
STATUTORY RULES OF NORTHERN IRELAND

2003 No. 495

Animal By-Products Regulations (Northern Ireland) 2003

PART I
INTRODUCTION

Citation and commencement

1. These Regulations may be cited as the Animal By-Products Regulations (Northern Ireland) 2003 and shall come into operation on 3rd December 2003.

Interpretation

2.—(1) In these Regulations –

“approval” and “authorisation” mean respectively an approval or authorisation granted by the Department under or for the purposes of these Regulations;

“the Community Regulation” means Regulation (EC) No. 1774/2002 of the European Parliament and of the Council of 3rd October 2002 laying down health rules concerning animal by-products not intended for human consumption(1) as amended by and as read with –

- (a) Commission Regulation (EC) No. 808/2003 implementing Regulation (EC) No. 1774/2002 laying down health rules concerning animal by-products not intended for human consumption(2);
- (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(3);
- (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(4);
- (d) Commission Decision 2003/320/EC on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the use in feed of used cooking oil(5);
- (e) Commission Decision 2003/321/EC on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the processing standards for mammalian blood(6);

(1) O.J. No. L273, 10.10.2002, p. 1
(2) O.J. No. L117, 13.5.2003, p. 1
(3) O.J. No. L117, 13.5.2003, p. 14
(4) O.J. No. L117, 13.5.2003, p. 22
(5) O.J. No. L117, 13.5.2003, p. 24
(6) O.J. No. L117, 13.5.2003, p. 30

- (f) 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⁽⁷⁾;
- (g) Commission Decision [2003/327/EC](#) on transitional measures under Regulation (EC) No. [1774/2002](#) of the European Parliament and of the Council as regards the low capacity incineration or co-incineration plants which do not incinerate or co-incinerate specified risk material or carcasses containing them⁽⁸⁾;

“the Department” means the Department of Agriculture and Rural Development;

“inspector” means a person appointed by the Department, or the Department of the Environment or a district council to be an inspector for the purposes of these Regulations;

“poultry” includes birds of all species including wild birds.

(2) In these Regulations references to –

- (a) Category 1 material, Category 2 material and Category 3 material shall be taken to comprise the animal by-products referred to in Articles 4, 5 and 6 respectively of the Community Regulation; and
- (b) a numbered processing method shall be taken to refer to the processing method so numbered in Annex V, Chapter III to the Community Regulation.

(3) Other expressions defined in the Community Regulation have the same meaning in these Regulations.

(4) The Interpretation Act (Northern Ireland) 1954⁽⁹⁾ shall apply to these Regulations as it applies to an Act of the Assembly.

Approvals, etc.

3. Any approval or authorisation given and any registration carried out or instructions or notice issued under these Regulations or the Community Regulation shall be in writing and may be made subject to such conditions as are necessary to –

- (a) ensure that the provisions of the Community Regulation and these Regulations are complied with; and
- (b) protect public and animal health.

PART II

COLLECTION, TRANSPORTATION, STORAGE, HANDLING, PROCESSING AND DISPOSAL OF ANIMAL BY-PRODUCTS

Category 1 material

4.—(1) A person who has in his possession or under his control any Category 1 material and who contravenes Article 4(2) or Article 4(3) of the Community Regulation shall be guilty of an offence.

(2) For the purposes of Article 4(2)(b) of the Community Regulation the material may be processed using any of the processing methods 1 to 5.

(7) O.J. No. L117, 13.5.2003, p. 42

(8) O.J. No. L117, 13.5.2003, p. 44

(9) [1954 c. 33 \(N.I.\)](#)

(3) This regulation shall not apply in relation to material referred to in Article 4(1)(e) of the Community Regulation (catering waste from means of transport operating from outside the Community).

Category 2 material

5.—(1) A person who has in his possession or under his control any Category 2 material and who contravenes Article 5(2), Article 5(3) or Article 5(4) (other than the provision in Article 5(4) relating to export) of the Community Regulation shall be guilty of an offence.

(2) For the purposes of Article 5(2)(b) of the Community Regulation the material may be processed using any of the processing methods 1 to 5.

(3) For the purposes of Article 5(2)(e) of the Community Regulation the animal by-products specified in that paragraph may be applied to land provided that the Department has not imposed any restrictions relating to animal health in relation to those by-products.

Category 3 material

6. A person who has in his possession or under his control any Category 3 material and who contravenes Article 6(2) or Article 6(3) of the Community Regulation shall be guilty of an offence.

Mixing mammalian and non-mammalian by-products

7. Where mammalian animal by-products and non-mammalian animal by-products are mixed the mixture shall be regarded as mammalian animal by-products.

Collection, transportation and storage

8.—(1) A person who contravenes Article 7(1), 7(2) or 7(5) of the Community Regulation shall be guilty of an offence.

(2) For the purposes of paragraph (1), if different categories of animal by-products are transported on one vehicle but in different containers or compartments, and complete separation of the different kinds of material cannot be guaranteed, the by-products transported shall be treated as the highest risk category of the by-products transported.

(3) For the purposes of paragraph (1), if the by-product in a container is of a lower category than is indicated by the label on the container it shall be treated as the higher category so indicated.

(4) In accordance with Article 7(6) of the Community Regulation, the provisions of Article 7 of that Regulation shall not apply in relation to manure transported within Northern Ireland.

PART III

RESTRICTIONS ON ACCESS TO ANIMAL BY-PRODUCTS AND THEIR USE

Access to animal by-products

9.—(1) A person shall not feed any animal by-product (other than liquid milk or colostrums used on the farm of origin) to any farmed animal, or any other ruminant animal, pig or poultry, unless it has been processed in an approved Category 3 processing plant.

(2) A person shall not allow any farmed animal, or any other ruminant animal, pig or poultry, to have access to any animal by-product (other than milk, colostrum or manure) unless it has been –

- (a) processed in an approved processing plant;

- (b) treated in an approved biogas or composting plant; or
 - (c) (in the case of digestive tract content) applied to land at least three weeks before the access.
- (3) A person shall not bring any animal by-product (other than milk, colostrum, manure or digestive tract content) on to any premises where any farmed animal, or any other ruminant animal, pig or poultry, is kept, unless it has been –
- (a) processed in an approved processing plant; or
 - (b) treated in an approved biogas or composting plant.
- (4) The preceding paragraph shall not apply to –
- (a) animal by-products brought on to premises in a vehicle which enters to collect other by-products providing the by-products brought onto the premises are not removed from the vehicle while on the premises; or
 - (b) animal by-products brought onto collection centres, petfood plants, incinerators or other approved premises which are situated on the same premises as the animals specified in that paragraph and which were in operation on 1st November 2002 provided that the animals do not have access to the by-products.
- (5) A person shall not allow any animals to have access to material in a biogas or composting plant, provided that wild birds may have access to the material during the secondary and subsequent phase of composting.
- (6) In this regulation “animal by-product” includes catering waste of all kinds, including catering waste to which the Community Regulation does not apply because of Article 1(2)(e) of that Regulation.
- (7) This regulation does not prohibit feeding animal by-products to animals under Article 23(2) of the Community Regulation as enforced by regulation 26(3).
- (8) A person who contravenes any provision of this regulation shall be guilty of an offence.

Restrictions on use

10. Subject to regulation 12(1), a person who contravenes Article 22(1) of the Community Regulation shall be guilty of an offence.

Pasture land

11.—(1) For the purposes of Article 22(1)(c) of the Community Regulation, pasture land is land that is intended to be used for grazing or cropping for feedingstuffs following the application or deposit of organic fertilisers and soil improvers within the following periods –

- (a) two months in the case of pigs; and
 - (b) three weeks in the case of other farmed animals.
- (2) A person who –
- (a) uses pasture land for grazing within the period specified in paragraph (1); or
 - (b) feeds to pigs or other farmed animals within that period anything cropped from pasture land during that period;

shall be guilty of an offence.

Intra-species recycling of fish

12.—(1) Notwithstanding regulation 10, it shall not be an offence under these Regulations to feed fish with processed animal protein derived from the bodies or parts of bodies of fish (other than

farmed fish of the same species) if this is done in accordance with Articles 2 to 4 of, and Annex I to, Commission Regulation (EC) No. 811/2003.

(2) The Department shall be the competent authority for the purposes of Article 5 of Commission Regulation (EC) No. 811/2003.

(3) In accordance with Article 10 of Commission Regulation (EC) No. 811/2003, this regulation shall not apply until 1st January 2004.

PART IV

APPROVED PREMISES AND COMPETENT AUTHORITIES

The competent authority

13.—(1) The Department shall be the competent authority for the purposes of granting approvals for the purposes of Chapter III and Chapter IV of the Community Regulation, the Annexes to that Regulation, and these Regulations.

- (2) The Department shall also be the competent authority for –
- (a) checking intermediate plants in accordance with Articles 10(2)(d) and 10(3)(d) of the Community Regulation;
 - (b) checking storage plants in accordance with Article 11(2)(b) of that Regulation;
 - (c) validating and checking Category 1 and Category 2 processing plants in accordance with Articles 13(2)(c) and 13(2)(e) of that Regulation, supervising Category 1, 2 and 3 plants in accordance with Annex V, Chapter IV, paragraph 1 to that Regulation, and validating those plants in accordance with Annex V, Chapter V, paragraph 1 to that Regulation;
 - (d) authorising the temporary use of a Category 2 processing plant for the processing of Category 1 material in accordance with Annex VI, Chapter 1, paragraph 2 to that Regulation;
 - (e) checking olochemical plants in accordance with Article 14(2)(d) of that Regulation and the person to whom records shall be produced in accordance with Article 14(2)(c) of that Regulation;
 - (f) checking biogas plants and composting plants in accordance with Article 15(2)(c) of that Regulation;
 - (g) validating and checking Category 3 processing plants in accordance with Article 17(2)(c) and 17(2)(e) of that Regulation;
 - (h) authorising the temporary use of a Category 3 processing plant for the processing of Category 1 or Category 2 material in accordance with Annex VII, Chapter 1, paragraph 2 to that Regulation, or the use of a Category 2 processing plant as a collection centre in accordance with Annex IX, paragraph 3 of that Regulation;
 - (i) presentation of records relating to a petfood or technical plant in accordance with Article 18(2)(a)(iv) of that Regulation;
 - (j) recognising laboratories for the purposes of analysing samples from petfood and technical plants in accordance with Article 18(2)(a)(iii) of that Regulation, receiving information under Article 18(2)(a)(v) of that Regulation, and checking petfood plants and technical plants in accordance with Article 18(2)(b) of that Regulation;
 - (k) carrying out inspection and supervision in accordance with Article 26 of that Regulation;
 - (l) giving instructions for the purposes of Annex II, Chapter II, paragraph 4 to that Regulation;
 - (m) the presentation of commercial documents under Annex II, Chapter V to that Regulation;

- (n) authorising a representative point in the combustion chamber of an incinerator in accordance with Annex IV, Chapter II, paragraph 3 of that Regulation, and inspecting them in accordance with Annex IV, Chapter VII, paragraph 8 of that Regulation⁽¹⁰⁾;
- (o) authorising specific requirements in accordance with Annex VI, Chapter II, Part C, paragraphs 14 and 15 of that Regulation⁽¹¹⁾.

Approval of premises

- 14.**—(1) A person shall not operate any –
- (a) category 1, 2 or 3 intermediate plant;
 - (b) storage plant;
 - (c) incineration or co-incineration plant;
 - (d) category 1 or category 2 processing plant;
 - (e) category 2 or category 3 oleochemical plant;
 - (f) biogas or composting plant;
 - (g) category 3 processing plant;
 - (h) petfood or technical plant;

for the storage, processing, treatment, disposal or use of animal by-products unless the premises, the operator of the premises and any equipment are approved for that purpose in accordance with these Regulations and the Community Regulation.

- (2) The operator of approved premises shall ensure that –
- (a) the premises are maintained and operated in accordance with –
 - (i) the conditions of any approval, and
 - (ii) the requirements of the Community Regulation and these Regulations; and
 - (b) any person employed by him, and any person invited to the premises complies with those conditions and requirements.
- (3) The operator of a high capacity incineration plant shall dispose of the ash produced in that plant in accordance with Annex IV, Chapter VII, paragraph 4 of the Community Regulation in the same way as the operator of a low capacity incineration plant.
- (4) A person shall not operate a boiler for incinerating tallow unless the boiler has been approved by the Department as having suitable facilities to incinerate the material.
- (5) A person who contravenes any provision of this regulation shall be guilty of an offence.

Biogas and composting plants

15.—(1) The provisions of Part I of Schedule 1 shall apply in a biogas or composting plant used for treating any animal by-products (including catering waste) in addition to the requirements of paragraphs 1 to 11 of Annex VI, Chapter II to the Community Regulation.

- (2) In accordance with Article 6(2)(g) and Annex VI, Chapter II, paragraph 14 to the Community Regulation –
- (a) catering waste shall be treated in a biogas or composting plant either in accordance with Annex VI, Chapter II, paragraphs 12 or 13 of the Community Regulation or in accordance with Part II of Schedule 1; and

⁽¹⁰⁾ Chapter VII was added to Annex IV by Commission Regulation (EC) No. 808/2003

⁽¹¹⁾ These paragraphs were added by Commission Regulation (EC) No. 808/2003

- (b) any other animal by-product treated in a biogas or composting plant shall be treated in accordance with Annex VI, Chapter II, paragraphs 12 or 13 of the Community Regulation.
- (3) A person who contravenes any provision of this regulation shall be guilty of an offence.

Composting catering waste on the premises on which it originates

16. In accordance with Article 6(2)(g) and Annex VI, Chapter II, paragraph 14 of the Community Regulation, the provisions of that Chapter and of regulation 14(f) do not apply to the composting of Category 3 catering waste on the premises on which it originates provided that –

- (a) the decomposed material is only applied to land at those premises;
- (b) no ruminant animals or pigs are kept at the premises; and
- (c) if poultry is kept on the premises, the material is composted in a secure container which prevents the poultry having access to it during decomposition.

Processing and intermediate plants' own checks

17.—(1) A person who contravenes Article 25(1) of the Community Regulation shall be guilty of an offence.

(2) A person who contravenes Article 25(2) of the Community Regulation shall be guilty of an offence.

(3) The operator of an intermediate or processing plant shall record any action taken in accordance with Article 25(2) of the Community Regulation and if he fails to do so he shall be guilty of an offence.

Sampling at processing plants

18.—(1) If a processing plant is processing Category 1 or Category 2 material, and the processed material is to be sent to landfill (or, in the case of Category 2 material, a biogas or composting plant) the operator shall, once every week –

- (a) take from the outlet of the cooker in which the material is processed a sample of at least 50 grams of processed material; and
- (b) send the sample to a laboratory approved to test it for *Clostridium perfringens*.

(2) In the case of Category 3 processing plants where the material is intended for use in feedingstuffs the operator shall –

- (a) take a representative sample of the material on each day that the material is consigned from the premises; and
- (b) send it to a laboratory approved to test it for Salmonella and *Enterobacteriaceae*.

(3) In the case of Category 3 processing plants, where the processed material is not intended for use in feedingstuffs the operator shall –

- (a) take a sample once every week of the material that is consigned from the premises; and
- (b) send the sample to a laboratory approved to test it for Salmonella and *Enterobacteriaceae*.

(4) A person who contravenes any provision of this regulation shall be guilty of an offence.

Sampling at biogas and composting plants

19.—(1) In the case of approved biogas and composting plants the operator shall, at intervals specified in the approval, take a representative sample of material which has been treated to the time temperature parameters specified in Part II of Schedule 1 or the Community Regulation and send it

for testing for Salmonella and *Enterobacteriaceae* (or, in the case of material derived from catering waste, Salmonella only) in a laboratory approved to carry out those tests.

(2) A person shall not consign any material from a biogas or composting plant until the results of the tests relating to that material carried out in accordance with paragraph (1) are received from the laboratory.

(3) In the event of tests carried out in accordance with paragraph (1) establishing that treated material does not comply with the limits in Annex VI, Chapter II, paragraph 15 to the Community Regulation, the operator shall –

- (a) immediately notify the Department giving full details of the failure, the nature of the sample and the batch from which the material was derived;
- (b) ensure that no digestion residue or compost suspected or known to be contaminated is moved from the premises unless –
 - (i) it has been re-treated under the supervision of the Department and resampled and re-tested by the Department, and the re-testing has shown that the re-treated digestion residue or compost complies with the standards in the Community Regulation; or
 - (ii) it is consigned for processing or incineration at an approved processing plant or incinerator or (in the case of catering waste) it is consigned to an approved landfill site meeting the requirements of Council Directive 1999/31/EC on the landfill of waste(12); and
- (c) record the action taken in accordance with this regulation.

(4) A person who contravenes any provision of this regulation shall be guilty of an offence.

Samples sent to laboratories

20.—(1) Whenever an operator of a plant sends a sample to a laboratory in accordance with this Part, he shall send with the sample the following information in writing –

- (a) the name and address of the premises at which the sample was taken;
- (b) the date on which the sample was taken; and
- (c) the description and identity of the sample.

(2) A person shall not tamper with a sample taken under these Regulations with intent to affect the result of the test.

(3) The operator shall keep a record of all results of laboratory tests to which this Part relates.

(4) A person who contravenes any provision of this regulation shall be guilty of an offence.

Laboratories

21.—(1) The Department shall approve laboratories under this regulation to carry out one or more of the tests referred to in this regulation if it is satisfied that they have the necessary facilities, personnel and operating procedures to do so.

(2) In deciding whether to grant or continue an approval, the Department may require the laboratory to successfully undertake any quality control tests as it reasonably thinks fit.

(3) The operator of a laboratory approved under this regulation carrying out tests for the purposes of these Regulations or the Community Regulation shall do so in accordance with the following provisions, and if he fails to do so he shall be guilty of an offence.

(4) A test for *Clostridium perfringens* shall be carried out in accordance with the method in Schedule 2 or (if specified in the approval) with a method which conforms with ISO 7937/1997 (BS-EN 13401 1999) (Enumeration of *Clostridium perfringens*) or equivalent⁽¹³⁾.

(5) A test for *Salmonella* shall be carried out in accordance with the method in Schedule 2 or (if specified in the approval) with a method which conforms with –

- (a) ISO 6579/2002/BS EN-12824: 1998 (Detection of *Salmonella*) or equivalent; or
- (b) NMKL 71: 1993 or equivalent⁽¹⁴⁾.

(6) A test for *Enterobacteriaceae* shall be carried out in accordance with the method in Schedule 2 or (if specified in the approval) with a method which conforms with ISO 7402/1993 (BS 5763: Part 10: 1993) (Enumeration of *Enterobacteriaceae*) or equivalent⁽¹⁵⁾.

(7) Where tests are carried out for the detection of any of the following, the operator of a laboratory approved under this regulation shall immediately notify the Department and the operator of the premises if –

- (a) the tests fail to establish that the material is free from *Clostridium perfringens*;
- (b) the tests fail to establish that the material is free from *Salmonella*; or
- (c) the material successfully passes the test for *Enterobacteriaceae* in paragraph 39 of Part III of Schedule 2,

and if he fails to do so he shall be guilty of an offence.

(8) The operator of a laboratory approved under this regulation shall in relation to processed material notify the Department on the last day of each month of the number, type and results of tests carried out and if he fails to do so he shall be guilty of an offence.

(9) Reprocessing in accordance with Article 25(2)(c) and (d) of the Community Regulation shall be carried out under the supervision of the Department.

(10) If a sample has been sent to the approved laboratory from premises outside Northern Ireland for a test to which this regulation relates, the requirements in this regulation to notify the Department shall be construed as a requirement to notify the competent authority for the premises from which the sample was sent.

PART V

PLACING ANIMAL BY-PRODUCTS AND PROCESSED PRODUCTS ON THE MARKET

Placing on the market of processed animal protein and other processed products that could be used as feed material

22. A person who places on the market processed animal protein, or other processed products that could be used as feed material, which do not meet the requirements of Article 19 of the Community Regulation shall be guilty of an offence.

Placing on the market of petfood, dogchews and technical products

23.—(1) A person who places on the market petfood, dogchews and technical products (other than fat derivatives produced from Category 2 material) or those animal by-products referred to in Annex

⁽¹³⁾ Published by the British Standards Institute, British Standards House, 389 Chiswick High Road, London W4 4AL

⁽¹⁴⁾ Published by the Nordic Committee on Food Analysis, National Veterinary Institute, Department of Food and Hygiene, PO Box 8156, N-0033, Oslo, Norway

⁽¹⁵⁾ Published by the British Standards Institute; see above

VIII to that Regulation, which do not meet the requirements of Article 20(1) of the Community Regulation shall be guilty of an offence.

(2) A person who places on the market fat derivatives produced from Category 2 material which do not meet the requirements of Article 20(3) of the Community Regulation shall be guilty of an offence.

Placing on the market of compost or digestion residues for use on agricultural land

24. A person who places on the market compost or digestion residues for use on agricultural land shall ensure that it is labelled or accompanied by documentation in such a way that the recipient has his attention drawn to the requirements of regulation 11 (provisions relating to pasture land) and if he fails to do so he shall be guilty of an offence.

PART VI DEROGATIONS

Competent authority for Chapter V of the Community Regulation

25. The Department shall be the competent authority for the purposes of Chapter V of the Community Regulation (derogations).

Derogations regarding the use of animal by-products

26.—(1) The use of animal by-products for diagnostic, educational or research purposes is permitted if it is in accordance with an authorisation.

(2) The use of animal by-products for taxidermy is permitted if –

- (a) it is in accordance with an authorisation; and
- (b) it is in an approved technical plant.

(3) The feeding of animal by-products specified in Article 23(2)(b) of the Community Regulation to –

- (a) zoo animals;
- (b) circus animals;
- (c) reptiles and birds of prey other than zoo or circus animals;
- (d) dogs from recognised kennels or recognised packs of hounds; or
- (e) maggots for fishing bait,

is permitted if it is in accordance with an authorisation.

(4) The Department shall maintain a register of premises used for the feeding of such animal by-products to zoo or circus animals, dogs from recognised kennels or recognised packs of hounds and maggots for fishing bait.

(5) The register in the previous paragraph shall contain the following information –

- (a) the name of the operator of the premises;
- (b) the address of the premises; and
- (c) the business carried on at the premises.

(6) A person who uses animal by-products for any of the purposes in this regulation other than in accordance with an authorisation shall be guilty of an offence.

Collection centres

27.—(1) For the purposes of Article 23(2) of the Community Regulation a person shall not operate a collection centre, as defined in Annex I of the Community Regulation, for the purposes of feeding animal by-products to –

- (a) dogs from recognised kennels or recognised packs of hounds; or
- (b) maggots for fishing bait;

unless the premises and the operator of the premises are authorised.

(2) The operator of the premises authorised in accordance with paragraph (1) shall –

- (a) ensure that the premises are maintained and operated in accordance with –
 - (i) the conditions of the authorisation; and
 - (ii) the requirements of the Community Regulation and these Regulations; and
- (b) ensure that any person employed by him, and any person invited to the premises complies with these conditions and requirements.

(3) A person who contravenes any provision of this regulation shall be guilty of an offence.

Burial of pet animals

28. In accordance with Article 24(1)(a) of the Community Regulation, dead pet animals may be buried.

Burial in the event of a disease outbreak

29.—(1) In accordance with Article 24(1)(c) of the Community Regulation, if there is an outbreak of disease mentioned in List A of the International Office of Epizootic Diseases, on-site burning or burial (as defined in Part A of Annex II to Commission Regulation (EC) No. 811/2003) of animal by-products shall not be an offence if the animal by-product is transported, and buried or burnt, in accordance with –

- (a) a notice given by the Department under Article 24(1)(c) authorising disposal in accordance with that provision; and
- (b) the provisions of Article 6 of and Part B of Annex II to Commission Regulation (EC) No. 811/2003.

(2) The Department shall be the competent authority for the purposes of Article 6 of and Part B of Annex II to Commission Regulation (EC) No. 811/2003.

Burning and burial of bees and apiculture products

30. In accordance with Article 8 of Commission Regulation (EC) 811/2003, bees and Category 2 apiculture products may be disposed of by burial or burning on site if this is done in accordance with that Article.

PART VII

RECORDS

Records

31. A record required to be kept under these Regulations may be in written or electronic form and shall be kept for a period of two years from the date on which the record is made.

Records for consigning, transporting or receiving animal by-products

32. A person who contravenes Article 9(1) of the Community Regulation shall be guilty of an offence.

Records for burying or burning of animal by-products

33. A person who contravenes Article 9 of Commission Regulation (EC) 811/2003 shall be guilty of an offence.

Records for disposal or use on premises

34.—(1) Subject to paragraph (2), the operator of any premises who disposes of or uses any animal by-product (other than manure or material excluded from the Community Regulation by Article 1(2) of that Regulation), or processed product on the premises shall make on disposal or use a record of each disposal or use showing the date on which the animal by-product was disposed of or used and the quantity and description of the material disposed of or used, and if he fails to do so he shall be guilty of an offence.

(2) The requirement in paragraph (1) shall not apply to disposal on the premises by feeding of animal by-products or processed products to reptiles and birds of prey other than zoo or circus animals.

Delivery records to be kept by operators of biogas and composting plants

35. The operator of any biogas or composting plant receiving catering waste shall record –

- (a) the date on which the catering waste was delivered to the premises;
- (b) the quantity and description of the catering waste, including a statement of whether measures were taken at source to ensure that meat was not included in the waste; and
- (c) the name of the haulier;
- (d) the location where the catering waste was produced;

and if he fails to do so he shall be guilty of an offence.

Treatment records for biogas and composting plants

36. The operator of a biogas or composting plant treating catering waste or other animal by-products shall record –

- (a) the date on which the material is treated;
- (b) a description of the material treated;
- (c) the quantity of material treated; and
- (d) the result of all checks carried out at the critical points identified under paragraph 4 of Part I of Schedule 1; and
- (e) sufficient information to show that the material is treated to the required parameters;

and if he fails to do so he shall be guilty of an offence.

Records for approved laboratories

37. The operator of a laboratory approved under regulation 21 receiving any sample for the purposes of these Regulations shall record –

- (a) the name and address of the premises at which the sample was taken;

- (b) the date on which the sample was taken;
- (c) the description and identity of the sample;
- (d) the date on which the sample was received at the laboratory;
- (e) the date on which the sample was tested at the laboratory; and
- (f) the result of the test;

and if he fails to do so he shall be guilty of an offence.

Records to be kept for consignments of compost or digestion residue

38.—(1) Subject to paragraph (2), the occupier of premises on which ruminant animals, pigs or poultry are kept shall record –

- (a) the date on which any compost or digestion residue is brought on to those premises;
- (b) the quantity and description of the compost or digestion residue;
- (c) the land to which the compost or digestion residue is applied;
- (d) the date of such application;
- (e) the date on which the land is first cropped or the date on which ruminant animals, pigs or poultry were allowed access to the land, whichever is the sooner;

and if he fails to do so he shall be guilty of an offence.

(2) The requirement in paragraph (1) to make records shall not apply in the case of any supply of compost or digestion residue for use at any premises used only as a dwelling.

PART VIII

ADMINISTRATION AND ENFORCEMENT

Grant of approvals

39.—(1) The Department shall grant an approval if it is satisfied that the requirements of the Community Regulation and these Regulations will be complied with.

(2) An approval shall specify –

- (a) the address of the premises to which it relates and the operator of the premises;
- (b) the parts of the premises in which the animal by-products may be received and processed or treated; and
- (c) the equipment, the methods in accordance with which, and the parameters within which, the animal by products must be processed or treated.

(3) If the Department refuses to grant the approval, or approves it subject to a condition it shall by notice in writing served on the applicant for the approval –

- (a) give the reasons; and
- (b) explain the right of the applicant to make written representations to the Department and to be heard by an independent person appointed by the Department.

Suspension, amendment and revocation of approvals and registrations

40.—(1) The Department, by notice in writing served on the operator of any premises –

- (a) shall suspend immediately an approval or a registration under these Regulations relating to those premises if any of the conditions under which the approval was granted or the registration made are not fulfilled in respect thereof; and
 - (b) may suspend or amend an approval or a registration under these Regulations relating to those premises if it is satisfied that, in the case of any premises to which the approval or registration (as the case may be) relates, the provisions of the Community Regulation or these Regulations are not being complied.
- (2) A suspension or amendment under paragraph (1)(b) –
- (a) shall have immediate effect if the Department considers that it is necessary for the protection of public or animal health;
 - (b) otherwise shall not have effect for at least 21 days following service of the notice.
- (3) The notice shall –
- (a) give the reasons; and
 - (b) explain the right of the operator of the premises in question to make written representations to the Department and to be heard by an independent person appointed by the Department.
- (4) Where there is an appeal under regulation 41, the amendment or suspension to which it relates shall not have effect until the final determination by the Department in accordance with that regulation unless the Department considers that it is necessary for the protection of public or animal health for the amendment or suspension to have immediate effect.
- (5) The Department may, by notice in writing, revoke an approval to which a notice of suspension under paragraph (1) relates if, following an appeal (if any) in accordance with the following regulation, which upholds a suspension, it is satisfied, taking into account all the circumstances of the case, that the premises will not be operated in accordance with these Regulations and the Community Regulation.

Appeals

- 41.**—(1) A person on whom a notice is served under regulation 39(3) or 40(1) (in this regulation referred to as “the appellant”) may within 21 days beginning with the day on which the notice is served –
- (a) provide written representations to the Department; and
 - (b) provide notice of whether or not he wishes to appear before an independent person appointed by the Department.
- (2) Where the appellant gives notice of his wish to appear before and be heard by an independent person the Department shall appoint such an independent person (in this regulation referred to as the “appointed person”) to hear representations and shall specify a time limit within which representations must be made.
- (3) The appointed person shall not, except with the consent of the appellant, be an officer of the Department.
- (4) If the appellant so requests any hearing before an appointed person shall be in public.
- (5) The appointed person shall report to the Department.
- (6) If the appellant so requests, the Department shall furnish to him a copy of the report of the appointed person.
- (7) The Department shall consider the report of the independent person and having done so shall decide whether taking account of all the circumstances of the case –
- (a) to uphold the decision to which the appeal relates; or
 - (b) overturn it, and

shall give to the appellant written notification of its final determination and the reasons for it.

Notice requiring the disposal of animal by-products or catering waste

42. If an inspector considers it necessary for animal or public health purposes or if any provision of these Regulations or the Community Regulation is not being complied with, he may –

- (a) serve a notice on any person in possession or control of any animal by-product requiring him to dispose of it as may be specified in the notice; or
- (b) serve a notice on the occupier of any premises prohibiting animal by-products being brought on to the premises, or only permitting this in a way specified in the notice.

Cleansing and disinfection

43.—(1) If an inspector reasonably suspects that any vehicle, container or premises to which these Regulations or the Community Regulation apply constitutes an animal or public health risk, he may serve a notice on the person in charge of the vehicle or container, or on the occupier of the premises, requiring the vehicle, container or premises to be cleansed and disinfected.

(2) The notice may –

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

Compliance with notices

44.—(1) A notice served under these Regulations shall be complied with at the expense of the person on whom the notice is served, and if it is not complied with, an inspector may arrange for it to be complied with at the expense of that person.

(2) A person on whom a notice is served who contravenes the provisions of that notice shall be guilty of an offence.

Powers of entry

45.—(1) An inspector shall, on producing, if so required, some duly authenticated document showing his authority, have a right at all reasonable hours, to enter any premises (excluding any premises used only as a dwelling) for the purpose of administering and enforcing these Regulations and the Community Regulation.

(2) An inspector may –

- (a) seize any animal by-products and dispose of them as necessary;
- (b) carry out any inquiries, examinations and tests;
- (c) take any samples;
- (d) have access to, and inspect and copy any records (in whatever form they are held) kept under these Regulations or the Community Regulation, or remove such records to enable them to be copied;
- (e) have access to, inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records; and for this purpose may require any person having charge of, or otherwise concerned with the

operation of, the computer, apparatus or material to afford 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;

- (f) mark any animal, animal by-product or other thing for identification purposes; and
- (g) take with him –
 - (i) such other persons as he considers necessary; and
 - (ii) any representative of the European Commission acting for the purpose of the Community Regulation.

(3) A person who defaces, obliterates or removes any mark applied under paragraph (2) shall be guilty of an offence.

(4) If an inspector enters any unoccupied premises he shall leave them as effectively secured against unauthorised entry as he found them.

(5) In this regulation “premises” includes any vehicle or container.

Obstruction

46.—(1) A person who –

- (a) intentionally obstructs any person acting in the execution of these Regulations;
- (b) without reasonable cause, fails 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 performance of his functions under these Regulations;
- (c) furnishes to any person acting in the execution of these Regulations any information which he knows to be false or misleading; or
- (d) fails to produce a record when required to do so to any person acting in the execution of these Regulations;

shall be guilty of an offence.

(2) Nothing in paragraph (1)(b) shall be construed as requiring any person to answer any question if to do so might incriminate him.

Penalties

47.—(1) A person guilty of an offence under these Regulations shall be liable –

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six 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) A prosecution for an offence under this regulation shall not 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.

Enforcement

48. These Regulations shall be enforced by the Department, or the Department of the Environment or a district council within its district.

Transitional measures

- 49.**—(1) Schedule 3 (transitional measures) shall have effect.
- (2) Part I of Schedule 3 (intra-species recycling of fish) shall cease to have effect on 1st January 2004.
- (3) Part II of Schedule 3 (collection, transportation and disposal of former foodstuffs) shall cease to have effect on 1st January 2006.
- (4) Part III of Schedule 3 (used cooking oil in animal feed) shall cease to have effect on 1st November 2004.
- (5) Part IV of Schedule 3 (disposal of mammalian blood) shall cease to have effect on 1st January 2005.
- (6) Part V of Schedule 3 (oleochemical plants using rendered fats from Category 2 and Category 3 materials) shall cease to have effect on 1st November 2005.
- (7) Part VI of Schedule 3 (low capacity incinerators) shall cease to have effect on 1st January 2005.
- (8) Any laboratory authorised by the Department under Article 10 of the Animal By-Products Order (Northern Ireland) 2002(**16**) shall, notwithstanding the revocation of that Order, be deemed to be an approved laboratory for the purpose of regulation 21.

Amendments

- 50.** The Transmissible Spongiform Encephalopathy (Northern Ireland) Regulations 2002(**17**) are amended in accordance with the provisions of Schedule 4.

Revocations

- 51.** The provisions of the Orders specified in Schedule 5 are revoked.

Sealed with the Official Seal of the Department of Agriculture and Rural Development for Northern Ireland on 1st December 2003.

L.S.

Liam McKibben
A Senior Officer of the
Department of Agriculture and Rural
Development