STATUTORY RULES OF NORTHERN IRELAND

2011 No. 124

ANIMALS

ANIMAL HEALTH

The Animal By-Products (Enforcement) Regulations (Northern Ireland) 2011

Made - - - -	*18th March 2011*
Coming into operation-	*19th March 2011*

The Department of Agriculture and Rural Development makes the following Regulations in exercise of the powers conferred by section 2(2) of, as read with paragraph 1A of Schedule 2 to, the European Communities Act 1972(**1**).

The Department of Agriculture and Rural Development is a Department designated for the purposes of making Regulations under section 2(2) of the European Communities Act 1972 in relation to measures in the veterinary and phytosanitary fields for the protection of public health(**2**).

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Department of Agriculture and Rural Development that it is necessary for the reference to the Regulation (EU) No. 142/2011 (implementing Regulation (EC) No. 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive)(**3**) to be construed as a reference to that instrument as amended from time to time.

PART I

INTRODUCTION

Citation and commencement

1. These Regulations may be cited as the Animal By-Products (Enforcement) Regulations (Northern Ireland) 2011 and shall come into operation on 19th March 2011.

(**1**) 1972 c. 68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51)
(**2**) S. I. 1999/2027
(**3**) O.J. No L 54, 26.02.2011

Interpretation

2.—(1) In these Regulations—

"the Department" means the Department of Agriculture and Rural Development;

"EU Control Regulation" means Regulation (EC) No. 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No. 1774/2002 (Animal by-products Regulation)(**4**);

"EU Implementing Regulation" means Regulation (EU) No. 142/2011 implementing Regulation (EC) No. 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive(**5**);

"animal by-product requirement" has the meaning given in regulation 17(2);

"authorised person" has the meaning given in regulation 21;

"competent authority" has the meaning given in regulation 3;

"enforcement authority" has the meaning given in regulation 20;

"premises" includes—

(a) any land, building (including any domestic premises), shed, pen;

(b) any receptacle or container;

(c) any ship; or

(d) vehicle of any description;

"ship" includes a hovercraft, submersible craft and any other floating craft but not a vessel which—

(e) permanently rests on or is permanently attached to the seabed; or

(f) is an installation within section 16 of the Energy Act 2008(**6**).

(2) References in these Regulations to Regulation (EU) No. 142/2011 implementing Regulation (EC) No. 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive (the EU Implementing Regulation) are references to that Regulation as amended from time to time.

(3) Expressions used in these Regulations that are also used in the EU Control Regulation or the EU Implementing Regulation have the same meaning in these Regulations as they have in the EU Control Regulation or in the EU Implementing Regulation.

(4) Any reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000(**7**).

(5) The Interpretation Act (Northern Ireland) 1954(**8**) shall apply to these Regulations as it applies to an Act of the Assembly.

(**4**) O.J. No L300, 14.11.2009, p1
(**5**) O.J. No L 54, 26.02.2011
(**6**) 2008 c. 32
(**7**) 2000 c.7, amended by the Communications Act 2003 (c.21), sections 406 and 411(2) and (3) and Schedule 17, paragraph 158
(**8**) 1954 c. 33 (N.I.)

PART II

THE COMPETENT AUTHORITY AND MISCELLANEOUS PROVISIONS

The competent authority

3. The Department is the competent authority for the purposes of the EU Control Regulation and the EU Implementing Regulation except as otherwise specified in these Regulations.

Access in relation to prohibitions in Article 11(1)(a), (b) or (d) of the EU Control Regulation

4. In relation to a prohibition on feeding in Article 11(1)(a), (b) or (d) of the EU Control Regulation, the requirements of regulations 5 and 6 apply.

5.—(1) Animal by-products, including catering waste, shall not be brought on to any premises where farmed animals have access to the animal by-products.

(2) Paragraph (1) does not apply to derived products, except for—

(a) products derived from catering waste; or

(b) meat and bone meal derived from Category 2 material and processed animal proteins intended to be used as or in organic fertilisers and soil improvers that do not comply with the requirements of Article 32(1)(d) (placing on the market and use) of the EU Control Regulation.

6. A carcase or part of a carcase of any farmed animal that has not been slaughtered for human consumption shall be held, pending consignment or disposal, in accordance with the EU Control Regulation as read with the EU Implementing Regulation, in such manner as to ensure that any animal or bird will not have access to it.

Use of organic fertilisers and soil improvers and additional waiting period for pigs in relation to the prohibition in Article 11(1)(c) of the EU Control Regulation

7.—(1) In accordance with Article 32(1) of the EU Control Regulation, the application of organic fertilisers or soil improvers to land is prohibited where, during the period of 60 days from the application of such products, it is intended that pigs will—

(a) have access for grazing to such land; or

(b) be fed cut herbage from such land.

(2) Where organic fertilisers or soil improvers have been applied to land, in addition to the minimum waiting period that applies to farmed animals, pigs are prohibited during the additional waiting period, (resulting in a total period of 60 days from such application) from—

(a) having access to such land; or

(b) being fed cut herbage from such land.

(3) Paragraphs (1) and (2) do not apply to the following organic fertilisers or soil improvers—

(a) manure;

(b) milk;

(c) milk-based products;

(d) milk derived products;

(e) colostrum;

(f) colostrum products;

(g) digestive tract content.

(4) In this regulation—

(a) "the minimum waiting period" is the period of 21 days commencing from the date of application of organic fertilisers or soil improvers to land as provided in Article 11(1)(c) of the EU Control Regulation, as read with Article 5(2) of, and Chapter 2 of Annex 2 to, the EU Implementing Regulation;

(b) "the additional waiting period" is the period of 39 days commencing on the expiration of the minimum waiting period.

Collection centres for feeding in relation to Article 18(1) of the EU Control Regulation

8. In relation to Article 18(1) of the EU Control Regulation, and in accordance with Article 13 of the EU Implementing Regulation as read with paragraph 3 of Section 1 of Chapter 2 Annex 6 to that Regulation, a processing plant for Category 2 material is authorised as a collection centre for Category 2 material for the purposes of Article 18(1) of the EU Control Regulation on condition that it is approved for that purpose under Article 24 of the EU Control Regulation.

Remote areas for the purposes of Article 19(1)(b) of the EU Control Regulation

9. For the purposes of applying Article 19(1)(b) of the EU Control Regulation—

(a) the Copeland Islands; and

(b) Rathlin Island

are categorised as remote areas.

Placing on the market in relation to Article 36 of the EU Control Regulation

10. In relation to Article 36 of the EU Control Regulation, and in accordance with Article 24(4) of the EU Implementing Regulation as read with point B of Chapter 7 to Annex 13 of that Regulation, the placing on the market of untreated wool and hair from farms or from establishments or plants is authorised without restrictions except where they present a risk of any disease communicable through those products to humans or animals.

PART III

REGISTRATION AND APPROVAL

Procedure for registration of plants and establishments

11. A notification shall be made in writing to the Department, where it is made in relation to Articles 23(1) and 23(2)of the EU Control Regulation—

(a) with a view to registration in accordance with Article 23(1); or

(b) to inform the authority of changes in accordance with Article 23(2).

Notifications of the Department in respect of registration

12.—(1) The Department shall give notice in writing to—

(a) the operator who has notified in accordance with regulation 11 of—

(i) the registration of such an operator; or

(ii) the decision not to register;

(b) a registered operator of—

(i) a prohibition made under Article 46(2) of the EU Control Regulation (prohibition on operations);

(ii) a requirement to comply with Article 23(1)(b) or (2) of the EU Control Regulation (information on activities and up to date information);

(iii) the amendment of the registration or the ending of the registration where an operator has notified the Department of the closure of an establishment in accordance with Article 23(2) (up to date information)of the EU Control Regulation.

(2) Any notice served or registration granted under this regulation shall be in writing and may be made subject to such conditions as are necessary to—

(a) ensure that the provisions of the Control Regulation, the Implementing Regulation and these Regulations are complied with; and

(b) protect public and animal health.

Approval

13. Operators to whom Article 24(1) of the EU Control Regulation applies, shall apply in writing to the Department to be—

(a) approved; or

(b) where Article 33 of the EU Implementing Regulations applies, re-approved.

Notification in respect of decisions on approval

14.—(1) The Department shall give notice in writing to—

(a) the applicant for approval of the—

(i) grant of approval in accordance with Articles 24 and 44 of the EU Control Regulation;

(ii) grant of conditional approval in accordance with Articles 24 and 44 of the EU Control Regulation, or the extension of such approval in accordance with that Article; or

(iii) refusal to grant approval in accordance with initial application or extension;

(b) where conditional approval has been granted in accordance with Articles 24 and 44 of the EU Control Regulation, the operator of the plant or establishment subject to such approval, of the—

(i) grant of full approval;

(ii) extension of such approval;

(iii) imposition of conditions in accordance with Article 46(1)(c) of the EU Control Regulation;

(iv) suspension of such approval in accordance with Article 46(1)(a) of the EU Control Regulation ;

(v) withdrawal of such approval in accordance with Article 46(1)(b) of the EU Control Regulation;

(vi) making of a prohibition in accordance with Article 46(2) of the EU Control Regulation; or

(vii) refusal to extend or grant full approval;

(c) the operator of an approved plant or establishment of the—