

## **S.I. No. 248 of 2003**

### **European Communities (Animal By-products) Regulations 2003**

I, Joe Walsh, Minister for Agriculture and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving full effect to Regulation (EC) No. 1774/2002 of the European Parliament and of the Council of 3 October 2002<sup>1</sup> (as amended by Commission Regulation (EC) No. 808/2003 of 12 May 2003<sup>2</sup> ) and Directive No. 2002/33/EC of the European Parliament and of the Council of 21 October 2002<sup>3</sup>, hereby make the following regulations –

#### **Citation**

1. These Regulations may be cited as the European Communities (Animal By-products) Regulations 2003.

#### **Interpretation**

- 2.(1) In these Regulations –

“authorised officer” means-

- (a) an authorised officer within the meaning of the Food Hygiene Regulations 1950 to 1999,
- (b) a sea fisheries protection officer within the meaning of Part XIII of the Fisheries (Consolidation) Act 1959 (No. 14 of 1959),
- (c) an authorised officer within the meaning of section 17A (inserted by the Diseases of Animals (Amendment) Act 2001 (No. 3 of 2001)) of the Diseases of Animals Act 1966 (No. 6 of 1966),
- (d) a person who, immediately before the making of these Regulations, was an authorised officer within the meaning of the European Communities (Disposal, Processing and Placing on the Market of Animal By-products) Regulations 1994 (S.I. No. 257 of 1994),
- (e) a person who, immediately before the making of these Regulations, was an authorised officer within the meaning of the European Communities (Knackery) Regulations 1996 (S.I. No. 396 of 1996),

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<sup>1</sup> O.J. No. L 273 of 10.10.2002, p.1.

<sup>2</sup> O.J. No. L 117 of 13.5.2003, p. 1..

<sup>3</sup> O.J. No. L 315 of 19.11.2002, p.14.

- (f) an authorised office within the meaning of the European Communities (Fresh Meat) Regulations 1997 (S.I. No. 434 of 1997), or
- (g) a person authorised under Regulation 5.

“European Regulation” means Regulation (EC) No. 1774/2002 of the European Parliament and of the Council of 3 October 2002 as amended by Commission Regulation (EC) No. 808/2003 of 12 May 2003;

“Minister” means, subject to Regulations 6(20), 7(17), 8(13) and 9(16), the Minister for Agriculture and Food;

“premises” includes land with or without buildings and, where the context so requires or admits, includes a vehicle, vessel, aircraft or container;

“sell” includes offer, expose or keep for sale, invite an offer to buy, or distribute for reward or otherwise (whether directly or through another person) and cognate words shall be construed accordingly;

“supply” means to give without reward.

- (2) A word or expression that is used in the European Regulation and is also used in these Regulations has, in these Regulations, the same meaning as in the European Regulation.
- (3) In these Regulations, unless the contrary intention appears, a reference to a Regulation is to a reference in these Regulations and a reference to a paragraph or subparagraph is to the paragraph or subparagraph of the provision in which the reference occurs.

## **Offences**

3.(1) A person who -

- (a) contravenes Article 3(1), 4(2), (3), (4), 5(2), (3), (4), 6(2), (3), 7(1), (2), (5), 8(1), (2), (3), 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 22 (1), 25 or 29 of the European Regulation,
- (b) places on the market or exports a processed animal protein or another processed product that could be used as feed material other than in accordance with Article 19 of the European Regulation,
- (c) obstructs or impedes an authorised officer in the exercise of any of his or her powers under Regulation 5,
- (d) fails, without reasonable excuse, to comply with a requirement or direction made by an authorised officer under Regulation 5,

- (e) in making an application for an approval under Regulation 6, a burial licence, a research licence or a licence under Regulations 9 or in purporting to give information required by an authorised officer for the performance of the officer's powers under Regulation 5 –
  - (i) makes a statement which he or she knows to be false in a material particular or recklessly make a statement which is false in a material particular, or
  - (ii) fails to disclose any material particular,
- (f) contravenes Regulations 4, 6(1), (2), (3), (4), (5), (6), (7), (16), 7(1), (9), (13), 8(1), (10), 9(1), (5), (6), (9), (13), 10, 11, 13 or 14(3),
- (g) contravenes Article 9 of Commission Regulation (EC) No. 811/2003 of 12 May 2003<sup>4</sup>
- (h) tampers with a seal applied pursuant to the European Regulation or an approval or licence granted under these Regulations,
- (i) tampers with or interferes with an animal by-product or with a sample taken under these Regulations, or
- (j) aids or abets a contravention of the European Regulation or these Regulations,

is guilty of an offence and is liable, on conviction, to a fine not exceeding €3,000 or to a term of imprisonment not exceeding 6 months or to both.

- (2) In a prosecution for an offence under paragraph (1), where a contravention of Article 15 of the European Regulation is alleged, it is a defence for the defendant to prove that, as regards category 3 material and manure used in a composting plant, he or she operated in compliance with Commission Regulation (EC) No. 809/2003 of 12 May 2003.
- (3) In a prosecution for an offence under paragraph (1), where a contravention of Article 15 of the European Regulation is alleged, it is a defence for the defendant to prove that, as regards category 3 material and manure used in a biogas plant, he or she operated in compliance with Commission Regulation (EC) No. 810/2003 of 12 May 2003.
- (4) In a prosecution for an offence under paragraph (1), where a contravention of Article 29(3), (4), (5) or (6) of the European Regulation is alleged, it is a defence for the defendant to prove that product to which the alleged offence

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<sup>4</sup> O.J. No. L 117 of 13.5.2003, p. 14.

relates has been imported into the State in accordance with Commission Regulation (EC) No. 812/2003 of 12 May 2003<sup>5</sup>.

- (5) In a prosecution for an offence under paragraph (1), where a contravention of Article 7 of the European Regulation is alleged in relation to the collection, storage, transport or disposal of former foodstuffs that comprise category 3 material, it is a defence for the defendant to prove that the collection, transport, storage or disposal of the category 3 material to which the alleged offence relates is in accordance with Commission Regulation (EC) No. 813/2003 of 12 May 2003<sup>6</sup>.
- (6) Paragraphs (2) and (3) cease to have effect on 1 January 2005.
- (7) Paragraph (4) ceases to have effect on 1 January 2004.
- (8) Paragraph (5) ceases to have effect on 1 January 2006.

### **Cooking oil**

- 4.(1) A person shall not incorporate used cooking oil in feed or collect, store or transport used cooking oil with a view to incorporating it in feed other than under and in accordance with Commission Decision No. 2003/320/EC of 12 May 2003<sup>7</sup>.
- (2) A person shall not have in his or her possession or under his or her control, sell or supply a feed that consists of or contains used cooking oil that was incorporated in the feed in contravention of paragraph (1).
- (3) A person shall not export a feed that consists of or contains used cooking oil other than to the United Kingdom or import a feed that consists of or contains used cooking oil from a place other than the United Kingdom.
- (4) This Regulation ceases to have effect on 1 November 2004.

### **Authorised officers**

- 5.(1) The Minister may, by instrument in writing, appoint such and so many persons as he or she thinks fit to be authorised officers for the purposes of some or all of these Regulations as may be specified in the instrument.
- (2) The Minister for Health and Children may, by instrument in writing, appoint such and so many of his or her officers or officers of a health board as he or she thinks fit to be authorised officers for the purposes of some or all of the functions conferred on that Minister by these Regulations as may be specified in the instrument.

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<sup>5</sup> O.J. No. L 117 of 13.5.2003, p. 19.

<sup>6</sup> O.J. No. L 117 of 13.5.2003, p. 22

<sup>7</sup> O.J. No. L 117 of 13.5.2003, p. 24.

- (3) The Minister for Communications, Marine and Natural Resources may, by instrument in writing, appoint such and so many of his or her officers as he or she thinks fit to be authorised officers for the purposes of some or all of the functions conferred on that Minister by these Regulations as may be specified in the instrument.
- (4) The Minister, Minister for Health and Children or Minister for Communications, Marine and Natural Resources may terminate the appointment of an authorised officer appointed by him or her, whether or not the appointment was for a fixed period.
- (5) An appointment as an authorised officer ceases-
- (a) where it is terminated pursuant to paragraph (4),
  - (b) where it is for a fixed period, on the expiry of that period, or
  - (c) where the person appointed is an officer of the Minister, Minister for Health and Children or Minister for Communications, Marine and Natural Resources, upon the person ceasing to be such an officer.
- (6) Nothing in paragraph (5) is to be construed so as to prevent the Minister, Minister for Health and Children or Minister for Communications, Marine and Natural Resources from reappointing as an authorised officer a person to whom that paragraph relates.
- (7) An authorised officer or a veterinary expert employed by or acting on the authority of the Commission of the European Communities accompanied by an authorised officer, if the authorised officer has reasonable cause to suspect that -
- (a) an animal by-product is present or may be present on the premises,
  - (b) an animal by-product is or has been processed, stored or otherwise dealt with on the premises,
  - (c) the premises has been approved for a purpose specified in the European Regulation, is the subject of an application for approval or is ancillary to a premises either approved or subject to an application for approval,
  - (d) a document relating to an animal by-product or other thing referred to in paragraph (a), (b) or (c), or
  - (e) any offence is being or has been committed under these Regulations,
- may enter any premises and the authorised officer may-
- (i) search the premises,
  - (ii) stop any person, vehicle, vessel or container,

- (iii) board and search any vehicle, vessel or container,
- (iv) search a person, where the authorised officer considers it necessary,
- (v) examine an animal, animal by-product, vehicle, vessel, container or other thing that may consist of or contain an animal by-product,
- (vi) take, without payment, samples, including samples of an animal by-product, blood, urine, faeces, hair, saliva, tissue or other thing or any article, substance or liquid as he or she may reasonably require and carry out or cause to be carried out on the samples such tests, analyses, examinations tests or inspections as he or she considers necessary or expedient,
- (vii) seize and detain (for so long as is necessary) any such animal by-product, vehicle or container,
- (viii) require the production of a relevant document or thing relating to an animal by-product, vehicle, vessel or container,
- (ix) retain any such document or thing (for so long as is necessary),
- (x) dispose of, or require the owner or person in charge of or in possession of, an animal by-product to dispose of it (or any equipment, machinery, plant or other thing used in connection with, or that may have been in contact with, an animal by-product) in such manner as the authorised officer sees fit,
- (xi) give such directions to, or request such information of, such person regarding the animal by-product, vessel, vehicle, aircraft or container as he or she considers necessary,
- (xii) require the name and address of a person and the name and address of any other relevant person including the person to whom the animal by-product is being delivered or who is causing it to be delivered ,
- (xiii) require of the person the ownership, identity and origin of the animal by-product, or

- (xiv) mark or otherwise identify such animal by-product or a specimen taken under subparagraph (vi).
- (8) An authorised officer shall not enter, other than with the consent of the occupier, a private dwelling, unless he or she has obtained a search warrant under paragraph (13) other than if he or she has reasonable cause to suspect that, before a search warrant could be sought in relation to the dwelling, anything to which paragraph (7) relates is being or is likely to be destroyed or disposed.
- (9) An authorised officer may use reasonable force, if necessary, in the exercise of his or her powers under this Regulation.
- (10) An authorised officer when exercising any powers under this Regulation may be accompanied by other persons and may take with him or her, or those persons may take with them, any equipment or materials to assist the officer in the exercise of those powers.
- (11) An authorised officer is not liable in any proceedings for anything done in the purported exercise of his or her powers under this Regulation if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.
- (12) Where a member of the Garda Síochána has reasonable cause to suspect that a person has committed an offence under these Regulations, the member may without warrant arrest the person.
- (13) If a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for suspecting-
- (a) that there is on a premises, vehicle, vessel or aircraft an animal, animal by-product or product derived from an animal by-product,
  - (b) that there is on a premises, vehicle, vessel or aircraft a document, record or other thing relating to an animal, animal by-product or product derived from an animal by-product, or
  - (c) that there is evidence of a contravention of the European Regulation or these Regulations therein or thereon,
- the judge may issue a search warrant.
- (14) A search warrant under this Regulation shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers as the named authorised officer thinks necessary, at any time or times, within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter (if necessary by use of reasonable force) the premises, vehicle, vessel or aircraft named in the warrant.

- (15) Where a premises, vehicle, vessel or aircraft is entered pursuant to a warrant issued under this Regulation, an authorised officer so entering may exercise all or any of the powers conferred on an authorised officer under these Regulations.

### **Approval of plants**

6.(1) A person shall not operate a-

- (a) category 1 intermediate plant,
- (b) category 2 intermediate plant, or
- (c) category 3 intermediate plant,

other than under and in accordance with an approval granted for the purposes of Article 10 of the European Regulation.

(2) A person shall not operate a storage plant other than under and in accordance with an approval granted for the purposes of Article 11 of the European Regulation.

(3) A person shall not operate-

- (a) an incineration plant, or
- (b) a co-incineration plant,

to which Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000<sup>8</sup> does not apply, other than under and in accordance with an approval granted for the purposes of Article 12 of the European Regulation.

(4) A person shall not operate a-

- (a) category 1 processing plant, or
- (b) category 2 processing plant,

other than under and in accordance with an approval granted for the purposes of Article 13 of the European Regulation.

(5) A person shall not operate a-

- (a) category 2 oleochemical plant, or
- (b) category 3 oleochemical plant,

other than under and in accordance with an approval granted for the purposes of Article 14 of the European Regulation

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<sup>8</sup> O.J. No. L 332 of 28.12.2000, p. 91.



- (6) A person shall not operate a-
- (a) biogas plant, or
  - (b) composting plant,
- other than under and in accordance with an approval granted for the purposes of Article 15 of the European Regulation
- (7) A person shall not operate a category 3 processing plant other than under and in accordance with an approval granted for the purposes of Article 17 of the European Regulation.
- (8) A person shall not operate a-
- (c) petfood plant, or
  - (d) technical plant including a plant using animal by-products for taxidermy),
- other than under and in accordance with an approval granted for the purposes of Article 18 of the European Regulation.
- (9) The Minister may grant an approval, attach conditions to an approval (including conditions relating to storage of an animal by-product), revoke or vary a condition, withdraw an approval or refuse an application.
- (10) An application for an approval shall be made in a form, be accompanied by any material and contain any particulars that the Minister specifies.
- (11) The Minister shall not consider an application for an approval if the application does not contain all the material and particulars sought by the Minister.
- (12) Without prejudice to the generality of paragraph (9), the Minister may refuse an application or withdraw an approval if–
- (a) the applicant or person to whom an approval is granted has been convicted of, or committed, an offence, whether he or she has been convicted or not, under the Diseases of Animals Act 1966 or Regulations made under the European Communities Act 1972 that relates to an animal or animal product,
  - (b) the applicant or person to whom an approval is granted has failed to comply with a condition attached to an approval,
  - (c) the applicant or person to whom an approval is granted is not, in the opinion of the Minister, a fit and proper person for approval,

- (d) without prejudice to paragraph (9), in relation to the application, information required has not been furnished or information that is, in the opinion of the Minister, false or misleading has been furnished, or
  - (e) it is, in the opinion of the Minister -
    - (i) necessary to prevent the risk or spread of animal or human disease,
    - (ii) necessary to eradicate animal or human disease, or
    - (iii) necessary, incidental, supplementary or consequential for the purposes of giving effect to an act of the institutions of the European Communities, including the European Regulation, relating to animal health or welfare.
- (13) Without prejudice to the generality of paragraph (9), the Minister shall refuse an application or withdraw an approval if the applicant or person to whom approval is granted is convicted, on indictment, of an offence under the Diseases of Animal Act 1966 (No. 6 of 1966) or other enactment relating to animals.
- (14) Other than in the case of paragraph (13) or (15), if the Minister proposes to withdraw an approval, or to refuse an application, he or she shall —
- (a) notify the person concerned in writing of the proposal and of the reasons therefor, and that he or she may make representations to the Minister in relation to the proposal within 14 days of the notification,
  - (b) consider a representation duly made before deciding whether to proceed with, modify or annul the proposal, and
  - (c) notify the person concerned of the decision and the reasons therefor.
- (15) If the Minister is of the opinion that it is necessary to prevent the risk of disease or to give effect to an Act of an institution of the European Communities including the European Regulation, he or she may withdraw an approval in accordance with paragraph (16).
- (16) If the Minister withdraws an approval in accordance with this paragraph, he or she shall —

- (a) notify the person concerned in writing of the decision and the reasons therefor, and that he or she may make representations to the Minister in relation to the decision within 14 days of the date of the notification,
  - (b) consider a representation made, and
  - (c) confirm, modify or annul the decision and notify the person concerned of the decision and the reasons therefor.
- (17) A person to whom an approval is granted shall make such returns to the Minister as and when, and in such form as, the Minister may from time to time direct.
- (18) The Minister shall maintain and publish, in a manner that he or she considers appropriate, a list of approvals granted under this Regulation, divide the list into different classes having regard to the activity to which an approval relates and include such information as he considers appropriate on the list.
- (19) Where the Minister withdraws an approval under this Regulation or the approval expires by effluxion of time, an entry on the list maintained under paragraph (18) shall cease to have effect and the Minister shall, as soon as may be after withdrawing the approval remove details of the withdrawn approval from the list.
- (20) In this Regulation, “Minister” means-
- (a) in relation to an application, an approval or list of approvals relating to a fish by-product, the Minister for Communications, Marine and Natural Resources, and
  - (b) in relation to an application, an approval or list of approvals relating to the use of an animal by-product for the preparation of pharmaceuticals or technical products, the Minister for Health and Children.

## **Burial**

7. (1) A person shall not dispose of or bury an animal or animal by-product or cause or permit a person to dispose of or bury an animal by-product other than under and in accordance with a licence (“burial licence”) or an authorisation under paragraph (6) and, where appropriate, with the prior consent of the Minister in accordance with Articles 6 or 8 of Commission Regulation (EC) No. 811/2003 of 12 May 2003.
- (2) The Minister may grant a burial licence, attach conditions to a burial licence, revoke or vary a condition, revoke a burial licence or refuse an application.

- (3) An application for a burial licence shall be made in a form, be accompanied by any material and contain any particulars that the Minister specifies.
- (4) The Minister shall not consider an application for a burial licence unless in his or her opinion, the animal or animal by-product to which the application relates is located in a place (having particular regard to the topography of the place) that is remote from another place in which the animal or animal by-product may be disposed of in a lawful manner.
- (5) The Minister shall not grant a burial licence and shall revoke a burial licence-
- (a) if the application pertains to material referred to in Article 4(1)(a)(i) of the European Regulation or does not contain all the material and particulars sought by him or her,
  - (b) if, in his or her opinion, the animal or animal by-product may be safely and reasonably disposed of in another lawful manner, or
  - (c) if, in his or her opinion, transport of an animal or animal by-product constitutes a serious risk to human or animal health.
- (6) Notwithstanding paragraph (5) and subject to paragraph (4), an authorised officer may authorise a person to bury a single animal on the farm on which the animal died and may direct the manner in which the animal is buried.
- (7) Without prejudice to the generality of paragraph (2), the Minister may refuse an application or revoke a burial licence if-
- (a) the applicant or person to whom a burial licence is granted has been convicted of, or committed, an offence, whether he or she has been convicted or not, under the Diseases of Animals Act 1966 or Regulations made under the European Communities Act 1972 that relates to an animal or animal product,
  - (b) the applicant or person to whom a burial licence is granted has failed to comply with a condition attached to an approval,
  - (c) the applicant or person to whom a burial licence is granted is not, in the opinion of the Minister, a fit and proper person to hold a licence,
  - (d) without prejudice to paragraph (9), in relation to the application, information required has not been furnished or information that is, in the opinion of the Minister, false or misleading has been furnished, or
  - (e) it is, in the opinion of the Minister -
    - (i) necessary to prevent the risk or spread of animal or human disease,

- (ii) necessary to eradicate animal or human disease, or
  - (iii) necessary, incidental, supplementary or consequential for the purposes of giving effect to an act of the institutions of the European Communities, including the European Regulation, relating to animal health or welfare.
- (8) Without prejudice to the generality of paragraph (2), the Minister shall refuse an application or revoke a burial licence if the applicant or person to whom a licence is granted is convicted, on indictment, of an offence under the Diseases of Animal Act 1966 (No. 6 of 1966) or other enactment relating to animals.
- (9) A person to whom a burial licence or approval under paragraph (6) is granted shall take all necessary steps to ensure that burial of the animal or animal by-product to which the licence or approval under paragraph (6) relates does not cause nuisance, pollution or pose a threat to the environment.
- (10) Other than in the case of paragraph (8) or (11), if the Minister proposes to revoke a burial licence or to refuse an application, he or she shall —
- (a) notify the person concerned in writing of the proposal and of the reasons therefor, and that he or she may make representations to the Minister in relation to the proposal within 14 days of the notification,
  - (b) consider a representation duly made before deciding whether to proceed with, modify or annul the proposal, and
  - (c) notify the person concerned of the decision and the reasons therefor.
- (11) If the Minister is of the opinion that it is necessary to prevent the risk of disease or to give effect to an Act of an institution of the European Communities including the European Regulation, he or she may revoke a burial licence or refuse an application in accordance with paragraph (12).
- (12) If the Minister revokes a burial licence or refuses an application in accordance with this paragraph, he or she shall —
- (a) notify the person concerned in writing of the decision and the reasons therefor, and that he or she may make representations to the Minister in relation to the decision within 14 days of the date of the notification,
  - (b) consider a representation made, and

- (c) confirm, modify or annul the decision and notify the person concerned of the decision and the reasons therefor.
- (13) A person to whom a burial licence or approval under paragraph (6) is granted shall make such returns to the Minister as and when, and in such form as, the Minister may from time to time direct.
- (14) Nothing in this Regulation shall prevent the disposal of dead pet animals by burial.
- (15) The Minister shall maintain and publish, in a manner that he or she considers appropriate, a list of burial licenses, divide the list into different classes having regard to the activity to which an burial relates and include such information as he considers appropriate on the list.
- (16) Where the Minister revokes a burial licence or such licence expires by effluxion of time, an entry on the list maintained under paragraph (15) shall cease to have effect and the Minister shall, as soon as may be after revocation, remove details of the revoked licence from the list.
- (17) In this Regulation, a reference to the Minister means, in relation to an application or burial licence relating to a fish by-product, the Minister for Communications, Marine and Natural Resources.

#### **Research etc.**

- 8.(1) A person shall not use an animal by-product for diagnosis, education or scientific research other than under and in accordance with a licence granted by the Minister (“research licence”).
- (2) The Minister may grant a research licence, attach conditions to a research licence, revoke or vary a condition, revoke a research licence or refuse an application.
- (3) An application for a research licence shall be made in a form, be accompanied by any material and contain any particulars that the Minister specifies.
- (4) The Minister shall not grant a research licence unless he or she is satisfied that the applicant is qualified and competent to carry out diagnosis, education or scientific research using an animal by-product and has available suitable facilities for research and storage of animal by-products.
- (5) Without prejudice to the generality of paragraph (2), the Minister may refuse an application or revoke a research licence if—
- (a) the applicant or person to whom a research licence is granted has been convicted of, or committed, an offence, whether he or she has been convicted or not, under the Diseases of Animals Act 1966 or Regulations made under the European

Communities Act 1972 that relates to an animal or animal product,

- (b) the applicant or person to whom a research licence is granted has failed to comply with a condition attached to an approval,
- (c) the applicant or person to whom a research licence is granted is not, in the opinion of the Minister, a fit and proper person to hold a licence,
- (d) without prejudice to paragraph (9), in relation to the application, information required has not been furnished or information that is, in the opinion of the Minister, false or misleading has been furnished, or
- (e) it is, in the opinion of the Minister -
  - (i) necessary to prevent the risk or spread of animal or human disease,
  - (ii) necessary to eradicate animal or human disease, or
  - (iii) necessary, incidental, supplementary or consequential for the purposes of giving effect to an act of the institutions of the European Communities, including the European Regulation, relating to animal health or welfare.

(6) Without prejudice to the generality of paragraph (2), the Minister shall refuse an application or revoke a research licence if the applicant or person to whom a licence is granted is convicted, on indictment, of an offence under the Diseases of Animal Act 1966 (No. 6 of 1966) or other enactment relating to animals.

(7) Other than in the case of paragraph (6) or (8), if the Minister proposes to revoke a research licence or to refuse an application, he or she shall —

- (a) notify the person concerned in writing of the proposal and of the reasons therefor, and that he or she may make representations to the Minister in relation to the proposal within 14 days of the notification,
- (b) consider a representation duly made before deciding whether to proceed with, modify or annul the proposal, and
- (c) notify the person concerned of the decision and the reasons therefor.

- (8) If the Minister is of the opinion that it is necessary to prevent the risk of disease or to give effect to an Act of an institution of the European Communities including the European Regulation, he or she may revoke a research licence or refuse an application in accordance with paragraph (9).
- (9) If the Minister revokes a research licence or refuses an application in accordance with this paragraph, he or she shall —
  - (a) notify the person concerned in writing of the decision and the reasons therefor, and that he or she may make representations to the Minister in relation to the decision within 14 days of the date of the notification,
  - (b) consider a representation made, and
  - (c) confirm, modify or annul the decision and notify the person concerned of the decision and the reasons therefor.
- (10) A person to whom a research licence is granted shall make such returns to the Minister as and when, and in such form as, the Minister may from time to time direct.
- (11) The Minister shall maintain and publish, in a manner that he or she considers appropriate, a list of research licences, divide the list into different classes having regard to the activity to which a research licence relates and include such information as he or she considers appropriate on the list.
- (12) Where the Minister revokes a research licence or such licence expires through effluxion of time, an entry on the list maintained under paragraph (11) shall cease to have effect and the Minister shall, as soon as may be after revocation remove details of the research licence from the list.
- (13) In this Regulation, a reference to the Minister means, in relation to an application or research licence relating to a fish by-product, the Minister for Communications, Marine and Natural Resources.

### **Use of animal by-products**

9. (1) A person shall not-
  - (a) feed an animal by-product referred to in Article 23(2)(b) of the European Regulation to an animal of a class or description referred to in Article 23(2)(c) other than under and in accordance with a licence (“knackery meat feeding licence”),  
or



- (b) sell or supply an animal by-product for feeding to an animal referred to in subparagraph (a) other than under and in accordance with a licence (“knackery meat seller’s licence”).
- (2) The Minister may grant a knackery meat feeding licence or knackery meat seller’s licence, attach conditions to a knackery meat feeding licence or a knackery meat seller’s licence (including conditions relating to maintenance of records and storage of animal by-products), revoke or vary a condition, revoke a knackery meat feeding licence or a knackery meat seller’s licence or refuse an application.
- (3) An application for a knackery meat feeding licence or a knackery meat seller’s licence shall be made in a form, be accompanied by any material and contain any particulars that the Minister specifies.
- (4) The Minister shall not grant a knackery meat feeding licence or a knackery meat seller’s licence unless he or she is satisfied that an animal by-product-
  - (a) will only be obtained from premises that operate in accordance with Regulation 6,
  - (b) will, at time of preparation and prior to sale or supply, be stained with a green staining ink or other material approved by him or her, and
  - (c) will not be fed to an animal other than an animal to which the licence relates.
- (5) The holder of a knackery meat feeding licence shall not obtain an animal by-product referred to in Article 23(2)(b) of the European Regulation other than from a person and premises licensed under and in accordance with paragraph (1)(b).
- (6) The holder of a knackery meat seller’s licence shall not sell or supply an animal by-product referred to in Article 23(2)(b) of the European Regulation other than to a person licensed under and in accordance with paragraph (1)(a).
- (7) Without prejudice to the generality of paragraph (2), the Minister may refuse an application or revoke a knackery meat feeding licence or a knackery meat seller’s licence if–
  - (a) the applicant or person to whom a knackery meat feeding licence or a knackery meat seller’s licence is granted has been convicted of, or committed, an offence, whether he or she has been convicted or not, under the Diseases of Animals Act 1966 or Regulations made under the European Communities Act 1972 that relates to an animal or animal product,

- (b) the applicant or person to whom a knackery meat feeding licence or a knackery meat seller's licence is granted has failed to comply with a condition attached to a licence,
  - (c) the applicant or person to whom a knackery meat feeding licence or a knackery meat seller's licence is granted is not, in the opinion of the Minister, a fit and proper person to hold a licence,
  - (d) without prejudice to paragraph (9), in relation to the application, information required has not been furnished or information that is, in the opinion of the Minister, false or misleading has been furnished, or
  - (e) it is, in the opinion of the Minister -
    - (i) necessary to prevent the risk or spread of animal or human disease,
    - (ii) necessary to eradicate animal or human disease, or
    - (iii) necessary, incidental, supplementary or consequential for the purposes of giving effect to an act of the institutions of the European Communities, including the European Regulation, relating to animal health or welfare.
- (8) Without prejudice to the generality of paragraph (2), the Minister shall refuse an application or revoke a knackery meat feeding licence or a knackery meat seller's licence if the applicant or person to whom a licence is granted is convicted, on indictment, of an offence under the Diseases of Animal Act 1966 (No. 6 of 1966) or other enactment relating to animals or animal products.
- (9) A person to whom a knackery meat feeding licence or a knackery meat seller's licence is granted shall take all necessary steps to ensure that the feeding transport, sale or supply of an animal by-product to which the licence relates does not cause nuisance, pollution or pose a threat to the environment.
- (10) Other than in the case of paragraph (8) or (11), if the Minister proposes to revoke a knackery meat feeding licence or a knackery meat seller's licence or to refuse an application, he or she shall —
- (a) notify the person concerned in writing of the proposal and of the reasons therefor, and that he or she may make representations to the Minister in relation to the proposal within 14 days of the notification,

- (b) consider a representation duly made before deciding whether to proceed with, modify or annul the proposal, and
  - (c) notify the person concerned of the decision and the reasons therefor.
- (11) If the Minister is of the opinion that it is necessary to prevent the risk of disease or to give effect to an Act of an institution of the European Communities including the European Regulation, he or she may revoke a knackery meat feeding licence or a knackery meat seller's licence or refuse an application in accordance with paragraph (12).
- (12) If the Minister revokes a knackery meat feeding licence or a knackery meat seller's licence or refuses an application in accordance with this paragraph, he or she shall —
  - (a) notify the person concerned in writing of the decision and the reasons therefor, and that he or she may make representations to the Minister in relation to the decision within 14 days of the date of the notification,
  - (b) consider a representation made, and
  - (c) confirm, modify or annul the decision and notify the person concerned of the decision and the reasons therefor.
- (13) A person to whom a knackery meat feeding licence or a knackery meat seller's licence is granted shall make such returns to the Minister as and when, and in such form as, the Minister may from time to time direct.
- (14) The Minister shall maintain and publish, in a manner that he or she considers appropriate, a list of knackery meat feeding licences and knackery meat seller's licences, divide the list into different classes having regard to the activity to which a knackery meat feeding licence or a knackery meat seller's licence relates and include such information as he considers appropriate on the list.
- (15) Where the Minister revokes a knackery meat feeding licence or a knackery meat seller's licence or such licence expires through effluxion of time, an entry on the list maintained under paragraph (14) shall cease to have effect and the Minister shall, as soon as may be after revocation remove details of the revoked licence from the list.
- (16) In this Regulation, a reference to the Minister means, in relation to an application or licence relating to a fish by-product or maggots for use as bait, the Minister for Communications, Marine and Natural Resources.

### **Sale restricted to fixed premises**

10.(1) A person, including a person to whom a knackery meat seller's licence is granted, shall not sell an animal by-product or cause or permit a person to sell or supply an animal by-product –

- (a) other than from a fixed premises,
- (b) from a travelling shop, vehicle, or vending machine,
- (c) by mail order, or
- (d) at a trade fair, exhibition, sporting event or place where animals are sold, slaughtered, exhibited or entered in competition.

(2) A person shall not travel from house to house soliciting orders for an animal by-product.

(3) In this Regulation-

“animal by-product” means an animal by-product which a person cannot feed to an animal other than under and in accordance with a knackery meat feeding licence or sell or supply other than under and in accordance with a knackery meat seller's licence;

“fixed premises” does not include a vehicle, trailer, caravan or other thing which may be transported on, in or attached to a vehicle, or any tent, awning or hut, shed, or, unroofed or temporary structure or stall, or any yard, field, roadway or casual trading area.

### **Placing on the market**

11. A person shall not place on the market or export-

- (a) petfood, dogchews or technical products (other than those referred to in Article 20 (2) and (3) of the European Regulation) and products to which Annex VIII to the European Regulation refers,
- (b) organic fertilizers referred to in Article 20(2) of the European Regulation, or
- (c) fat derivatives referred to in Article 20(3) of the European Regulation,

other than in accordance with Article 20 of the European Regulation.

## Notice

12. (1) Where an authorised officer is of the opinion that -

(a) the European Regulation or these Regulations are not being or have not been complied with or there are reasons to believe that they will not be complied with, or

(b) there is a danger to public or animal health

he or she may, by a notice in writing stating that opinion and served on the person who appears to be the owner, operator or person in charge of the premises, animal by-product or other thing to which the notice relates –

(i) seize and detain an animal, meat, animal by-product premises, vehicle, container or other thing, or

(ii) require him or her to take such action as the authorised officer considers necessary.

(2) A notice under this Regulation may-

(a) require that an animal by-product be disposed of or destroyed in a manner specified in the notice,

(b) prohibit or regulate any operation or processing on the premises to which the notice relates

(c) prohibit the transport or, as the case may be, the further transport of an animal by-product either absolutely or unless such conditions as may be specified in the notice are complied with,

(d) require a person to return an animal by-product to the place of departure by a route which in the opinion of the authorised officer is the most direct or prudent,

(e) require that such alterations be made to a premises or means of transport as may be specified in the notice, or

(f) require a person to cleanse and disinfect a vehicle, premises, container or part thereof.

- (3) A person shall comply with a notice under this Regulation or a requirement of an animal transport notice unless and until the notice is annulled under paragraph (8).
- (4) A requirement contained in a notice under this Regulation may specify a time limit within which it is to be complied with.
- (5) A requirement specified in a notice under this Regulation (in this paragraph referred to as "the earlier notice") may be modified or withdrawn in a further notice and the earlier notice shall have effect subject to the modification or withdrawal.
- (6) A notice under this Regulation may require the person in control of an animal by-product, premises, means of transport or other thing to choose between two or more of the requirements specified in the notice.
- (7)
  - (a) A person affected by a notice under this Regulation may, within 7 days of the service of the notice, apply to the Judge of the District Court having jurisdiction in the District Court District where an animal is situated or to the Judge of the District Court having jurisdiction in the District Court District where the person bringing the appeal ordinarily resides or carries on business on the grounds that the notice or any of the terms thereof are not justified having regard to this Order (in this Article referred to as "an appeal").
  - (b) An appeal may be heard at any sitting of the District Court within the appropriate District Court District.
  - (c) Notice of an appeal shall contain a statement of the grounds upon which it is alleged that the notice or any of the terms thereof are not justified and shall be served on the Minister at least 48 hours prior to the hearing of the appeal.
  - (d) A copy of the notice of appeal shall be lodged with the District Court Clerk at least 48 hours prior to the hearing of the appeal.
- (8) On the hearing of an appeal a Judge of the District Court may confirm, modify, or annul a notice.
- (9) A person, including a person on whom a notice under this Regulation has been served, shall not -
  - (a) pending the determination of an appeal, deal with an animal by-product,

premises, means of transport or other thing to which the notice relates, other than in accordance with the terms of the notice, or

- (b) after such appeal, deal with an animal by-product, premises, means of transport or other thing concerned other than in accordance with the notice or notice as modified.

(10) (a) Where-

- (i) the person in control of an animal by-product, premises, means of transport or other thing fails to comply with the terms of a notice under this Regulation within the time specified therein,
- (ii) an authorised officer has reasonable grounds for believing that the terms of a notice under this Regulation will not be complied with,
- (iii) a notice under this Regulation has been confirmed with or without modification under paragraph (8) and the notice has not been complied with,
- (iv) an authorised officer has reasonable grounds for believing that the terms of a notice under this Regulation which has been confirmed with or without modification under paragraph (8) will not be complied with, or
- (v) pending the determination of an appeal, an authorised officer has reasonable grounds for believing that directions given pursuant to paragraph (9) have not been or shall not be complied with,

an authorised officer may at any time seize the animal by-product, premises, means of transport or other thing concerned.

- (b) Where an animal by-product, premises, means of transport or other thing is seized in accordance

with subparagraph (a), an authorised officer may-

- (i) sell, destroy or dispose of the animal or other thing or cause it to be sold, destroyed or be disposed of, or
- (ii) take such other measures in relation to the animal by-product, premises, means of transport or other thing as the authorised officer considers appropriate in the circumstances of the case.

- (c) Any profits arising out of the sale, destruction or disposal of an animal by-product or other thing in accordance with subparagraph (b) shall be paid to the owner of the animal by-product or other thing less any expenses incurred in connection with the seizure, sale, destruction or disposal.

- (11) The costs of a measure taken under this Regulation is recoverable by the Minister –

- (a) as a simple contract debt in a court of competent jurisdiction from the person who was the owner of the animal or means of transport at the time the measure was carried out, or

- (b) by deducting the costs from any sum due by the Minister to a person on whom a notice has been served.

## **Forgery**

- 13. (1) A person shall not forge or utter knowing it to be forged a certificate, commercial document, an approval or licence issued pursuant to the European Regulation or these Regulations or a record purporting to be kept and maintained under the European Regulation or these Regulations or a document purporting to be an extract therefrom (hereafter in this Regulation referred to as "a forged document").
- (2) A person shall not alter with intent to defraud or deceive, or utter knowing it to be so altered a certificate, commercial document, an approval or licence granted under the European Regulation or these Regulations or a record kept and maintained under the European Regulation or these Regulations or an extract therefrom (hereafter in this Regulation referred to as "an altered document").



- (3) A person shall not have, without lawful authority, in his or her possession or under his or her control a forged document or an altered document.

## **Service**

14. (1) A notification under Regulation 6(14) or (16), Regulation 7(10) or (12), Regulation 8(7) or (9) or Regulation 9 (10) or (12) (hereinafter in this Regulation referred to as a “notification”) or notice under Regulation 12 shall, subject to paragraph (2), be addressed to the person concerned by name, and may be served on or given to the person in one of the following ways –
- (a) by delivering it to the person,
  - (b) by leaving it at the address at which the person ordinarily resides or, in a case where an address for service has been furnished, at that address,
  - (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case where an address for service has been furnished, at that address, or
  - (d) where the address at which the person ordinarily resides cannot be ascertained by reasonable enquiry and the welfare notice relates to a premises, by delivering it to some person over 16 years of age resident or employed on the premises or by affixing it in a conspicuous position on or near the premises.
- (2) Where a notification or notice under Regulation 12 is to be served on or given to a person who is the owner or occupier of a premises and the name of the person cannot be ascertained by reasonable enquiry, it may be addressed to the person by using the words the owner or, as the case may require, the occupier.
- (3) A person shall not at any time within 6 months after a notification or notice under Regulation 12 is affixed under paragraph (1)(d) remove, damage or deface the notice without lawful authority.
- (4) For the purposes of this Regulation, a company within the meaning of the Companies Acts, 1963 to 1990, is deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body is deemed to be ordinarily resident at its principal office or place of business.

## **Amendments to certain instruments**

15. (1) The European Communities (Trade in Animals and Animal Products) Regulations 1994 (S.I. No. 289 of 1994) are amended-

- (a) in Regulation 14, by the substitution for “£1,000” of “€3,000”, and
- (b) in the Schedule, by the substitution for “14. Council Directive No. 90/667/EEC of 27 November 1990” of “14. Regulation (EC) No. 1774/2002 of the European Parliament and the Council of 3 October 2002”.

(2) The European Communities (Trade in Certain Animal Products) Regulations 1996 (S.I. No. 102 of 1996) are amended –

- (a) in Regulation 3, by substituting, for the definition of “the Council Directive” of-  

“‘Council Directive’ means Council Directive No. 92/118/EEC of 17 December 1992 as amended by Commission Decision No. 96/103/EC of 25 January 1996 and Directive 2002/33/EC of the European Parliament and the Council of 21 October 2002;”,
- (b) by revoking Regulations 4(1)(p), 6, 8, 14, 15, 16, 17, 18 and 19,
- (c) in Regulation 4(1), by deleting “,in addition to the relevant requirements set out in Regulations 6 to 24 inclusive”,
- (d) in Regulation 9, by inserting, after “hoof products” where it occurs, “intended for human consumption”,
- (e) in Regulation 10, by inserting, after “processed animal protein” where it occurs, “intended for human consumption”,
- (f) in Regulation 11, by inserting after “blood products of animal origin” where it occurs “intended for human consumption”, and
- (g) in Regulation 29(1), by the substitution for “£1,000” of “€3,000”.

## **Fees**

16. (1) The Minister, Minister for Health and Children and the Minister for Communications, Marine and Natural Resources may charge a fee in respect of an application for an approval or licence or for the performance of a

function under these Regulations, such fee, not exceeding the cost, estimated by the Minister charging the fee, of providing the service to which the fee relates.

- (2) Where the Minister, Minister for Health and Children or the Minister for Communications, Marine and Natural Resources charges a fee in relation to an application for an approval or licence under these Regulations, he or she shall not consider the application unless the fee accompanies the application.
- (3) A fee payable pursuant to this Regulation may be recovered by the Minister, Minister for Health and Children or the Minister for Communications, Marine and Natural Resources from the person by whom it is payable as a simple contract debt in a court of competent jurisdiction.
- (4) A fee payable pursuant to this Regulation shall be disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.
- (5) The Public Offices Fees Act 1879 does not apply to a fee charged pursuant to this Regulation.

### **Prosecutions**

17. (1) An offence under these Regulations may be prosecuted by-
  - (a) the Minister,
  - (b) the Minister for Health and Children,
  - (c) the health board in whose functional area the alleged offence was committed, or
  - (d) the Minister for Communications, Marine and Natural Resources.
- (2) Where an offence under these Regulations has been committed by a body corporate and it is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in any such capacity, that person, as well as the body corporate, is guilty of an offence and liable to be proceeded against and punished as if guilty of the first-mentioned offence.
- (3) Where the affairs of a body corporate or unincorporated body are managed by its members, paragraph (2) applies in relation to the acts and defaults of a member in connection with his functions of management as if such a member were a director or manager of the body corporate.

## **Savers**

18. (1) These Regulations are in addition to and not in substitution for-
- (a) the Diseases of Animals Act 1966 (No. 6 of 1966) and Regulations under the European Communities Act 1972 (No. 27 of 1972) that relate to an animal, product or other thing that is also subject to these Regulations, and
  - (b) any enactment or statutory instrument made under an enactment that regulates the import and placing on the market of a product not referred to in Annex VII or VIII of the European Regulation.
- (2) A person who, immediately before the making of these Regulations, is lawfully operating a plant (for which approval is required for the purposes of the European Regulation under Regulation 6) in accordance with the Regulations revoked by Regulation 19(a) and who makes application for an approval in respect of the plant within 2 months of the making of these Regulations, may continue to operate, in accordance with these Regulations until the application is determined.
- (3) A licence granted under Regulation 5(2)(a) of the Regulations revoked by Regulation 19(a), that is in force immediately before the making of these Regulations, shall remain in force and may be dealt with as if granted under Regulation 8.
- (4) A licence granted under Regulation 5(3)(a) of the Regulations revoked by Regulation 19(a) authorising the use of animal by-products for feeding to certain animals, that is in force immediately before the making of these Regulations, shall remain in force and may be dealt with as if it were a knackery meat feeding licence.
- (5) A licence granted under the Regulations revoked by Regulation 19(b), authorising the feeding of an animal by-product, that was in force immediately before the making of these Regulations shall remain in force and may be dealt with as if it were a knackery meat feeding licence.
- (6) A licence granted under the Regulations revoked by Regulation 19(b), authorising the sale or supply of an animal by-product, that was in force immediately before the making of these Regulations shall remain in force and may be dealt with as if it were a knackery meat seller's licence.

## **Revocation**

19. The following are revoked –
- (a) the European Communities (Disposal, Processing and Placing on the Market of Animal By-Products) Regulations 1994 (S.I. No. 257 of 1994), and

- (b) the European Communities (Knackery) Regulations 1996 to 1999.

**GIVEN** under my Official Seal,  
20<sup>th</sup> June 2003

L.S.

Joe Walsh  
Minister for Agriculture and Food

## **EXPLANATORY NOTE**

(This note is not part of the instrument and does not purport to be a legal interpretation)

These Regulations provide penalties for breaches of Regulation No. 1774/2002 of the European Parliament and the Council of 3 October 2002, gives effect to Directive 2002/33/EC of the European Parliament and of the Council of 21 October 2002 and increases the penalty for breaches of certain provisions and ancillary matters.

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