

S.I. No. 707 of 2005

European Communities (Animal By-products) (Amendment) Regulations 2005

I, Mary Coughlan, 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. 999/2001 of the European Parliament and the Council of 22 May 2001¹ (as amended by Commission Regulation (EC) No. 1248/2001 of 22 June 2001², Commission Regulation (EC) No. 1326/2001 of 29 June 2001³, Commission Regulation (EC) No. 270/2002 of 14 February 2002⁴, Commission Regulation (EC) No. 1494/2002 of 21 August 2002⁵, Commission Regulation (EC) No. 260/2003 of 12 February 2003⁶, Commission Regulation (EC) No. 650/2003 of 10 April 2003⁷, Commission Regulation (EC) No. 1053/2003 of 19 June 2003⁸, Regulation (EC) No. 1128/2003 of the European Parliament and the Council of 16 June 2003⁹, Commission Regulation (EC) No. 1139/2003 of 27 June 2003¹⁰, Commission Regulation (EC) No. 1234/2003 of 10 July 2003¹¹, Commission Regulation (EC) No. 1809/2003 of 15 October 2003¹², Commission Regulation (EC) No. 1915/2003 of 30 October 2003¹³, Commission Regulation (EC) No. 2245/2003 of 19 December 2003¹⁴, Commission Regulation (EC) No. 876/2004 of 29 April 2004¹⁵, Commission Regulation (EC) No. 1471/2004 of 18 August 2004¹⁶, Commission Regulation (EC) No. 1492/2004 of 23 August 2004¹⁷, Commission Regulation (EC) No. 1993/2004 of 19 November 2004¹⁸, Commission Regulation (EC) No. 36/2005 of 12 January 2005¹⁹, Commission Regulation (EC) No. 214/2005 of 9 February 2005²⁰, Commission Regulation (EC) No. 260/2005 of 16 February 2005²¹, Commission Regulation (EC) No. 932/2005 of 8 June 2005²² and Commission Regulation (EC) No. 1292/2005 of 5 August 2005²³, Regulation (EC) No. 1774/2002 of the European Parliament and the Council of 3

¹ O.J. No. L 147 of 31.5.2001, p.1.

² O.J. No. L 173 of 27.6.2001, p.12.

³ O.J. No. L 177 of 30.6.2001, p.60.

⁴ O.J. No. L 45 of 15.2.2002, p.4.

⁵ O.J. No. L 225 of 22.8.2002, p. 3.

⁶ O.J. No. L 37 of 13.2.2003, p. 7.

⁷ O.J. No. L 95 of 11.4.2003, p. 15.

⁸ O.J. No. L 152 of 20.6.2003, p. 8.

⁹ O.J. No. L 160 of 28.6.2003, p. 1.

¹⁰ O.J. No. L 160 of 28.6.2003, p. 22.

¹¹ O.J. No. L 173 of 11.7.2003, p. 6.

¹² O.J. No. 265 of 16.10.2003, p. 10.

¹³ O.J. No. L 283 of 31.10.2003, p. 29.

¹⁴ O.J. No. L 333 of 20.12.2003, p. 28.

¹⁵ O.J. No. L 162 of 30.4.2004, p. 52.

¹⁶ O.J. No. L 271 of 19.8.2004, p. 24.

¹⁷ O.J. No. L 274 of 24.8.2004, p. 3.

¹⁸ O.J. No. L 344 of 20.11.2004, p. 12.

¹⁹ O.J. No. L 10 of 13.1.2005, p. 9.

²⁰ O.J. No. L 37 of 10.2.2005, p. 9.

²¹ O.J. No. L 46 of 17.2.2005, p. 31.

²² O.J. No. L 163 of 23.6.2005, p. 1.

²³ O.J. No. L 205 of 6.8.2005, p.3.

October 2002²⁴ (as amended by Commission Regulation (EC) No. 808/2003 of 12 May 2003²⁵, Commission Regulation (EC) No. 668/2004 of 10 March 2004²⁶, Commission Regulation (EC) No. 878/2004 of 29 April 2004²⁷, Commission Regulation (EC) No. 92/2005 of 19 January 2005²⁸ and Commission Regulation (EC) No. 93/2005 of 19 January 2005²⁹) and Council Directive No. 2002/99/EC of 16 December 2002³⁰, hereby make the following regulations-

Citation

1. These Regulations may be cited as the European Communities (Animal By-products) (Amendment) Regulations 2005.

Amendments

2. The European Communities (Animal By-products) Regulations 2003 (S.I. No. 248 of 2003) are amended-
 - (a) in Regulation 2(1)-
 - (i) by the substitution, for the definition of “European Regulation”, of-

“‘European Regulation’ means Regulation (EC) No. 1774/2002 of the European Parliament and the Council of 3 October 2002 as amended by Commission Regulation (EC) No. 808/2003 of 12 May 2003, Commission Regulation (EC) No. 668/2004 of 10 March 2004, Commission Regulation (EC) No. 878/2004 of 29 April 2004, Commission Regulation (EC) No. 92/2005 of 19 January 2005 and Commission Regulation (EC) No. 93/2005 of 19.1.2005;

‘manufacture’ means total or partial manufacture and includes incorporating, processing, compounding, formulating, filling, dividing up, packaging, labelling and

²⁴ O.J. No. L 273 of 10.10.2002, p.1.

²⁵ O.J. no. L 117 of 13.5.2003, p. 1.

²⁶ O.J. No. L 112 of 19.4.2004, p. 1.

²⁷ O.J. No. L 162 of 29.4.2004, p. 62.

²⁸ O.J. No. L 19 of 21.1.2005, p. 27.

²⁹ O.J. No. L 19 of 21.1.2005, p. 34.

³⁰ O.J. No. L18 of 23.1.2003, p.11.

presentation and cognate words are construed accordingly;”,

(ii) by the insertion, after the definition of “premises”, of-

“‘purchase’ includes buy, take in exchange, accept as a gift or otherwise receive and cognate words are construed accordingly;” and

(iii) by the insertion, after the definition of “supply”, of -

“‘TSE Regulation’ means Regulation (EC) No. 999/2001 of the European Parliament and the Council of 22 May 2001 as amended by Commission Regulation (EC) No. 1248/2001 of 22 June 2001², Commission Regulation (EC) No. 1326/2001 of 29 June 2001, Commission Regulation (EC) No. 270/2002 of 14 February 2002, Commission Regulation (EC) No. 1494/2002 of 21 August 2002, Commission Regulation (EC) No. 260/2003 of 12 February 2003, Commission Regulation (EC) No. 650/2003 of 10 April 2003, Commission Regulation (EC) No. 1053/2003 of 19 June 2003, Regulation (EC) No. 1128/2003 of the European Parliament and the Council of 16 June 2003, Commission Regulation (EC) No. 1139/2003 of 27 June 2003, Commission Regulation (EC) No. 1234/2003 of 10 July 2003, Commission Regulation (EC) No. 1809/2003 of 15 October 2003, Commission Regulation (EC) No. 1915/2003 of 30 October 2003, Commission Regulation (EC) No. 2245/2003 of 19 December 2003, Commission Regulation (EC) No. 876/2004 of 29 April 2004, Commission Regulation (EC) No. 1471/2004 of 18 August 2004, Commission Regulation (EC) No. 1492/2004 of 23 August 2004, Commission Regulation (EC) No. 1993/2004 of 19 November 2004, Commission Regulation (EC) No. 36/2005 of 12 January 2005, Commission Regulation (EC) No. 214/2005 of 9 February 2005, Commission Regulation (EC) No. 260/2005 of 16 February 2005, Commission Regulation (EC) No. 932/2005 of 8 June 2005 and Commission Regulation (EC) No. 1292/2005 of 5 August 2005.”,

² O.J. No. L 173 of 27.6.2001, p.12.

(b) in Regulation 2(2), by the insertion after “European Regulation”, in both places where it occurs, of “or the TSE Regulation”,

(c) in Regulation 3(1)-

(i) by the insertion, after subparagraph (a), of-

“(aa) contravenes Article 7 (1), (2), 8(1), (3), 9, 15, 16 (2), (3), (5), (6) of, or Annex III, IV, Chapter C of Annex X or Annex XI to, the TSE Regulation,

(aaa) contravenes Article 4 or 5 of Commission Regulation (EC) No. 878/2004 or Article 4 of Commission Regulation (EC) No. 92/2005,”,

(ii) by the substitution, in subparagraph (e), for “an approval under Regulation 6”, of “an approval or authorisation under Regulation 6, registration under Regulation 9A or 9B”, and

(iii) by the substitution for subparagraph (f), of-

“(f) contravenes Regulation 4, 6(1), (2), (3), (4), (5), (6), (7), (8), (8A), (8B), (8D), (8E), (8F), (8G), (8H), (16), 7(1), (9), (13), 8(1), (10), 9 (1), (5), (6), (9), (13), 9A (1), (12), (13) (14), 9B, 9C (1), (2), (3), (4), 9D, 9E, 10, 11, 13, 14(3), 17B or 17C,”,

(d) by the substitution, for Regulation 4, of-

“Presumptions

4(1) In proceedings for an offence in relation to a contravention of Article 7(1) or (2) of the TSE Regulation, it is a defence for the defendant to show that point II(A) of Annex IV to the TSE Regulation applies and that the said point II(A) was, at the time of the alleged offence, complied with.

(2) If, in proceedings for an offence in relation to a contravention of these Regulations, the European Regulation or the TSE Regulation, it is alleged that animal protein is present in a substance and if it is proved that one or more bone spicules is or are present in the substance, it is for the defendant to prove that a prohibited animal protein was not present in the substance.

- (3) In proceedings for an offence under the TSE Regulation and Regulation 3(1)(aa), it is not necessary for the prosecution to prove that the State belongs to a particular category and it is not a defence to show that the State belongs to or does not belong to a particular category.”,

(e) in Regulation 5, by the deletion of –

- (i) paragraph (2), and
- (ii) in each place where it occurs, of “Minister for Health and Children or”,

(f) by the substitution, for Regulation 5 (7)(c), (d) and (e), of-

“(c) the premises has been approved, authorised, registered or licensed for a purpose specified in the European Regulation, the TSE Regulation or these Regulations, is required to be so approved, authorised, registered or licensed or is subject to an application for approval, authorisation, registration or a licence or is ancillary to a premises aforesaid,

(d) a document relating to an animal by-product, animal, feedingstuff, fertilizer, processed animal protein or other thing to which the European Regulation, the TSE Regulation or these Regulations relate is or may be on the premises, or

(e) an offence is being or has been committed under these Regulations,”,

(g) in Regulation 5(7) (other than Regulation 5(7)(d)), by the insertion, after “animal by-product,”, in each place where it occurs, of “feedingstuff, fertilizer or other thing to which either the European Regulation or the TSE Regulation relates,”,

(h) in Regulation 5(7)(xi), by the insertion, after “vessel,” of “premises”,

(i) in Regulation 6, by the insertion after paragraph (8), of-

“(8A) A person shall not operate a collection centre for the purposes of Article 23(4) of the European Regulation other than under in accordance with an authorisation granted for the purposes of the European Regulation.

(8B) A person shall not carry out a laboratory examination for a transmissible spongiform encephalopathy (except at the national reference laboratory) other than under and in accordance with an approval granted for the purposes of Annex X of the TSE Regulation.

- (8C) Notwithstanding the generality of this Regulation, an authorised officer shall, in relation to an approval granted for the purposes of the European Regulation, exercise the functions described in Article 12(4), 13(3), 14(4), 15(3), 17(3) and 18(3) of the European Regulation.
- (8D) A person shall not use a dye to stain specified risk material or an animal by-product other than under and in accordance with an approval-
- (i) granted for the purposes of the European Communities (Specified Risk Material) Regulations 2000 (S.I. No. 332 of 2000) that was in force immediately before the making of the European Communities (Animal By-products) (Amendment) Regulations 2005, or
 - (ii) granted for the purposes of the European Regulation or the TSE Regulation.
- (8E) A person, other than a person entered in the register of home compounders, shall not manufacture a feedingstuff that consists of or contains fishmeal other than under and in accordance with an authorisation granted for the purposes of point II(B)(c) of Annex IV to the TSE Regulation.
- (8F) A person, other than a person entered in the register of home compounders, shall not manufacture a feedingstuff that consists of or contains dicalcium phosphate or tricalcium phosphate of animal origin other than under and in accordance with an authorisation granted for the purposes of point II(C)(a) of Annex IV to the TSE Regulation.
- (8G) A person, other than a person entered in the register of home compounders, shall not manufacture a feedingstuff that consists of or contains a blood product or bloodmeal other than under and in accordance with an authorisation granted for the purposes of point II(D)(c) of Annex IV to the TSE Regulation.
- (8H) A person shall not operate a plant referred to, or use one of the processes described, in the Annexes to Commission Regulation (EC) No. 92/2005 of 19 January 2005 other than under and in accordance with an approval granted for the purposes of Article 3 of that Regulation.”,
- (j) in Regulation 6, by the insertion after “approval” in each place where it occurs in paragraphs (9) through (19) of “or authorisation”,

(k) in Regulation 9, by the deletion of “knackery” in each place where it occurs,

(l) by the insertion, after Regulation 9, of-

Register of home compounders

“9A.(1) A person shall not engage in home compounding referred to at-

- (a) point II(B)(c)(i),
- (b) point II(C)(a)(i), or
- (c) point II(D)(c)(i),

of Annex IV to the TSE Regulation unless his or her name is entered in the register (“register of home compounders”).

- (2) The Minister may enter a person’s name on the register of home compounders, refuse an application or revoke a registration.
- (3) An application for registration, 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 registration if the application does not contain all the material and particulars sought by the Minister.
- (5) The Minister may attach conditions to registration, revoke or vary a condition or attach a new condition.
- (6) Without prejudice to the generality of paragraph (5), a condition to registration may –
 - (a) control the use of a substance to which registration relates and 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 registration is granted and such other person or classes of person as may be specified in the condition.
- (7) Without prejudice to the generality of paragraph (2), the Minister may refuse an application or revoke a registration if–

- (a) he or she is satisfied that the European Regulation, the TSE Regulation or these Regulations have not been or will not be complied with,
 - (b) the applicant or registered person has been convicted of or committed an offence, whether he or she has been convicted or not, under any enactment relating to animals, animal health or public health.
 - (c) the applicant or registered person has failed to comply with a condition of registration,
 - (d) the applicant or registered person is not, in the opinion of the Minister, a fit and proper person to be registered,
 - (e) without prejudice to paragraph (4), 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.
- (8) Without prejudice to the generality of paragraph (2), the Minister shall refuse an application or revoke registration if the applicant or registered person has been convicted, on indictment, of an offence relating to an animal, animal health or public health.
- (9) Other than in the case of refusal or revocation under paragraph (8) or (10), if the Minister proposes to revoke a registration, 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.
- (10) 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 refuse an application or revoke a registration in accordance with paragraph (11).
- (11) If the Minister refuses an application or revokes a registration 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.
- (12) A person to whom a registration is granted shall make such returns to the Minister as and when, and in a form that, the Minister may direct.
- (13) A person to whom registration relates shall not have a ruminant in his or her possession or under his or her control or cause or permit another person to have a ruminant in his or her possession or under his or her control on a premises to which registration relates.
- (14) A person shall not move or cause or permit another person to move a complete feedingstuff to which registration relates from the premises where it is manufactured.

Animal by-products transport register

- 9B (1) A person shall not use a vehicle to transport an animal by-product or processed product unless his or her name and any particulars that the Minister considers appropriate are entered in the register (“animal by-products transport register”)
- (2) The Minister may enter a person’s name and particulars on the animal by-products transport register (in this Regulation referred to as “the register”), refuse an application or revoke a registration.
 - (3) An application for registration shall be made in a form and be accompanied by any information that the Minister may specify.

- (4) The Minister shall not consider an application for registration if the application does not contain all information sought by the Minister.
- (5) The Minister may attach conditions to registration, revoke or vary a condition or attach a new condition.
- (6) Without prejudice to the generality of paragraph (5), a condition to registration may –
- (a) control the use of a vehicle owned or operated by a person to whom registration relates and other conditions as are, in the opinion of the Minister, necessary ancillary or desirable for the condition aforesaid to have full effect,
 - (b) specify the type or class of animal by-product or processed product that may be carried on the vehicle, and
 - (c) bind the person to whom registration is granted and such other person or classes of person as may be specified in the condition.
- (7) Without prejudice to the generality of paragraph (2), the Minister may refuse an application or revoke a registration if–
- (a) he or she is satisfied that the European Regulation, the TSE Regulation or these Regulations have not been or will not be complied with,
 - (b) the applicant or registered person has been convicted of or committed an offence, whether he or she has been convicted or not, under any enactment relating to animals, animal health or public health.
 - (c) the applicant or registered person has failed to comply with a condition of registration,
 - (d) the applicant or registered person is not, in the opinion of the Minister, a fit and proper person to be registered,
 - (e) without prejudice to paragraph (4), 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.

- (8) Without prejudice to the generality of paragraph (2), the Minister shall refuse an application or revoke registration if the applicant or registered person has been convicted, on indictment, of an offence relating to an animal, animal health or public health.
- (9) Other than in the case of refusal or revocation under paragraph (8) or (10), if the Minister proposes to revoke a registration, 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.
- (10) 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 refuse an application or revoke a registration in accordance with paragraph (11).
- (11) If the Minister refuses an application or revokes a registration 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.
- (12) A person to whom a registration is granted shall make such returns to the Minister as and when, and in a form that, the Minister may direct.
- (13) The Minister may establish and maintain the register in a form that is not legible if it is capable of being converted into a legible form.
- (14) A person shall not transport an animal by-product or a processed product in a vehicle unless he or she complies with Article 7 and Annex II of the European Regulation.
- (15) A person who operates a vehicle under Regulation 10 of the European Communities (Specified Risk Material) Regulations 2000 (S.I. No. 332 of 2000) and who before 1 January 2006 applies to be registered under this Regulation may, until his or her application is determined, operate in

accordance with the European Regulation, as if registered under this Regulation.

(16) This Regulation does not apply to a-

- (a) farmer (or his employee) transporting manure on his or her farm or the carcase of an animal of which he or she is the keeper directly to a premises for lawful disposal,
- (b) a person transporting an animal by-product or processed product directly to a premises approved, for the purposes of Article 15 of the European Regulation, under Regulation 6(6), or
- (c) a person who transports a petfood that consists of or contains a processed product that is in a form in which it may be sold or supplied to the consumer.

Restriction on manufacture, possession etc.

9C. (1) A person shall not manufacture a feedingstuff that may be fed to a ruminant animal or have such a feedingstuff in his or her possession or under his or her control on a premises where-

- (a) fishmeal or a feedingstuff that consists of or contains fishmeal,
- (b) hydrolysed protein or a feedingstuff that consists of or contains hydrolysed protein,
- (c) dicalcium phosphate of animal origin, tricalcium phosphate of animal origin or a feedingstuff that consists of or contains dicalcium phosphate or tricalcium phosphate of animal origin,
- (d) a blood product or bloodmeal or a feedingstuff that consists of or contains a blood product or bloodmeal, or
- (e) other processed animal protein,

is manufactured.

(2) A person shall not manufacture or have in his or her possession or under his or her control -

- (a) fishmeal or a feedingstuff that consists of or contains fishmeal,
- (b) hydrolysed protein or a feedingstuff that consists of or contains hydrolysed protein,
- (c) dicalcium phosphate of animal origin, tricalcium phosphate of animal origin or a feedingstuff that consists of or contains dicalcium phosphate or tricalcium phosphate of animal origin,

(d) a blood product or bloodmeal or a feedingstuff that consists of or contains a blood product or bloodmeal, or

(e) other processed animal protein,

on a premises where a feedingstuff that may be fed to a ruminant is manufactured.

(3) A person shall not have –

(a) a substance that consists of or contains fishmeal, hydrolysed protein a blood product, bloodmeal or other processed animal protein in his or her possession or under his or her control on a premises where a farmed animal (other than a carnivorous fur producing animal) is kept, or

(b) a farmed animal (other than a carnivorous fur producing animal) in his or her possession or under his or her control on a premises where a substance that consists of or contains fishmeal, hydrolysed protein, a blood product, bloodmeal or other processed animal protein is manufactured, sold, supplied or kept.

(4) A person shall not have a substance that consists of or contains dicalcium phosphate or tricalcium phosphate of animal origin in his or her possession or under his or her control on a premises where a farmed animal is kept other than under and in accordance with Annex IV to the TSE Regulation and the on-farm measures specified in the Schedule to these Regulations.

(5) A person shall not have a farmed animal in his or her possession or under his or her control on a premises where a substance that consists of or contains dicalcium phosphate or tricalcium phosphate of animal origin is manufactured, sold, supplied or kept other than under and in accordance with Annex IV to the TSE Regulation and the on-farm measures specified in the Schedule to these Regulations.

(6) Subject to paragraph (7), paragraphs (3), (4) and (5) do not apply to a—

(a) feedingstuff packed in a hermetically sealed tin, or

(b) dried, sealed and bagged feedingstuff if the bag weighs 20 kilograms or less,

on land where a farmed animal is kept if the feedingstuff is presented and labelled in accordance with Annex IV to the TSE Regulation and is intended for, and may lawfully be, fed to a canine or feline.

(7) A person may have a feedingstuff to which paragraph (6) applies on land where a farmed animal (other than a carnivorous fur producing animal) is kept, if-

- (a) the animal 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 the animal does not have access, and
- (c) the feedingstuff is stored in a manner that prevents contamination or contact with any other feedingstuff.

(8) In paragraphs (7) and (9), "land" includes land or premises ancillary to the first-mentioned land.

(9) Notwithstanding paragraph (3) a person may have in his possession or under his control and spread on non-pasture land (that has not been grazed by a farm animal in the previous three years) fertilizer that consists of or contains category 3 material, if-

- (a) a farmed animal does not have access to any part of the land where the fertilizer is stored or spread,
- (b) the fertilizer is stored in a leak-proof container that has a closely fitting lid on a part of the non-pasture land to which a farmed animal does not have access, and
- (c) the fertilizer is stored in a manner that prevents contamination or contact with any other fertilizer or feedingstuff.

Labelling

9D. (1) Subject to paragraph (2), a person shall not have in his or her possession or under his or her control, sell or supply a feedingstuff that consists of or contains fishmeal, hydrolysed protein, dicalcium phosphate of animal origin, tricalcium phosphate of animal origin, a blood product, bloodmeal or other processed animal protein unless the package, container, or an adhesive label (that adheres to the package or container and may not be readily removed) and accompanying document bears a notice, in legible form, that conforms to Annex IV to the TSE Regulation.

(2) A person may bring a feedingstuff that consists of or contains a substance referred to in paragraph (1) 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.

- (3) In this Regulation, “specified place” means a place that has been notified to the Minister and is used to label a feedingstuff in accordance with paragraph (2).

Storage and transport of processed animal proteins

9E. (1) A person who stores or transports a substance to which the European Regulation or the TSE Regulation refers shall take all necessary precautions to ensure that the substance does not contaminate a feedingstuff or food for human consumption.

(2) A person shall not cause or permit a substance to which the European Regulation or the TSE Regulation refers to contaminate a feedingstuff intended for feeding to a farmed animal or food intended for human consumption.

(3) A person shall not use a vehicle that has been used to transport in bulk a substance to which the European Regulation or the TSE Regulation refers to transport a feedingstuff intended for feeding to a farmed animal or food intended for human consumption.”,

(m) in Regulation 12(1) (a), by the insertion, after “European Regulation”, of “or the TSE Regulation”,

(n) in Regulation 12 by-

(i) the insertion after “animal by-product”, in each place where it occurs, of “,feedingstuff, fertilizer or other thing to which either the European Regulation or the TSE Regulation relates,”,

(ii) the insertion after “animal by-product,”, in each place where it occurs, of “feedingstuff, fertilizer or other thing to which either the European Regulation or the TSE Regulation relates,”,

(iii) the substitution, in paragraph (3), for “an animal transport” of “a”, and

(iv) the substitution, in paragraph (7)(a), for “this Order (in this Article)” of “these Regulations (in this Regulation)”,

(o) in Regulation 13, by the insertion-

(i) after “European Regulation”, in each place where it occurs, of “, the TSE Regulation”, and

- (ii) after “approval”, in each place where it occurs, of “authorisation, registration document”,
 - (p) in Regulation 14(1), by the substitution for “of Regulation 9(10) or (12)”, of “, Regulation 9 (10) or (12) or Regulation 9A(9) or (11)”,
 - (q) in Regulation 16-
 - (i) by the substitution, in each place where it occurs, for “or licence” of “, authorisation, licence or registration”, and
 - (ii) by the deletion, in each place where it occurs, of “, Minister for Health and Children”,
- and
- (r) by the insertion, after Regulation 17, of-

“Evidence on certificate

17A. (1) In proceedings for an offence consisting of a contravention of the European Regulation, the TSE Regulation or these Regulations, a certificate purporting to be signed by a person employed at an approved laboratory named in the certificate or the national reference laboratory stating the capacity in which that person is so employed and stating any one or more of the following, namely -

- (b) that the laboratory is an approved laboratory or the national reference laboratory,
- (c) that the person received a sample submitted to the laboratory,
- (d) that, for such period as is specified in the certificate, the person had in his or her custody a sample so submitted,
- (e) that the person gave to such other person as is specified in the certificate a sample so submitted, or
- (f) that the person carried out any laboratory examination for the purpose of detecting the presence, in a sample so submitted, of a transmissible spongiform encephalopathy, or that the sample was positive for a transmissible spongiform encephalopathy,

is, unless the contrary is proved, evidence of the matters stated in the certificate.

- (2) A certificate purporting to be signed by an officer of the Minister and to certify that on a specific day or days or during the whole of a specified period-
- (a) a particular person or vehicle did not stand registered in the register of home compounders or the animal by-products transport register,
 - (b) the registration of a particular person or vehicle in the register of home compounders or the animal by-products transport register had been revoked,
 - (c) a person was or was not the holder of an approval or authorisation granted for the purposes of either the European Regulation or the TSE Regulation under Regulation 6,
 - (d) a person was or was not the holder of a burial licence, a research licence, a meat feeding licence or a meat seller's licence, or
 - (e) that a particular approval, authorisation, registration or licence, referred to in this paragraph, was subject to a particular condition or conditions,

is, without proof of the signature of the person purporting to sign the certificate or that he or she is an officer of the Minister, evidence, unless the contrary is shown, of the matters stated in the certificate.

- (3) In proceedings for an offence under these Regulations the court may, if it considers that the interests of justice so require, direct that oral evidence of the matters stated in a certificate under paragraph (1) or (2) be given, and the court may for the purpose of receiving oral evidence adjourn the matter.
- (4) In proceedings for an offence, evidence of the European Regulation or the TSE Regulation may be given by production of a copy of the European Regulation or the TSE Regulation certified by an officer of the Minister to be a copy of the European Regulation or the TSE Regulation, and it is not necessary to prove the signature of the officer or that he or she is an officer of the Minister.
- (5) Paragraph (4) is in addition to and not in substitution for the European Communities (Judicial Notice and Documentary Evidence) Regulations 1972 (S.I. No. 341 of 1972).

Production of documents

- 17B A person shall not, on a request being made in that behalf by an authorised officer, fail to produce-

- (a) a health certificate referred to in Article 7(2) or 8(3)(a) of the European Regulation or Article 15(1), 16(3), (5), 17 or 18 of the TSE Regulation,
- (b) a commercial document referred to in Article 7(2) or 8(3)(a) of the European Regulation or Article 16(5) or 17 of the TSE Regulation,
- (c) an authorisation referred to in Article 8(2) of the European Regulation,
- (d) a record referred to in Article 9, 14(2)(c) or 25(1)(d) of the European Regulation,
- (e) an approval or authorisation granted under Regulation 6 or a record maintained pursuant to the approval or authorisation,
- (f) a licence granted under Regulation 7, 8 or 9 or a record maintained pursuant to the licence, or
- (g) a certificate of registration under Regulation 9A or 9B or a record maintained pursuant to the registration.

Testing of certain animals

17C(1) A person who slaughters or has in his or her possession or under his or her control the carcass of an animal to which Annex III to the TSE Regulation refers shall not process the carcass until –

- (a) a sample has been taken from the carcass by a registered veterinary surgeon (within the meaning of the Veterinary Surgeons Act 1931(No 36 of 1931)),
- (b) the sample taken under subparagraph (a) has been subjected to a laboratory examination at an approved laboratory or the national reference laboratory, and
- (c) the result of the laboratory examination under subparagraph (b) is negative for bovine spongiform encephalopathy,

other than under and in accordance with the direction of an authorised officer.

- (2) A person who slaughters or takes into his or her possession the carcass of an animal to which Annex III to the TSE Regulation refers shall securely detain the carcass in accordance with the directions of an authorised officer and shall not deal with the carcass or any part thereof other than in accordance with the directions of an authorised officer.

- (3) A person shall take all necessary steps to ensure that the carcass of a bovine animal does not deteriorate to an extent that a sample taken from the carcass can not easily be tested using a method laid down in point 3(1)(b) of Chapter C of Annex X to the TSE Regulation.

Schedule

Regulation 9C(4)

The following are on-farm measures for the purposes of point II.C(d) – second paragraph- of Annex IV to the TSE Regulation.

A person may possess, store and feed a feedingstuff consisting of or containing dicalcium phosphate on a farm where ruminant animals are present if-

1. He or she takes all necessary steps to ensure that the feedingstuff does not enter the feed chain of the ruminant animals present on the farm;
2. He or she takes all necessary steps to ensure that feedingstuff is not fed to any ruminant animals;
3. He or she must notify the District Veterinary Office in whose functional area the farm is located if he or she –
 - (a) proposes to use a feedingstuff consisting of or containing dicalcium phosphate,
 - (b) of the quantity of a feedingstuff consisting of or containing dicalcium phosphate present on the farm, and
 - (c) of the details of each purchase of consisting of or containing dicalcium phosphate, including the quantity, where purchased and when purchased.
4. He or she must ensure that the feedingstuff consisting of or containing dicalcium phosphate is stored in a closed container in an area where a ruminants will not have access;
5. He or she must ensure that the feedingstuff consisting of or containing dicalcium phosphate is not fed to animals in an area where ruminant animals may be fed or may enter;
6. He or she must ensure that all equipment used for the handling, storage, transportation or cleaning of a feedingstuff consisting of or containing dicalcium phosphate is not used in the feeding of ruminant animals;

7. He or she must maintain accurate records of all quantities of a feedingstuff consisting of or containing dicalcium phosphate purchased and used and make these records available for inspection by an authorised officer.”.

Revocations etc.

3. (1) The following are revoked-

- (a) Articles 7 and 8 of the Diseases of Animals (Bovine Spongiform Encephalopathy) (No.2) Order 1996 (S.I. No. 278 of 1996),

- (b) Articles 5 and 6 of the Diseases of Animals (Bovine Spongiform Encephalopathy) (Specified Risk Material) Order 2000 (S.I. No. 331 of 2000),

- (c) subject to Regulation 6(8C) (inserted by Regulation 2 of these Regulations) of the European Communities (Animal By-products) Regulations 2003 (S.I. No. 248 of 2003), the European Communities (Specified Risk Material) Regulations 2000 (S.I. No. 332 of 2000),

- (d) the European Communities (Processed Animal Products) Regulations 2000 (S.I. No. 486 of 2000),

- (e) the European Communities (Diseases of Animals Act 1966 (Transmissible Spongiform Encephalopathies) (Meat and Bone Meal and Poultry Offal) Order 2002) Regulations 2002 (S.I. No. 550 of 2002), and

- (f) the Diseases of Animals Act 1966 (Transmissible Spongiform Encephalopathies) (Meat and Bone Meal and Poultry Offal) Order 2002 (S.I. No. 551 of 2002).

- (2) These Regulations are in addition to, and not in substitution for, the Diseases of Animals (Bovine Spongiform Encephalopathy) (Specified Risk Material) Order 2000 (S.I. No. 331 of 2000)`.

- (3) On the making of these Regulations, the European Communities (Trade in Animals and Animal Products) Regulations 1994 (S.I. No. 289 of 1994) have effect as if Regulation 18 of the European Communities (Trade in the Production, Processing, Distribution and Introduction of Products of Animal Origin for Human Consumption) Regulations 2004 (S.I. No. 820 of 2004)

were in addition to and not in substitution for the Regulations first cited in this paragraph.

- (4) A reference in any enactment or statutory instrument to a statutory instrument revoked by paragraph (1) is construed and has effect as if the reference is a reference to the European Communities (Animal By-products) Regulations 2003 (S.I. No. 248 of 2003) as amended by Regulation 2 of these Regulations.
- (5) The Diseases of Animals (Feeding and Use of Swill) Orders 1985 and 1987 do not apply to the use of swill (and activities ancillary thereto) in connection with plant approved under Regulation 6(6) of the European Communities (Animal By-products) Regulations 2003 (S.I. No. 248 of 2003).

L.S

GIVEN under my Official Seal,
10th November 2005

Mary Coughlan
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 amend the European Communities (Animal By-products) Regulations 2003 (S.I. No 248 of 2003). The main provisions of these regulations include the use of Category 3 meat and bone meal in petfood, the use of Category 3 meat and bone meal as a fertiliser on non-pasture land and the spreading of digestate of composting and biogas plants on non-pasture land.