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STATUTORY INSTRUMENTS

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**1998 No. 955**

**AGRICULTURE**

**The Fertilisers (Mammalian Meat and Bone Meal)  
(Conditions of Manufacture) Regulations 1998**

<i>Made</i>	- - - -	<i>2nd April 1998</i>
<i>Laid before Parliament</i>		<i>3rd April 1998</i>
<i>Coming into force</i>	- -	<i>30th April 1998</i>

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated<sup>M1</sup>, for the purposes of section 2(2) of the European Communities Act 1972<sup>M2</sup> 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:

**Marginal Citations**

- M1** [S.I. 1972/1811.](#)  
**M2** [1972 c.68.](#)

**Title, extent and commencement**

1. These Regulations may be cited as The Fertilisers (Mammalian Meat and Bone Meal) (Conditions of Manufacture) Regulations 1998, shall extend to Great Britain and shall come into force on 30th April 1998.

**Interpretation**

2. In these Regulations—

“the appropriate Minister” means—

- (a) in relation to England, the Minister of Agriculture, Fisheries and Food; and
- (b) in relation to Scotland or Wales, the Secretary of State;

“authorised officer” means an officer appointed in accordance with regulation 9 below;

“local authority” means—

- (a) in England—
  - (i) as respects—

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- (aa) 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<sup>M3</sup>, or
  - (bb) each London borough, metropolitan district or non-metropolitan county, that authority or as the case may be the council of that London borough, metropolitan district or non-metropolitan county, except to the extent that any part of the local government area or as the case may be London borough, metropolitan district or non-metropolitan county concerned falls within the London Port Health District,
  - (ii) as respects the London Port Health District and the City of London, the Common Council of that City,
  - (iii) as respects the Isles of Scilly, the Council of the Isles of Scilly;
  - (b) as respects Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994<sup>M4</sup>;
  - (c) as respects Wales, the council of each county or county borough;
- “the London Port Health District” has the same meaning as in section 7(1) of the Public Health (Control of Disease) Act 1984<sup>M5</sup>;
- “mammalian meat and bone meal” means mammalian protein derived from the whole or part of any dead mammal by the process of rendering;
- “protein” means any proteinaceous material, except—
- (a) any milk product;
  - (b) dicalcium phosphate derived from bones;
  - (c) dried plasma or any other blood product;
  - (d) gelatin; or
  - (e) amino acids produced from hides and skins by a process which involves exposure of the material to acid of a pH lower than 2 followed by alkali of a pH greater than 11 and heat treatment at a minimum of 140°C for 30 minutes at a pressure of 3 bar.

#### Marginal Citations

- M3 1992 c.19.  
M4 1994 c.39.  
M5 1984 c.22.

### Prohibition in respect of the manufacture of mammalian meat and bone meal for use as or in fertilisers

3. No person shall manufacture mammalian meat and bone meal for use as or in any fertiliser except by a rendering process in which—

- (a) the particle size of the raw material prior to processing is reduced so that the maximum dimension of no particle exceeds 50 mm; and
- (b) the material is heated to a core temperature of more than 133°C for at least 20 minutes at a pressure of at least 3 bar.

## Powers of authorised officers

4.—(1) An authorised officer shall, on producing, if so required, a duly authenticated document showing his authority, have the right at all reasonable hours to enter any premises (other than premises used as a dwelling) for the purposes of ascertaining whether there is or has been on the premises any contravention of these Regulations; and in this regulation “premises” includes any place, installation, vehicle, ship, vessel, boat, craft, hovercraft or aircraft.

(2) An authorised officer entering any premises in accordance with paragraph (1) above may take with him such other persons acting under his instructions as he considers necessary.

(3) An authorised officer shall have powers to carry out all checks and examinations necessary for the enforcement of these Regulations, and in particular may—

- (a) take such samples (and, if necessary, send the samples for laboratory testing) as are necessary to ascertain whether the provisions of these Regulations have been or are being complied with;
- (b) examine, seize and retain documentary or other material relevant to the checks carried out under these Regulations;
- (c) (where any such material is kept in electronic form) require a printout of that material; and
- (d) take with him a representative of the European Commission acting for the purposes of Council Directive [90/667/EEC](#) laying down the veterinary rules for the disposal and processing of animal waste, for its placing on the market and for the prevention of pathogens in feedstuffs of animal or fish origin and amending Directive [90/425/EEC](#)<sup>M6</sup>, as amended on the date these Regulations are made.

### Marginal Citations

- M6** OJ No. L363, 27.12.90, p.51, as last amended by Council Decision 95/1/EC, Euratom, ECSC adjusting the instruments concerning the accession of new member States of the European Union (OJ No. L1, 1.1.95, p.1).

## Obstruction

5. 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 purposes of 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.

## Offences and Penalties

6.—(1) It shall be an offence for a person without reasonable excuse to fail to comply with the provisions of regulations 3 and 5 above.

(2) A person guilty of an offence under paragraph (1) above consisting of a failure to comply with regulation 5(a) or (b) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding three months or to both.

(3) A person guilty of any other offence under these Regulations shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or

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- (b) on conviction on indictment, to a fine.

### Offences by bodies corporate

7.—(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 officer 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 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 is committed by a Scottish partnership and 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 be liable to be proceeded against and punished accordingly.

### Time limit for prosecutions

8.—(1) Proceedings for an offence under regulation 6(1) above consisting of a failure to comply with regulation 5(b) or (c) above may, subject to paragraph (2) below, be commenced within the period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.

(2) No such proceedings shall be commenced by virtue of this regulation more than four years after the commission of the offence.

(3) For the purposes of this regulation—

- (a) a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact; and  
(b) a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

(4) In relation to proceedings in Scotland, section 136(3) of the Criminal Procedure (Scotland) Act 1995<sup>M7</sup> (date of commencement of proceedings) shall apply for the purposes of this regulation as it applies for the purposes of that section.

#### Marginal Citations

M7 1995 c.46.

### Appointment of authorised officers

9.—(1) The appropriate Minister and (to act in relation to that authority) the local authority may appoint any person to be an authorised officer for the purpose of these Regulations, and may suspend or revoke such appointment if it appears to the Minister or, in the case of an officer appointed by a local authority, to that local authority, that the person so appointed is unfit or unable to carry out the duties of an authorised officer.

(2) Any appointment, suspension or revocation made pursuant to paragraph (1) above shall be in writing.

(3) Any person appointed by a body under section 67(3)(a) of the Agriculture Act 1970<sup>M8</sup> shall be deemed to be a person appointed by that body under paragraph (1) above.

#### Marginal Citations

**M8** 1970 c.40. Section 67 was amended in its application to Wales by paragraph 38(5) of Schedule 16, and Schedule 18, to the [Local Government \(Wales\) Act 1994 \(1994 c.19\)](#) and in its application to Scotland by paragraph 85(2) of Schedule 13 to the [Local Government etc. \(Scotland\) Act 1994 \(1994 c.39\)](#). Section 67 is modified in its application to Northern Ireland by section 86 of the Agriculture Act 1970.

#### Enforcement

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

(2) The appropriate 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 him and not by the local authority.

30th March 1998

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

30th March 1998

*Sewel*  
Parliamentary Under Secretary of State, Scottish  
Office

Signed by authority of the Secretary of State for Wales

2nd April 1998

*Win Griffiths*  
Parliamentary Under Secretary of State, Welsh  
Office

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## EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give effect in part to Commission Decision [96/449/EC](#) on the approval of alternative heat treatment systems for processing animal waste with a view to the inactivation of spongiform encephalopathy agents (OJ No. L184, 24.7.96, p.43).

They provide that no person may manufacture mammalian meat and bone meal for use as or in fertilisers unless the mammalian meat and bone meal is subjected to certain minimum process conditions (which reflect the requirements of Decision 96/449)(*regulation 3*).

The Regulations—

**a)** make provision for the appointment by the appropriate Minister or the local authority of authorised officers for the purposes of the Regulations(*regulation 9*);

**b)** provide powers of inspection for such officers(*regulation 4*) and prohibit the obstruction of and other activities in relation to such officers acting in execution of these Regulations(*regulation 5*);

**c)** provide offences and penalties(*regulations 6 to 8*); and

**d)** provide that the Regulations shall be enforced by the local authority, subject to a power of the appropriate Minister to direct that in relation to a particular case or class of cases that enforcement be undertaken by him and not by the local authority(*regulation 10*).

A Regulatory Appraisal for these Regulations has been prepared and placed in the library of each House of Parliament. Copies can be obtained from the Food Contaminants Division of the Ministry of Agriculture, Fisheries and Food, Ergon House, 17 Smith Square, London SW1P 3JR.

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**Changes and effects yet to be applied to :**

- Regulations revoked by [S.S.I. 2002/255 Sch. 9 Pt. 1](#)
- Regulations revoked by [S.I. 2002/843 Sch. 9 Pt. 1](#)
- Regulations revoked by [S.I. 2002/1416 reg. 104\(1\)Sch. 9 Pt. 1](#)
- Regulations transfer of functions by [S.I. 2000/253 art. 2Sch. 1](#)