



STATUTORY INSTRUMENTS.

**S.I. No. 187 of 2014**



EUROPEAN UNION (ANIMAL BY-PRODUCTS) REGULATIONS 2014

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## EUROPEAN UNION (ANIMAL BY-PRODUCTS) REGULATIONS 2014

I, SIMON COVENEY, Minister for Agriculture, Food and the Marine, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving full effect to Regulation (EC) No. 1069/2009 of the European Parliament and of the Council of 21 October 2009<sup>1</sup>, as amended by Directive 2010/63/EU of the European Parliament and of the Council of 22 September 2010<sup>2</sup>, and Commission Regulation (EU) No. 142/2011 of 25 February 2011<sup>3</sup>, as amended by Commission Regulation (EU) No. 749/2011 of 29 July 2011<sup>4</sup>, Commission Regulation (EU) No. 1063/2012 of 13 November 2012<sup>5</sup>, Commission Regulation (EU) No. 1097/2012 of 23 November 2012<sup>6</sup>, Commission Regulation (EU) No. 294/2013 of 14 March 2013<sup>7</sup>, Commission Regulation (EU) No. 555/2013 of 14 June 2013<sup>8</sup> and Commission Regulation (EU) No. 717/2013 of 25 July 2013<sup>9</sup>, hereby make the following regulations:

## Part 1

## PRELIMINARY AND GENERAL

*Citation*

1. These Regulations may be cited as the European Union (Animal By-Products) Regulations 2014.

*Interpretation*

2. (1) In these Regulations—

“Animal by-products Regulations” means the Council Regulation and the Commission Regulation;

“approval” means approval for the purposes of Articles 24 and 44 of the Council Regulation and Articles 18 and 33 of the Commission Regulation;

“authorised officer” means—

(a) a sea-fisheries protection officer (within the meaning of the Sea-Fisheries and Maritime Jurisdiction Act 2006 (No. 8 of 2006));

<sup>1</sup>OJ No. L300, 14.11.2009, p.1

<sup>2</sup>OJ No. L276, 20.10.2010, p.33

<sup>3</sup>OJ No. L54, 26.2.2011, p.1

<sup>4</sup>OJ No. L198, 30.7.2011, p.3

<sup>5</sup>OJ No. L314, 14.11.2012, p.5

<sup>6</sup>OJ No. L326, 24.11.2012, p.3

<sup>7</sup>OJ No. L98, 6.4.2013, p.1

<sup>8</sup>OJ No. L164, 18.6.2013, p.11

<sup>9</sup>OJ No. L201, 26.7.2013, p.31

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 29th April, 2014.*

- (b) an authorised officer within the meaning of section 37 of the Animal Health and Welfare Act 2013 (No.15 of 2013);
- (c) an authorised officer (within the meaning of the European Communities (Food and Feed Hygiene) Regulations 2009 (S.I. No. 432 of 2009));
- (d) a person who, immediately before the making of these Regulations was an authorised officer (within the meaning of the European Communities (Transmissible Spongiform Encephalopathies and Animal By-products) Regulations 2008 (S.I. No. 252 of 2008));
- (e) an authorised officer (within the meaning of the Food Safety Authority of Ireland Act 1998 (No. 29 of 1998));
- (f) a member of the Garda Síochána;
- (g) an officer of the Revenue Commissioners;
- (h) a person appointed under Regulation 14 during the period of his or her appointment;

“Commission Regulation” means Commission Regulation (EU) No. 142/2011 of 25 February 2011<sup>3</sup>, as amended by Commission Regulation (EU) No. 749/2011 of 29 July 2011<sup>4</sup>, Commission Regulation (EU) No. 1063/2012 of 13 November 2012<sup>5</sup>, Commission Regulation (EU) No. 1097/2012 of 23 November 2012<sup>6</sup>, Commission Regulation (EU) No. 294/2013 of 14 March 2013<sup>7</sup>, Commission Regulation (EU) No. 555/2013 of 14 June 2013<sup>8</sup> and Commission Regulation (EU) No. 717/2013 of 25 July 2013<sup>9</sup>;

“Council Regulation” means Regulation (EC) No. 1069/2009 of the European Parliament and of the Council of 21 October 2009<sup>1</sup> as amended by Directive 2010/63/EU of the European Parliament and of the Council of 22 September 2010<sup>2</sup>;

“local authority” has the same meaning as in the Local Government Act 2001 (No. 37 of 2001);

“Minister” means Minister for Agriculture, Food and the Marine;

“premises” includes land (including land under water) with or without buildings, a plant, establishment or an offshore installation (being an offshore installation within the meaning of the Safety, Health and Welfare (Offshore Installations) Act 1987 (No. 18 of 1987));

<sup>3</sup>OJ No. L54, 26.2.2011, p.1

<sup>4</sup>OJ No. L198, 30.7.2011, p.3

<sup>5</sup>OJ No. L314, 24.11.2012, p.5

<sup>6</sup>OJ No. L326, 24.11.2012, p.3

<sup>7</sup>OJ No. L98, 6.4.2013, p.1

<sup>8</sup>OJ No. L164, 18.6.2013, p.11

<sup>9</sup>OJ No. L201, 26.7.2013, p.31

<sup>1</sup>OJ No. L300, 14.11.2009, p.1

<sup>2</sup>OJ No. L276, 20.10.2010, p.1

“record” includes a memorandum, book, plan, map, drawing, diagram, pictorial or graphic work or other document, a photograph, film or recording (whether of sound or images or both), any form in which data (within the meaning of the Data Protection Acts 1988 and 2003) are held, any other form (including machine-readable form) or thing in which information is held or stored manually, mechanically or electronically and anything that is a part or a copy, in any form, of any of the foregoing or is a combination of 2 or more of the foregoing;

“vehicle” includes a railway wagon or trailer, designed for use or used with a vehicle, or container designed or used for carriage on a vehicle, whether either is attached to or detached from a vehicle;

“vessel” includes a boat, ship, hovercraft or aircraft.

(2) A word or expression which is used in these Regulations and is also used in the Animal by-products Regulations, has, unless the context otherwise requires, the same meaning in these Regulations, as it has in the Animal by-products Regulations.

## Part 2

### RESTRICTIONS AND AUTHORISATIONS

#### *Disposal and use of animal by-products — authorisations*

3. (1) A person shall not, unless the person is authorised, registered or approved under these Regulations, possess, transport, handle, use or dispose of an animal by-product comprising of—

- (a) Category 1 material, except in accordance with Article 12 of the Council Regulation,
- (b) Category 2 material, except in accordance with Article 13 of the Council Regulation, or
- (c) Category 3 material, except in accordance with Article 14 of the Council Regulation.

(2) A person who contravenes paragraph (1) commits an offence and is liable—

- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 3 months, or to both, or
- (b) on conviction on indictment, to a fine not exceeding €250,000 or imprisonment for a term not exceeding 12 months, or to both.

(3) The Minister may authorise the use of an animal by-product for special feeding purposes in accordance with Articles 16(c) and 18(1) of the Council Regulation and Article 13 of the Commission Regulation.

(4) The Minister may authorise the feeding of animal by-products in accordance with Articles 16(c) and 18(2)(a) of the Council Regulation and Article 14(2) of the Commission Regulation.

(5) The Minister may authorise the disposal of a dead pet animal or an equine in accordance with Articles 16(d) and 19(1)(a) of the Council Regulation and Article 15 of the Commission Regulation.

(6) The Minister may authorise the burning or burial on site or the disposal by other means of animal by-products in accordance with Articles 16(d) and 19(1)(b) and (2) of the Council Regulation and Article 15 of the Commission Regulation.

(7) The Minister may authorise the burning or burial on site or the disposal by other means of animal by-products in accordance with Articles 16(d) and 19(1)(c) of the Council Regulation and Article 15 of the Commission Regulation.

(8) The Minister may authorise disposal by means other than burning or burial on site of not more than 20 kg per week of Category 3 materials referred to in Article 10(f) of the Council Regulation in accordance with Articles 16(d) and 19(1)(d) of the Council Regulation and Article 36(3) of the Commission Regulation.

(9) The Minister may authorise the burning or burial on site of animal by-products in accordance with Articles 16(d) and 19(1)(e) of the Council Regulation and Article 15 of the Commission Regulation.

(10) The Minister may authorise the burning or burial on site of bees and apiculture by-products in accordance with Articles 16(d) and 19(1)(f) of the Council Regulation and Article 15(c) of the Commission Regulation.

(11) The Minister may authorise the disposal of an animal by-product in accordance with Article 16(h) of the Council Regulation.

(12) The Minister may authorise the disposal, in accordance with Article 7 of the Commission Regulation, of—

(a) pet food referred to in Article 7(a) of the Commission Regulation, and

(b) Category 3 material referred to in Article 7(b) of the Commission Regulation.

(13) The Minister may authorise the use, handling, transport and disposal of trade samples and display items for exhibitions and artistic activities in accordance with Articles 16(b) and 17 of the Council Regulation and Article 12 of the Commission Regulation.

(14) The Minister may authorise the use, handling, transport and disposal of research and diagnostic samples for research or diagnostic purposes in accordance with Articles 16(b) and 17 of the Council Regulation and Article 11 of the Commission Regulation.

(15) The Minister may authorise the use, handling, transport and disposal of research and diagnostic samples for educational purposes in accordance with Articles 16(b) and 17 of the Council Regulation and points 2, 3 and 6, Section 1 of Chapter I of Annex VI to the Commission Regulation.

(16) Any use or disposal of anything under an authorisation under this Regulation shall be in accordance with the terms or conditions of the authorisation.

*Transport of manure*

4. (1) The Minister may authorise the transport of manure between two points located on the same farm or between farms in accordance with the second paragraph of Article 21(2) of the Council Regulation and Section 4, Chapter I of Annex VIII and point 6(b) of Chapter II of Annex VIII to the Commission Regulation.

(2) A person who transports manure in the circumstances referred to in paragraph (1) without authorisation under this Regulation commits an offence and is liable on summary conviction to a class A fine.

*Commercial documents and health certificates*

5. (1) In addition to the requirements of point 2 of Chapter III of Annex VIII to the Commission Regulation the proof of the arrival of a consignment shall be provided by the TRACES system or by a copy of the commercial document sent back by the receiver to the producer.

(2) The Minister may authorise that animal by-products and derived products which are transported are accompanied by the commercial documents referred to in paragraphs (a) and (b) of point 4 of Chapter III of Annex VIII to the Commission Regulation.

*Transformation of animal by-products*

6. (1) The Minister may authorise the use of alternative transformation parameters for biogas and composting plants subject to the requirements set out in point 1, Section 2 of Chapter III of Annex V to the Commission Regulation.

(2) A person shall not use alternative transformation parameters as referred to in paragraph (1) without authorisation under that paragraph.

(3) A person who contravenes paragraph (2) commits an offence and is liable on summary conviction to a class A fine.

(4) Notwithstanding the requirements under paragraph (1), an authorisation under that paragraph may provide for the following parameters in lieu of those set out in point 2 of Section 1 of Chapter III of Annex V to the Commission Regulation, namely—

- (a) the maximum particle size before entering the hygienisation unit or composting reactor — 400mm,
- (b) the minimum temperature of all material in the unit or reactor —60° celsius,



- (c) the minimum time in the unit or reactor without interruption — 48 hours twice, and
- (d) the material must be completely mixed between the two 48 hour periods.

*Treatment of wastewater*

7. (1) The Minister may require operators to treat wastewater in accordance with point 5 of Section 2 of Chapter I of Annex IV to the Commission Regulation.

(2) A person shall not treat wastewater in contravention of a requirement under paragraph (1).

(3) A person who contravenes paragraph (2) commits an offence and is liable on summary conviction to a class A fine.

(4) A requirement under this Regulation may be attached as a condition of an operator's approval.

*Placing an animal by-product or derived product on the market*

8. (1) The Minister may authorise the placing on the market of milk, milk-based products and milk-derived products in accordance with Article 21(2) of the Commission Regulation.

(2) The Minister may authorise the placing on the market, including importation and export of Category 1 material in accordance with Article 26 of the Commission Regulation.

(3) The Minister may determine the conditions for the use of aquatic animals and of aquatic and terrestrial invertebrates as fishing bait, including bait for aquatic invertebrates in accordance with point 2(b) of Chapter III of Annex X to the Commission Regulation.

(4) The Minister may authorise the use of specific requirements for untreated feathers, parts of feathers and down in accordance with paragraph (3) of point A.1 of Chapter VII of Annex XIII to the Commission Regulation.

(5) The Minister may authorise the placing on the market of untreated wool and hair in accordance with the second paragraph (2) of point B of Chapter VII of Annex XIII to the Commission Regulation.

(6) The Minister may authorise the supply of colostrum from one farmer to another farmer in accordance with point 4 of part II of Section 4 of Chapter II of Annex X to the Commission Regulation.

(7) The Minister may authorise the use of one or more components which are to be mixed with an organic fertiliser or soil improver in accordance with Article 22(3) of the Commission Regulation.

*Import and transit — authorisation*

9. (1) The Minister may authorise the importation or transit of research and diagnostic samples in accordance with Article 27 of the Commission Regulation.

(2) The Minister may authorise the importation or transit of trade samples and display items in accordance with Article 28 of the Commission Regulation.

(3) The Minister may authorise the import of the materials set out in point 1 of Section 2 of Chapter IV of Annex XIV to the Commission Regulation.

*Matters relating to authorisations*

10. (1) An authorisation under these Regulations may be given—

(a) generally, to a class of persons or to a person, and

(b) where it is given—

(i) generally or to a class of persons, notice of the authorisation should be published on the website on the internet maintained by the Department of Agriculture, Food and the Marine or in any such other manner the Minister considers appropriate, or

(ii) to a person, the authorisation shall be given by notice to the person.

(2) The Minister may attach terms or conditions to an authorisation under these Regulations.

Part 3

REGISTRATION AND APPROVAL

*Registration of premises*

11. (1) The Minister shall establish and maintain a register for the purposes of Article 23 of the Council Regulation.

(2) The Minister may make exemptions for the purposes of Article 20(4) of the Commission Regulation.

*Approval of premises*

12. (1) The Minister may grant an approval, attach a condition to an approval or vary or revoke a condition.

(2) An application for an approval shall be in a form and contain any information that the Minister may require.

(3) The Minister shall not consider an application for an approval unless the application contains all the material particulars sought by the Minister and is accompanied by a fee (if any) charged in accordance with Regulation 27.

(4) The Minister may, in exceptional circumstances, issue an approval for a limited period.

(5) A person to whom an approval, referred to in paragraph (1), is issued shall make such returns to the Minister as and when, and in such a form as, the Minister may from time to time direct.

(6) Without prejudice to and in addition to Article 46(1) of the Council Regulation, the Minister may refuse an application for or suspend or withdraw an approval if—

(a) in his or her opinion—

- (i) the holder of an approval has failed to comply with a condition attached to an approval,
- (ii) the holder of an approval has ceased to carry out the activity to which the approval relates at the premises to which the approval relates,
- (iii) the holder of an approval has contravened the Council Regulation or the Commission Regulation,
- (iv) in relation to the application, information required has not been furnished or information that is false or misleading in a material respect has been furnished,
- (v) the applicant for or the holder of an approval is not a fit and proper person to hold an approval, or
- (vi) it is—
  - (I) necessary to prevent the risk or spread of animal or human disease, or
  - (II) necessary to eradicate animal or human disease,

or

(b) the applicant for or the holder of an approval has been convicted of an offence under these Regulations, the Animal Health and Welfare Act 2013 or regulations made under the European Communities Act 1972 that relate to an animal or animal product.

(7) Other than in the case of serious risk to public or animal health, where the Minister proposes to refuse an application for an approval, or suspend or withdraw an approval, he or she shall—

- (a) by notice notify the applicant for, or holder of, the approval, in writing of the proposal and of the reasons for the proposal, 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 duly made before deciding whether to proceed with, modify or annul the proposal, and

- (c) notify the applicant for, or holder of, the approval, in writing of the decision and the reasons for the decision.

(8) Where the Minister decides to refuse an application for or suspend or withdraw an approval, the notification of the decision shall state that the applicant or holder may, not later than 14 days of the date of service of the notification, appeal the decision to the District Court under Regulation 13.

(9) The Minister shall publish on the website on the internet maintained by the Department of Agriculture, Food and the Marine details of approvals and registrations under this Regulation.

*Appeal against refusal or withdrawal of approval*

13. (1) Where the Minister withdraws, suspends or refuses to grant an approval, the holder of, or applicant for, the approval may, not later than 14 days after the date of service of the notification of the withdrawal, suspension or refusal, as the case may be, appeal to the District Court against the withdrawal, suspension or refusal.

(2) Where the Minister withdraws or suspends an approval, the holder may, if the Minister is satisfied that there is no danger to public or animal health, continue to carry on the business to which the approval relates—

- (a) until the time for bringing an appeal under paragraph (1) has elapsed, or
- (b) where an appeal under paragraph (1) is made, until such time as the appeal is withdrawn or determined in the District Court.

(3) On the hearing of an appeal under this Regulation, the District Court may—

- (a) dismiss the appeal, or
- (b) allow the appeal and direct the Minister to grant the approval or cancel the withdrawal or suspension,

and the decision of the District Court shall be final save that, by leave of that Court, an appeal shall lie to the High Court on a point of law.

(4) On the hearing of an appeal under this Regulation, the onus of establishing that these Regulations, the Council Regulation and the Commission Regulation have been complied with in relation to an approval held by the person lies on the person making the appeal under paragraph (1).

(5) The jurisdiction conferred on the District Court by this Regulation shall be exercised by the judge for the time being assigned to the District Court district—

- (a) where an animal, animal by-product, derived product, premises, equipment, machinery, vehicle, vessel or other thing to which these Regulations or the Animal by-products Regulations relate, the subject of the appeal under this Regulation, is situated, or
- (b) where the person bringing the appeal ordinarily resides or carries on business.

#### Part 4

#### ENFORCEMENT

##### *Appointment of authorised officer*

14. (1) The Minister may appoint, in writing, such persons or classes of persons as he or she considers appropriate to be authorised officers for the exercise of all or any of the functions conferred on an authorised officer, under these Regulations, specified in the appointment.

(2) The Sea-Fisheries Protection Authority may appoint in writing, such officers of the authority it considers appropriate to be authorised officers for the exercise of all or any of the functions conferred on an authorised officer, under these Regulations, specified in the appointment.

(3) The manager of a local authority may appoint in writing, such officers of the authority as he or she considers appropriate to be authorised officers for the exercise of all or any of the functions conferred on an authorised officer, under these Regulations, specified in the appointment.

(4) The Minister for Communications, Energy and Natural Resources may appoint in writing, such persons or classes of persons as he or she considers appropriate to be authorised officers for the exercise of all or any of the functions conferred on an authorised officer, under these Regulations, specified in the appointment.

(5) The chief executive officer of the Health Service Executive may appoint in writing, such officers of the Health Service Executive as he or she considers appropriate to be authorised officers for the exercise of all or any of the functions conferred on an authorised officer, under these Regulations, specified in the appointment.

(6) The Minister, the Minister for Communications, Energy and Natural Resources, the chief executive officer of the Health Service Executive, the Sea-Fisheries Protection Authority or the manager of a local authority may terminate the appointment of an authorised officer appointed by him or her or that Authority, whether or not the appointment was for a fixed period or specified purpose.

- (7) An appointment as an authorised officer ceases—
  - (a) if it is terminated in accordance with paragraph (6),
  - (b) if it is for a fixed period, on the expiration of that period,

(c) if it is for a specified purpose, on the completion of that purpose, or

(d) if the person appointed—

(i) is an officer of the Minister, the Minister for Communications, Energy and Natural Resources, the Sea-Fisheries Protection Authority, the Health Service Executive or a local authority, upon the person ceasing to be such an officer, or

(ii) is a member of a class of persons, on ceasing to be such a member.

(8) Nothing in paragraph (7) is to be construed so as to prevent the Minister, the Minister for Communications, Energy and Natural Resources, the chief executive officer of the Health Service Executive, the Sea-Fisheries Protection Authority or the manager of a local authority from re-appointing as an authorised officer a person to whom paragraph (7) relates.

(9) An authorised officer appointed under this Regulation shall be furnished with a warrant of his or her appointment and, when exercising a function conferred on him or her as an authorised officer, the officer shall, if requested by a person affected, produce the warrant, or other evidence (including an identity document relating to the officer under section 17 of the Animal Remedies Act 1993) that he or she is such an officer, for inspection.

*Functions of authorised officer*

15. (1) For the purposes of enforcing these Regulations and the Animal by-products Regulations an authorised officer may—

(a) enter and inspect, at all reasonable times, any premises, if he or she—

(i) is carrying out an official control in accordance with Article 45 of the Council Regulation, or

(ii) has reasonable grounds for believing that—

(I) an animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate is, may be or has been present,

(II) a record relating to an animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate is, may be or has been present,

(III) equipment, machinery, a vehicle, a vessel or other thing used in connection with an animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate is, may be or has been present, or

(IV) the premises has been approved, authorised or registered for a purpose specified in these Regulations or the Animal by-products Regulations, is required to be so approved, authorised or registered or is subject to an application for approval, authorisation or registration,

- (b) require the name and address of the owner, operator or person in possession or control of equipment, machinery, a vehicle, a vessel or other thing used in connection with an animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate, and the place of departure, journey or destination, if any,
  - (c) inspect equipment, machinery, a vehicle, a vessel or other thing used in connection with an animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate and require the operator, person in charge or control of such to refrain from moving it,
  - (d) require the owner, operator, person in possession or control of any premises, equipment, machinery, a vehicle, a vessel or other thing used in connection with an animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate, to produce to the officer such records (and in the case of a record stored in non-legible form, produce to him or her a copy in a legible form) that are in the person's possession or procurement, or under the person's control, as the officer may reasonably require,
  - (e) inspect and take copies of any record (including a legible reproduction of one stored in non-legible form) or a record, document or extracts from the record or document that the officer finds or is produced to him or her during an inspection,
  - (f) take photographs, videos or other electronic recordings,
  - (g) take, without making a payment, samples from an animal, animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate, or any article, substance or liquid as he or she may reasonably require and carry out or cause to be carried out on the samples such tests, analyses, examinations or inspections as he or she considers necessary or expedient and mark or otherwise identify them.
- (2) An authorised officer may require a person to give information regarding the ownership and identity of equipment, machinery, a vehicle, a vessel or other thing used in connection with an animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate as is in the person's knowledge or procurement.
- (3) Where an authorised officer has reasonable grounds for believing that—
- (a) there is a risk of disease to public or animal health,
  - (b) a disease or disease agent is or may be present on a premises, equipment, machinery, vehicle or vessel or other thing used in connection

with an animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate,

- (c) an offence is being or has been committed under these Regulations or the Animal by-products Regulations,
- (d) there is a risk of contamination from an animal by-product or derived product, or
- (e) evidence of a disease or a disease agent, contamination or an offence to which paragraph (c) relates may be, is or has been on any premises, or in any equipment, machinery, vehicle or vessel or other thing used in connection with an animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate,

the officer may, in addition to the powers exercisable by him or her under paragraph (1)—

- (i) search any premises,
- (ii) search the equipment, machinery, vehicle, vessel or other thing used in connection with an animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate,
- (iii) require a person in charge or control of the equipment, machinery, vehicle, vessel or other thing used in connection with an animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate to—
  - (I) refrain from moving it, or move it to a location where it may be searched, and
  - (II) give information regarding its ownership, place of departure, journey or destination,
- (iv) seize and detain, for as long as is necessary, an animal, animal by-product, derived product, record, document or other thing to which these Regulations or the Animal by-products Regulations relate and mark or otherwise identify it,
- (v) detain any equipment, machinery, vehicle, vessel or other thing used in connection with an animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate for such reasonable period necessary for the purposes of permitting an inspection or a search under this Regulation or the Animal by-products Regulations either at the place where it was first detained or require it to be moved to such other location as the authorised officer requires,



- (vi) remove any equipment, machinery, vehicle, vessel or other thing used in connection with an animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate, documents or records and detain them for such reasonable period necessary for the purpose of his or her functions under these Regulations,
- (vii) give such direction to a person who has an animal, animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate, equipment, machinery, vehicle or vessel or other thing used in connection with an animal, animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate in his or her possession or under his or her control or information relating to such, as the authorised officer may reasonably consider necessary for the purposes of these Regulations.

(4) An authorised officer shall not enter, except with the consent of the occupier, a private dwelling unless he or she has obtained a search warrant under Regulation 16, other than where he or she has reasonable grounds for believing that before a search warrant could be sought in relation to the dwelling, any evidence of an offence referred to in paragraph (3)(c) is being or is likely to be disposed of or destroyed.

(5) An authorised officer, when exercising a function under this Regulation, may be accompanied by other persons and may take with him or her, or those persons may take with them, any equipment or materials to assist the officer in the exercise of the function.

(6) An authorised officer may use reasonable force, if necessary, to exercise his or her functions under these Regulations.

(7) Where, in the course of exercising a function under these Regulations, an authorised officer finds or comes into possession of anything that the officer has reasonable grounds for believing to be evidence of an offence or suspected offence under these Regulations, the officer may seize and retain it for use in evidence in proceedings for an offence under these Regulations.

(8) Nothing in section 17 of the Industrial and Provident Societies Act 1893 prevents an authorised officer from exercising a function conferred on him or her by these Regulations.

(9) A person who has—

- (a) an animal, animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate, or
- (b) equipment, machinery, a vehicle, a vessel or other thing used in connection with an animal by-product, derived product or other thing to

which these Regulations or the Animal by-products Regulations relate,

in his or her possession or under his or her control, or information or a record relating to any of them, shall give such—

(i) assistance to an authorised officer, or person who accompanies the officer, and

(ii) information to an authorised officer,

on request being made in that behalf by the officer as the officer may reasonably require for the exercise of his or her functions under these Regulations.

(10) The owner, operator or person in charge of any premises used in connection with an animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate shall, if required by an authorised officer, where it is practicable and possible, provide suitable equipment or facilities or a suitable part of the plant or establishment for the officer to carry out his or her functions under these Regulations.

(11) An authorised officer may require a person to give to the officer or another authorised officer such information as is in the person's power or procurement as regards any premises specified by the officer including—

(a) whether or not the premises is used, either partly or wholly, for or in connection with an animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate,

(b) the name of the owner, occupier or person who is in charge of the premises, and

(c) whether or not the premises is let and, if let, the name and address of the person to whom, and the period of time for which, it is let.

(12) A person who tampers with a sample taken under this Regulation commits an offence and is liable on summary conviction to a class A fine.

#### *Search warrant*

16. (1) If a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for believing that—

(a) there is evidence of or relating to the commission or intended commission of an offence under these Regulations or the Animal by-products Regulations relating to an animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate on a premises,

(b) there is or was an animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations

relate or equipment or other thing made, used or adapted for use (including manufacture or transport) in connection with an animal by-product, or derived product on a premises, or

- (c) a record related to a thing to which subparagraph (a) or (b) relates is or may be on a premises,

then the judge may issue a search warrant.

(2) A search warrant under this Regulation shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers or other persons as the named authorised officer thinks necessary, at any time, within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter the premises named in the warrant and to exercise all or any of the functions conferred on an authorised officer under these Regulations.

*Compliance notice*

17. (1) Where an authorised officer is of the opinion that—

- (a) a contravention of these Regulations or the Animal by-products Regulations may have taken place, or may be taking place, or
- (b) there is a risk to public or animal health,

the officer may serve a notice (“compliance notice”) stating that opinion on the person—

- (i) who appears to be the owner, occupier, operator or person in charge of the premises, or
- (ii) in possession or control of an animal by-product, derived product or other thing,

to which the notice relates.

(2) A compliance notice shall—

- (a) require the person on whom it is served to take such action as specified in the notice,
- (b) inform the person on whom it is served that he or she may appeal the notice in the District Court under Regulation 18, and
- (c) state that if the person on whom it is served fails to comply with the notice, he or she commits an offence and is liable to the penalty mentioned in paragraph (10).

(3) A compliance notice may—

- (a) prohibit or regulate any activity specified in the notice, including prohibiting or restricting entry onto the premises specified in the notice,

- (b) require that the owner, occupier, operator or person in charge of any premises detain, dispose of or destroy an animal, animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate in a manner and at any place (if any) specified in the notice,
  - (c) prohibit the transport or further transport of an animal, animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate, either absolutely or unless such conditions as may be specified in the notice are complied with,
  - (d) require a person to return an animal, animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate, to the place of departure by a route which in the opinion of the authorised officer is the most direct or prudent,
  - (e) require that such alterations or additions be made to any premises, equipment, machinery, vehicle, vessel or other thing used in connection with an animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate as may be specified in the notice,
  - (f) require a person to secure, isolate, segregate or return an animal, animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate in a manner (if any) as may be specified in the notice,
  - (g) require a person to clean and disinfect any premises, equipment, machinery, vehicle, vessel or other thing used in connection with an animal, animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate in a manner as may be specified in the notice,
  - (h) require an owner, occupier, operator or person in charge of any premises, animal, animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate, to affix notices prohibiting or restricting entry on to any premises in accordance with the notice, or
  - (i) require a person to undertake a specified type or level of sampling and analysis for a period specified in the compliance notice.
- (4) A person to whom a compliance notice is served—
- (a) shall comply with it until the notice expires or is annulled under Regulation 18, and
  - (b) shall not cause or permit another person to contravene the terms or conditions of the notice.

(5) A compliance notice may specify a time limit within which the person on whom it is served shall comply with the notice.

(6) A compliance notice may be modified or withdrawn in a further notice and the earlier notice has effect subject to the modification or withdrawal.

(7) A compliance notice may require the owner, occupier, operator or person in charge of any premises, an animal, animal by-product, derived product, equipment, machinery, vehicle, vessel or other thing to which these Regulations or the Animal by-products Regulations relate, to choose between two or more of the requirements specified in the notice.

(8) A compliance notice shall include an address for service of an appeal under Regulation 18.

(9) A person on whom a compliance notice is served who fails to comply with, or causes or permits another person to contravene the notice commits an offence.

(10) A person who commits an offence under this Regulation is liable—

(a) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 3 months, or to both, or

(b) on conviction on indictment, to a fine not exceeding €50,000 or to imprisonment for a term not exceeding 12 months, or to both.

*Appeal against compliance notice*

18. (1) A person to whom a compliance notice is served may, not later than 7 days from the date of service of the notice, appeal the notice to the judge of the District Court having jurisdiction in the District Court district—

(a) where an animal, animal by-product, derived product, premises, equipment, machinery, vehicle, vessel or other thing to which these Regulations or the Animal by-products Regulations relate, the subject of the notice, is situated, or

(b) where the person bringing the appeal ordinarily resides or carries on business.

(2) Notice of an appeal shall contain a statement of the grounds upon which the appeal is based and shall be served, if the authorised officer who served the compliance notice—

(a) is appointed by the Minister, is a member of the Garda Síochána, or an officer of the Revenue Commissioners, on the Minister,

(b) is appointed by the Minister for Communications, Energy and Natural Resources, on the Minister for Communications, Energy and Natural Resources,

- (c) is appointed by the chief executive officer of the Health Service Executive, on the Health Service Executive,
- (d) is appointed by the Sea-Fisheries Protection Authority, on the Sea-Fisheries Protection Authority, or
- (e) is appointed by the manager of a local authority, on that local authority,

at the address included in the notice in accordance with Regulation 17 not later than 48 hours prior to the hearing of the appeal.

(3) A person bringing an appeal shall lodge a copy of the notice of appeal with the District Court Clerk concerned not later than 48 hours prior to the hearing of the appeal.

(4) On the hearing of an appeal a judge of the District Court may confirm, modify, or annul the compliance notice.

(5) The decision of the District Court on the hearing of an appeal is final, save that, by leave of the Court, an appeal shall lie to the High Court on a specified point of law.

(6) A person, including a person on whom a compliance notice has been served, shall not, where an appeal has been made under this Regulation in respect of a compliance notice, pending the determination of the appeal, or if the notice is confirmed or modified on appeal, deal with an animal, animal by-product, derived product or other thing to which the Animal by-products Regulations relate, any premises, equipment, machinery, vehicle, vessel or other thing to which the notice relates other than in accordance with the terms of the compliance notice.

(7) In this Regulation “appeal” means an appeal under paragraph (1).

*Seizure and detention for non-compliance with a compliance notice*

19. (1) Without prejudice to an appeal under Regulation 18, where—

- (a) a person in control of—
  - (i) an animal, animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate, or
  - (ii) premises, equipment, machinery, vehicle, vessel or other thing used in connection with an animal, animal by-product or derived product,

fails to comply with the terms of a compliance notice within the time specified in the notice, or

- (b) an authorised officer has reasonable grounds for believing that a compliance notice is not being, or is likely not to be, complied with,

an authorised officer may at any time seize and detain the animal, animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate, equipment, machinery, vehicle, vessel or other thing used in connection with an animal, animal by-product or derived product.

(2) Where an animal, animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate, equipment, machinery, vehicle, vessel or other thing used in connection with an animal, animal by-product or derived product is seized and detained in accordance with paragraph (1), an authorised officer may—

- (a) sell, destroy or dispose of an animal, animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate or cause it to be sold, destroyed or be disposed of, or
- (b) take such other measures in relation to the animal, animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate, equipment, machinery, vehicle, vessel or other thing used in connection with an animal, animal by-product or derived product as the authorised officer considers appropriate in the circumstances.

(3) Any profits arising out of the sale, destruction or disposal of an animal, animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate in accordance with paragraph (2) shall be paid to the owner of the animal, animal by-product, derived product or other thing to which these Regulations or the Animal by-products Regulations relate less any expenses incurred in connection with the seizure, sale, destruction or disposal.

(4) The costs (including ancillary costs) of a measure taken under this Regulation are recoverable by the Minister—

- (a) as a simple contract debt in a court of competent jurisdiction from the person who was the owner of the animal, the body of an animal, animal by-product, feeding-stuff or other thing at the time the measure was carried out, or
- (b) by deducting the costs from any sum due by the Minister to a person on whom a notice has been served.

*Powers of members of Garda Síochána and officers of the Revenue Commissioners*

20. (1) Where a person is seen or found committing, or is reasonably suspected of being engaged in committing or having committed an offence under

paragraph (7) or Regulation 3(2), 21 or 24, a member of the Garda Síochána may arrest the person without warrant.

(2) Where a person is arrested by a member of the Garda Síochána under paragraph (1), the person shall be taken by the member to a Garda Síochána station and may be detained there or arrested and detained there in accordance with section 4 of the Criminal Justice Act 1984 and, accordingly, the reference in subsection (2) (inserted by section 9 of the Criminal Justice Act 2006) of that section to “an offence to which this section applies” is to be read as including a reference to the offence concerned under Regulation 3(2), 21 or 24, as the case may be.

(3) Where a member of the Garda Síochána or an officer of the Revenue Commissioners has reasonable grounds for believing that there is evidence on a person of an offence committed under these Regulations the member or officer may without warrant—

- (a) search or cause to be searched the person and, if the member or officer considers it necessary, detain the person for such time as is reasonably necessary to carry out the search,
- (b) search or cause to be searched a vehicle or vessel in which the member or officer suspects that evidence in relation to an offence committed under these Regulations may be found and for the purpose of carrying out the search, if the member or officer thinks fit, require the person who is in charge or control of the vehicle or vessel to bring it to a stop and when stopped to refrain from moving it or, where the vehicle or vessel is already stationary, to refrain from moving it, or
- (c) seize and detain or cause to be seized and detained under paragraph (3), anything found in the course of a search under this Regulation which any such member or officer reasonably suspects to be something which might be required in evidence in proceedings for such an offence.

(4) Where a member of the Garda Síochána or an officer of the Revenue Commissioners decides to search or cause to be searched a person under paragraph (3) the member or officer may require the person to accompany that member or officer to either a Garda Síochána station or a Revenue office for the purpose of being so searched at that station or office.

(5) A member of the Garda Síochána may stop a vehicle or vessel, for the purposes of these Regulations and may require it to be moved for inspection to such place as he or she directs.

(6) Nothing in these Regulations operates to prejudice any power to search or to stop, or to seize or detain property, which may, apart from these Regulations, be exercised by a member of the Garda Síochána or an officer of the Revenue Commissioners.



(7) A person who obstructs or impedes a member of the Garda Síochána or an officer of the Revenue Commissioners in the exercise of a power under paragraph (3) commits an offence and is liable on summary conviction to a class A fine.

#### *Forgery*

21. (1) A person shall not in respect of any application, certificate, commercial document, approval, authorisation, registration document or notice issued under these Regulations or the Animal by-products Regulations or a record purporting to be kept and maintained under these Regulations or the Animal by-products Regulations or a document purporting to be an extract from such a document—

- (a) enter on such a document a particular which he or she knows to be false or misleading (hereafter in this Regulation referred to as a “document with false information”), or
- (b) tamper with, deface, forge or otherwise alter such (hereafter in this Regulation referred to as a “forged or altered document”).

(2) A person shall not have without lawful authority (the proof of which lies on him or her) in his or her possession or under his or her control a forged or altered document or a document with false information.

(3) A person who contravenes this Regulation commits an offence and is liable—

- (a) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 3 months, or to both, or
- (b) on conviction on indictment to a fine not exceeding €100,000 or to imprisonment for a term not exceeding 12 months, or to both.

#### *Records*

22. (1) A person who fails to keep records in accordance with Article 22 of the Council Regulation and Article 17 of the Commission Regulation commits an offence and is liable on summary conviction to a class A fine.

(2) A person shall keep all records pertaining to animal by-products which have been processed, stored or otherwise handled at a premises authorised, registered or approved under these Regulations and shall be retained at that premises for 3 years, unless otherwise directed in writing by an authorised officer.

## Part 5

### PROCEEDINGS AND SANCTIONS

#### *Obstruction and false statements*

23. (1) A person who—

- (a) obstructs, interferes with or impedes an authorised officer, or any person who accompanies an authorised officer, in the course of exercising a function conferred on the officer under these Regulations,
- (b) fails or refuses, without reasonable cause, to comply with a requirement or direction, of an authorised officer under Regulation 15,
- (c) fails, without reasonable cause, to give assistance or requested information to an authorised officer in accordance with Regulation 15,
- (d) in—
  - (i) making an application for approval, authorisation, certificate, or registration or other thing required by these Regulations or the Animal by-products Regulations, or
  - (ii) purporting to give information to an authorised officer for the exercise of that officer's functions under these Regulations—
    - (I) makes a statement that he or she knows to be false in a material particular or recklessly makes a statement which is false, in a material particular, or
    - (II) intentionally fails to disclose a material particular,

commits an offence and is liable on summary conviction to a class A fine.

(2) A statement or admission made by a person pursuant to a requirement under Regulation 15(9)(ii) is not admissible as evidence in proceedings brought against that person for an offence (other than an offence under this Regulation for failing to give information or false information) under these Regulations.

*Offences — contravention of Council Regulation or Commission Regulation*

24. A person who contravenes or fails to comply with the Council Regulation (other than Article 22 of that Regulation) or the Commission Regulation (other than Article 17 of that Regulation) commits an offence and is liable—

- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 3 months, or to both, or
- (b) on conviction on indictment, to a fine not exceeding €250,000 or imprisonment for a term not exceeding 12 months, or to both.

*Matters relating to proceedings*

25. (1) In proceedings under these Regulations, it is for the defendant to prove that a farm animal or ruminant animal did not have access to the premises to which the proceedings relate.

(2) In proceedings under these Regulations, if it is not possible to determine whether a particular animal by-product is Category 1 material, Category 2 material or Category 3 material, or a derived product is derived from Category

1 material, Category 2 material or Category 3 material, the animal by-product or derived product shall be treated, unless the contrary is shown, as if it is or is derived from Category 1 material.

*Prosecutions*

26. (1) An offence under these Regulations may be prosecuted summarily, as may be appropriate, by—

- (a) the Minister,
- (b) the Minister for Communications, Energy and Natural Resources,
- (c) the Health Service Executive,
- (d) the Sea-Fisheries Protection Authority,
- (e) the local authority in whose functional area the offence is alleged to have been committed, or
- (f) a member of the Garda Síochána, in accordance with section 8 of the Garda Síochána Act 2005.

(2) If an offence under these Regulations is committed by a body corporate and it is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person who, when the offence is committed, is a director, manager, secretary or other officer of the body corporate, or a person purporting to act in any such capacity, that person, as well as the body corporate, is guilty of an offence and liable to be proceeded against and punished as if guilty of the first-mentioned offence.

(3) If the affairs of a body corporate or unincorporated body are managed by its members, paragraph (2) applies in relation to the acts and defaults of a member in connection with functions of management as if the member is a director or manager of the body corporate.

Part 6

PROCEDURAL

*Service of notices and notifications*

27. (1) A notice or notification under these Regulations (including a compliance notice) shall, subject to paragraph (2), be addressed to the person concerned by name and may be served on a person—

- (a) by giving a copy to the person, his or her employee, servant or agent, or in the case of a partnership, by delivery of a copy to any of the partners,
- (b) by leaving a copy at the address at which the person ordinarily resides or carries on business or, where an address for service has been furnished, at that address,

- (c) by sending a copy by post in a prepaid registered envelope to the address at which the person ordinarily resides or carries on business and, in the case of a body corporate or unincorporated body at the registered office of the body or, where an address for service has been furnished by the person to the Minister, the Minister for Communications, Energy and Natural Resources, the Sea-Fisheries Protection Authority, the Health Service Executive or the local authority concerned, as the case may be, at that address,
- (d) if the address at which the person ordinarily resides cannot be ascertained by reasonable enquiry and the notice or notification relates to any premises, by delivering a copy to the premises,
- (e) by sending a copy by means of electronic mail or a facsimile machine, to a device or facility for the reception of electronic mail or facsimiles located at the address at which the person ordinarily resides or carries on business or, if an electronic address or facsimile number address for the service of a notice or notification has been furnished by the person to the Minister, Minister for Communications, Energy and Natural Resources, the Sea-Fisheries Protection Authority, the Health Service Executive or the local authority concerned, as the case may be, that electronic address or facsimile machine, but only if—
  - (i) the recipient’s facility for the reception of electronic mail generates a message confirming the successful receipt of the electronic mail, or
  - (ii) the sender’s facsimile machine generates a message confirming the successful transmission of the total number of pages of the notice.

(2) If a notice or notification is to be served on a person who is the owner, occupier, operator or person in charge of a thing to which the notice relates and the name of the person cannot be ascertained by reasonable enquiry, it may be addressed to that person by using the words “the owner”, “the occupier”, “the operator” or “the person in charge”.

(3) For the purposes of this Regulation, a company within the meaning of the Companies Acts is considered to be ordinarily resident at its registered office and every other body corporate or unincorporated body is considered to be ordinarily resident at its principal office or place of business.

#### *Fees*

28. (1) The Minister, the Minister for Communications, Energy and Natural Resources, the Sea-Fisheries Protection Authority, the Health Service Executive or a local authority, as the case may be, may charge a fee in respect of an application for an approval, authorisation, certificate or registration, or for the performance of a function, under these Regulations or the Animal by-products Regulations, not exceeding the cost of providing the service to which the fee relates.

(2) A fee payable under this Regulation may be recovered by the Minister, the Minister for Communications, Energy and Natural Resources, the Sea-Fisheries Protection Authority, the Health Service Executive or a local authority, as the case may be, from the person by whom it is payable as a simple contract debt in a court of competent jurisdiction.

(3) A fee payable to a Minister of the Government under this Regulation shall be disposed of for the benefit of the Exchequer in such manner as the Minister for Public Expenditure and Reform may direct.

(4) The Public Offices Fees Act 1879 does not apply to a fee charged under this Regulation.

*Savers*

29. (1) An approval, authorisation, certificate, licence, notice or registration granted under the Regulations referred to in Regulation 30 that is in force immediately before the revocation, continues in force and may be dealt with as if granted under these Regulations.

(2) A compliance notice within the meaning of the Regulations referred to in Regulation 30 that is in force immediately before the making of these Regulations continues in force and may be dealt with as if it were a compliance notice or notification under these Regulations.

(3) An appeal under Regulation 25 of the European Communities (Transmissible Spongiform Encephalopathies and Animal By-products) Regulations 2008 (S.I. No. 252 of 2008) that has not been determined before the making of these Regulations may be dealt with as if it were an appeal under Regulation 18 of these Regulations.

*Non-application of S.I. No. 252 of 2008 to animal by-products*

30. The European Communities (Transmissible Spongiform Encephalopathies and Animal By-products) Regulations 2008 (S.I. No. 252 of 2008) do not apply to animal by-products and, accordingly, the following provisions of those Regulations are revoked:

- (a) Regulations 3, 8, 10(1) to (8), (14) and (15), 11, 12, 13, 15 and 16, and
- (b) Regulations 7, 10(10) and 17 to 33 in so far as they relate to animal by-products.

*Revocation — S.I. No. 150 of 2011*

31. The European Communities (Transmissible Spongiform Encephalopathies and Animal By-products) (Amendment) Regulations 2011 (S.I. No. 150 of 2011) are revoked.



GIVEN under my Official Seal,  
17 April 2014.

SIMON COVENEY,  
Minister for Agriculture, Food and the Marine.

EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation)*

The Regulations provide ancillary and supplementary measures necessary for a series of EC Regulations relating to animal by-products to have full effect.

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