

S.I. No. 551 of 2002

DISEASES OF ANIMALS ACT 1966 (TRANSMISSIBLE SPONGIFORM ENCEPHALOPATHIES) (MEAT AND BONE MEAL AND POULTRY OFFAL) ORDER 2002

I. Joe Walsh, Minister for Agriculture and Food, in exercise of the powers conferred on me by sections 3, 11, 13 and 27 of the Diseases of Animals Act 1966 (No. 6 of 1966), as adapted by the Agriculture, Food and Rural Development (Alteration of Name of Department and Title of Minister) Order 2002 (S.I. No. 306 of 2002), for the purposes of preventing the spread of transmissible spongiform encephalopathies and, *inter alia*, giving further effect to Council Decision No. 2000/766/EC of 4 December 2000¹ as amended by Commission Regulation (EC) No. 1326/2001 of 29 June 2001² and Commission Decision No. 2002/248/EC of 27 March 2002³, Commission Decision No. 2001/9/EC of 29 December 2000⁴ as amended by Commission Decision No. 2001/165/EC of 27 February 2001⁵ and Commission Decision No. 2002/246/EC of 27 March 2002³ and Regulation (EC) No. 999/2001 of the European Parliament and the Council of 22 May 2001⁶ as amended by Commission Regulation (EC) No. 1248/2001 of 22 June 2001⁷, Commission Regulation (EC) No. 1326/2001 of 29 June 2001⁸ and Commission Regulation (EC) No. 270/2002 of 14 February 2002⁹ (to the extent that those acts of the institutions of the European Community relate to meat and bone meal and poultry offal), hereby order as follows:-

⁹ O.J. No. L 45 of 15.2.2002, p. 45.

⁸ O.J. No. L 177 of 30.6.2001, p. 60

⁷ O.J. No. L 173 of 27.6.2001, p. 12.

⁶ O.J. No. L 147 of 31.5.2001, p. 1.

³ O.J. No. L 84 of 28.3.2002, p. 71.

⁵ O.J. no. L 58 of 28.2.2001, p. 43.

⁴ O.J. No. L 2 of 5.1.2001, p. 32.

³ O.J. No. L 84 of 28.3.2002, p. 71.

² O.J. No. L 177 of 30.6.2001, p. 60.

¹ O.J. No. L 306 of 7.12.2000, p.32.

Citation

1. This Order may be cited as the Diseases of Animals Act 1966 (Transmissible Spongiform Encephalopathies) (Meat and Bone Meal and Poultry Offal) Order 2002.

Interpretation

2.(1) In this Order —

"Act" means the Diseases of Animals Act 1966 (No. 6 of 1966);

"acts of the institutions of the European Community" means (other than in Article 10) Council Decision No. 2000/766/EC of 4 December 2000¹ as amended by Commission Regulation (EC) No. 1326/2001 of 29 June 2001² and Commission Decision No. 2002/246/EC of 27 March 2002³, Commission Decision No. 2001/9/EC of 29 December 2000⁴ as amended by Commission Decision No. 2001/165/EC of 27 February 2001⁵ and Commission Decision No. 2002/248/EC of 27 March 2002³ and Regulation (EC) No. 999/2001 of the European Parliament and the Council of 22 May 2001⁶ as amended by Commission Regulation (EC) No. 1248/2001 of 22 June 2001. Commission Regulation (EC) No. 1326/2001 of 29 June 2001⁸ and Commission Regulation (EC) No. 270/2002 of 14 February 2002⁹ (to the extent that those acts of the institutions of the European Community relate to meat and bone meal and poultry offal);

⁹ O.J. No. L 45 of 15.2.2002, p. 45.

⁸ O.J. No. L 177 of 30.6.2001, p. 60

⁶ O.J. No. L 147 of 31.5.2001, p. 1.

³ O.J. No. L 84 of 28.3.2002, p. 71.

⁵ O.J. no. L 58 of 28.2.2001, p. 43.

⁴ O.J. No. L 2 of 5.1.2001, p. 32.

³ O.J. No. L 84 of 28.3.2002, p. 71.

² O.J. No. L 177 of 30.6.2001, p. 60.

¹ O.J. No. L 306 of 7.12.2000, p.32.

"animal" includes poultry;

"animal kept for farming purposes" means any animal bred or kept for the production of food, wool, skin, fur or feathers or for use in, or for the purposes of, the farming of land or of animal husbandry;

"authorised officer" means an authorised officer within the meaning of section 17A (inserted by section 2 of the Diseases of Animals (Amendment) Act 2001 (No. 3 of 2001)) of the Diseases of Animals Act 1966 (No. 6 of 1966);

"feedingstuff" includes any straight or compound feedingstuff intended for feeding to animals or poultry;

"fertilizer" means a substance or combination of substances that may be used to increase the fertility of soil;

"land" includes land under water;

"mammalian meat and bone meal" means mammalian protein derived from the whole or part of a dead mammal by a process including crushing, cooking or grinding and includes a feedingstuff or substance that consists of or contains any thing aforesaid;

"manufacture" means total or partial manufacture and includes incorporating, processing, compounding, formulating, filling, dividing up, packing, labelling and presentation and cognate words shall be construed accordingly;

"poultry offal" means any material derived from a poultry carcase or the feathers of poultry and includes a feedingstuff or substance that consists of or contains any thing aforesaid;

"protein" means any proteinaceous material, which is derived from a carcase but does not include —

- (a) milk, a milk product, egg or egg product,
- (b) dicalcium bone phosphate,
- (c) dried plasma or any other blood product,
- (d) gelatin, or

(e) amino acids produced from hides and skins by a process which involves exposure of the material to acid of a pH lower than 2 followed by alkali of a pH greater than 11 and heat treatment at a minimum of 140°C for 30 minutes at a pressure of 3 bar;

"purchase" includes buy, take in exchange, accept as a gift or otherwise receive and cognate words shall be construed accordingly;

"ruminant" includes cattle, deer, goats and sheep;

"sell" includes offer, expose or keep for sale, invite an offer to buy, or distribute (whether for reward or not) and cognate words shall be construed accordingly;

"substance" means any matter irrespective of origin, whether such matter is of—

(a) human origin (including human blood and human blood products),

(b) animal origin (including micro-organisms, whole or parts of animals, parts of organs and animal secretions, toxins, antitoxins, sera, antisera, extracts and blood products),

- (c) vegetable origin (including micro-organisms, plants, parts of plants and vegetable secretions or extracts),
- (d) chemical origin (including elements, naturally occurring chemical materials and chemical products obtained by chemical change or synthesis), or
- (e) any combination of the foregoing;

"supply" includes give without reward.

(2) A word or expression that is used in this Order and that is also used in an act of the institutions of the European Community has, unless the contrary intention appears, the same meaning in this Order as it has in act in which it occurs.

(3) A reference to an Article is to an Article of this Order, unless it appears that a reference to some other enactment is intended, a reference to a paragraph or sub-paragraph is to a paragraph or sub-paragraph of the provision in which the reference occurs unless it is indicated that a reference to some other provision is intended and, except in Article 3, a reference to a Schedule is to a Schedule to this Order.

Amendment to First Schedule of Act

3. The First Schedule to the Act (inserted by the Diseases of Animals Act 1966 (First Schedule) Order 2001 (S.I. No. 469 of 2001)) is amended -

(a) in Part I, by the insertion after point 17, of-
"18. For the purposes of giving effect to the Diseases of Animals Act 1966 (Transmissible Spongiform Encephalopathies) (Meat and Bone Meal and Poultry Offal) Order 2002 (S.I. No. 551 of 2002), all land-dwelling food-producing animals not otherwise mentioned in this Part.",
and

(b) in Part II, by the insertion after point 20, of-
"21. For the purposes of giving effect to the Diseases of Animals Act 1966 (Transmissible Spongiform Encephalopathies) (Meat and Bone Meal and Poultry Offal) Order 2002 (S.I. No. 551 of 2002), all birds not otherwise mentioned in this Part.".

Licensing of manufacture

4. (1) A person shall not manufacture, or attempt to manufacture, sell or supply mammalian meat and bone meal except under and in accordance with a licence ("MBM manufacturer's licence").

(2) A person to whom an MBM manufacturer's licence has been granted shall keep on the premises to which the licence relates or related, for a period of eight years following the date on which any mammalian meat and bone meal is sold or supplied by him or her, a written record in respect of each transaction of—

- (a) the quantity manufactured and date of manufacture,
- (b) the date of sale,
- (c) the quantity sold,

(d) the name and address of the purchaser and the number of that person's MBM purchase licence,

(e) the address of the place of delivery, and

(f) the registration number of the vehicle in which the mammalian meat and bone meal was transported and the name and address of the operator of that vehicle.

(3) The record referred to in paragraph (2) shall comprise a single entry register maintained in date order, may be maintained in machine-readable form and shall be made available on request to an authorised officer. .

(4) A person shall not sell mammalian meat and bone meal to a person —

(a) unless that person holds a valid MBM purchase licence, and

(b) other than to under and in accordance with a valid MBM purchase licence.

Licence to purchase mammalian meat and bone meal

5. (1) A person shall not purchase or attempt to purchase mammalian meat and bone meal except under and in accordance with a licence ("MBM purchase licence").

(2) The holder of an MBM purchase licence shall keep on the premises to which the licence relates or related, for a period of eight years following the date on which mammalian meat and bone meal is purchased by him or her, a written record in respect of each transaction of—

(a) the date of purchase.

(b) the quantity purchased or sold,

(c) the name and address of the vendor and the number of that person's MBM manufacturer's licence.

(d) the address of the place of delivery, and

(e) the purpose for which the mammalian meat and bone meal is purchased.

(3) The record referred to in paragraph (2) shall comprise a single entry register maintained in date order, may be maintained in machine-readable form and shall be made available on request to an authorised officer.

(4) A person shall not purchase mammalian meat and bone meal from a person unless that person holds a valid MBM manufacturer's licence.

Prohibition on feeding meat and bone meal or poultry offal.

6. (1) A person shall not —

(a) sell or supply for feeding to an animal kept for farming purposes, or

(b) feed to an animal kept for farming purposes.

mammalian meat and bone meal or poultry offal.

(2) A person shall not feed a feedingstuff labelled, presented or intended for feeding to a non-ruminant or poultry to a ruminant.

Restriction on possession of mammalian meat and bone meal and poultry offal.

7. (1) A person shall not have mammalian meat and bone meal or poultry offal in his or her possession or under his or her control on any land or premises —

(a) to which a licence under the Fertilisers, Feedingstuffs and Mineral Mixtures Regulations 1957 (S.I. No. 264 of 1957) relates or is required to relate,

(b) to which a licence under the European Communities (Animal Remedies and Medicated Feedingstuffs) Regulations 1994 (S.I. No. 176 of 1994) relates or is required to relate,

(c) otherwise used for, or in connection with, the manufacture, storage or sale of a feedingstuff intended for feeding to a an animal kept for farming purposes, or

(d) used for or in connection with holding, handling, keeping, farming, slaughtering, selling or supplying an animal kept for farming purposes.

(2) In paragraph (1), land or premises includes land or premises ancillary to the first-mentioned land or premises.

Poultry Offal

8. (1) A person shall not—

(a) incorporate poultry offal into a feedingstuff presented or intended for feeding to an animal or that may be fed to an animal, or

(b) sell or supply a feedingstuff into which poultry offal has been incorporated,

except under and in accordance with a licence ("poultry offal licence").

(2) The holder of a poultry offal licence shall keep on the premises to which the licence relates or related, for a period of eight years following the date on which poultry offal is purchased by him or her, a written record in respect of each transaction of—

(a) the date of purchase or sale,

(b) the quantity purchased or, as the case may be, sold including a description of any consignment into which poultry offal is incorporated,

(c) the name and address of the vendor or purchaser,

(d) the address of the place of delivery, and

(e) the purpose for which the poultry offal is purchased or sold.

(3) The record referred to in paragraph (2) shall comprise a single entry register maintained in date order, may be maintained in machine-readable form and shall be made available on request to an authorised officer.

Licences generally

9. (1) The Minister may grant a licence, refuse an application or revoke a licence.

(2) An application for a licence shall be made in a form, be accompanied by any material and contain any particulars that the Minister specifies.

(3) The Minister shall not consider an application for a licence if the application does not contain all the material and particulars sought by the Minister.

(4) The Minister may attach conditions to a licence, revoke or vary a condition or attach a new condition.

(5) Without prejudice to the generality of paragraph (4), a condition to a licence may -

(a) control the use of a substance to which the licence relates and such other conditions as are, in the opinion of the Minister, necessary ancillary or desirable for the condition aforesaid to have full effect, and

(b) bind the person to whom the licence is granted and such other person or classes of person as may be specified in the licence.

(6) Without prejudice to the generality of paragraph (1), the Minister may refuse an application or revoke a licence if-

(a) he or she is satisfied that this Order has not been, or will not be, complied with,

(b) the applicant or licensee has been convicted of, or committed, an offence, whether he or she has been convicted or not, under the Act,

(c) the applicant or licensee has failed to comply with a condition attached to a licence,

(d) the applicant or licensee is not, in the opinion of the Minister, a fit and proper person to hold a licence,

(e) without prejudice to paragraph (3), in relation to the application, information required has not been furnished or information that is, in the opinion of the Minister, false or misleading in a material particular has been furnished, or

(f) it is necessary, in the opinion of the Minister -

(i) to prevent the risk or spread of disease,

(ii) to eradicate disease, or

(iii) is necessary, incidental, supplementary or consequential for the purposes of giving effect to an act of the institutions of the European Communities relating to animal health or welfare.

(7) Without prejudice to the generality of paragraph (1), the Minister shall refuse an application or revoke a licence if the applicant or licensee has been convicted, on indictment, of an offence under the Act.

(8) Other than in the case of refusal under paragraph (7) or (9), if the Minister proposes to revoke a 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 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.

(9) 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, he or she may revoke a licence in accordance with paragraph (10).

(10) If the Minister revokes a licence 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.

(11) A person to whom a 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.

(12) In this Article, "licence" means -

(a) an MBM manufacturer's licence,

(b) an MBM purchase licence, or

(c) a poultry offal licence.

Feedingstuffs for canines and felines

10 (1) Subject to paragraph (2), Article 7(1)(d) shall not apply to a—

(a) feedingstuff that consists of or contains meat and bonemeal or poultry offal packed in a hermetically sealed tin, or

(b) dried, sealed and bagged feedingstuff that consists of or contains poultry offal if the bag weighs 5 kilograms or less

on land where an animal is kept for farming purposes if the feedingstuff is presented and labelled in accordance with paragraph 4 and is intended for and may lawfully be (other than by reference to this Order) fed to a canine or feline.

(2) A person may have a feedingstuff to which paragraph (1) applies on land where an animal is kept for farming purposes, if-

(a) an animal kept for farming purposes does not have access to any part of the land where the feedingstuff is stored,

(b) the feedingstuff is stored in a leak-proof container that has a closely fitting lid on a part of the lands to which an animal kept for farming purposes does not have access,

(c) the feedingstuff is stored in a manner that prevents contamination or contact with any other feedingstuff, and

(d) the feedingstuff is fed to felines or canines on a part of the lands to which an animal kept for farming purposes does not have access.

(3) In paragraph (2), land includes land or premises ancillary to the first-mentioned land.

(4) Subject to paragraph (6), from 1 March 2003, a person shall not have in his or her possession or under his or her control, sell or supply a feedingstuff (other than a feedingstuff to which paragraph (1) (a) applies) containing mammalian meat and bone meal or poultry offal unless the package, container, or an adhesive label (that adheres to the package or container and may not be readily removed) bears a notice, in legible form, that contains the words -

"IMPORTANT NOTICE

This product may contain mammalian meat and bone meal, poultry offal or other processed animal proteins. It is illegal to feed this product to an animal kept for farming purposes (including cattle, sheep, goats, deer or poultry) or to have it on land or premises used in connection with an animal kept for farming purposes".

(5) The heading to the notice referred to in paragraph (4) shall consist of black letters, not less than 1 centimetre in height, on a white background.

(6) A person may bring a feedingstuff containing mammalian meat and bone meal or poultry offal directly from a port within the State to a specified place to label it in accordance with paragraph (1) and it shall not be an offence for the person to have the feedingstuff in his or her possession or under his or her control for that purpose if he or she has given advance written notice of the movement to the District Veterinary Office in whose functional area the port is located and the District Veterinary Office in whose area the specified place is located.

(7) In this Article "specified place" means a place that has been notified to the Minister and is used to label a feedingstuff in accordance with paragraph (4).

Storage and transport of mammalian meat and bone meal and poultry offal

11.(1) A person who stores or transports mammalian meat and bone meal or poultry offal shall take all necessary precautions to ensure that the mammalian meat and bone meal or poultry offal does not contaminate any other substance.

(2) A person shall not cause or permit mammalian meat and bone meal or poultry offal to contaminate a feedingstuff intended for feeding to an animal kept for farming purposes or food intended for human consumption.

(3) A person shall not use a vehicle that has been used to transport mammalian meat and bone meal or poultry offal to transport a feedingstuff intended for feeding to an animal kept for farming purposes or food intended for human consumption.

Restriction on fertilizers.

12. A person shall not -

- (a) manufacture, sell, supply or import mammalian meat and bone meal for use as a fertilizer,
- (b) purchase mammalian meat and bone meal for use as a fertilizer, or
- (c) spread mammalian meat and bone meal on land.

Forgery

13. (1) A person shall not forge or utter knowing it to be forged a record purporting to be kept and maintained under this Order or a document purporting to be an extract therefrom (hereafter in this Article referred to as "a forged record").

(2) A person shall not alter with intent to defraud or deceive, or utter knowing it to be so altered a record kept and maintained under this Order or an extract therefrom (hereafter in this Article referred to as "an altered record").

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

(4) A person shall not aid or abet the contravention of this Article.

Revocation

14. The provisions specified in the Schedule are revoked.

Savers

15. (1) A licence granted under a provision revoked by Article 14 and in force immediately before making of this Order shall continue in force upon such revocation and may be amended or revoked as if granted under the corresponding provision of this Order.

(2) A reference to a revoked provision shall be construed as referring to this Order or the corresponding provision of this Order.

(3) This Order is in addition to and not in substitution for the European Communities (Processed Animal Products) Regulations 2000 (S.I. No. 486 of 2000).

SCHEDULE

1. Diseases of Animals (Bovine Spongiform Encephalopathy) (No. 2) Order, 1996 (S.I. No. 278 of 1996) other than Articles 7 and 8.

2. Diseases of Animals (Bovine Spongiform Encephalopathy) (No. 3) Order 1996 (S.I. No. 415 of 1996).

3. Diseases of Animals (Bovine Spongiform Encephalopathy) (Amendment) Order, 1997 (S.I. No. 79 of 1997).

GIVEN under my Official Seal,

28 November 2002



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).

This Order provides controls in relation to the manufacture, sale, supply feeding, storage and purchase of mammalian meat and bone meal and poultry offal.