



STATUTORY INSTRUMENTS.

S.I. No. 615 of 2006

DISEASES OF ANIMALS ACT 1966 (TRANSMISSIBLE
SPONGIFORM ENCEPHALOPATHIES)
(FERTILISERS & SOIL IMPROVERS) ORDER 2006

(Prn. A6/2126)

S.I. No. 615 of 2006

DISEASES OF ANIMALS ACT 1966 (TRANSMISSIBLE
SPONGIFORM ENCEPHALOPATHIES)
(FERTILISERS & SOIL IMPROVERS) ORDER 2006

WHEREAS Article 1(2) of Commission Regulation (EC) No. 181/2006 of 1 February 2006¹ provides that member states may apply stricter national rules than those provided in that Regulation as regards the way organic fertilisers and soil improvers are used where such rules are justified on animal health or public health grounds;

AND whereas I am of the opinion that such national rules are necessary to prevent the risk of disease and, in particular, transmissible spongiform encephalopathies;

NOW I, Mary Coughlan, Minister for Agriculture and Food, in exercise of the powers conferred on me by sections 3 and 13 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), hereby order as follows—

1. (1) This Order may be cited as the Diseases of Animals Act 1966 (Transmissible Spongiform Encephalopathies) (Fertilisers & Soil Improvers) Order 2006.

(2) A word or expression that is used in this Order and is also used in the European Communities (Transmissible Spongiform Encephalopathies and Animal By-products) Regulations 2006 (S.I. No. 612 of 2006) has, in this Order, the same meaning as in the Regulations.

2. (1) A person shall not have in his or her possession or under his or her control or use on any land an organic fertiliser or soil improver that consists of or contains category 2 material (other than manure and the contents of the digestive tract) or category 3 material.

(2) Paragraph (1) does not apply to an organic fertiliser or soil improver that consists of or contains category 3

¹O.J. No. L 29 of 2.2.2006, p.31.

Notice of the making of this Statutory Instrument was published in "Iris Oifigiúil" of 15th December, 2006.

material that is catering waste if the catering waste has been transformed in a biogas plant or in a composting plant approved in accordance with Article 15 of Regulation (EC) No. 1774/2002 of the European Parliament and the Council of 3 October 2002².

(3) Notwithstanding paragraph (1) a person may have in his or her possession or under his or her control and spread on land an organic fertiliser or soil improver that consists of or contains category 3 material, if—

(a) (i) the category 3 material is obtained from a category 3 processing plant approved for the purposes of Article 17, and has been transformed in a technical plant approved in accordance with Article 18, of Regulation (EC) No. 1774/2002 of the European Parliament and the Council of 3 October 2002², or

(ii) it consists of category 3 material referred to in Article 6 (1) (f) or (i) that has been transformed in a biogas plant or in a composting plant approved in accordance with, Article 15 of Regulation (EC) No. 1774/2002 of the European Parliament and the Council of 3 October 2002²,

(b) a farmed animal does not have access to any part of the land where the fertiliser or soil improver is, spread or otherwise used for three years after the fertiliser or soil improver is spread or otherwise used, and

(c) a farmed animal does not have access to the fertiliser or soil improver and it does not come into contact with, a feedingstuff.

3. (1) A person shall not make an ensiled crop or hay or cause an ensiled crop or hay to be made from a crop grown on land on which an organic fertiliser or soil improver that consists of or contains category 3 material has been spread during the previous 12 months.

(2) A person shall not have in his or her possession or under his or her control an ensiled crop or hay to which paragraph (1) refers.

²O.J. No. L 273 of 10.10.2002, p.1.

4. (1) A person shall not use an organic fertiliser or soil improver unless his or her name is entered in the register of organic fertilisers and soil improvers.

(2) The Minister may enter a person's name on the register of organic fertilisers and soil improvers, 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 that condition 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 Animal By-Products Regulation, the TSE Regulation, the European Communities (Transmissible Spongiform Encephalopathies and Animal By-products) Regulations 2006 or this Order, 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 an 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, in the opinion of the Minister—
 - (i) necessary to prevent the risk or spread of disease,
 - (ii) necessary 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 for the decision.

(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 for the decision.

(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 specify.

(13) Paragraph (1) does not apply to a person, other than a food or feed business operator who is a final user of organic fertilisers and soil improvers supplied by a retailer.

5. This order is in addition to and not in substitution for the European Communities (Transmissible Spongiform Encephalopathies and Animal By-Products) Regulations 2006 (S.I. No. 612 of 2006).



GIVEN under my Official Seal,
7 December 2006

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)

This order regulates the use of organic fertilisers and soil improvers to minimise the risk of transmissible spongiform encephalopathies (TSEs).

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ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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