
STATUTORY RULES OF NORTHERN IRELAND

2003 No. 495

Animal By-Products Regulations (Northern Ireland) 2003

PART VIII

ADMINISTRATION AND ENFORCEMENT

Grant of approvals

39.—(1) The Department shall grant an approval if it is satisfied that the requirements of the Community Regulation and these Regulations will be complied with.

(2) An approval shall specify –

- (a) the address of the premises to which it relates and the operator of the premises;
- (b) the parts of the premises in which the animal by-products may be received and processed or treated; and
- (c) the equipment, the methods in accordance with which, and the parameters within which, the animal by products must be processed or treated.

(3) If the Department refuses to grant the approval, or approves it subject to a condition it shall by notice in writing served on the applicant for the approval –

- (a) give the reasons; and
- (b) explain the right of the applicant to make written representations to the Department and to be heard by an independent person appointed by the Department.

Suspension, amendment and revocation of approvals and registrations

40.—(1) The Department, by notice in writing served on the operator of any premises –

- (a) shall suspend immediately an approval or a registration under these Regulations relating to those premises if any of the conditions under which the approval was granted or the registration made are not fulfilled in respect thereof; and
- (b) may suspend or amend an approval or a registration under these Regulations relating to those premises if it is satisfied that, in the case of any premises to which the approval or registration (as the case may be) relates, the provisions of the Community Regulation or these Regulations are not being complied.

(2) A suspension or amendment under paragraph (1)(b) –

- (a) shall have immediate effect if the Department considers that it is necessary for the protection of public or animal health;
- (b) otherwise shall not have effect for at least 21 days following service of the notice.

(3) The notice shall –

- (a) give the reasons; and

(b) explain the right of the operator of the premises in question to make written representations to the Department and to be heard by an independent person appointed by the Department.

(4) Where there is an appeal under regulation 41, the amendment or suspension to which it relates shall not have effect until the final determination by the Department in accordance with that regulation unless the Department considers that it is necessary for the protection of public or animal health for the amendment or suspension to have immediate effect.

(5) The Department may, by notice in writing, revoke an approval to which a notice of suspension under paragraph (1) relates if, following an appeal (if any) in accordance with the following regulation, which upholds a suspension, it is satisfied, taking into account all the circumstances of the case, that the premises will not be operated in accordance with these Regulations and the Community Regulation.

Appeals

41.—(1) A person on whom a notice is served under regulation 39(3) or 40(1) (in this regulation referred to as “the appellant”) may within 21 days beginning with the day on which the notice is served –

- (a) provide written representations to the Department; and
- (b) provide notice of whether or not he wishes to appear before an independent person appointed by the Department.

(2) Where the appellant gives notice of his wish to appear before and be heard by an independent person the Department shall appoint such an independent person (in this regulation referred to as the “appointed person”) to hear representations and shall specify a time limit within which representations must be made.

(3) The appointed person shall not, except with the consent of the appellant, be an officer of the Department.

(4) If the appellant so requests any hearing before an appointed person shall be in public.

(5) The appointed person shall report to the Department.

(6) If the appellant so requests, the Department shall furnish to him a copy of the report of the appointed person.

(7) The Department shall consider the report of the independent person and having done so shall decide whether taking account of all the circumstances of the case –

- (a) to uphold the decision to which the appeal relates; or
- (b) overturn it, and

shall give to the appellant written notification of its final determination and the reasons for it.

Notice requiring the disposal of animal by-products or catering waste

42. If an inspector considers it necessary for animal or public health purposes or if any provision of these Regulations or the Community Regulation is not being complied with, he may –

- (a) serve a notice on any person in possession or control of any animal by-product requiring him to dispose of it as may be specified in the notice; or
- (b) serve a notice on the occupier of any premises prohibiting animal by-products being brought on to the premises, or only permitting this in a way specified in the notice.

Cleansing and disinfection

43.—(1) If an inspector reasonably suspects that any vehicle, container or premises to which these Regulations or the Community Regulation apply constitutes an animal or public health risk, he may serve a notice on the person in charge of the vehicle or container, or on the occupier of the premises, requiring the vehicle, container or premises to be cleansed and disinfected.

- (2) The notice may –
- (a) specify the method of cleansing and disinfection;
 - (b) specify the method of disposal of any material remaining in the vehicle, container or premises; and
 - (c) prohibit the movement of any animal by-product into the vehicle or container or on to the premises until such time as the required cleansing and disinfection has been satisfactorily completed.

Compliance with notices

44.—(1) A notice served under these Regulations shall be complied with at the expense of the person on whom the notice is served, and if it is not complied with, an inspector may arrange for it to be complied with at the expense of that person.

(2) A person on whom a notice is served who contravenes the provisions of that notice shall be guilty of an offence.

Powers of entry

45.—(1) An inspector shall, on producing, if so required, some duly authenticated document showing his authority, have a right at all reasonable hours, to enter any premises (excluding any premises used only as a dwelling) for the purpose of administering and enforcing these Regulations and the Community Regulation.

- (2) An inspector may –
- (a) seize any animal by-products and dispose of them as necessary;
 - (b) carry out any inquiries, examinations and tests;
 - (c) take any samples;
 - (d) have access to, and inspect and copy any records (in whatever form they are held) kept under these Regulations or the Community Regulation, or remove such records to enable them to be copied;
 - (e) have access to, inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records; and for this purpose may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford him such assistance as he may reasonably require and, where a record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away;
 - (f) mark any animal, animal by-product or other thing for identification purposes; and
 - (g) take with him –
 - (i) such other persons as he considers necessary; and
 - (ii) any representative of the European Commission acting for the purpose of the Community Regulation.

(3) A person who defaces, obliterates or removes any mark applied under paragraph (2) shall be guilty of an offence.

(4) If an inspector enters any unoccupied premises he shall leave them as effectively secured against unauthorised entry as he found them.

(5) In this regulation “premises” includes any vehicle or container.

Obstruction

46.—(1) A person who –

- (a) intentionally obstructs any person acting in the execution of these Regulations;
- (b) without reasonable cause, fails to give to any person acting in the execution of these Regulations any assistance or information which that person may reasonably require of him for the performance of his functions under these Regulations;
- (c) furnishes to any person acting in the execution of these Regulations any information which he knows to be false or misleading; or
- (d) fails to produce a record when required to do so to any person acting in the execution of these Regulations;

shall be guilty of an offence.

(2) Nothing in paragraph (1)(b) shall be construed as requiring any person to answer any question if to do so might incriminate him.

Penalties

47.—(1) A person guilty of an offence under these Regulations shall be liable –

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or to both; or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

(2) A prosecution for an offence under this regulation shall not be begun after the expiry of –

- (a) three years from the commission of the offence; or
- (b) one year from its discovery by the prosecutor,

whichever is the earlier.

Enforcement

48. These Regulations shall be enforced by the Department, or the Department of the Environment or a district council within its district.

Transitional measures

49.—(1) Schedule 3 (transitional measures) shall have effect.

(2) Part I of Schedule 3 (intra-species recycling of fish) shall cease to have effect on 1st January 2004.

(3) Part II of Schedule 3 (collection, transportation and disposal of former foodstuffs) shall cease to have effect on 1st January 2006.

(4) Part III of Schedule 3 (used cooking oil in animal feed) shall cease to have effect on 1st November 2004.

(5) Part IV of Schedule 3 (disposal of mammalian blood) shall cease to have effect on 1st January 2005.

(6) Part V of Schedule 3 (oleochemical plants using rendered fats from Category 2 and Category 3 materials) shall cease to have effect on 1st November 2005.

(7) Part VI of Schedule 3 (low capacity incinerators) shall cease to have effect on 1st January 2005.

(8) Any laboratory authorised by the Department under Article 10 of the Animal By-Products Order (Northern Ireland) 2002⁽¹⁾ shall, notwithstanding the revocation of that Order, be deemed to be an approved laboratory for the purpose of regulation 21.

Amendments

50. The Transmissible Spongiform Encephalopathy (Northern Ireland) Regulations 2002⁽²⁾ are amended in accordance with the provisions of Schedule 4.

Revocations

51. The provisions of the Orders specified in Schedule 5 are revoked.

(1) [S.R. 2002 No. 209](#)
(2) [S.R. 2002 No. 225](#)