

S.I. No. 278 of 1996.

DISEASES OF ANIMALS (BOVINE SPONGIFORM ENCEPHALOPATHY) (No. 2) ORDER, 1996

I, Ivan Yates, Minister for Agriculture, Food and Forestry, in exercise of the powers conferred on me by sections 3 of the Diseases of Animals Act, 1966 (No. 6 of 1966), as adapted by the Agriculture and Food (Alteration of Name of Department and Title of Minister) Order, 1993 (S.I. No. 11 of 1993), hereby order as follows:

Citation and commencement 1. (1) This Order may be cited as the Diseases of Animals (Bovine Spongiform Encephalopathy) (No. 2) Order, 1996.

(2) This Order shall come into operation on the 17th day of October, 1996.

(3) The collective citation "the Diseases of Animals (Bovine Spongiform Encephalopathy) Orders, 1989 to 1996" shall include this Order.

2 Interpretation 2. In this Order —

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

"authorised officer" means a person who, for the time being, stands appointed under Article 12 of this Order;

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

"mammalian meat and bone meal" means mammalian protein derived from the whole or part of any dead mammal by a process involving crushing, cooking or grinding;

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

(a) milk or any milk 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;

"ruminating animal" 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.

Licensing of manufacturers of mammalian meat and bone meal 3. (1) The Minister may grant licences to persons who have been approved by him for the purposes of the manufacture of mammalian meat and bone meal.

(2) An application for a licence under this Article shall be made in such form as the Minister may specify.

(3) A person applying for a licence under this Article shall furnish the Minister with such information as he may reasonably require for the purposes of his functions under this Order.

(4) The Minister may, if he is not satisfied that the provisions of this Order are being or have been complied with by a person granted a licence under this Article or will be complied with by an applicant for such a licence, revoke the licence or refuse to grant the licence.

(5) Where the Minister proposes to revoke a licence granted under this Article, or to refuse to grant such a licence, he shall —

- (a) notify the person concerned in writing of the proposal and of the reasons therefor,
- (b) notify the person in writing that he, or a person acting on his behalf, may make representations to the Minister in relation to the proposal within 14 days of the receipt by him of the notification, and
- (c) consider any such representations duly made before deciding whether to proceed with the proposal or not.

(6) A person who is or has been granted a licence under this Article shall keep, for a period of eight years following the date on which any mammalian meat and bone meal is sold by him, a record in writing of—

- (a) the date of sale,
- (b) the weight sold,
- (c) the name and address of the purchaser,
- (d) the address of the place of delivery, and
- (e) 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.

(7) A person shall not manufacture, or attempt to manufacture, mammalian meat and bone meal except in accordance with a licence granted by the Minister under this Article.

Licence for the purchase of mammalian meat and bone meal 4. (1) Subject to paragraph (8) below, a person shall not purchase, or attempt to purchase, mammalian meat and bone meal except in accordance with a licence granted by the Minister under this Article.

(2) An application for a licence under this Article shall be made in such form as the Minister may specify.

(3) A person applying for a licence under this Article shall furnish the Minister with such information as he may reasonably require for the purposes of his functions under this Order.

(4) The Minister may, if he is not satisfied that the provisions of this Order are being or have been complied with by a person granted a licence under this Article or will be complied with by an applicant for such a licence, revoke the licence or refuse to grant the licence.

(5) Where the Minister proposes to revoke a licence granted under this Article, or to refuse to grant such a licence, he shall —

- (a) notify the person concerned in writing of the proposal and of the reasons therefor,
- (b) notify the person in writing that he, or a person acting on his behalf, may make representations to the Minister in relation to the proposal within 14 days of the receipt by him of the notification, and
- (c) consider any such representations duly made before deciding whether to proceed with the proposal or not.

(6) Any person who purchases mammalian meat and bone meal in accordance with a licence granted by the Minister under this Article shall keep, for a period of eight years after the date on which the purchase is made, a record in writing of —

- (a) the date of purchase,
 - (b) the weight purchased,
 - (c) the name and address of the vendor,
 - (d) the address of the place of delivery, and
 - (e) the purpose for which the mammalian meat and bone meal was purchased.
- (7) A person shall not sell mammalian meat and bone meal to any person —

- (a) unless that person holds, for the time being, a licence to purchase mammalian meat and bone meal granted under this Article,
 - (b) other than in accordance with such a licence.
- (8) The provisions of this Article shall not apply —

- (a) until the 31st day of December, 1996, to mammalian meat and bone meal sold or purchased in packages of less than 5kgs. destined for uses other than feeding to animals or poultry;
- (b) with effect from the first day of January, 1997, to mammalian meat and bone meal sold or purchased in packages of less than 5kgs. destined for uses other than feeding to animals or poultry which bear in legible form on the packaging the words "Not for feeding to cattle, deer, goats or sheep".

5 Prohibition on feeding of mammalian meat and bone meal or any feeding stuff containing mammalian meat and bone meal to ruminating animals 5. (1) A person shall not —

- (a) sell or supply for feeding to a ruminating animal, or
 - (b) feed to a ruminating animal,
- mammalian meat and bone meal or any feedingstuff in which mammalian meat and bone meal has been incorporated knowing or having reason to suspect that mammalian meat and bone meal has been incorporated therein.
- (2) A person shall not feed to a ruminating animal any feedingstuff which is intended for feeding to non-ruminating animals or poultry.

(3) The provisions of paragraph (1) or (2) of this Article shall not apply to the sale or supply of any feedingstuff for feeding, or the feeding of any feedingstuff, to an animal in a research establishment under the authority of the Minister where such sale, supply or feeding (as the case may be) is in accordance with the conditions of a licence issued by him.

Restrictions on mammalian meat and bone meal intended for feeding to non-ruminating animals or poultry 6. (1) No person shall —

- (a) have mammalian meat and bone meal or any feedingstuff in which mammalian meat and bone meal has been incorporated in their possession or under their control on any land or premises —
 - (i) used for or in connection with the manufacture of feedingstuff, or
 - (ii) used for or in connection with the holding, handling, keeping or farming of ruminating animals, or
 - (b) incorporate mammalian meat and bone meal into any feedingstuff intended for feeding to non-ruminating animals or poultry,
- except in accordance with a licence granted by the Minister under this Article.

(2) An application for a licence under this Article shall be made in such form as the Minister may specify.

(3) A person applying for a licence under this Article shall furnish the Minister with such information as he may reasonably require for the purposes of his functions under this Order.

(4) The Minister may, if he is not satisfied that the provisions of this Order are being or have been complied with by a person granted a licence under this Article or will be complied with by an applicant for such a licence, revoke the licence or refuse to grant the licence.

(5) Where the Minister proposes to revoke a licence under this Article, or refuse to grant such a licence, he shall —

(a) notify the person concerned in writing of the proposal and of the reasons therefor,

(b) notify the person in writing that he, or a person acting on his behalf, may make representations to the Minister in relation to the proposal within 14 days of the receipt by him of the notification, and

(c) consider any such representations duly made before deciding whether to proceed with the proposal or not.

(6) For the purposes of paragraph (1) of this Article, land or premises used for or in connection with the manufacture of feedingstuff or for or in connection with the holding, handling, keeping or farming of ruminating animals includes any land or premises ancillary to such uses.

(7) Any person who has mammalian meat and bone meal, or any feedingstuff in which mammalian meat and bone meal has been incorporated, in their possession or under their control on any land or premises —

(a) used for or in connection with the manufacture of feedingstuff, or

(b) used for or in connection with the holding, handling, keeping or farming of ruminating animals, shall, before the first day of November, 1996, send to the Secretary at the Department of Agriculture, Food and Forestry, Dublin 2 full details and particulars of the type, location and quantity of such mammalian meat and bone meal or any feedingstuff in which mammalian meat and bone meal has been incorporated as is in their possession or under their control.

Powers of inspectors, authorised officers or members of the Garda Síochána 7. (1) An inspector, authorised officer or member of the Garda Síochána may, for the purposes of this Order —

(a) at all reasonable times, enter any premises or place, and any vehicle, wagon, vessel, aircraft or other means of transport (other than a premises, place, or means of transport consisting of a dwelling or other than so much thereof as consists of a dwelling) where he reasonably suspects that any animal, poultry, product or document which he considers should be examined or inspected for the purposes of his functions under this Order is to be found,

(b) there or at any other place, examine and inspect any animal, poultry, product or document and, in the case of animals or poultry, an inspector may carry out a clinical inspection thereof,

(c) take, without payment of compensation, such samples of any product at the premises or place or on or in the means of transport as he may reasonably require for the purposes of his functions under this Order and carry out or have carried out on the samples such analyses, examinations, checks and inspections as he considers necessary or expedient for the purposes of such functions,

(d) there or at any other place, carry out or have carried out such examinations, checks and inspections of the premises, place or means of transport and any equipment, machinery or plant and any product found there as he reasonably considers necessary or expedient for the purposes of such functions,

(e) require any person at the premises or place or on or in the means of transport and the owner or person in charge thereof and any person employed in connection therewith to give to him such information and to produce to him such books, certificates, documents and other records, including

any records required to be kept by this Order, within the power or procurement of the person as he may reasonably require for the purposes of his functions under this Order,

(f) examine and take copies of, or of extracts from, any such records as aforesaid,

(g) seize and detain anything found there which he reasonably believes to be evidence of an offence under this Order.

(2) A person shall not, in purported compliance with a requirement under paragraph (1)(e) above, give information to an inspector, authorised officer or member of the Garda Síochána that he knows to be false or misleading in a material respect.

(3) The powers conferred by this Article on an inspector, authorised officer or member of the Garda Síochána are in addition to, and not in substitution for, the powers conferred on such inspector, officer or member by the Act.

Entry by search warrant 8. (1) If a judge of the District Court is satisfied by information on oath of an inspector, authorised officer or member of the Garda Síochána that there is reasonable cause for suspecting that —

(a) evidence of or relating to the commission or intended commission of an offence under this Order is to be found in, on or under any land or premises or in or on any vehicle,

(b) there is or was or is intended to be in, on or under any land or premises or in or on any vehicle any product in relation to which a contravention of this Order is being or has been or is intended to be committed, or

(c) a document directly or indirectly relating to, or connected with, a transaction or dealing which was, or an intended transaction or dealing which would if carried out be, an offence under this Order, is in the possession or under the control of a person in, on or under any land or premises or in or on any vehicle,

and that such land, premises or vehicle or any part thereof consists of a dwelling, such judge may issue a search warrant under this Article.

(2) A search warrant issued under this Article shall be expressed and operate to authorise a named inspector, authorised officer or member of the Garda Síochána, accompanied by such other inspectors, authorised officers and members of the Garda Síochána as the named inspector, officer or member thinks necessary, at any time or times within one month from the date of the issue of the warrant, on production if so requested of the warrant, to enter (if necessary by force) the land, premises or vehicle named in the warrant.

(3) Where any premises, land or vehicle is entered pursuant to a warrant issued under this Article, an inspector, authorised officer or member of the Garda Síochána so entering may —

(a) stop and detain any person found in, on or under such land or premises, or in or on such vehicle, for the purpose of searching that person and may search the person or cause him to be searched, and

(b) exercise all or any of the powers specified in Article 7 of this Order or conferred on him by the Act.

Requirements as to storage and transport of mammalian meat and bone meal or any feedingstuff containing mammalian meat and bone meal 9. (1) Any person who stores or transports mammalian meat and bone meal or any feedingstuff containing mammalian meat and bone meal shall take all necessary precautions to ensure that the mammalian meat and bone meal or feedingstuff does not contaminate any other product so stored or transported.

(2) A person shall not cause or permit mammalian meat and bone meal or any feedingstuff containing mammalian meat and bone meal to contaminate any feedingstuff intended for feeding to ruminating animals.

Requirements as to evidence 10. (1) A certificate purporting to be signed by a person authorised by the Minister in that behalf and to certify that -

(a) (i) on a specified day or days or during the whole of a specified period a particular person was not granted a licence under Article 3,4 or 6 of this Order, as the case may be, or
(ii) on a specified day or days such a licence was no longer valid,
(b) one or more bone spicules is or are present in any feedingstuff, or
(c) mammalian meat and bone meal is present in any feedingstuff,
shall, without proof of the signature of the person purporting to sign the certificate or that he was so authorised by the Minister, be sufficient evidence, unless the contrary is shown, of the matters stated in the certificate.

(2) Where, in any proceedings for an offence under the Act in relation to a contravention of this Order, it is alleged that mammalian meat and bone meal is incorporated in a feedingstuff and where the prosecution proves that one or more bone spicules is or are present in such feedingstuff, it shall be for the defence to prove that mammalian meat and bone meal was not incorporated in such feedingstuff.

Attachment of conditions to any licence granted under this Order 11. (1) The Minister may attach such conditions to a licence granted under Article 3, 4 or 6 of this Order or vary or revoke any such conditions as he may deem necessary for the purposes of this Order.

(2) A person shall not contravene any condition attached to a licence under paragraph (1) of this Article, including any condition as may be varied thereunder.

Appointment of authorised officers 12. (1) The Minister may appoint such and so many persons as he thinks fit to be authorised officers for the purposes of this Order.

(2) An inspector or authorised officer, when exercising any power conferred on him for the purposes of this Order, shall, if so requested by any person affected, produce evidence in writing of his appointment as an authorised officer or inspector.

(3) A member of the Garda Síochána, not in uniform, when exercising any such power, shall, if so requested by any person affected, produce evidence in writing that he is such a member.

Revocation of the Diseases of Animals (Bovine Spongiform Encephalopathy) (Amendment) (No. 3) Order, 1990 13. The Diseases of Animals (Bovine Spongiform Encephalopathy) (Amendment) (No. 3) Order, 1990 (S.I. No. 196 of 1990) is hereby revoked.

GIVEN under my Official Seal, this 20th day of September, 1996.

Ivan Yates,

Minister for Agriculture, Food and Forestry.

EXPLANATORY NOTE.

This Order introduces farther controls in relation to the manufacture, sale and purchase of mammalian meat and bone meal and any feedingstuff containing such meat and bone meal and makes the manufacture or purchase of such meat and bone meal subject to licence. Provision is also made for the appointment of authorised officers to enforce the Order and such officers, as well as inspectors within the meaning of the Diseases of Animals Act, 1966 and members of the Garda Síochána. are given additional powers for this purpose.

