

Welsh Statutory Instrument 2001 No. 2780 (W.233)

The Processed Animal Protein (Wales) Regulations 2001

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STATUTORY INSTRUMENTS

2001 No. 2780 (W.233)

AGRICULTURE, WALES

The Processed Animal Protein (Wales) Regulations 2001

<i>Made</i>	<i>19th July 2001</i>
<i>Coming into force</i>	<i>1st August 2001</i>

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The National Assembly for Wales, being designated^[1] for the purposes of section 2(2) of the European Communities Act 1972^[2] in relation to the common agricultural policy of the European Community, hereby makes the following Regulations -

Title, commencement and application

1. These Regulations may be cited as the Processed Animal Protein (Wales) Regulations 2001, shall come into force on 1st August 2001 and shall apply to Wales.

Interpretation

2. - (1) In these Regulations, unless the context otherwise requires -

"animal by-product" ("*sgil-gynnyrch anifeiliaid*") has the same meaning as in the Animal By-Products Order 1999^[3];

"ABPO approved" ("*wedi'i gymeradwyo o dan y GSGA*"), in relation to premises, means approved under article 7 of the Animal By-Products Order 1999, in accordance with article 5(2) of Council Directive 90/667/EEC^[4] laying down the veterinary rules for the disposal and processing of animal waste, for its placing on the market and for the prevention of pathogens in feeding-stuffs of animal or fish origin and amending Directive 90/425/EEC, for the purpose of rendering low risk animal by products; and "ABPO approval" shall be construed accordingly;

"animal waste" ("*gwastraff anifeiliaid*") has the same meaning as in Council Directive 90/667/EEC laying down the veterinary rules for the disposal and processing of animal waste, for its placing on the market and for the prevention of pathogens in feeding-stuffs of animal or fish origin and amending Directive 90/425/EEC;

"the BSE (No.2) Order" ("*Gorchymyn BSE (Rhif 2)*") means the Bovine Spongiform Encephalopathy (No.2) Order 1996^[5];

"catering waste" ("*gwastraff arlwyo*") has the same meaning as in the Animal By-Products Order 1999;

"the Commission Decision" ("*Penderfyniad y Comisiwn*") means Commission Decision 2001/9/EC^[6] concerning control measures required for the implementation of Council Decision 2000/766/EC concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein;

"the Council Decision" ("*Penderfyniad y Cyngor*") means Council Decision 2000/766/EC^[7] concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein;

"farmed animal" ("*anifail a ffermir*") means an animal which is kept, fattened or bred for the production of food;

"inspector" ("*arolygydd*") means -

(a) any person appointed to be an inspector under the Animal Health Act 1981; and

(b) a person appointed as such for the purposes of these Regulations by a local authority in relation to its enforcement responsibilities under these Regulations;

"local authority" ("*awdurdod lleol*") means in respect of a county or county borough, the council of that county or county borough;

"the National Assembly" ("*y Cynulliad Cenedlaethol*") means the National Assembly for Wales;

"premises" ("*safle*") includes any place, stall or moveable structure.

"processed animal protein" ("*protein anifeiliaid wedi'i brosesu*") means meat and bone meal, meat meal, bone meal, blood meal, dried plasma and other blood products, hydrolysed protein, hoof meal, horn meal, poultry offal meal, feather meal, dry greaves, fishmeal, dicalcium phosphate, gelatin and any other similar products including mixtures, feeding-stuffs, feed additives and premixtures, containing these products;

"swill" ("*golchion*") has the same meaning as in the Animal By-Products Order 1999; and

"veterinary inspector" ("*arolygydd milfeddygol*") means a person appointed to be a veterinary inspector under the Animal Health Act 1981.

(2) Expressions in these Regulations which are not defined in paragraph (1) above and which appear in the Council Decision or the Commission Decision have the same meaning in these Regulations as they have for the purposes of those Decisions.

(3) For the purposes of these Regulations and their application, material shall be treated as a feeding-stuff whether it is used or intended to be used as a feeding-stuff by itself or as

an ingredient in something which is so used or intended for such use.

Application

3. - (1) These Regulations apply in relation to processed animal protein intended for the feeding of animals (excluding humans).

(2) These Regulations do not apply in relation to -

- (a) catering waste;
- (b) eggs and egg products; or
- (c) swill.

Feeding processed animal protein to farmed animals

4. - (1) Subject to paragraph (2) below, no person shall feed any processed animal protein to a farmed animal.

(2) The prohibition in paragraph (1) above shall not apply to -

- (a) the feeding to farmed animals, other than ruminants, of fishmeal -
 - (i) produced in Wales in premises approved and used as mentioned in regulation 5 below;
 - (ii) produced in another part of the United Kingdom in premises approved by the competent authority of that part in accordance with the Commission Decision and used in accordance with that approval;
 - (iii) produced in another Member State in premises approved by a competent authority of that Member State in accordance with the Commission Decision and used in accordance with that approval; or
 - (iv) produced in a third country which, before being sold or supplied in Wales, has been analysed in accordance with Commission Directive 98/88/EC^[8] and is transported directly from the border inspection post in accordance with the conditions specified in paragraphs 1 and 2 of Schedule 1 and not intermediately stored otherwise than in accordance with the conditions of paragraph 5 of Schedule 1;
- (b) the feeding to farmed animals of gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive 70/524/EEC^[9] concerning additives in feeding-stuffs;
- (c) the feeding to farmed animals of dicalcium phosphate -
 - (i) produced in Wales in premises approved and used as mentioned in regulation 6 below;
 - (ii) produced in another part of the United Kingdom in premises approved by the competent authority of that part in accordance with the Commission Decision and used in accordance with that approval; or

(iii) produced in another Member State in premises approved by a competent authority of that Member State in accordance with the Commission Decision and used in accordance with that approval;

(d) the feeding to farmed animals of hydrolysed proteins -

(i) produced in Wales in premises approved and used as mentioned in regulation 7 below;

(ii) produced in another part of the United Kingdom in premises approved by the competent authority of that part in accordance with the Commission Decision and used in accordance with that approval; or

(iii) produced in another Member State in premises approved by a competent authority of that Member State in accordance with the Commission Decision and used in accordance with that approval; or

(e) the feeding to farmed animals of milk and milk products.

Production of fishmeal for feeding to farmed animals other than ruminants

5. - (1) No person shall use any premises for the production of fishmeal for feeding to farmed animals other than ruminants unless -

(a) the premises are approved for this purpose by the National Assembly under this regulation; and

(b) transport and intermediate storage of fishmeal from the premises is in accordance with the conditions specified in paragraphs 3, 4 and 5 of Schedule 1.

(2) On an application made to it under this regulation for the approval of premises for the production of fishmeal for feeding to farmed animals other than ruminants, the National Assembly shall approve the premises for this purpose if, following an inspection of the premises by a veterinary inspector, it is satisfied that -

(a) the premises will be dedicated only to fishmeal production;

(b) the premises are ABPO approved

(c) the person who will use the premises for the production of fishmeal for feeding to farmed animals other than ruminants will be able to maintain and use the premises in accordance with the ABPO approval and ensure that fishmeal is transported from the premises and intermediately stored in accordance with the conditions specified in paragraphs 3, 4, and 5 of Schedule 1.

(3) The person carrying on any business at premises approved under this regulation shall ensure that -

(a) the production of fishmeal at the premises is in accordance with the approval and in compliance with the provisions of these Regulations and Schedule to these

Regulations subject to which the approval is granted;

(b) any person employed by him or her, and any person invited to the premises, complies with those provisions; and

(c) any inspector, and any person acting under the responsibility of an inspector, is provided with adequate facilities so as to enable him or her to carry out his or her functions under these Regulations in relation to the premises and that he or she is given such reasonable assistance and access to such records (including any records held in electronic form) as he or she may at any reasonable time require for that purpose.

Production of dicalcium phosphate for feeding to farmed animals

6. - (1) No person shall use any premises for the production of dicalcium phosphate for feeding to farmed animals unless -

(a) the premises are approved for this purpose by the National Assembly under this regulation; and

(b) the premises are used for this purpose in accordance with the conditions specified in Schedule 2.

(2) On an application made to it under this regulation for the approval of premises for the production of dicalcium phosphate for feeding to farmed animals, the National Assembly shall approve the premises for this purpose if, following an inspection of the premises by a veterinary inspector, it is satisfied that -

(a) the premises are ABPO approved; and

(b) the person who will use the premises for the production of dicalcium phosphate for feeding to farmed animals will be able to maintain and use the premises in accordance with the ABPO approval and the conditions specified in Schedule 2.

(3) The person carrying on any business at premises approved under this regulation shall ensure that -

(a) the production of dicalcium phosphate at the premises is in accordance with the approval and in compliance with the provisions of these Regulations and Schedule to these Regulations subject to which the approval is granted;

(b) any person employed by him or her, and any person invited to the premises, complies with those provisions; and

(c) any inspector, and any person acting under the responsibility of an inspector, are provided with adequate facilities so as to enable them to carry out their functions under these Regulations in relation to the premises and that they are given such reasonable assistance and access to such records (including any records held in electronic form) as they may at any reasonable time require for that purpose.

Production of hydrolysed protein for feeding to farmed animals

7. - (1) No person shall use any premises for the production of hydrolysed protein for

feeding to farmed animals unless -

(a) the premises are approved for this purpose by the National Assembly under this regulation; and

(b) the premises are used for this purpose in accordance with the conditions specified in Schedule 3.

(2) On an application made to it under this regulation for the approval of premises for the production of hydrolysed protein for feeding to farmed animals, the National Assembly shall approve the premises for this purpose if, following an inspection of the premises by a veterinary inspector, it is satisfied that -

(a) the premises will be dedicated only to production of hydrolysed protein for feeding to farmed animals;

(b) the premises are ABPO approved for the production of hydrolysed protein derived from fish, feather, hides and skins; and

(c) the person who will use the premises for the production of hydrolysed protein for feeding to farmed animals will be able to maintain and use the premises in accordance with the ABPO approval and conditions specified in Schedule 3.

(3) The person carrying on any business at premises approved under this regulation shall ensure that -

(a) the production of hydrolysed protein at the premises is in accordance with the approval and in compliance with the provisions of these Regulations and Schedule to these Regulations subject to which the approval is granted;

(b) any person employed by him or her, and any person invited to the premises, complies with those provisions; and

(c) any inspector, and any person acting under the responsibility of an inspector, are provided with adequate facilities so as to enable them to carry out their functions under these Regulations in relation to the premises and that they are given such reasonable assistance and access to such records (including any records held in electronic form) as they may at any reasonable time require for that purpose.

Approval of premises, suspension and withdrawal of approval

8. - (1) An application for approval of premises under regulations 5, 6 or 7 above -

(a) for the production of fishmeal for feeding to farmed animals other than ruminants;

(b) for the production of dicalcium phosphate for feeding to farmed animals; or

(c) for the production of hydrolysed protein for feeding to farmed animals,

shall be made in writing to the National Assembly by or on behalf of the person carrying on or proposing to carry on the business at the premises to which the application relates.

(2) The National Assembly shall notify the applicant in writing of its decision on an application made to it in accordance with this regulation; and, if it refuses to approve the premises in respect of which an application is made, it shall notify the applicant in writing of its reasons for the refusal.

(3) An approval of premises under regulations 5, 6 or 7 above shall specify -

- (a) the name and address of the person to whom the approval is granted and the address of the approved premises;
- (b) the use of the premises for the description of production for which the approval is granted; and
- (c) the conditions subject to which the approval is granted.

(4) If in relation to any premises approved under regulations 5, 6 or 7 above it appears to the National Assembly that -

- (a) the premises are not ABPO approved;
- (b) the premises are being used otherwise than in accordance with the approval under regulations 5, 6 or 7 above;
- (c) any condition specified in a Schedule to these Regulations which relate to the approval of the premises under regulations 5, 6 or 7 above has not been complied with.
- (d) inspection of the premises for the purposes of these Regulations is being hampered; or
- (e) the production of fishmeal, dicalcium phosphate or hydrolysed protein at the premises in respect of which it is approved is no longer being carried on there,

it may decide to suspend or withdraw the approval of the premises relating to that use.

(5) Where the National Assembly decides to suspend or withdraw an approval relating to any premises it shall give notice of the suspension or withdrawal to the person carrying on the business at the premises (or, in the case of a suspension or withdrawal under paragraph (4)(e) above, to the person formerly carrying on the business at the premises), and to any other person who appears to the National Assembly to be in current occupation of the premises.

(6) A notice of suspension or withdrawal of an approval shall include the following information -

- (a) a summary of the decision of the National Assembly to suspend or withdraw the approval of the premises and the use of the premises for the description of production for which the approval is suspended or withdrawn;
- (b) the reason for the suspension or withdrawal; and
- (c) the date on which the suspension or withdrawal takes effect (which may be the same date as the date on which the notice is issued).

(7) The National Assembly shall not withdraw an approval unless -

(a) it appears to the National Assembly that -

- (i) the person using or last using the premises for the description of production for which the approval is granted no longer wishes to carry on that use of the premises;
- (ii) the description of production for which the premises are approved is no longer being carried on there;
- (iii) if the approval is suspended, the person formerly using the premises, or any other person who in the opinion of the National Assembly would use the premises for the description of production for which the approval is granted, will not use the premises in accordance with the approval or one or more of the conditions specified in the Schedule to these Regulations which relate to the approval;
- (iv) if the approval is not already suspended, a suspension would not enable the person using the premises for the description of production for which the approval is granted to take remedial action within a reasonable period after the suspension to enable the premises to be used in accordance with the approval or one or more of the conditions specified in a Schedule to these Regulations which relate to the approval; and

(b) it has given notice to the person using the premises for the description of production for which the approval is granted or, where the premises are not being used for that purpose, to the person last known to the National Assembly to be using the premises for that purpose, of its intention to withdraw the approval and has had regard to any representations made to it by that person in relation to that intention.

(8) Where -

- (a) a suspension of an approval of premises under this regulation has taken effect; or
- (b) an approval is withdrawn;

the premises shall be treated as if they were not approved for the description of production for which the approval was granted and in relation to which the approval is suspended or withdrawn.

(9) The National Assembly shall lift a suspension of an approval where it is satisfied that -

- (a) the reason for the suspension no longer applies; and
- (b) the person who would use the premises for the description of production for which the approval is granted will use the premises in accordance with the approval and the conditions specified in the Schedules to these Regulations which relate to the approval.

Sale or supply of processed animal protein intended for the feeding of farmed animals

9. - (1) Subject to paragraph (2) below, no person shall sell or supply any processed animal protein intended for the feeding of any farmed animal.

(2) The prohibitions in paragraph (1) above shall not apply to the sale or supply of -

- (a) fishmeal referred to in regulation 4(2)(a) above for feeding to farmed animals other than ruminants;
- (b) gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive 70/524/EEC concerning additives in feeding-stuffs;
- (c) dicalcium phosphate referred to in regulation 4(2)(c) above for feeding to farmed animals;
- (d) hydrolysed protein referred to in regulation 4(2)(d) above for feeding to farmed animals; or
- (e) milk and milk products.

Trade with other member States

10. - (1) Subject to paragraphs (2) and (3) below, no person shall send any processed animal protein to another member State.

(2) If the conditions specified in paragraph (3) below are met, the prohibitions in paragraph (1) above shall not apply

- (a) to petfood referred to in chapter 4 of Annex 1 to Directive 92/118/EEC;
- (b) to processed animal protein not intended for the feeding of any farmed animal;
- (c) to fishmeal referred to in regulation 4(2)(a) above, transported and intermediately stored in accordance with Schedule 1, for feeding to farmed animals other than ruminants;
- (d) to gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive 70/524/EEC concerning additives in feeding-stuffs;
- (e) to dicalcium phosphate referred to in regulation 4(2)(c) above, produced in accordance with Schedule 2, for feeding to farmed animals;
- (f) to hydrolysed protein referred to in regulation 4(2)(d) above, produced in accordance with Schedule 2, for feeding to farmed animals; or
- (g) to milk and milk products.

(3) The conditions referred to in paragraph (2) above are -

(a) the member State of destination

- (i) has authorised receipt of processed animal protein from the United Kingdom for the purposes of article 3(1)(a) of the Commission Decision; and

- (ii) has authorised processed animal protein from the United Kingdom to be sent only to premises in the member State of destination other than premises producing feeding-stuffs for farmed animals;
 - (b) the processed animal protein is accompanied by an official certificate as laid down in Annex V to the Commission Decision or, in the case of dicalcium phosphate or hydrolysed protein, an official certificate as laid down in Annex IV to the Commission Decision;
 - (c) the processed animal protein is -
 - (i) transported in sealed, covered containers or vehicles, in such a way as to prevent loss; and
 - (ii) conveyed directly to a petfood or feed plant in the member State of destination; and
 - (d) notice is given to a veterinary inspector by or on behalf of the person sending the processed animal protein in sufficient time and manner to enable the National Assembly to inform a competent authority of the member State of destination, in accordance with the ANIMO procedure established under Commission Decision 91/398/EEC[10] as applied for the purposes of the Commission Decision, of the place of destination of each consignment sent.
- (4) Where processed animal protein has been sent to another member State and the member State of destination, in accordance with the ANIMO procedure established under Commission Decision 91/398/EEC as applied for the purposes of the Commission Decision, has not informed the National Assembly that the consignment has arrived, the National Assembly shall immediately take the appropriate action which, in its opinion, is necessary or expedient for the purposes of article 3(1)(e) of the Commission Decision.
- (5) Subject to paragraphs (6) and (7) below, no person shall import any processed animal protein from another member State.
- (6) If the conditions specified in paragraph (7) below are met, the prohibitions in paragraph (5) above shall not apply -
- (a) to petfood referred to in chapter 4 of Annex I to Directive 92/118/EEC;
 - (b) to processed animal protein not intended for the feeding of any farmed animal;
 - (c) to fishmeal referred to in regulation 4(2)(a) above, transported and intermediately stored in accordance with Schedule 1, for feeding to farmed animals other than ruminants;
 - (d) to gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive 70/524/EEC concerning additives in feeding-stuffs;
 - (e) to dicalcium phosphate referred to in regulation 4(2)(c) above, produced in accordance with Schedule 2, for feeding to farmed animals;
 - (f) to hydrolysed protein referred to in regulation 4(2)(d) above, produced in

accordance with Schedule 3, for feeding to farmed animals; or

(g) to milk and milk products.

(7) The conditions referred to in paragraph (6) above are -

(a) the National Assembly -

(i) has authorised receipt of processed animal protein from the member State for the purposes of article 3(1)(a) of the Commission Decision; and

(ii) has authorised processed animal protein from the member State to be sent only to premises in Wales other than premises producing feeding-stuffs for farmed animals;

(b) before the processed animal protein is imported, the person who intends to import it has given notice of the proposed import to a veterinary inspector;

(c) the processed animal protein is accompanied by an official certificate as laid down in Annex V to the Commission Decision or, in the case of dicalcium phosphate or hydrolysed protein, an official certificate as laid down in Annex IV to the Commission Decision;

(d) the processed animal protein is -

(i) transported in sealed, covered containers or vehicles, in such a way as to prevent loss; and

(ii) conveyed directly to a petfood or feed plant in the member State of destination; and

(e) notice is given to a veterinary inspector by or on behalf of the person sending the processed animal protein in sufficient time and manner to enable the National Assembly to inform a competent authority of the member State of origin, in accordance with the ANIMO procedure established under Commission Decision 91/398/EEC as applied for the purposes of the Commission Decision, of the arrival of each consignment sent.

Trade with third countries

11. - (1) Subject to paragraphs (2) and (3) below, no person shall export any processed animal protein to a third country.

(2) If the conditions specified in paragraph (3) below are met, the prohibition in paragraph (1) above shall not apply -

(a) to petfood referred to in chapter 4 of Annex 1 to Directive 92/118/EEC;

(b) to processed animal protein not intended for the feeding of any farmed animal;

(c) to fishmeal referred to in regulation 4(2)(a) above, transported and intermediately stored in accordance with Schedule 1, for feeding to farmed animals other than

ruminants;

(d) to gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive 70/524/EEC concerning additives in feeding-stuffs;

(e) to dicalcium phosphate referred to in regulation 4(2)(c) above, produced in accordance with Schedule 2, for feeding to farmed animals;

(f) to hydrolysed protein referred to in regulation 4(2)(d) above, produced in accordance with Schedule 3, for feeding to farmed animals; or

(g) to milk and milk products.

(3) The conditions referred to in paragraph (2) above are -

(a) the state of destination has entered into an agreement with the United Kingdom for the purposes of article 3(2)(a) of the Commission Decision -

(i) that processed animal protein imported from the United Kingdom is authorised to be sent only to premises other than premises producing feeding-stuffs for farmed animals; and

(ii) that it will not authorise the export of processed animal protein imported from the United Kingdom unless it is incorporated in a product destined for final use as feed for animals which are not kept, fattened or bred for the production of food; and

(b) the processed animal protein is accompanied by an official certificate as laid down in Annex V to the Commission Decision or, in the case of dicalcium phosphate or hydrolysed protein, an official certificate as laid down in Annex IV to the Commission Decision.

(4) Subject to paragraphs (5) and (6) below, no person shall import any processed animal protein from a third country.

(5) If the condition specified in paragraph (6) below is met, the prohibitions in paragraph (4) above shall not apply -

(a) to petfood referred to in chapter 4 of Annex 1 to Directive 92/118/EEC;

(b) to processed animal protein not intended for the feeding of any farmed animal;

(c) to fishmeal referred to in regulation 4(2)(a) above, transported and intermediately stored in accordance with Schedule 1, for feeding to farmed animals other than ruminants;

(d) to gelatin derived from non-ruminant animals for coating additives within the meaning of Council Directive 70/524/EEC concerning additives in feeding-stuffs;

(e) dicalcium phosphate referred to in regulation 4(2)(c) above, produced in accordance with Schedule 2, for feeding to farmed animals;

(f) hydrolysed protein referred to in regulation 4(2)(d) above, produced in accordance

with Schedule 3, for feeding to farmed animals; or

(g) milk and milk products.

(6) The condition referred to in paragraph (5) above is that the processed animal protein is dealt with in accordance with the conditions laid down in article 8 of Directive 97/78/EC[[11](#)].

Manufacture of feeding-stuffs

12. - (1) Subject to paragraph (2) below, no person shall manufacture any feeding-stuffs, including petfood, which is destined for animals other than farmed animals, and which contains processed animal protein, in premises which prepare feed for farmed animals.

(2) If any feeding-stuff is produced with no processed animal protein other than fishmeal, dicalcium phosphate or hydrolysed protein, it may be manufactured in premises which prepare feed for farmed animals other than ruminants.

Production of feeding-stuffs containing fishmeal for feeding to farmed animals other than ruminants

13. - (1) Subject to paragraph (3) below, no person shall use any premises for the production of feeding-stuffs containing fishmeal for feeding to farmed animals other than ruminants if the premises are used for the preparation of feeding-stuffs for ruminant animals.

(2) For the purpose of paragraph 6 of Annex 1 to the Commission Decision, premises manufacturing animal feed which are not used for the preparation of feeding-stuffs for ruminant animals are authorised for the production of feeding-stuffs containing fishmeal for feeding to farmed animals other than ruminants.

(3) The prohibition in paragraph (1) above shall not apply to premises used for the preparation of feeding-stuffs for ruminant animals which are used for the production of feeding-stuffs containing fishmeal for feeding to other animal species if -

(a) the fishmeal satisfies the requirements of regulation 4(2)(a) above;

(b) the transport and storage of feed material destined for ruminant animals is completely separate from feed material prohibited for feeding to ruminant animals;

(c) the storage, transport, manufacturing and packaging facilities for compound feeding-stuffs destined for ruminant animals is completely separate; and

(d) the person using the premises for the preparation of feeding-stuffs for ruminant animals which are also used for the production of feeding-stuffs containing fishmeal for feeding to other animal species carries out routine tests on the feeding-stuffs destined for ruminant animals to ensure that any processed animal protein the feeding of which to farmed animals is prohibited by regulation 4 above are not present in those feeding-stuffs.

(4) No person shall produce any feeding-stuff containing fishmeal for feeding to farmed animals other than ruminants unless the feeding-stuff is labelled clearly to indicate the words "contains fishmeal - cannot be fed to ruminant animals".

(5) No person shall use any vehicle for the transport of bulk feeding-stuffs containing fishmeal for feeding to farmed animals other than ruminants at the same time as it is used for the transport of any feed for ruminant animals.

(6) Where a vehicle used for the transport of bulk feeding-stuffs containing fishmeal for feeding to farmed animals other than ruminants is subsequently used for the transport of other products, the person using the vehicle for the transport of the bulk feeding-stuffs containing fishmeal for feeding to farmed animals other than ruminants shall ensure it is thoroughly cleaned and inspected before and after the transport of those bulk feeding-stuffs.

Production of feeding-stuffs containing dicalcium phosphate for feeding to farmed animals

14. - (1) Subject to paragraph (3) below, no person shall use any premises for the production of feeding-stuffs containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants if the premises are used for the preparation of feeding-stuffs for ruminant animals.

(2) For the purpose of paragraph 3 of Annex II to the Commission Decision, premises manufacturing animal feed which are not used for the preparation of feeding-stuffs for ruminant animals are authorised for the production of feeding-stuffs containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants.

(3) The prohibition in paragraph (1) above shall not apply to premises used for the preparation of feeding-stuffs for ruminant animals which are used for the production of feeding-stuffs containing dicalcium phosphate from defatted bones for other animal species if -

- (a) the dicalcium phosphate satisfies the requirements of regulation 4(2)(c) above;
- (b) the transport and storage of feed material destined for ruminant animals is completely separate from feed material prohibited for feeding to ruminant animals;
- (c) the storage, transport, manufacturing and packaging facilities for compound feeding-stuffs destined for ruminant animals is completely separate; and
- (d) the person using the premises for the preparation of feeding-stuffs for ruminant animals which are used for the production of feeding-stuffs containing dicalcium phosphate from defatted bones for other animal species carries out routine tests on the feeding-stuffs destined for ruminant animals to ensure that any processed animal protein the feeding of which to farmed animals is prohibited by regulation 4 above are not present in those feeding-stuffs.

(4) No person shall produce any feeding-stuff containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants unless the feeding-stuff is labelled clearly to indicate the words "contains dicalcium phosphate from defatted bones - cannot be fed to ruminant animals".

(5) No person shall use any vehicle for the transport of bulk feeding-stuffs containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants at the same time as it is used for the transport of any feed for ruminant animals.

(6) Where a vehicle used for the transport of bulk feeding-stuffs containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants is subsequently used for the transport of other products, the person using the vehicle for the transport of the bulk feeding-stuffs containing dicalcium phosphate from defatted bones for feeding to farmed animals other than ruminants shall ensure it is thoroughly cleaned and inspected before and after the transport of those bulk feeding-stuffs.

Production of feeding-stuffs containing hydrolysed protein for feeding to farmed

animals

15. - (1) Subject to paragraph (3) below, no person shall use any premises for the production of feeding-stuffs containing hydrolysed protein for feeding to farmed animals other than ruminants if the premises are used for the preparation of feeding-stuffs for ruminant animals.

(2) For the purpose of paragraph 2 of Annex III to the Commission Decision, premises manufacturing animal feed which are not used for the preparation of feeding-stuffs for ruminant animals are authorised for the production of feeding-stuffs containing hydrolysed protein for feeding to farmed animals other than ruminants.

(3) The prohibition in paragraph (1) above shall not apply to premises used for the preparation of feeding-stuffs for ruminant animals which are used for the production of feeding-stuffs containing hydrolysed protein for other animal species if -

(a) the hydrolysed protein satisfies the requirements of regulation 4(2)(d) above;

(b) the transport and storage of feed material destined for ruminant animals is completely separate from feed material prohibited for feeding to ruminant animals;

(c) the storage, transport, manufacturing and packaging facilities for compound feeding-stuffs destined for ruminant animals is completely separate; and

(d) the person using the premises for the preparation of feeding-stuffs for ruminant animals which are used for the production of feeding-stuffs containing hydrolysed protein for other animal species carries out routine tests on the feeding-stuffs destined for ruminant animals to ensure that any processed animal protein the feeding of which to farmed animals is prohibited by regulation 4 above are not present in those feeding-stuffs.

(4) No person shall produce any feeding-stuff containing hydrolysed protein for feeding to farmed animals other than ruminants unless the feeding-stuff is labelled clearly to indicate the words "contains hydrolysed protein - cannot be fed to ruminant animals".

(5) No person shall use any vehicle for the transport of bulk feeding-stuffs containing hydrolysed protein for feeding to farmed animals other than ruminants at the same time as it is used for the transport of any feed for ruminant animals.

(6) Where a vehicle used for the transport of bulk feeding-stuffs containing hydrolysed protein for feeding to farmed animals other than ruminants is subsequently used for the transport of other products, the person using the vehicle for the transport of the bulk feeding-stuffs containing hydrolysed protein for feeding to farmed animals other than ruminants shall ensure it is thoroughly cleaned and inspected before and after the transport of those bulk feeding-stuffs.

Use and storage of feeding-stuffs containing fishmeal, dicalcium phosphate or hydrolysed protein

16. - (1) Subject to paragraph (2) below, no person shall use or store any feeding-stuff, other than petfood referred to by chapter 4 of Annex I to Council Directive 92/118/EEC[[12](#)], containing any -

(a) fishmeal;

(b) dicalcium phosphate derived from defatted bones; or

(c) hydrolysed protein,

on a farm where ruminant animals are kept, fattened or bred for the production of food.

(2) Paragraph (1) above shall not apply to the use or storage of any feeding-stuff containing any fishmeal, dicalcium phosphate derived from defatted bones or hydrolysed protein on any farm where ruminant animals are kept if measures are implemented on the farm sufficient to prevent the feeding-stuff being fed to those ruminant animals.

Records relating to processed animal protein

17. - (1) Any person who consigns processed animal protein shall keep for two years from the date of consignment (or, in the case of processed animal protein produced outside the United Kingdom, for two years from the date on which it was imported into the United Kingdom) a record indicating -

- (a) the date of consignment and the nature of the processed animal protein consigned;
- (b) the weight consigned and unless consigned loose, the number and weight of the packages, pallets or other containers in which it is consigned;
- (c) the destination of the consignment;
- (d) the name and address of the consignee;
- (e) the registration number of the vehicle in which the consignment is transported; and
- (f) the name and address of the operator of that vehicle.

(2) Any person receiving a consignment of processed animal protein shall keep for two years from the date of receipt of the consignment a record indicating -

- (a) the date on which it was received and the nature of the processed animal protein received;
- (b) its weight on receipt, and unless consigned loose, the number and weight of the packages, pallets or other containers in which it was consigned;
- (c) the place from which it was consigned;
- (d) the name and address of the person by whom it was consigned;
- (e) the registration number of the vehicle in which it was consigned; and
- (f) the name and address of the operator of that vehicle.

(3) Any person receiving a consignment of processed animal protein shall keep for two years from the date of any use, disposal or further consignment a record indicating -

- (a) in the case of any use, the nature of the processed animal protein used and details of each use, the weight of any part of the consignment incorporated into a product and the nature and date of manufacture of any such product;

(b) in the case of disposal, the weight disposed of, the date of such disposal, and the place in which, method by which and name of the person by whom it was disposed of; and

(c) in the case of further consignment, the information required by paragraph (1) above.

(4) Any person who controls a vehicle in which processed animal protein is transported shall keep, for two years from the date on which transport of a particular consignment of such protein commenced (or, in the case of an import, from the date on which that material entered the United Kingdom), a record of -

(a) the person and place from which that consignment was transported and the nature of the processed animal protein consigned;

(b) the date on which it was collected from that person;

(c) the weight consigned and, unless consigned loose, the number and weight of the packages, pallets or other containers in which it is consigned;

(d) the registration number, and the name and address of the driver, of the vehicle in which it was transported and, if the vehicle includes a trailer, the number of the trailer;

(e) the person and place to which it was to be or was delivered; and

(f) the date or intended date of delivery to that person.

(5) The driver of a vehicle in which a consignment of processed animal protein is transported shall have a document recording the information required by paragraph (4) above in his or her possession at all times when he or she is in charge of that vehicle.

(6) In relation to a vehicle not having a registration number, the requirement to keep a record of the registration number pursuant to paragraphs (1)(e), (2)(e) and (4)(d) above shall be a requirement to keep such details as permit the identification of the vehicle in which the consignment was transported.

Powers of entry

18. - (1) An inspector shall, on producing, if required to do so, some duly authenticated document showing his authority, have the right at all reasonable hours to enter any premises (excluding premises used only as a dwelling) for the purpose of ascertaining whether -

(a) there is or has been on the premises any contravention of any provisions of these Regulations; or

(b) there is on the premises any evidence of any contravention of any provisions of these Regulations.

(2) If a Justice of the Peace, on sworn information in writing is satisfied that there is reasonable ground for entry into any premises (excluding premises used only as a dwelling) for any purpose as is mentioned in paragraph (1) above and that either -

- (a) admission to the premises has been refused, or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier; or
- (b) an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent,

the Justice of the Peace may by warrant signed by him or her authorise an inspector to enter the premises, if need be by reasonable force.

(3) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it, may take with him or her such other persons as he or she considers necessary, and on leaving any unoccupied premises which he or she has entered by virtue of such a warrant shall ensure that they are secured as effectively against unauthorised entry as when he or she found them.

Sampling and other checks and examinations

19. - (1) An inspector shall have power to carry out all checks and examinations necessary for the enforcement of these Regulations.

(2) An inspector may -

- (a) take samples (and, if necessary, send the samples for laboratory testing) from any protein, feed or feeding-stuff;
- (b) examine any record (including any record held in electronic form) which he or she believes to be relevant to any checks and examinations under these Regulations;
- (c) seize, detain and require the production of any record which he or she has reason to believe may be required as evidence in proceedings under any of the provisions of these Regulations;
- (d) take with him or her such other person as he or she considers necessary to carry out any checks and examinations under these Regulations;
- (e) inspect any production, storage, transport or other operation carried out under these Regulations and anything used for the marking and identification of protein, feed or feeding-stuff; and
- (f) take with him or her a representative of the Commission acting for any purposes of the Commission related to these Regulations.

Obstruction

20. - (1) No person shall -

- (a) intentionally obstruct any person acting in the execution of these Regulations;
- (b) without reasonable cause, fail to give to any person acting in the execution of these Regulations any assistance or information which that person may reasonably require of him or her for the purpose of carrying out his or her functions under these Regulations; or
- (c) furnish to any person acting in the execution of these Regulations any information which he or she knows to be false or misleading.

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

Offences and penalties

21. - (1) A person contravening or failing to comply with any provision of these Regulations, shall be guilty of an offence and shall be liable -

- (a) on summary conviction to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or to both;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

(2) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of -

- (a) any director, manager, secretary or other similar person of the body corporate, or
- (b) any person who was purporting to act in any such capacity,

he or she, as well as the body corporate, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(3) For the purposes of paragraph (2) above, "director", in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

Offences due to fault of another person and defence of due diligence

22. - (1) Where the commission by any person of an offence under any of the provisions of these Regulations is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this paragraph of this regulation whether or not proceedings are taken against the first-mentioned person.

(2) In any proceedings for an offence under any of the provisions of these Regulations, it shall, subject to paragraph (3) below, be a defence for the person charged to prove that he or she took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or herself or by a person under his or her control.

(3) If in any case the defence provided by paragraph (2) above involves the allegation that the commission of the offence was due to an act or default of another person, or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless -

- (a) at least seven clear days before the hearing; and
- (b) where he or she has previously appeared before a court in connection with the alleged offence, within one month of his or her first such appearance,

he or she has served on the prosecutor a notice in writing giving such information

identifying or assisting in the identification of that other person as was then in his or her possession.

(4) In paragraph (3) above any reference to appearing before a court shall be construed as including a reference to being brought before a court.

Enforcement

23. - (1) Except as provided in paragraph (2) below, these Regulations shall be enforced and executed by the local authority.

(2) The National Assembly may direct, in relation to cases of a particular description or any particular case, that the duty imposed on a local authority under this regulation shall be discharged by the National Assembly and not by the local authority.

Service of notices and other documents

24. - (1) Any notice or other document to be given or served on any person under these Regulations may be given or served either -

- (a) by delivering it to that person;
- (b) in the case of an incorporated body, by delivering it to their secretary or clerk at their registered or principal office, or by sending it by post to him or her at that office; or
- (c) in the case of any other person, by leaving it, or sending it by post to him or her, at his or her usual or last known address.

(2) Where a notice or other document is to be given or served on the owner, proprietor, operator or occupier of any premises and it is not practicable, after reasonable enquiry, to ascertain the name and address of the person to or on whom it should be given or served, or the premises are unoccupied, the document may be given or served by addressing it to the person concerned by the description of "owner", "proprietor", "operator" or "occupier" of the premises (naming them) and -

- (a) by delivering it to some person on the premises; or
- (b) if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

Amendment of the Bovine Spongiform Encephalopathy (Feeding Stuffs and Surveillance) Regulations 1999

25. - (1) The Bovine Spongiform Encephalopathy (Feeding Stuffs and Surveillance) Regulations 1999^[13] shall be amended in so far as they apply to Wales in accordance with the following provisions of this regulation.

(2) In regulation 2(1), after the definition of "premises" there shall be inserted the following definition - "processed animal protein has the same meaning as in the Processed Animal Protein (Wales) Regulations 2001" ^[14];

(3) In regulation 3, for paragraph (1) there shall be substituted the following paragraph -

" (1) An authorised officer, on producing, if so required, a duly authenticated document showing his authority, shall have the right at all reasonable hours to enter

any premises and there take such samples -

(a) as are necessary to enable the Official ELISA tests for the identification of ruminant protein in feeding-stuff intended for ruminants to be carried out; or

(b) of any protein, feed or feeding-stuff, whether or not intended for ruminants, as are necessary to enable -

(i) the Official ELISA tests to be carried out for the identification of ruminant protein; or

(ii) tests to be carried out for the identification of processed animal protein, or the identification of any type or description of processed animal protein, in the protein, feed or feeding-stuff."

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998[15].

D. Elis-Thomas

The Presiding Officer of the National Assembly

19th July 2001

SCHEDULE 1

regulations 4(2)(a) and 5

Conditions for the transport of fishmeal for feeding to farmed animals other than ruminants

1. Fishmeal imported from another member State or a third country for use in the manufacture of feed for farmed animals other than ruminants shall be transported directly from the border inspection post to the establishment manufacturing the animal feed by means of a vehicle which at the same time is not used for the transport of other feed materials.

2. If a vehicle used for the transport of fishmeal imported from another member State or a third country for use in the manufacture of feed for farmed animals other than ruminants is subsequently used for the transport of other products, it shall be thoroughly cleaned and inspected before and after the transport of the fishmeal.

3. Fishmeal for use in manufacture of feed for farmed animals other than ruminants shall be transported directly from the premises where the fishmeal is produced to the premises manufacturing the animal feed by means of a vehicle which at the same time is not used for the transport of other feed materials.

4. If a vehicle used for the transport of fishmeal for use in the manufacture of feed for farmed animals other than ruminants is subsequently used for the transport of other products, it shall be thoroughly cleaned and inspected before and after the transport of the fishmeal.

5. Intermediate storage of fishmeal is allowed only if it is carried out in dedicated storage plants.

SCHEDULE 2

regulation 6

Conditions for the production of dicalcium phosphate for feeding to farmed animals

- 1. Dicalcium phosphate for feeding to farmed animals shall be produced from defatted bones.
- 2. The dicalcium phosphate shall be derived from bones from animals fit for human consumption following ante and post mortem inspection.
- 3. The dicalcium phosphate shall be produced by a process which ensures that all bone material is finely crushed and degreased with hot water and treated with dilute hydrochloric acid (at a minimum concentration of 4% and pH<1.5) over a period of at least two days followed by a treatment of the obtained phosphoric liquor with lime, resulting in a precipitate of dicalcium phosphate at pH 4 to 7, which is finally air dried with inlet temperature of 65°C - 325°C and end temperature between 30°C - 65°C or by an equivalent process approved in accordance with the procedure of article 17 of Council Directive 89/662/EEC[16] concerning veterinary checks in intra-Community trade with a view to the completion of the internal market.

SCHEDULE 3

regulation 7

Conditions for the production of hydrolysed protein for feeding to farmed animals

- 1. Hydrolysed protein from hides and skins shall -
 - (a) be derived from hides and skins obtained from animals which have been slaughtered in a slaughterhouse and whose carcasses have been found fit for human consumption following ante and post mortem inspection; and
 - (b) be produced by a production process which involves appropriate measures to minimise contamination of hides and skins, preparation of the raw material by brining, liming and intensive washing followed by exposure of the material to a pH of >11 for >3 hours at temperature >80°C and followed by heat treatment at >140°C for 30 minutes at >3.6 bar; or by an equivalent production process approved in accordance with the procedure of article 17 of Council Directive 89/662/EEC concerning veterinary checks in intra-Community trade with a view to the completion of the internal market.
- 2. Hydrolysed protein from fish, feather, hides and skins shall be sampled after processing and found to have a molecular weight below 10000 Dalton.

EXPLANATORY NOTE

(This note does not form part of the Regulations)

These Regulations give effect in Wales to Council Decision 2000/766/EC (OJ No. L306, 7.12.2000, p.32) concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein and Commission Decision 2001/9/EC (OJ No. L 002 5.01.2001 p.32) concerning control measures required for the implementation of Council Decision 2000/766/EC.

Regulation 2 contains definitions. These include a definition of a farmed animal as an animal which is kept, fattened or bred for the production of food. Regulation 3 provides that the Regulations apply in relation to processed animal protein intended for the feeding of farmed animals and that the Regulations do not apply to catering waste, eggs and egg products or swill.

Subject to exceptions, regulation 4 prohibits the feeding of processed animal protein to farmed animals.

Regulation 5 and Schedule 1 make provision in relation to the production of fishmeal for feeding to farmed animals other than ruminants; this includes provision for the approval of premises, the use of premises and the transport, including intermediate storage, of fishmeal from approved premises. Regulations 6 and 7 and Schedules 2 and 3 make similar provision respectively in relation to the production, of dicalcium phosphate and hydrolysed protein for feeding to farmed animals.

Regulation 8 makes provision for approval of premises, suspension and withdrawal of approval.

Regulation 9 makes provision for the sale or supply of processed animal protein intended for the feeding of farmed animals. Regulation 10 makes provision for trade with other member States and regulation 11 makes provision for trade with third countries.

Regulation 12 makes provision for the manufacture of feeding-stuffs.

Regulation 13 makes provision for the production of feeding-stuffs containing fishmeal for feeding to farmed animals other than ruminants.

Regulation 14 makes provision for the production of feeding-stuffs containing dicalcium phosphate for feeding to farmed animals. Regulation 15 makes provision for the production of feeding-stuffs containing hydrolysed protein for feeding to farmed animals. Regulation 16 makes provision for the use and storage of feeding-stuffs containing fishmeal, dicalcium phosphate or hydrolysed protein.

Regulation 17 imposes requirements in respect of records relating to processed animal protein and regulation 18 makes provision in respect of powers of entry. Regulation 19 provides for sampling and other checks and examinations. Regulation 20 provides offences of obstruction and regulation 21 makes provision for offences and penalties. Regulation 22 makes provision for offences due to the fault of another person and the defence of due diligence. Regulation 23 makes provision for enforcement of the Regulations, and regulation 24 makes provision for the service of notices and other documents. Regulation 25 amends the Bovine Spongiform Encephalopathy (Feeding-stuffs and Surveillance) Regulations 1999.

A Regulatory Appraisal has been prepared and published on the National Assembly for Wales web-site (www.wales.gov.uk). Copies can also be obtained from the National Assembly for Wales, Agriculture Policy Division, Cathays Park, Cardiff, CF10 3NQ.

Notes:

[1] S.I. 1999/2788.[back](#)

[2] 1972 c.68.[back](#)

[3] S.I. 1999/646, amended by S.I. 2001/1735 (W.122).[back](#)

[4] OJ No. L363, 27.12.1990, p.51.[back](#)

[5] S.I. 1996/3183, amended by S.I. 1997/2387, S.I. 1998/3071 and S.I. 1999/921.[back](#)

[6] OJ No. L2, 5.1.2001 p.32.[back](#)

[7] OJ No. L306, 7.12.2000, p.32.[back](#)

[8] OJ No. L318, 27.11.1988, p.45.[back](#)

[9] OJ No. L270, 14.12.1970, p.1, as last amended by Directive 1999/70/EC (OJ No. L80, 25.3.1999, p.20).[back](#)

[10] OJ No. L221, 9.8.1991 p.30.[back](#)

[11] OJ No. L24, 30.1998 p.9.[back](#)

[12] OJ No. L62, 15.3.1993, p.49.[back](#)

[13] S.I. 1999/882.[back](#)

[14] S.I. 2001/2780 (W.233).[back](#)

[15] 1998 c.38.[back](#)

[16] OJ No. L395, 30.12.1989, p.13, as last amended by Directive 1992/118/EEC (OJ No. L62, 15.3.1993, p.49).[back](#)

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