
STATUTORY INSTRUMENTS

2002 No. 843

The TSE (England) Regulations 2002

PART IV

SPECIFIED RISK MATERIAL

Administration and Enforcement

Records

69.—(1) Any person who consigns any specified risk material for transport from any premises shall make on consignment a record of each consignment showing—

- (a) the date on which the specified risk material was consigned from the premises;
- (b) the quantity, weight and description of the material;
- (c) the destination to which it was consigned; and
- (d) the name of the haulier transporting it.

(2) Any person who transfers any specified risk material from any part of any premises licensed for the removal, collection, disposal or destruction of any specified risk material to another part of the premises shall make on transfer a record of each transfer showing the date on which the specified risk material was transferred and the quantity and description of the material transferred.

(3) A person who collects any specified risk material from any premises for the purpose of transporting it shall make on collection a record showing—

- (a) the address of the premises from which the material was collected;
- (b) the date on which the material was collected;
- (c) the quantity, weight and description of the material; and
- (d) the destination to which it is to be taken,

and shall ensure this record accompanies the specified risk material during transport.

(4) A person who receives any specified risk material collected from any premises shall make on receipt a record showing—

- (a) the address of the premises from which the material was collected;
- (b) the date on which the material is received;
- (c) the quantity, weight and description of the material; and
- (d) name and address of the person who transported it.

(5) In addition to any records he is required to make under paragraph (1) and (4) above, an occupier of rendering premises shall make a record of any specified risk material he renders at the premises showing—

- (a) the quantity and weight rendered and the date of rendering;
- (b) the temperature of the material achieved during rendering;

- (c) in a batch system, the time for which the material was rendered;
- (d) the particle size to which the material was reduced before rendering;
- (e) if appropriate, the pressure to which the by-products is subjected during rendering;
- (f) if appropriate, the feed rate of the material;
- (g) if appropriate, the fat re-cycling rate;
- (h) the quantity, weight and description of rendered material produced;
- (i) in the case of all rendered material -
 - (i) the method of disposal;
 - (ii) the quantity and weight disposed of;
 - (iii) the date of disposal;
 - (iv) the name of the person transporting it for disposal; and
 - (v) the address of the disposal premises.

(6) Any record required to be made under this regulation shall be kept by or on behalf of the person who is required to make it for a period of two years from the date on which the record is made.

Cleansing and disinfection

70.—(1) If an inspector suspects that any vehicle, container or premises constitute a disease risk he may serve a notice on the person in charge of the vehicle or container, or on the occupier of the premises, requiring that person to cleanse and disinfect, at his own expense and in such a manner and within such period as may be specified in the notice,—

- (a) all or any part of the vehicle, container or premises; or
- (b) any equipment or any other thing used in connection with any such vehicle, container or premises.

(2) The notice may—

- (a) specify the method of disposal of any specified risk material remaining in the vehicle, container or premises; and
- (b) prohibit the movement of specified risk material into the vehicle or container or on to the premises until such time as the required cleansing and disinfection has been satisfactorily completed.

(3) If any person on whom a notice is served under paragraph (1) above fails to comply with the requirements of the notice, an inspector may, without prejudice to any proceedings arising out of such default, carry out or cause to be carried out the requirements of the notice, and the amount of any expenses reasonably incurred by the inspector in doing so shall be recoverable from the person in default by the authority on whose behalf the inspector served the notice.

Powers of inspectors

71.—(1) An inspector may make such enquiries and carry out such investigations as he considers necessary for any purpose connected with the administration or enforcement of this Part of these Regulations.

(2) An inspector shall, on producing, if required to do so, some duly authenticated document showing his authority, have the right at all reasonable times to enter any premises (excluding premises used only as a dwelling) to—

- (a) ascertain whether any—
 - (a) TSE susceptible animal; or

- (b) any specified risk material, is being or has been kept on the premises;
- (b) ascertain whether—
 - (i) any TSE exists or has existed on the premises or any other premises; or
 - (ii) any animal which is being kept on the premises or has been kept on the premises is, or was at the time it was kept there, affected with any TSE;
- (c) collect, pen, inspect and examine any TSE susceptible animal and for this purpose may require the keeper of any such animal to arrange for the collection and penning of the animal;
- (d) inspect and examine—
 - (i) specified risk material; or
 - (ii) the carcase of any TSE susceptible animal;
- (e) take such samples from, and make such tests in relation to, any—
 - (i) TSE susceptible animal;
 - (ii) carcase of such an animal;
 - (iii) specified risk material or any other material appearing to him to be derived from an animal;
 - (iv) food or feedingstuff;
 - (v) cosmetic, pharmaceutical or medical product,as he considers necessary;
- (f) mark for identification purposes any specified risk material or TSE susceptible animal, or the carcase of such an animal;
- (g) serve on the person in charge of a TSE susceptible animal, or the person in possession of the carcase of any such animal or in possession of any specified risk material, a notice—
 - (i) to restrict or prohibit the movement of the TSE susceptible animal, carcase or specified risk material; or
 - (ii) in respect of any such carcase or specified risk material, to require the person to dispose of the carcase or specified risk material in the manner and period specified in the notice;
- (h) issue a licence in connection with the movement of any specified risk material, TSE susceptible animal or the carcase or such an animal;
- (i) seize any specified risk material, TSE susceptible animal or the carcase of such an animal;
- (j) serve a notice requiring any cleansing and disinfection or carry out or cause to be carried out any cleansing and disinfection;
- (k) serve any notice—
 - (i) in connection with the seizure of any specified risk material, TSE susceptible animal or the carcase of such an animal; or
 - (ii) under regulation 72(1) or (2) below;
- (l) inspect—
 - (i) any part of the premises; or
 - (ii) any equipment at the premises;
- (m) inspect any facility, operation or procedure at the premises, including—
 - (i) any means of preparing, manufacturing, treating (including subjecting to heat or cold) food or specified risk material; or

- (ii) any facility, operation or procedure at the premises in connection with the removal, collection, transport, disposal or destruction of specified risk material;
 - (n) serve any licence, suspension of a licence, withdrawal of a licence or revocation of a licence under this Part of these Regulations;
 - (o) give any direction under regulation 73 below;
 - (p) slaughter any TSE susceptible animal or serve any notice in connection with the slaughter of the animal;
 - (q) examine any record, in whatever form the record may be held, and take copies of the record;
 - (r) have access to, and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with any record; and for this purpose may require any person who has charge of or who is otherwise concerned with the operation of the computer, apparatus or material to afford to him such assistance as he may reasonably require and, where a record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away; or
 - (s) ascertain whether there is or has been any contravention of, or failure to comply with, this Part of these Regulations or Schedule V to these Regulations or any evidence of any such contravention or failure.
- (3) No person except an inspector shall remove or otherwise interfere with any mark applied under paragraph (2)(f) above.
- (4) If a justice of the peace, on sworn information in writing, is satisfied that there is reasonable ground for an inspector to enter any premises (excluding premises used only as a dwelling) for any purpose mentioned in paragraph (2) above and either—
- (a) admission to the premises has been refused, or a refusal is expected, 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 is absent,
- he may issue a warrant authorising an inspector to enter the premises for that purpose if need be by reasonable force.
- (5) The occupier of premises entered by an inspector under this regulation or by virtue of a warrant issued under it, and his employees and any person on the premises who is or has been in possession or charge of any specified risk material, or any animal or carcase, which is or has been on the premises, shall—
- (a) provide such reasonable facilities and reasonable assistance to the inspector and comply with such reasonable requirements as the inspector considers necessary for any purpose connected with the administration or enforcement of this Part of these Regulations; and
 - (b) if required by an inspector, give such information as he possesses as to—
 - (i) any specified risk material, or any animal or carcase which is or has been on the premises;
 - (ii) any animal or carcase with which any specified risk material, or any animal or carcase, which is or has been on the premises may have come into contact; and
 - (iii) the location, transport and movement of any specified risk material, or any animal or carcase, which is or has been in his possession or charge.
- (6) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it may take with him—

- (a) such other persons as he considers necessary to give him such assistance as he considers necessary; and
 - (b) a representative of the European Commission acting for the purpose of the Community TSE Regulation or the Community Transitional Measures; and
- (7) If an inspector enters any unoccupied premises he shall leave them as effectively secured against unauthorised entry as he found them.

Recall, seizure and destruction of feedingstuffs

72.—(1) An inspector may serve on any person in whose possession is found any feedingstuff containing specified risk material, except a feedingstuff prepared for use at premises licensed for that use under regulation 56 above, a notice requiring that person to dispose of the feedingstuff, and any other feedingstuff or material with which it has come into contact, in such manner and within such period as may be specified in the notice.

(2) An inspector may serve on any person who has sold or supplied any feedingstuff containing specified risk material a notice requiring that person to collect that feedingstuff at his own expense from the person to whom he supplied or sold it, or from such other person to whom it may have subsequently been supplied or sold, and to transport it to such place and dispose of it within such time as may be specified in the notice.

(3) If any person on whom a notice is served under paragraph (1) or (2) above fails to comply with the requirements of the notice, an inspector may, without prejudice to any proceedings arising out of such default, carry out or cause to be carried out the requirements of the notice.

(4) The amount of any expenses reasonably incurred by or on behalf of an inspector acting pursuant to paragraph (3) above shall be recoverable as a debt from the person in default by the authority on whose behalf the inspector served the notice.

Directions

73.—(1) If the Secretary of State or the Agency is satisfied that specified risk material cannot be disposed of under the provisions of these Regulations, whether for reasons of mechanical breakdown of equipment or otherwise, the Secretary of State or the Agency respectively may give written directions to the owner or person in control of the specified risk material for its disposal in a safe manner.

(2) In the event of any person not complying with such a direction given by the Secretary of State, the Secretary of State may make arrangements for the disposal of the specified risk material.

(3) In the event of any person not complying with such a direction given by the Agency, the Agency may make arrangements for the disposal of the specified risk material.

(4) The expenses of the Secretary of State or the Agency under paragraph (2) or (3) above shall be recoverable as a debt from the person who has failed to comply with the direction.

Compliance with notices

74.—(1) Any notice served under this Part of these Regulations shall be complied with at the expense of the person on whom the notice is served.

(2) If a notice under this regulation is not complied with, an inspector may arrange for it to be complied with and any costs reasonably incurred by an inspector in respect of such an arrangement shall be recoverable as a debt from the person who has failed to comply with the notice.

Slaughterhouse staff training

75. The occupier of any slaughterhouse where specified risk material is removed from carcasses pursuant to this Part of these Regulations shall arrange or establish in consultation with an OVS a staff training programme to train staff to comply with those requirements of this Part of these Regulations which they perform at the slaughterhouse.

Occupier's duty and offences

76.—(1) An occupier of any premises used for the purposes of a business in course of which any commercial operation with respect to food or food sources is carried out shall take all practicable steps to secure compliance by any of his employees with the provisions of these Regulations which apply to those operations in relation to those premises.

(2) If any person contravenes or fails to comply with—

- (a) paragraph (1) above;
- (b) a direction of the Secretary of State or the Agency under regulation 73 above;
- (c) a notice under regulation 74 above; or
- (d) any other prohibition or requirement imposed by or under this Part of these Regulations,

he shall be guilty of an offence.

(3) A person guilty of an offence under this regulation 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.

(4) No prosecution for an offence under any of the provisions referred to in paragraph (2) above shall be begun after the expiry of—

- (a) three years from the commission of the offence; or
- (b) one year from its discovery by the prosecutor,

whichever is the earlier.

(5) In this regulation “commercial operation” and “food source” have the same meanings as in the Food Safety Act 1990.

Inspection and seizure of suspected food

77.—(1) The following provisions of the Food Safety Act 1990 shall apply for the purposes of this Part of these Regulations as they apply for the purposes of sections 8, 14 or 15 of that Act and, unless the context otherwise requires, any reference in them to the Act shall be construed as a reference to this Part of these Regulations—

- (a) section 9 (inspection and seizure of suspected food), subject to the modification that it shall apply to an inspector as it applies to an authorised officer of a food authority;
- (b) section 30(8) (evidence of certificate of analysis or examination); and
- (c) section 44 (protection of officers acting in good faith), subject to the modifications that it shall apply to a person—
 - (i) appointed as an inspector for the purpose of these Regulations by a local authority or the Agency; or
 - (ii) designated as an inspector in accordance with regulation 8(2) of the Fresh Meat (Hygiene and Inspection) Regulations 1995, and

as it applies to an authorised officer of a food authority.

(2) On an inspection for the purposes of this Part of these Regulations of any food intended for human consumption an inspector may certify that the food fails to comply with a provision of this Part.

(3) Where any food is certified as mentioned in paragraph (2) above it may be treated for the purposes of section 9 of the Food Safety Act 1990 as failing to comply with food safety requirements.