

**2001 No. 2376**

**AGRICULTURE**

**The Processed Animal Protein (England) Regulations 2001**

*Made* - - - - - *2nd July 2001*

*Laid before Parliament* *3rd July 2001*

*Coming into force* - - *1st August 2001*

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## SCHEDULES

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The Minister of Agriculture, Fisheries and Food, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Community, hereby makes the following Regulations—

### Title, extent and commencement

1.—(1) These Regulations may be cited as the Processed Animal Protein (England) Regulations 2001 and shall extend to England.

(2) These Regulations shall come into force on 1st August 2001.

### Interpretation

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

“animal by-product” has the same meaning as in the Animal By-Products Order 1999(c);  
“ABPO approved”, in relation to premises, means approved under article 7 of the Animal By-Products Order 1999, in accordance with article 5(2) of Council Directive 90/667/EEC(d) 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 feedingstuffs of animal or fish origin and amending Directive 90/425/EEC, for the purpose of rendering low risk animal by products; and “ABPO approval” shall be construed accordingly;

“animal waste” has the same meaning as in 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 feedingstuffs of animal or fish origin and amending Directive 90/425/EEC;

“the BSE (No.2) Order” means the Bovine Spongiform Encephalopathy (No. 2) Order 1996(e)

“catering waste” has the same meaning as in the Animal By-Products Order 1999;

“the Commission Decision” means Commission Decision 2001/9/EC(f) concerning control measures required for the implementation of Council Decision 2000/766/EC concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein;

“the Council Decision” means Council Decision 2000/766/EC(g) concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein;

“farmed animal” means an animal which is kept, fattened or bred for the production of food;

“inspector” means—

(a) a person appointed as such for the purposes of these Regulations by the Minister, including a veterinary inspector; and

(b) a person appointed as such for the purposes of these Regulations by a local authority in relation to its enforcement responsibilities under these Regulations;

“local authority” means—

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(a) S.I. 1972/1811.

(b) 1972 c. 68.

(c) S.I. 1999/646.

(d) OJ No. L363, 27.12.1990, p. 51.

(e) S.I. 1996/3183, amended by S.I. 1997/2387, S.I. 1998/3071 and S.I. 1999/921.

(f) OJ No. L2, 5.1.2001, p. 32.

(g) OJ No. L306, 7.12.2000, p. 32.

- (a) 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<sup>(a)</sup>, that authority;
  - (b) as respects each London borough, district or non-metropolitan county, the council of that borough, district or county;
  - (c) where there is a Port Health Authority, that authority in addition to the authority specified in paragraphs (a) or (b) above;
  - (d) as respects the City of London, the Common Council; and
  - (e) as respects the Isles of Scilly, the Council of the Isles of Scilly;
- “mammalian meat and bone meal” has the same meaning as in the BSE (No.2) Order;
- “the Minister” means the Minister of Agriculture, Fisheries and Food;
- “premises” includes any place, stall or moveable structure;
- “processed animal protein” means meat and bone meal, meat meal, bone meal, blood meal, dried plasma and other blood products, hydrolysed protein, hoof meal, horn meal, poultry offal meal, feather meal, dry greaves, fishmeal, dicalcium phosphate, gelatin and any other similar products including mixtures, feedingstuffs, feed additives and premixtures, containing these products; and
- “veterinary inspector” means a person appointed by the Minister as a veterinary inspector.

(2) Expressions in these Regulations which are not defined in paragraph (1) above and which appear in the Council Decision or the Commission Decision have the same meaning in these Regulations as they have for the purposes of those Decisions.

(3) For the purposes of these Regulations and their application, material shall be treated as a feedingstuff whether it is used or intended to be used as a feedingstuff by itself or as an ingredient in something which is so used or intended for such use.

(4) Any person appointed by the Minister or a local authority to be an inspector for the purposes of the Animal Health Act 1981 shall be deemed to have been appointed by the Minister or that authority to be an inspector for the purposes of these Regulations.

(5) Any reference in these Regulations to a Schedule or regulation is, unless the context otherwise requires, a reference to a Schedule to these Regulations or a regulation of these Regulations.

### **Application**

3.—(1) These Regulations apply in relation to processed animal protein intended for the feeding of animals (excluding humans).

- (2) These Regulations do not apply in relation to—
  - (a) catering waste; or
  - (b) eggs and egg products.

### **Feeding of processed animal protein to farmed animals**

4.—(1) Subject to paragraph (2) below, no person shall feed any processed animal protein to a farmed animal.

- (2) The prohibition in paragraph (1) above shall not apply to—
  - (a) the feeding to farmed animals other than ruminants of fishmeal—
    - (i) produced in England in premises approved under regulation 5 below, which are used in accordance with the conditions of the approval, and transported and intermediately stored in accordance with the conditions specified in paragraphs 1, 2 and 3 of Schedule 1;
    - (ii) produced in another part of the United Kingdom in premises approved by the competent authority of that part in accordance with Annex I to the Commission Decision, which are used in accordance with the conditions of the approval, and transported and intermediately stored in accordance with the conditions specified in that Annex;

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(a) 1992 c. 19.

- (iii) produced in another member State in premises approved by the competent authority of that member State in accordance with Annex I to the Commission Decision, which are used in accordance with the conditions of the approval, and transported and intermediately stored in accordance with the conditions specified in that Annex; or
- (iv) produced in a third country which—
  - before being sold or supplied in England, has been analysed in accordance with Commission Directive 98/88/EC(a);
  - is transported directly from the border inspection post in accordance with the conditions specified in paragraphs 4 and 5 of Schedule 1; and
  - is not intermediately stored otherwise than in accordance with the conditions of paragraph 3 of that Schedule;
- (b) the feeding to farmed animals of gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive 70/524/EEC(b) concerning additives in feedstuffs;
- (c) the feeding to farmed animals of dicalcium phosphate—
  - (i) produced in England in premises approved and used as mentioned in regulation 6 below;
  - (ii) produced in another part of the United Kingdom in premises approved by the competent authority of that part in accordance with the Commission Decision and used in accordance with that approval; or
  - (iii) produced in another member State in premises approved by the competent authority of that member State in accordance with the Commission Decision and used in accordance with that approval;
- (d) the feeding to farmed animals of hydrolysed protein—
  - (i) produced in England in premises approved and used as mentioned in regulation 7 below;
  - (ii) produced in another part of the United Kingdom in premises approved by the competent authority of that part in accordance with the Commission Decision and used in accordance with that approval; or
  - (iii) produced in another member State in premises approved by the competent authority of that member State in accordance with the Commission Decision and used in accordance with that approval; or
- (e) the feeding to farmed animals of milk and milk products.

#### **Production of fishmeal for feeding to farmed animals other than ruminants**

5.—(1) No person shall use any premises for the production of fishmeal for feeding to farmed animals other than ruminants unless—

- (a) the premises are approved for this purpose by the Minister under this regulation; and
- (b) transport and intermediate storage of fishmeal from the premises is in accordance with the conditions specified in paragraphs 1, 2 and 3 of Schedule 1.

(2) On an application made to him under this regulation for the approval of premises for the production of fishmeal for feeding to farmed animals other than ruminants, the Minister shall approve the premises for this purpose if, following an inspection of the premises by a veterinary inspector, he is satisfied that—

- (a) the premises will be dedicated only to fishmeal production;
- (b) the premises are ABPO approved; and
- (c) the person who will use the premises for the production of fishmeal for feeding to farmed animals other than ruminants will be able to maintain and use the premises in accordance with the ABPO approval and ensure that fishmeal is transported from the premises and intermediately stored in accordance with the conditions specified in paragraphs 1, 2 and 3 of Schedule 1.

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(a) OJ No. L318, 27.11.1988, p. 45.

(b) OJ No. L270, 14.12.1970, p. 1, as last amended by Directive 1999/70/EC (OJ No. L80, 25.3.1999, p. 20).

(3) The person carrying on any business at premises approved under this regulation shall ensure that—

- (a) the production of fishmeal at the premises is in accordance with the approval and in compliance with the provisions of this regulation subject to which the approval is granted;
- (b) any person employed by him, and any person invited to the premises, complies with those provisions; and
- (c) any inspector, and any person acting under the authority 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 premises 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.

#### **Production of dicalcium phosphate for feeding to farmed animals**

6.—(1) No person shall use any premises for the production of dicalcium phosphate for feeding to farmed animals unless—

- (a) the premises are approved for this purpose by the Minister under this regulation; and
- (b) the premises are used for this purpose in accordance with the conditions specified in Schedule 2.

(2) On an application made to him under this regulation for the approval of premises for the production of dicalcium phosphate for feeding to farmed animals, the Minister shall approve the premises for this purpose if, following an inspection of the premises by a veterinary inspector, he is satisfied that—

- (a) the premises are ABPO approved; and
- (b) the person who will use the premises for the production of dicalcium phosphate for feeding to farmed animals will be able to maintain and use the premises in accordance with the ABPO approval and the conditions specified in Schedule 2.

(3) The person carrying on any business at premises approved under this regulation shall ensure that—

- (a) the production of dicalcium phosphate at the premises is in accordance with the approval and in compliance with the provisions of this regulation and Schedule 2 subject to which the approval is granted;
- (b) any person employed by him, and any person invited to the premises, complies with those provisions; and
- (c) any inspector, and any person acting under the authority 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 premises 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.

#### **Production of hydrolysed protein for feeding to farmed animals**

7.—(1) No person shall use any premises for the production of hydrolysed protein for feeding to farmed animals unless—

- (a) the premises are approved for this purpose by the Minister under this regulation; and
- (b) the premises are used for this purpose in accordance with the conditions specified in Schedule 3.

(2) On an application made to him under this regulation for the approval of premises for the production of hydrolysed protein for feeding to farmed animals, the Minister shall approve the premises for this purpose if, following an inspection of the premises by a veterinary inspector, he is satisfied that—

- (a) the premises will be dedicated only to production of hydrolysed protein for feeding to farmed animals;
- (b) the premises are ABPO approved for the production of hydrolysed protein derived from fish, feather, hides and skins; and

- (c) the person who will use the premises for the production of hydrolysed protein for feeding to farmed animals will be able to maintain and use the premises in accordance with the ABPO approval and the conditions specified in Schedule 3.
- (3) The person carrying on any business at premises approved under this regulation shall ensure that—
- (a) the production of hydrolysed protein at the premises is in accordance with the approval and in compliance with the provisions of this regulation and Schedule 3 subject to which the approval is granted;
  - (b) any person employed by him, and any person invited to the premises, complies with those provisions; and
  - (c) any inspector, and any person acting under the authority 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 premises 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.

#### **Approval of premises, suspension and withdrawal of approval**

- 8.—(1) An application for approval of premises under regulations 5, 6 or 7 above –
- (a) for the production of fishmeal for feeding to farmed animals other than ruminants;
  - (b) for the production of dicalcium phosphate for feeding to farmed animals; or
  - (c) for the production of hydrolysed protein for feeding to farmed animals,
- shall be made in writing to the Minister by or on behalf of the person carrying on or proposing to carry on the business at the premises to which the application relates.
- (2) The Minister shall notify the applicant in writing of his decision on an application made to him in accordance with this regulation; and, if he refuses to approve the premises in respect of which an application is made, he shall notify the applicant in writing of his reasons for the refusal.
- (3) An approval of premises under regulations 5, 6 or 7 above shall specify—
- (a) the name and address of the person to whom the approval is granted and the address of the approved premises;
  - (b) the use of the premises for the description of production for which the approval is granted; and
  - (c) the conditions subject to which the approval is granted.
- (4) If in relation to any premises approved under regulations 5, 6 or 7 above it appears to the Minister that—
- (a) the premises are not ABPO approved;
  - (b) the premises are being used otherwise than in accordance with the approval under regulations 5, 6 or 7 above;
  - (c) any condition specified in a Schedule to these Regulations which relate to the approval of the premises under regulations 5, 6 or 7 above has not been complied with;
  - (d) inspection of the premises for the purposes of these Regulations is being hampered; or
  - (e) the production of fishmeal, dicalcium phosphate or hydrolysed protein at the premises in respect of which it is approved is no longer being carried on,
- he may decide to suspend or withdraw the approval of the premises relating to that use.
- (5) Where the Minister decides to suspend or withdraw an approval relating to any premises he shall give notice of the suspension or withdrawal to the person carrying on the business at the premises (or, in the case of a suspension or withdrawal under paragraph (4)(e) above, to the person formerly carrying on the business at the premises), and to any other person who appears to the Minister to be in current occupation of the premises.
- (6) A notice of suspension or withdrawal of an approval shall include the following information—
- (a) a summary of the decision of the Minister to suspend or withdraw the approval of the premises and the use of the premises for the description of production for which the approval is suspended or withdrawn;
  - (b) the reason for the suspension or withdrawal; and

- (c) the date on which the suspension or withdrawal takes effect (which may be the same date as the date on which the notice is issued).
- (7) The Minister shall not withdraw an approval unless—
- (a) it appears to him that—
    - (i) the person using or last using the premises for the description of production for which the approval is granted no longer wishes to carry on that use of the premises;
    - (ii) the description of production for which the premises are approved is no longer being carried on there;
    - (iii) if the approval is suspended, the person formerly using the premises, or any other person who in the Minister's opinion would use the premises for the description of production for which the approval is granted, will not use the premises in accordance with the approval or one or more of the conditions specified in the Schedules to these Regulations which relate to the approval; or
    - (iv) if the approval is not already suspended, a suspension would not enable the person using the premises for the description of production for which the approval is granted to take remedial action within a reasonable period after the suspension to enable the premises to be used in accordance with the approval or one or more of the conditions specified in a Schedule to these Regulations which relate to the approval; and
  - (b) he has given notice to the person using the premises for the description of production for which the approval is granted or, where the premises are not being used for that purpose, to the person last known to the Minister to be using the premises for that purpose, of his intention to withdraw the approval and has had regard to any representations made to him by that person in relation to that intention.
- (8) Where—
- (a) a suspension of an approval of premises under this regulation has taken effect; or
  - (b) an approval is withdrawn,

the premises shall be treated as if they were not approved for the description of production for which the approval was granted and in relation to which the approval is suspended or withdrawn.

- (9) The Minister shall lift a suspension of an approval where he is satisfied that—
- (a) the reason for the suspension no longer applies; and
  - (b) the person who would use the premises for the description of production for which the approval is granted will use the premises in accordance with the approval and the conditions specified in the Schedules to these Regulations which relate to the approval.

#### **Sale or supply of processed animal protein intended for the feeding of farmed animals**

9.—(1) Subject to paragraph (2) below, no person shall sell or supply any processed animal protein intended for the feeding of any farmed animal.

- (2) The prohibitions in paragraph (1) above shall not apply to the sale or supply of—
- (a) fishmeal referred to in regulation 4(2)(a) above for feeding to farmed animals other than ruminants;
  - (b) gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive 70/524/EEC concerning additives in feedingstuffs;
  - (c) dicalcium phosphate referred to in regulation 4(2)(c) above for feeding to farmed animals;
  - (d) hydrolysed protein referred to in regulation 4(2)(d) above for feeding to farmed animals; or
  - (e) milk and milk products.

#### **Trade with other member States**

10.—(1) Subject to paragraphs (2) and (3) below, no person shall send any processed animal protein to another member State.

- (2) If the conditions specified in paragraph (3) below are met, the prohibition in paragraph (1) above shall not apply—
- (a) to petfood referred to in chapter 4 of Annex I to Directive 92/118/EEC;
  - (b) to processed animal protein not intended for the feeding of any farmed animal;
  - (c) to fishmeal referred to in regulation 4(2)(a) above, transported and intermediately stored in accordance with Schedule 1, for feeding to farmed animals other than ruminants;
  - (d) to gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive 70/524/EEC concerning additives in feedingstuffs;
  - (e) to dicalcium phosphate referred to in regulation 4(2)(c) above, produced in accordance with Schedule 2, for feeding to farmed animals;
  - (f) to hydrolysed protein referred to in regulation 4(2)(d) above, produced in accordance with Schedule 3, for feeding to farmed animals; or
  - (g) to milk and milk products.
- (3) The conditions referred to in paragraph (2) above are—
- (a) the member State of destination—
    - (i) has authorised receipt of processed animal protein from the United Kingdom for the purposes of article 3(1)(a) of the Commission Decision; and
    - (ii) has authorised processed animal protein from the United Kingdom to be sent only to premises in the member State of destination other than premises producing feedingstuffs for farmed animals;
  - (b) the processed animal protein is accompanied by an official certificate as laid down in Annex V to the Commission Decision or, in the case of dicalcium phosphate or hydrolysed protein, an official certificate as laid down in Annex IV to the Commission Decision;
  - (c) the processed animal protein is—
    - (i) transported in sealed, covered containers or vehicles, in such a way as to prevent loss; and
    - (ii) conveyed directly to a petfood or feed plant in the member State of destination; and
  - (d) notice is given to a veterinary inspector by or on behalf of the person sending the processed animal protein in sufficient time and manner to enable the Minister to inform the competent authority of the member State of destination, in accordance with the ANIMO procedure established under Commission Decision 91/398/EEC(a) as applied for the purposes of the Commission Decision, of the place of destination of each consignment sent.
- (4) Where processed animal protein has been sent to another member State and the member State of destination, in accordance with the ANIMO procedure established under Commission Decision 91/398/EEC as applied for the purposes of the Commission Decision, has not informed the Minister that the consignment has arrived, the Minister shall immediately take the appropriate action which, in his opinion, is necessary or expedient for the purposes of article 3(1)(e) of the Commission Decision.
- (5) Subject to paragraphs (6) and (7) below, no person shall import any processed animal protein from another member State.
- (6) If the conditions specified in paragraph (7) below are met, the prohibitions in paragraph (5) above shall not apply—
- (a) to petfood referred to in chapter 4 of Annex I to Directive 92/118/EEC;
  - (b) to processed animal protein not intended for the feeding of any farmed animal;
  - (c) to fishmeal referred to in regulation 4(2)(a) above, transported and intermediately stored in accordance with Schedule 1, for feeding to farmed animals other than ruminants;
  - (d) to gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive 70/524/EEC concerning additives in feedingstuffs;
  - (e) to dicalcium phosphate referred to in regulation 4(2)(c) above, produced in accordance with Schedule 2, for feeding to farmed animals;

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(a) OJ No. L221, 9.8.1991, p. 30.



- (f) to hydrolysed protein referred to in regulation 4(2)(d) above, produced in accordance with Schedule 3, for feeding to farmed animals; or
  - (g) to milk and milk products.
- (7) The conditions referred to in paragraph (6) above are—
- (a) the Minister—
    - (i) has authorised receipt of processed animal protein from the member State for the purposes of article 3(1)(a) of the Commission Decision; and
    - (ii) has authorised processed animal protein from the member State to be sent only to premises in England other than premises producing feedingstuffs for farmed animals;
  - (b) before the processed animal protein is imported, the person who intends to import it has given notice of the proposed import to a veterinary inspector;
  - (c) the processed animal protein is accompanied by an official certificate as laid down in Annex V to the Commission Decision or, in the case of dicalcium phosphate or hydrolysed protein, an official certificate as laid down in Annex IV to the Commission Decision;
  - (d) the processed animal protein is—
    - (i) transported in sealed, covered containers or vehicles, in such a way as to prevent loss; and
    - (ii) conveyed directly to a petfood or feed plant in the member State of destination; and
  - (e) notice is given to a veterinary inspector by or on behalf of the person sending the processed animal protein in sufficient time and manner to enable the Minister to inform the competent authority of the member State of origin, in accordance with the ANIMO procedure established under Commission Decision 91/398/EEC as applied for the purposes of the Commission Decision, of the arrival of each consignment sent.

### **Trade with third countries**

**11.**—(1) Subject to paragraphs (2) and (3) below, no person shall export any processed animal protein to a third country.

(2) If the conditions specified in paragraph (3) below are met, the prohibition in paragraph (1) above shall not apply—

- (a) to petfood referred to in chapter 4 of Annex I to Directive 92/118/EEC;
- (b) to processed animal protein not intended for the feeding of any farmed animal;
- (c) to fishmeal referred to in regulation 4(2)(a) above, transported and intermediately stored in accordance with Schedule 1, for feeding to farmed animals other than ruminants;
- (d) to gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive 70/524/EEC concerning additives in feedingstuffs;
- (e) to dicalcium phosphate referred to in regulation 4(2)(c) above, produced in accordance with Schedule 2, for feeding to farmed animals;
- (f) to hydrolysed protein referred to in regulation 4(2)(d) above, produced in accordance with Schedule 3, for feeding to farmed animals; or
- (g) to milk and milk products.

(3) The conditions referred to in paragraph (2) above are—

- (a) the state of destination has entered into an agreement with the United Kingdom for the purposes of article 3(2)(a) of the Commission Decision –
  - (i) that processed animal protein imported from the United Kingdom is authorised to be sent only to premises other than premises producing feedingstuffs for farmed animals; and
  - (ii) that it will not authorise the export of processed animal protein imported from the United Kingdom unless it is incorporated in a product destined for final use as feed for animals which are not kept, fattened or bred for the production of food; and

- (b) the processed animal protein is accompanied by an official certificate as laid down in Annex V to the Commission Decision or, in the case of dicalcium phosphate or hydrolysed protein, an official certificate as laid down in Annex IV to the Commission Decision.

(4) Subject to paragraphs (5) and (6) below, no person shall import any processed animal protein from a third country.

(5) If the condition specified in paragraph (6) below are met, the prohibition in paragraph (4) above shall not apply—

- (a) to petfood referred to in chapter 4 of Annex I to Directive 92/118/EEC;
- (b) to processed animal protein not intended for the feeding of any farmed animal;
- (c) to fishmeal referred to in regulation 4(2)(a) above, transported and intermediately stored in accordance with Schedule 1, for feeding to farmed animals other than ruminants;
- (d) to gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive 70/524/EEC concerning additives in feedingstuffs;
- (e) to dicalcium phosphate referred to in regulation 4(2)(c) above, produced in accordance with Schedule 2, for feeding to farmed animals;
- (f) to hydrolysed protein referred to in regulation 4(2)(d) above, produced in accordance with Schedule 3, for feeding to farmed animals; or
- (g) to milk and milk products.

(6) The condition referred to in paragraph (5) above is that the processed animal protein is dealt with in accordance with the conditions laid down in article 8 of Directive 97/78/EC(a)

#### **Manufacture of feedingstuffs**

**12.**—(1) Subject to paragraph (2) below, no person shall manufacture any feedingstuff, including petfood, which is destined for animals other than farmed animals, and which contains processed animal protein, in premises which prepare feed for farmed animals.

(2) If any feedingstuff is produced with no processed animal protein other than fishmeal, dicalcium phosphate or hydrolysed protein, it may be manufactured in premises which prepare feed for farmed animals other than ruminants.

#### **Production of feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants**

**13.**—(1) Subject to paragraph (3) below, no person shall use any premises for the production of feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants if the premises are used for the preparation of feedingstuffs for ruminant animals.

(2) For the purposes of paragraph 6 of Annex I to the Commission Decision, premises manufacturing animal feed which are not used for the preparation of feedingstuffs for ruminant animals are authorised for the production of feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants.

(3) The prohibition in paragraph (1) above shall not apply to premises used for the preparation of feedingstuffs for ruminant animals which are used for the production of feedingstuffs containing fishmeal for feeding to other animal species if —

- (a) the fishmeal satisfies the requirements of regulation 4(2)(a) above;
- (b) the transport and storage of feed material destined for ruminant animals is completely separate from feed material prohibited for feeding to ruminant animals;
- (c) the storage, transport, manufacturing and packaging facilities for compound feedingstuffs destined for ruminant animals is completely separate; and
- (d) the person using the premises for the preparation of feedingstuffs for ruminant animals which are used for the production of feedingstuffs containing fishmeal for feeding to other animal species carries out routine tests on the feedingstuffs destined for ruminant animals to ensure that any processed animal protein the feeding of which to farmed animals is prohibited by regulation 4 above are not present in those feedingstuffs.

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(a) OJ No. L24, 30.1.1998, p. 9.

(4) No person shall produce any feedingstuff containing fishmeal for feeding to farmed animals other than ruminants unless the feedingstuff is labelled clearly to indicate the words “it contains fishmeal - cannot be fed to ruminant animals”.

(5) No person shall use any vehicle for the transport of bulk feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants at the same time as it is used for the transport of any feed for ruminant animals.

(6) Where a vehicle used for the transport of bulk feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants is subsequently used for the transport of other products, the person using the vehicle for the transport of the bulk feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants shall ensure it is thoroughly cleaned and inspected before and after the transport of those bulk feedingstuffs.

#### **Production of feedingstuffs containing dicalcium phosphate for feeding to farmed animals**

**14.—**(1) Subject to paragraph (3) below, no person shall use any premises for the production of feedingstuffs containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants if the premises are used for the preparation of feedingstuffs for ruminant animals.

(2) For the purpose of paragraph 3 of Annex II to the Commission Decision, premises manufacturing animal feed which are not used for the preparation of feedingstuffs for ruminant animals are authorised for the production of feedingstuffs containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants.

(3) The prohibition in paragraph (1) above shall not apply to premises used for the preparation of feedingstuffs for ruminant animals which are used for the production of feedingstuffs containing dicalcium phosphate from defatted bones for other animal species if—

- (a) the dicalcium phosphate satisfies the requirements of regulation 4(2)(c) above;
- (b) the transport and storage of feed material destined for ruminant animals is completely separate from feed material prohibited for feeding to ruminant animals;
- (c) the storage, transport manufacturing and packaging facilities for compound feedingstuffs destined for ruminant animals is completely separate; and
- (d) the person using the premises for the preparation of feedingstuffs for ruminant animals which are used for the production of feedingstuffs containing dicalcium phosphate from defatted bones for other animal species carries out routine tests on the feedingstuffs destined for ruminant animals to ensure that any processed animal protein the feeding of which to farmed animals is prohibited by regulation 4 above are not present in those feedingstuffs.

(4) No person shall produce any feedingstuff containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants unless the feedingstuff is labelled clearly to indicate the words “it contains dicalcium phosphate from defatted bones – cannot be fed to ruminant animals”.

(5) No person shall use any vehicle for the transport of bulk feedingstuffs containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants at the same time as it is used for the transport of any feed for ruminant animals.

(6) Where a vehicle used for the transport of bulk feedingstuffs containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants is subsequently used for the transport of other products, the person using the vehicle for the transport of the bulk feedingstuffs containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants shall ensure it is thoroughly cleaned and inspected before and after the transport of those bulk feedingstuffs.

#### **Production of feedingstuffs containing hydrolysed protein for feeding to farmed animals**

**15.—**(1) Subject to paragraph (3) below, no person shall use any premises for the production of feedingstuffs containing hydrolysed protein for feeding to farmed animals other than ruminants if the premises are used for the preparation of feedingstuffs for ruminant animals.

(2) For the purpose of paragraph 2 of Annex III to the Commission Decision, premises manufacturing animal feed which are not used for the preparation of feedingstuffs for ruminant animals are authorised for the production of feedingstuffs containing hydrolysed protein for feeding to farmed animals other than ruminants.

(3) The prohibition in paragraph (1) above shall not apply to premises used for the preparation of feedingstuffs for ruminant animals which are used for the production of feedingstuffs containing hydrolysed protein for other animal species if—

- (a) the hydrolysed protein satisfies the requirements of regulation 4(2)(d) above;
- (b) the transport and storage of feed material destined for ruminant animals is completely separate from feed material prohibited for feeding to ruminant animals;
- (c) the storage, transport manufacturing and packaging facilities for compound feedingstuffs destined for ruminant animals is completely separate; and
- (d) the person using the premises for the preparation of feedingstuffs for ruminant animals which are used for the production of feedingstuffs containing hydrolysed protein for other animal species carries out routine tests on the feedingstuffs destined for ruminant animals to ensure that any processed animal protein the feeding of which to farmed animals is prohibited by regulation 4 above are not present in those feedingstuffs.

(4) No person shall produce any feedingstuff containing hydrolysed protein for feeding to farmed animals other than ruminants unless the feedingstuff is labelled clearly to indicate the words “it contains hydrolysed protein – cannot be fed to ruminant animals”.

5) No person shall use any vehicle for the transport of bulk feedingstuffs containing hydrolysed protein for feeding to farmed animals other than ruminants at the same time as it is used for the transport of any feed for ruminant animals.

(6) Where a vehicle used for the transport of bulk feedingstuffs containing hydrolysed protein for feeding to farmed animals other than ruminants is subsequently used for the transport of other products, the person using the vehicle for the transport of the bulk feedingstuffs containing hydrolysed protein for feeding to farmed animals other than ruminants shall ensure it is thoroughly cleaned and inspected before and after the transport of those bulk feedingstuffs.

#### **Use and storage of feedingstuffs containing fishmeal, dicalcium phosphate or hydrolysed protein**

**16.**—(1) Subject to paragraph (2) below, no person shall use or store any feedingstuff, other than petfood referred to by chapter 4 of Annex I to Council Directive 92/118/EEC(a), containing any—

- (a) fishmeal;
- (b) dicalcium phosphate derived from defatted bones; or
- (c) hydrolysed protein,

on a farm where ruminant animals are kept, fattened or bred for the production of food.

(2) Paragraph (1) above shall not apply to the use or storage of any feedingstuff containing any fishmeal, dicalcium phosphate derived from defatted bones or hydrolysed protein on any farm where ruminant animals are kept if measures are implemented on the farm sufficient to prevent the feedingstuff being fed to those ruminant animals.

#### **Records relating to processed animal protein**

**17.**—(1) Any person who consigns processed animal protein shall keep for two years from the date of consignment (or, in the case of processed animal protein produced outside the United Kingdom, for two years from the date on which it was imported into the United Kingdom) a record indicating—

- (a) the date of consignment and the nature of the processed animal protein consigned;
- (b) the weight consigned and, unless consigned loose, the number and weight of the packages, pallets or other containers in which it is consigned;
- (c) the destination of the consignment;
- (d) the name and address of the consignee;
- (e) the registration number of the vehicle in which the consignment is transported; and
- (f) the name and address of the operator of that vehicle.

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(a) OJ No. L62, 15.3.1993, p. 49.

- (2) Any person receiving a consignment of processed animal protein shall keep for two years from the date of receipt of the consignment a record indicating
- (a) the date on which it was received and the nature of the processed animal protein received;
  - (b) its weight on receipt and, unless consigned loose, the number and weight of the packages, pallets or other containers in which it was consigned;
  - (c) the place from which it was consigned;
  - (d) the name and address of the person by whom it was consigned;
  - (e) the registration number of the vehicle in which it was consigned; and
  - (f) the name and address of the operator of that vehicle.
- (3) Any person receiving a consignment of processed animal protein shall keep for two years from the date of any use, disposal or further consignment a record indicating—
- (a) in the case of any use, the nature of the processed animal protein used and details of each use, the weight of any part of the consignment incorporated into a product and the nature and date of manufacture of any such product;
  - (b) in the case of disposal, the weight disposed of, the date of such disposal, and the place in which, method by which and name of the person by whom it was disposed of; and
  - (c) in the case of further consignment, the information required by paragraph (1) above.
- (4) Any person who controls a vehicle in which processed animal protein is transported shall keep, for two years from the date on which transport of a particular consignment of such protein commenced (or, in the case of an import, from the date on which that material entered England), a record of—
- (a) the person and place from which that consignment was transported and the nature of the processed animal protein consigned;
  - (b) the date on which it was collected from that person;
  - (c) the weight consigned and, unless consigned loose, the number and weight of the packages, pallets or other containers in which it is consigned;
  - (d) the registration number, and the name and address of the driver, of the vehicle in which it was transported and, if the vehicle includes a trailer, the number of the trailer;
  - (e) the person and place to which it was to be or was delivered; and
  - (f) the date or intended date of delivery to that person.
- (5) The driver of a vehicle in which a consignment of processed animal protein is transported shall have a document recording the information required by paragraph (4) above in his possession at all times when he is in charge of that vehicle.
- (6) In relation to a vehicle not having a registration number, the requirement to keep a record of the registration number pursuant to paragraphs (1)(e), (2)(e) and (4)(d) above shall be a requirement to keep such details as permit the identification of the vehicle in which the consignment was transported.

### **Powers of entry**

**18.**—(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 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) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it, may take with him such other persons as he considers necessary, and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectively secured against unauthorised entry as he found them.

### **Sampling and other checks and examinations**

**19.**—(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 protein, feed or feedingstuff;
- (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 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) inspect any production, storage, transport or other operation carried out under these Regulations and anything used for the marking and identification of protein, feed or feedingstuff; and
- (f) take with him a representative of the Commission acting for any purposes of the Commission related to these Regulations.

### **Obstruction**

**20.**—(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**

**21.**—(1) A person contravening or failing to comply with any provision of these Regulations, shall be guilty of an offence and shall be liable—

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

(2) 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.

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

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

**22.**—(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**

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

**24.**—(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.

**Amendment of the Bovine Spongiform Encephalopathy (Feeding Stuffs and Surveillance) Regulations 1999**

**25.**—(1) The Bovine Spongiform Encephalopathy (Feeding Stuffs and Surveillance) Regulations 1999<sup>(a)</sup> shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1) after the definition of “premises” there shall be inserted the following definition –

““processed animal protein” has the same meaning as in the Processed Animal Protein (England) Regulations 2001<sup>(b)</sup>”.

(3) In regulation 3, for paragraph (1) there shall be substituted the following paragraph—

“(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 and there take such samples—

(a) as are necessary to enable the Official ELISA tests for the identification of ruminant protein in feedingstuff intended for ruminants to be carried out; or

(b) of any protein, feed or feedingstuff, whether or not intended for ruminants, as are necessary to enable—

(i) the Official ELISA tests to be carried out for the identification of ruminant protein; or

(ii) tests to be carried out for the identification of processed animal protein, or the identification of any type or description of processed animal protein,

in the protein, feed or feeding stuff.”.

2nd July 2001

*Margaret Beckett*  
Minister of Agriculture, Fisheries and Food

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<sup>(a)</sup> S.I. 1999/882.  
<sup>(b)</sup> S.I. 2001/2376.



**CONDITIONS FOR THE TRANSPORT OF FISHMEAL FOR FEEDING TO FARMED ANIMALS OTHER THAN RUMINANTS**

1. Fishmeal for use in the manufacture of feed for farmed animals other than ruminants shall be transported directly from the premises where the fishmeal is produced to the premises manufacturing the animal feed by means of a vehicle which at the same time is not used for the transport of other feed materials.
2. If a vehicle used for the transport of fishmeal for use in the manufacture of feed for farmed animals other than ruminants is subsequently used for the transport of other products, it shall be thoroughly cleaned and inspected before and after the transport of the fishmeal.
3. Intermediate storage of fishmeal is allowed only if it is carried out in dedicated storage plants.
4. Fishmeal imported from a third country for use in the manufacture of feed for farmed animals other than ruminants shall be transported directly from the border inspection post in accordance with the conditions laid down in article 8 of Council Directive 97/78/EC(a) to the establishment manufacturing the animal feed by means of a vehicle which at the same time is not used for the transport of other feed materials.
5. If a vehicle used for the transport of fishmeal imported from a third country for use in the manufacture of feed for farmed animals other than ruminants is subsequently used for the transport of other products, it shall be thoroughly cleaned and inspected before and after the transport of the fishmeal.

**SCHEDULE 2**

Regulation 6

**CONDITIONS FOR THE PRODUCTION OF DICALCIUM PHOSPHATE FOR FEEDING TO FARMED ANIMALS**

1. Dicalcium phosphate for feeding to farmed animals shall be produced from defatted bones.
2. The dicalcium phosphate shall be derived from bones derived from animals fit for human consumption following ante- and post-mortem inspection.
3. The dicalcium phosphate shall be produced by a process which ensures that all bone material is finely crushed and degreased with hot water and treated with dilute hydrochloric acid (at a minimum concentration of 4% and pH < 1.5) over a period of at least two days followed by a treatment of the obtained phosphoric liquor with lime, resulting in a precipitate of dicalcium phosphate at pH 4 to 7, which is finally air dried with inlet temperature of 65°C-325°C and end temperature between 30°C-65°C or by an equivalent process approved in accordance with the procedure of article 17 of Council Directive 89/662/EEC(b) concerning veterinary checks in intra-Community trade with a view to the completion of the internal market.

**SCHEDULE 3**

Regulation 7

**CONDITIONS FOR THE PRODUCTION OF HYDROLYSED PROTEIN FOR FEEDING TO FARMED ANIMALS**

1. Hydrolysed protein from hides and skins shall –
  - (a) be derived from hides and skins obtained from animals which have been slaughtered in a slaughterhouse and whose carcasses have been found fit for human consumption following ante- and post-mortem inspection; and
  - (b) be produced by a production process which involves appropriate measures to minimise contamination of hides and skins, preparation of the raw material by brining, liming and intensive washing followed by exposure of the material to a pH of > 11 for > 3 hours at temperature > 80°C and followed by heat treatment at > 140°C for 30 minutes at > 3.6 bar; or by an equivalent production process approved in accordance with the procedure of article 17 of Council Directive 89/662/EEC(c) concerning veterinary checks in intra-Community trade with a view to the completion of the internal market.
2. Hydrolysed protein from fish, feather, hides and skins shall be sampled after processing and found to have a molecular weight below 10,000 Dalton.

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(a) OJ No. L24, 30.1.1998, p. 9.

(b) OJ No. L395, 30.12.1989, p. 13, as last amended by Directive 1992/118/EEC (OJ No. L62, 15.3.1993, p. 49).

(c) OJ No. L395, 30.12.1989, p. 13, as last amended by Directive 1992/118/EEC (OJ No. L62, 15.3.1993, p. 49).

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations give effect in England to Council Decision 2000/766/EC (OJ No. L 306, 7.12.2000, p.32) concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein and Commission Decision 2001/9/EC (OJ No. L 2, 5.1.2001, p.32) concerning control measures required for the implementation of Council Decision 2000/766/EC.

Regulation 2 contains definitions. These include a definition of farmed animal as an animal which is kept, fattened or bred for the production of food. Regulation 3 provides that the Regulations apply in relation to processed animal protein intended for the feeding of farmed animals and that the Regulations do not apply in relation to catering waste or eggs and egg products.

Subject to exceptions, regulation 4 prohibits the feeding of processed animal protein to farmed animals. Regulation 5 and Schedule 1 make provision in relation to the production of fishmeal for feeding to farmed animals other than ruminants; this includes provision for the approval of premises, the use of premises and the transport, including intermediate storage, of fishmeal from approved premises. Regulations 6 and 7 and Schedules 2 and 3 make similar provision respectively in relation to the production of dicalcium phosphate and hydrolysed protein for feeding to farmed animals.

Regulation 8 makes provision for approval of premises, suspension and withdrawal of approval. Regulation 9 makes provision for the sale or supply of processed animal protein intended for the feeding of farmed animals. Regulation 10 regulates trade with other member States and regulation 11 regulates trade with third countries.

Regulation 12 makes provision for the manufacture of feedingstuffs. Regulation 13 makes provision for the production of feedingstuffs containing fishmeal for feeding to farmed animals other than ruminants. Regulation 14 makes provision for the production of feedingstuffs containing dicalcium phosphate for feeding to farmed animals. Regulation 15 makes provision for the production of feedingstuffs containing hydrolysed protein for feeding to farmed animals. Regulation 16 makes provision for the use and storage of feedingstuffs containing fishmeal, dicalcium phosphate or hydrolysed protein.

Regulation 17 imposes requirements in respect of records relating to processed animal protein and regulation 18 makes provision in respect of powers of entry. Regulation 19 provides for sampling and other checks and examinations. Regulation 20 provides offences of obstruction and regulation 21 makes provision for offences and penalties. Regulation 22 makes provision for offences due to the fault of another person and the defence of due diligence.

Regulation 23 makes provision for enforcement of the Regulations, regulation 24 makes provision for the service of notices and other documents and regulation 25 amends the Bovine Spongiform Encephalopathy (Feeding Stuffs and Surveillance) Regulations 1999.

A Regulatory Impact Assessment has been prepared and placed in the library of each House of Parliament. Copies can be obtained from the BSE Division of the Department for Environment, Food and Rural Affairs, 1A Page Street, London SW1P 4PQ.



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