
WELSH STATUTORY INSTRUMENTS

2002 No. 1416

The TSE (Wales) 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 must 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 must 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 must 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 must ensure this record accompanies the specified risk material during transport.

(4) A person who receives any specified risk material collected from any premises must 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 or she is required to make under paragraph (1) and (4) above, an occupier of rendering premises must make a record of any specified risk material he or she 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 must 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 or she 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 or her own expense, all or any part of the vehicle, container or premises, or any equipment or any other thing used in connection with any such vehicle, container or premises.

(2) The notice may—

- (a) specify the manner in which and the period within which the vehicle, container, premises or equipment must be cleansed and disinfected;
- (b) specify the method of disposal of any specified risk material remaining in the vehicle, container or premises; and
- (c) prohibit the movement of specified risk material into the vehicle or container or on to the premises until 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 that 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 or she considers necessary for any purpose connected with the administration or enforcement of this Part of these Regulations.

(2) An inspector on producing, if required to do so, some duly authenticated document showing his or her authority, may enter at all reasonable times 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 TSE susceptible animal to arrange for the collection and penning of the animal;
 - (d) inspect and examine—
 - (a) specified risk material; or
 - (b) the carcass of any TSE susceptible animal;
 - (e) take such samples from, and make such tests in relation to, any—
 - (i) TSE susceptible animal;
 - (ii) carcass of a TSE susceptible animal;
 - (iii) specified risk material or any other material appearing to him or her to be derived from an animal;
 - (iv) food or feeding stuff;
 - (v) cosmetic, pharmaceutical or medical product,as he or she considers necessary;
 - (f) mark for identification purposes any specified risk material or TSE susceptible animal, or the carcass of a TSE susceptible animal;
 - (g) serve on the person in charge of a TSE susceptible animal, or the person in possession of the carcass of any TSE susceptible animal, or in possession of any specified risk material, a notice—
 - (i) to restrict or prohibit the movement of the TSE susceptible animal, the carcass of any TSE susceptible animal or specified risk material; or
 - (ii) in respect of the carcass of any TSE susceptible animal or specified risk material, to require the person to dispose of the carcass 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 carcass of a TSE susceptible animal;
 - (i) seize any specified risk material, TSE susceptible animal or the carcass of a TSE susceptible 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 carcass of a TSE susceptible 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) issue 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) examine any record, in whatever form the record may be held, and take copies of the record;
 - (q) 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 the inspector such assistance as he or she 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
 - (r) ascertain whether there is or has been any contravention of, or failure to comply with, this Part of these Regulations or Schedule 6 to these Regulations or any evidence of any 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,
- the justice of the peace may by warrant signed by him or her authorise an inspector to enter the premises, 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 or her 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, must—
- (a) provide reasonable facilities and assistance to the inspector and comply with all reasonable requirements of the inspector as considered by the inspector to be necessary for any purpose connected with the administration or enforcement of this Part of these Regulations; and
 - (b) if required by an inspector, give any information he or she 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 or her 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 or her—

- (a) any other persons he or she considers necessary to give such assistance as he or she considers necessary; and
- (b) a representative of the European Commission acting for the purpose of the Community TSE Regulation or the Community Transitional Measures or any Community legislation referred to in that Regulation or those Measures; and

(7) If an inspector enters any unoccupied premises he or she must leave them as effectively secured against unauthorised entry as he or she found them.

Recall, seizure and destruction of feeding stuffs

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

(2) An inspector may serve on any person who has sold or supplied any feeding stuff containing specified risk material a notice requiring that person to collect at his or her own expense that feeding stuff from the person to whom it was supplied or sold, or from any other person to whom it may subsequently have been supplied or sold. A notice served under this paragraph may also specify the place to which and the time within which the product is to be transported.

(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 the 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 National Assembly 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, it 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 directions given by the National Assembly, the National Assembly may make arrangements for the disposal of the specified risk material.

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

(4) The expenses of the National Assembly 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 must be complied with at the expense of the person on whom the notice is served.

(2) If a notice served under this Part of these Regulations 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 any 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 must 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 the course of which any commercial operation with respect to food or food sources is carried out must take all practicable steps to secure compliance by his or her 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 National Assembly 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,

that person 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 is to 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 applies 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 applies 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.