspections of any process specified in Annex I to the Council Decision and anything used for the marking and identification of products and materials; and

- (g) take with him a representative of the Commission of the European Communities acting for the purposes of the Commission.

Powers of customs officers to detain vehicles and vessels

13.—(1) An officer may, for the purpose of facilitating the exercise by any inspector of the powers conferred on the inspector by these Regulations, detain any vehicle or vessel for such period as may reasonably be necessary for that purpose.

(2) Any vehicle or vessel detained by an officer under this regulation shall be dealt with during the period of its detention in such manner as the officer may direct.

Suspension notices and orders

14.—(1) If an inspector is satisfied that the despatch risk is fulfilled with respect to a consignment on business premises of any goods of a kind described in regulation 3(1) or (3) or 4 above, or any controlled bovine by-products or relevant goods, he may, by a notice served on the proprietor of the business (a “suspension notice”), impose a suspension of the use of the premises for—

- (a) the despatch of those goods for any purpose in relation to the despatch risk; and
- (b) the receipt or despatch for any such purpose of any other goods of a similar kind.

(2) If a magistrates' court or, in Scotland, the sheriff is satisfied, on the application of an inspector, that the despatch risk is fulfilled with respect to a consignment on business premises of any such goods of a kind referred to in paragraph (1) above, the court or sheriff shall, by an order (a “suspension order”), impose a suspension of the use of the premises for—

- (a) the despatch of those goods; and
- (b) the receipt or despatch of any other goods of a similar kind.

(3) An inspector shall not apply for a suspension order unless, at least one day before the date of the application, he has served notice on the proprietor of the business of his intention to apply for the order.

(4) As soon as practicable after the service of a suspension notice, an inspector shall affix a copy of the notice in a conspicuous position on such premises used for the purpose of the business as the inspector considers appropriate; and any person who knowingly contravenes such a notice shall be guilty of an offence.

(5) As soon as reasonably practicable after the making of a suspension order, an inspector shall—

- (a) serve a copy of the order on the proprietor of the business; and
- (b) affix a copy of the notice in a conspicuous position on such premises used for the purpose of that business as the inspector considers appropriate;

and any person who knowingly contravenes such a notice shall be guilty of an offence.

(6) A suspension notice shall cease to have effect—

- (a) if no application for a suspension order is made within the period of three days beginning with the service of the notice, at the end of that period; and
- (b) if such an application is so made, on the determination or abandonment of the application.

(7) A suspension notice or suspension order shall cease to have effect on the issue by the Minister of a certificate to the effect that he is satisfied that the proprietor has taken sufficient measures to secure that the despatch risk is no longer fulfilled with respect to the use of the premises for the receipt and despatch of goods.

(8) The Minister shall issue a certificate under paragraph (7) above within three days of his being satisfied as mentioned in that paragraph; and on an application by a proprietor for such a certificate, the Minister shall—

- (a) determine, as soon as is reasonably practicable and in any event within the period of 14 days beginning on the day on which the proprietor makes that application, whether or not he is so satisfied; and
- (b) if he determines that he is not so satisfied, give notice to the proprietor of the business of the reasons for that determination.

(9) Where a suspension notice is served on the proprietor of a business, the Minister shall compensate him in respect of any loss suffered by reason of his complying with the notice unless—

- (a) an application for a suspension order is made within the period of three days beginning with the service of the notice; and
- (b) the court declares itself satisfied, on the hearing of the application, that the despatch risk was fulfilled with respect to the business at the time when the notice was served,

and any disputed question as to the right to or the amount of any compensation payable under this paragraph shall be determined by arbitration or, in Scotland, by a single arbiter appointed, failing agreement between the parties, by the sheriff.

(10) For the purposes of this regulation, the “despatch risk” in respect of a consignment of goods is the risk that some or all of those goods will be despatched to another member State or a third country.

Obstruction

15.—(1) No person shall—

- (a) intentionally obstruct any person acting in the execution of these Regulations;
- (b) without reasonable cause, fail to give to any person acting in the execution of these Regulations any assistance or information which that person may reasonably require of him for the purpose of carrying out his functions under these Regulations; or
- (c) furnish to any person acting in the execution of these Regulations any information which he knows to be false or misleading.

(2) Nothing in paragraph (1)(b) above shall be construed as requiring any person to answer any question or give any information if to do so might incriminate him.

Offences and penalties

16.—(1) A person guilty of an offence under regulation 14(4) or (5) above shall be liable—

- (a) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both;
- (b) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or to both.

(2) A person contravening any other provision of these Regulations shall be guilty of an offence and shall be liable—

- (a) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both;
- (b) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or to both.

Offences by bodies corporate

17.—(1) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar person of the body corporate, or
- (b) any person who was purporting to act in any such capacity,

he, as well as the body corporate, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) For the purposes of paragraph (1) above, “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(3) Where an offence under these Regulations which has been committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Offences due to fault of another person and defence of due diligence

18.—(1) Where the commission by any person of an offence under any of the provisions of these Regulations is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this paragraph of this regulation whether or not proceedings are taken against the first-mentioned person.

(2) In any proceedings for an offence under any of the provisions of these Regulations, it shall, subject to paragraph (3) below, be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or by a person under his control.

(3) If in any case the defence provided by paragraph (2) above involves the allegation that the commission of the offence was due to an act or default of another person, or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless—

- (a) at least seven clear days before the hearing; and
- (b) where he has previously appeared before a court in connection with the alleged offence, within one month of his first such appearance,

he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

(4) In paragraph (3) above any reference to appearing before a court shall be construed as including a reference to being brought before a court.

Enforcement

19.—(1) Except as provided in paragraph (2) below, these Regulations shall be enforced and executed by the Minister and the local authority.

(2) The Minister may direct, in relation to cases of a particular description or any particular case, that the duty imposed on a local authority under this regulation shall be discharged by the Minister and not by the local authority.

Service of notices and other documents

20.—(1) Any notice or other document to be given or served on any person under these Regulations may be given or served either—

- (a) by delivering it to that person;
- (b) in the case of an incorporated body, by delivering it to their secretary or clerk at their registered or principal office, or by sending it by post to him at that office; or
- (c) in the case of any other person, by leaving it, or sending it by post to him, at his usual or last known address.

(2) Where a notice or other document is to be given or served on the owner, proprietor, operator or occupier of any premises and it is not practicable after reasonable enquiry to ascertain the name and address of the person to or on whom it should be given or served, or the premises are unoccupied, the document may be given or served by addressing it to the person concerned by the description of “owner”, “proprietor”, “operator” or “occupier” of the premises (naming them) and—

- (a) by delivering it to some person on the premises; or
- (b) if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

Revocation of the Bovines and Bovine Products (Despatch Prohibition and Production Restriction) Regulations 1997

The Bovines and Bovine Products (Despatch Prohibition and Production Restriction) Regulations 1997(12) are hereby revoked.

29th April 1998

Jeff Rooker
Minister of State, Ministry of Agriculture,
Fisheries and Food

27th April 1998

Sewel
Parliamentary Under Secretary of State, Scottish
Office

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SCHEDULE 1

Regulation 7

REQUIRED METHODS OF OPERATION FOR THE PREPARATION OF XAP RELEVANT GOODS

<i>Requirement</i>	<i>Description of facility or control procedure by which the requirement will be met</i>	<i>Staff member(s) responsible for supervision</i>
1.	All raw materials for use in production for despatch abroad must be identifiable to species of origin. Materials of bovine origin must be traceable to non-UK place of origin.	
2.	There must be a system at the establishment to ensure it is possible to identify the origin of bovine raw material contained in any relevant goods for despatch and to trace that raw material through each stage of preparation.	
3.	There must be a system for recording all amounts of incoming bovine raw materials which are eligible for despatch abroad and outgoing bovine raw materials or products containing them, which ensures that it is possible to cross check consignments entering or leaving the establishment.	
4.	All relevant goods which are eligible for despatch abroad must be unloaded, processed or treated, stored, handled, loaded and unloaded and transported separately, or at different times, from bovine products which are not eligible for despatch abroad.	
5.	For <i>cold stores</i> there must be chambers for storage of relevant goods which are eligible for despatch abroad which can be locked and sealed so that products cannot be added or removed without breaking the seal (lockable rails in chillers are not sufficient).	

<i>Requirement</i>	<i>Description of facility or control procedure by which the requirement will be met</i>	<i>Staff member(s) responsible for supervision</i>
<p>For <i>other stores</i>, there must be clear and effective segregation between relevant goods which are eligible for despatch abroad and bovine products which are not so eligible (though this need not take the form of a chamber locked under seal).</p>		
<p>6. Fresh meat, minced meat, meat preparations, meat products and other products of animal origin of bovine origin which are eligible for despatch abroad must be marked with an additional mark in the form prescribed in Schedule 2 to these Regulations.</p>		
<p>7. The additional mark must be removed from fresh meat, minced meat, meat preparations, meat products and other products of animal origin when they cease to be eligible for despatch abroad or when they leave the establishment, whichever occurs first.</p>		
<p>8. Instruments intended for application of the additional mark, labels or packaging bearing an additional mark, serially numbered healthmark labels and official seals may be ordered only with the authorisation of an inspector.</p>		
<p>9. All new supplies of instruments or labels for applying the additional mark must be delivered into the control of an inspector and maintained and applied under the control of an inspector.</p>		
<p>10. There must be sufficient identification of XAP relevant goods for despatch to allow a full description of the goods to be provided on certificates</p>		

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<i>Requirement</i>	<i>Description of facility or control procedure by which the requirement will be met</i>	<i>Staff member(s) responsible for supervision</i>
required for the purposes of these Regulations.		
<p>11. XAP relevant goods must be transported in means of transport sealed with an official seal.</p> <p>12. There must be adequate facilities to enable an inspector to carry out his functions under these Regulations.</p>		

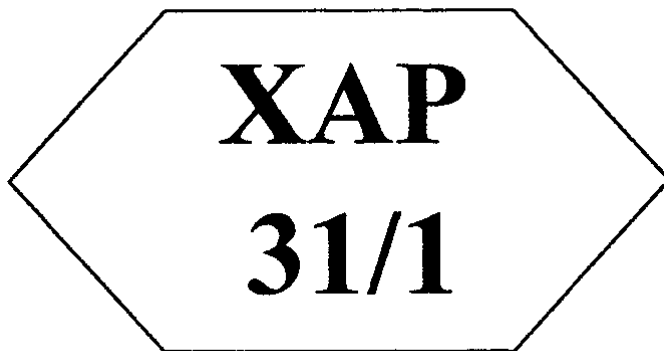
SCHEDULE 2

Regulations 2(1) and 7(3)(d),(e) and (f), (7), (8), (9) and (11)

ADDITIONAL MARK

1. The additional mark for application to meat using a marking instrument shall consist of an elongated hexagonal mark, with two parallel straight sides of 4.5 cm length, 4.5 cm apart and joined by two shorter sides of equal length to form a point at each end, so that the mark is 8.5 cm long from point to point; bearing on the upper part the initials XAP and in the lower part the XAP number of the establishment at which the mark is applied, e.g. 31/1, the letters and figures being at least 1.0 centimetre high, legible and indelible.

An example follows:



2.—(1) The additional mark to be borne on labels to be applied to bulk packaging shall consist of a mark in the form described in paragraph 1 of this Schedule together with the following statement “the contents of this package/box were produced in accordance with Council Decision [98/256/EC](#)”; and each such label shall have a unique sequential serial number.

(2) An additional mark to be borne on labels to be applied to bulk packaging must be applied in such a way that they are destroyed when the package is opened or the packaging must be constructed so that it may not be re-used once opened.

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3.—(1) The additional mark to be borne on labels to be applied to packaging of goods intended for supply direct to the final consumer shall, subject to the following provisions of this paragraph, consist of a mark in the form described in paragraph 1 of this Schedule; and each such label shall have a unique sequential serial number.

(2) The dimensional requirements described in paragraph 1 above do not apply and the additional statement required for bulk packaging is not required.

(3) An additional mark to be borne on labels to be applied to the packaging must be applied in such a way that it is destroyed when the package is opened, or the packaging must be constructed so that it may not be re-used once opened.

4.—(1) The additional mark to be applied to the wrapper of an individually wrapped product, or the packaging of an individually wrapped and packaged product, by pre-printing, ink stamping or branding, shall, subject to the following provisions of this paragraph, consist of a mark in the form described in paragraph 1 of this Schedule.

(2) The dimensional requirements described in paragraph 1 of this Schedule do not apply, the additional statement required for bulk packaging is not required and the sequential numbering referred to in paragraphs 2 and 3 of this Schedule is not required; but the mark must be applied in such a way that it is destroyed when the wrapper or package is opened, or the wrapper or packaging must be constructed so that it may not be re-used once opened.

(3) An individually wrapped and packaged product marked with an additional mark which does not bear a sequential serial number shall be despatched in bulk packaging which is sealed with serially numbered health mark labels and an additional mark as described in paragraph 2 of this Schedule.

SCHEDULE 3

Regulations 2(1),4(4)(b) and 7(9)
and(10)

OFFICIAL SEAL

An official seal for purposes of official control under these Regulations shall—

- (a) be manufactured from a material which ensures that means of transport and cold store chambers can be locked and sealed so that products cannot be added or removed without breaking the seal;
- (b) be tamperproof; and
- (c) bear the capital letters XAP, followed by the XAP approval number of the establishment at which or in relation to which the seal will be applied, followed by a unique serial number.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give effect in Great Britain to Council Decision [98/256/EC](#) on emergency measures to protect against bovine spongiform encephalopathy in relation to the despatch to third

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countries and member States of bovine animals and embryos and meat and other products and by-products derived from bovine animals. The Regulations revoke and replace the Bovines and Bovine Products (Despatch Prohibition and Production Restriction) Regulations 1997. Together with the equivalent Regulations in Northern Ireland, the Regulations make provision for derogations from the despatch abroad prohibitions in respect of the Northern Ireland meat and products eligible for the Export Certified Herds Scheme and the despatch of meat, products and by-products produced in Great Britain from imported beef. The Regulations make further provision in respect of controls on products and by-products produced from UK-slaughtered bovine animals.

Regulation 3 makes provision in relation to the trade in live bovine animals and products and by-products derived from bovine animals. Regulation 3(1) prohibits the despatch from Great Britain to another member State or a third country (and bringing to any place in Great Britain or consigning for the purpose of such despatch) of bovine animals or bovine embryos, meat meal, bonemeal and meat and bonemeal derived from mammals and animal feed or fertiliser containing meat meal, bonemeal and meat and bonemeal derived from mammals. Regulation 3(2) provides that the prohibitions do not apply in respect of food for domestic carnivores containing mammalian meat meal, bonemeal and meat and bonemeal originating from outside the United Kingdom which has been prepared in an establishment approved under regulation 7 in accordance with the requirements of the approval.

Regulation 3(3) prohibits, subject to regulation 3(4) and (5), the despatch from Great Britain to a member State or a third country of meat derived from bovine animals slaughtered in the United Kingdom, products derived from such animals which are liable to enter the human food or animal feed chains or material derived from animals slaughtered in the United Kingdom which is destined for use in cosmetics or medical or pharmaceutical products. It also prohibits the bringing of any of those products, meat or materials to any place in Great Britain, or consigning them, for the purpose of despatch abroad. Regulation 3(4) provides that these prohibitions do not apply to eligible goods which satisfy the requirements applicable to those goods in regulation 3(7) of the Northern Ireland Regulations. Regulation 3(5) and regulation 5 make provision in relation to the despatch of “controlled bovine by-products”, defined in regulation 2(1), and the registration of establishments used for their production. Regulations 3(6) and 7 make provision in relation to the despatch from Great Britain to another member State or a third country of “relevant goods”, defined in regulation 2(1), and the approval of establishments used for their production.

Regulations 4(1) and (2) make provision in respect of the production of gelatin and collagen, derived from bovine animals, which are liable to enter the human food or animal feed chain or are destined for use in cosmetics or medical or pharmaceutical products. Regulation 4(3) prohibits the consignment of material containing bovine vertebral column to establishments registered under regulation 5. Regulation 4(4) provides for offences in relation to the despatch abroad of imported fresh meat, and its consignment and movement for that purpose, without an official veterinary certificate. Regulations 4(5) and (6) provide offences in relation to the consignment and movement of the imported products and by-products referred to in article 8(e) of the Council Decision (and raw materials for use in their production). Regulations 4(7) and (8) provide offences in relation to the consignment and movement of the products and by-products referred to in article 5 of the Council Decision. Regulation 4(9) prohibits the placing in the market in Great Britain of fresh meat, minced meat, meat preparations or meat products which bear, or are labelled or packaged with, an additional mark or the equivalent mark approved under the Northern Ireland Regulations.

Regulation 6 makes provision in relation to the use of controlled bovine by-products and other products in the production of products liable to enter the human food or animal feed chains or destined for use in cosmetics, medical or pharmaceutical products.

Regulation 8 makes provision for the Minister to charge reasonable fees in respect of costs reasonably incurred by him or on his behalf in connection with the issue of health certificates, the application of the additional mark and official seals, the registration and approval of establishments and the inspection or supervision of establishments registered or approved under the Regulations.

Regulation 9(1) confers on inspectors and customs officers powers to stop and search vehicles and vessels at ports. Regulation 9(2) confers powers on them to search vehicles and vessels at any place at which they reasonably suspect them of carrying goods which are illegal, as defined in regulation 9(5), for example goods which have been produced in contravention of the Regulations or the despatch of which to other member States or third countries is prohibited. Regulation 9(3) enables inspectors and customs officers to detain goods for up to 3 working days where they have exercised their powers of stop and search under regulation 9(1), or their power of search under regulation 9(2), and they reasonably suspect the goods may be illegal as defined in regulation 9(5). Regulation 9(4) provides that the goods detained shall be dealt with at the direction of the inspector or customs officer detaining them and at the expense of the person in control of the consignment.

Regulation 10 provides powers of entry to premises. Regulation 11 provides power to seize goods. It also makes provision for the destruction of a consignment of goods where there is a risk of them being dealt with illegally. Regulation 12 provides for sampling and other checks and examinations. Regulation 13 confers power on customs officers to detain vehicles and vessels. Regulation 14 makes provision for suspension notices and orders, suspending the use of business premises for the receipt or despatch of the goods referred to in regulation 14(1).

Regulation 15 provides offences of obstruction. Regulation 16 provides the penalties for the offences in regulations 14(4) and 14(5), provides that contravention of any other provision of the Regulations is an offence and provides the penalties on conviction of the offence. Regulation 17 makes provision in relation to offences by bodies corporate and Regulation 18 makes provision for offences due to the fault of another person and the defence of due diligence. Regulation 19 provides that the Regulations are enforced by the Minister and local authorities, as defined in regulation 2(1), and regulation 20 makes provision for the service of notices and other documents.

Schedule 1 sets out the required methods of operation for establishments preparing XAP relevant goods. Schedule 2 makes provision for the additional mark and Schedule 3 makes provision for official seals.

A Regulatory Appraisal has been prepared and placed in the library of each House of Parliament. Copies can be obtained from the International Trade Unit of the Animal Health (BSE) Division of the Ministry of Agriculture, Fisheries and Food, Government Buildings, Hook Rise South, Tolworth, Surbiton, Surrey KT6 7NF.