
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in England, revoke and re-make the Animal By-Products Regulations 2003, which made provision in England for the administration and enforcement of Regulation (EC) No 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption (OJNo. L273, 10.10.2002, p1.) (“the Community Regulation”).

They enforce additional Community instruments These instruments supplement and further amend the Community Regulation and make further transitional measures.

The Regulations also remove Community transitional measures that are now spent.

In addition, the Regulations repeal those provisions of the Slaughterhouses Act 1974 relating to knackers' yards in so far as they apply in England, as knackers' yards are now regulated under these Regulations.

They repeal section 6 of the Dogs Act 1906 in so far as it applies in England, which related to leaving carcasses in such a way that dogs could gain access to them, and replace it with a provision in regulation 11 regulating access of all animals to animal by-products.

They also revoke the Rendering (Fluid Treatment) (England) Order 2001 and replace it with Schedule 2 to these Regulations.

The amending and transitional instruments are—

- (a) Commission Regulation (EC) No. 808/2003 amending Regulation (EC) No. 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption (1);
- (b) Commission Regulation (EC) No. 811/2003 implementing Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the intra-species recycling ban for fish, the burial and burning of animal by-products and certain transitional measures(2);
- (c) Commission Regulation (EC) No. 813/2003 on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the collection, transport and disposal of former foodstuffs(3);
- (d) Commission Decision 2003/326/EC on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the separation of Category 2 and Category 3 oleochemical plants(4);
- (e) Commission Decision 2004/407/EC on transitional sanitary and certification rules under Regulation (EC) No 1774/2002 of the European Parliament and of the Council as regards import from certain third countries of photographic gelatine(5);

(1) OJ No. L117, 13.5.2003, p. 1.

(2) OJ No. L117, 13.5.2003, p. 14.

(3) OJ No. L117, 13.5.2003, p. 22.

(4) OJ No. L117, 13.5.2003, p. 42.

(5) OJ No. L 151,30.4.2004, p. 11 as corrected by a Corrigendum published in the Official Journal at OJ No. L208, 10.6.2004, p. 9 and as further corrected by a Corrigendum published in the Official Journal at OJ No. L 396, 31.12.2004, p. 63.

Status: This is the original version (as it was originally made).

- (f) Commission Regulation (EC) No 668/2004 amending certain Annexes to Regulation (EC) No 1774/2002 of the European Parliament and of the Council, as regards the importation from third countries of animal by-products(6);
- (g) Commission Regulation (EC) No. 878/2004 laying down transitional measures in accordance with Regulation (EC) No 1774/2002 for certain animal by-products classified as Category 1 and 2 materials and intended for technical purposes(7);
- (h) Commission Regulation (EC) No. 79/2005 implementing Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the use of milk, milk-based products and milk-derived products, defined as Category 3 material in that Regulation(8).
- (i) Commission Regulation (EC) No. 92/2005 implementing Regulation (EC) No 1774/2002 of the European Parliament and the Council as regards means of disposal or uses of animal by-products and amending its Annex VI as regards biogas transformation and processing of rendered fats(9);
- (j) Commission Regulation (EC) No. 93/2005 amending Regulation (EC) No 1774/2002 of the European Parliament and the Council as regards processing of animal by-products of fish origin and commercial documents for the transportation of animal by-products(10).

Provision in England for the administration and enforcement of measures in the Community Regulation in relation to import, export and trade between member States is made by separate instruments.

The Regulations provide as follows.

It is a specific offence to categorise, collect, transport, dispose, store, process or use, category 1, category 2 or category 3 material other than in accordance with the Community Regulation (regulations 4, 5 and 6). A mixture of mammalian and non-mammalian by-products are to be treated as mammalian by-products (regulation 7).

It is a specific offence to collect, transport, identify or store animal by-products other than in accordance with the Community Regulation (regulation 8).

Regulations 9 and 10 enforce the restrictions on the feeding of catering waste and processed animal protein in Article 22 of the Community Regulation. Additionally regulation 9 prohibits the feeding to farmed animals of other unprocessed animal by-products.

Regulation 11 restricts access to catering waste and other animal by-products.

Regulation 12 enforces the restrictions in Article 22 of the Community Regulation on the application of organic fertiliser to pasture land.

Regulations 13 to 15 provide for the approval of premises for the different types of treatment of animal by-products. Regulation 16 provides that composting on premises where the composted material originated does not need approval if the conditions of that regulation are complied with.

Regulations 17 to 21 provide for checks at plants, sampling and approved laboratories.

Regulations 22 to 24 regulate the placing on the market of various products derived from animal by-products.

Regulations 25 to 27 provide derogations relating to the use of animal by-products for taxidermy and feeding certain specified animals. Regulation 28 permits the burial of pet animals.

(6) OJ No. L112, 19.4.2004, p.1.

(7) OJ No. L162, 30.4.2004, p. 62.

(8) OJ No. L16, 20.1.2005, p. 46.

(9) OJ No. L19, 21.1.2005, p. 27.

(10) OJ No. L19, 21.1.2005, p. 34.

Regulation 29 permits burial and burning in remote areas, which are defined as Lundy Island and the Isles of Scilly. Regulations 30 and 31 provide for burial or burning in the event of a disease outbreak and for burning and burial of bees and apiculture products.

Regulations 32 to 39 provide for record keeping.

Regulations 40 to 42 provide for applications for approvals, authorisations and registrations, their suspension or revocation and for representations against a notice to amend, suspend or revoke them.

Under Regulations 43 to 45 an inspector can serve a notice requiring the disposal of animal by-product or catering waste and requiring cleansing and disinfection of any vehicle, container or premises. Any notice served under these Regulations shall be complied with at the expense of the person on whom the notice is served.

Regulations 46 and 47 provide powers of entry and an offence of obstructing an inspector.

The Regulations are enforced by the local authority except in specified premises (regulation 49).

Regulations 50 to 52 provide for transitional measures for technical products, photographic products from gelatine and milk (which do not have an expiry date).

Schedule 1 makes provision for biogas and composting plants.

Schedule 2 makes provision for the disposal of fluid from rendering ruminant animal by-products.

Schedule 3 provides for testing methods.

Schedule 4 contains transitional provisions relating to the disposal of former foodstuffs and to oleochemical plants (which do have an expiry date).

Breach of the Regulations is an offence punishable on summary conviction to a fine up to the statutory maximum or three months imprisonment. On indictment the penalty is an unlimited fine or two years imprisonment (regulation 48)

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