

Subsidiary Legislation made under s.337.

Animal By-Products Regulations 2005

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Part I*Introduction.***Title.**

1. These Regulations may be cited as the Animal By-Products Regulations 2005.

Interpretation.

- 2.(1) In these Regulations–

“approval” and “authorisation” mean an approval or authorisation granted by the Minister;

“the Community Regulation” means Regulation (EC) No. 1774/2002 of the European Parliament and of the Council of 3 October 2002 by laying down health rules concerning animal by-products not intended for human consumption as amended by and as read with–

- (a) Commission Regulation (EC) No. 808/2003 amending Regulation (EC) No. 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption;
- (b) Commission Regulation (EC) No. 811/2003 implementing Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the intra-species recycling ban for fish, the burial and burning of animal by-products and certain transitional measures;
- (c) Commission Regulation (EC) No. 813/2003 on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the collection, transport and disposal of former foodstuffs;
- (d) Commission Decision 2003/320/EC on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the use in feed of used cooking oil;
- (e) Commission Decision 2003/321/EC on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the processing standards for mammalian blood;
- (f) Commission Decision 2003/326/EC on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the separation of Category 2 and Category 3 oleochemical plants;

- (g) Commission Decision 2003/327/EC on transitional measures under Regulation(EC) No. 1774/2002 of the European Parliament and of the Council as regards the low capacity incineration or co-incineration plants which do not incinerate or co-incinerate specified risk material or carcasses containing them;

“inspector” means a person appointed by the Minister to be an inspector for the purposes of these Regulations;

“Minister” means the Minister with responsibility for the environment;

“poultry” includes birds of all species including wild birds.

(2) Expressions used both in the Community Regulation and these Regulations have the same meaning for the purposes of these Regulations as they have for the purposes of the Community Regulation, and Category 1 material, Category 2 material and Category 3 material comprises the animal by-products set out in articles 4, 5 and 6 respectively of the Community Regulation.

Approvals, etc.

3. Any approval, authorisation, registration, instructions or notice issued shall be in writing, and may be made subject to such conditions as are necessary to ensure that the provisions of these Regulations and the Community Regulation are complied with and to protect public and animal health.

Part II

Collection, transportation, storage, handling, processing and disposal of animal by-products.

Category 1 material.

4.(1) Any person who has in his possession or under his control any Category 1 material and who fails to comply with article 4(2) or 4(3) of the Community Regulation shall be guilty of an offence.

(2) For the purposes of article 4(2)(b) of the Community Regulation the material may be processed using any of the processing methods 1 to 5 specified in that Regulation.

(3) This regulation shall not apply in relation to material referred to in article 4(1)(e) of the Community Regulation (catering waste from means of transport operating from outside the Community).

Category 2 material.

5.(1) Any person who has in his possession or under his control any Category 2 material and who fails to comply with article 5(2), 5(3) or 5(4) (other than the provision in article 5(4) relating to export) of the Community Regulation shall be guilty of an offence.

(2) For the purposes of article 5(2)(b) of the Community Regulation the material may be processed using any of the methods 1 to 5 specified in that Regulation.

(3) For the purposes of article 5(2)(e) of the Community Regulation, the animal by-products specified in that paragraph may be applied to land provided that the Minister has not imposed any restrictions relating to animal health in relation to those by-products.

Category 3 material.

6. Any person who has in his possession or under his control any Category 3 material and who fails to comply with article 6(2) or article 6(3) of the Community Regulation shall be guilty of an offence.

Mixing mammalian and non-mammalian by-products.

7. Where mammalian by-products and non-mammalian by-products are mixed the mixture shall be regarded as mammalian by-products.

Collection, transportation and storage.

8.(1) Any person who fails to comply with article 7(1), 7(2) or 7(5) of the Community Regulation shall be guilty of an offence.

(2) For the purposes of sub-regulation (1) above, if different categories of animal by-products are transported on one vehicle but in different containers or compartments and complete separation of the different kinds of by-products cannot be guaranteed, the by-products transported shall be treated as the highest risk category of the by-products transported.

(3) In accordance with article 7(6) of that Regulation, the provisions of article 7 shall not apply in relation to manure transported within Gibraltar.

Part III

Restrictions on access to animal by-products and their use.

Access to animal by-products.

9.(1) No person shall feed any animal by-product (other than liquid milk or colostrum used on the farm of origin) to any farmed animal or any other ruminant animal, pig or poultry unless it has been processed in a Category 3 approved processing plant.

(2) No person shall allow any farmed animal or any other ruminant animal, pig or poultry to have access to any animal by-product (other than milk, colostrum or manure) unless it has been –

- (a) processed in an approved processing plant;
- (b) treated in an approved biogas or composting plant; or
- (c) (in the case of digestive tract content) applied to land at least three weeks before the access.

(3) No person shall bring any animal by-product (other than milk, colostrum, manure or digestive tract content) on to any premises where any farmed animal or any other ruminant animal, pig or poultry is kept, unless it has been–

- (a) processed in an approved processing plant; or
- (b) treated in an approved biogas or composting plant.

(4) Sub-regulation (3) shall not apply to animal by-products brought on to premises in a vehicle which enters to collect other by-products providing the by-products brought on to the premises are not removed from the vehicle while on the premises.

(5) No person shall allow any animals to have access to material in a biogas or composting plant, except that it shall not be an offence for wild birds to have access to the material during the secondary or subsequent phase of composting.

(6) In this regulation “animal by-product” includes catering waste of all kinds, including catering waste to which the Community Regulation does not apply because of article 1(2)(e) of that Regulation.

(7) This regulation does not prohibit feeding animal by-products to animals under article 23(2) of the Community Regulation as permitted by regulation 26(3).

(8) Any person who fails to comply with subregulation (1), (2), (3) or (5) shall be guilty of an offence.

Restrictions on use.

10. Any person who fails to comply with article 22(1) of the Community Regulation shall be guilty of an offence.

Pasture land.

11.(1) For the purposes of article 22(1)(c) of the Community Regulation, pasture land is land that is intended to be used for grazing or cropping for feeding stuffs following the application or deposit of organic fertilisers and soil improvers within the following periods–

- (a) two months in the case of pigs; and
- (b) three weeks in the case of other farmed animals.

(2) Any person who uses pasture land for grazing within the period specified in sub-regulation (1) or feeds to pigs or other farmed animals within that period anything cropped from pasture land during that period shall be guilty of an offence.

Intra-species recycling of fish.

12.(1) Notwithstanding regulation 10, it shall not be an offence to feed fish with processed animal protein derived from the bodies or parts of bodies of fish (other than farmed fish of the same species) if this is done in accordance with articles 2 to 4 of, and Annex I to, Commission Regulation (EC) No. 811/2003.

(2) The Minister shall be the competent authority for the purposes of article 5 of Commission Regulation (EC) No. 811/2003.

Part IV*Approved premises and competent authorities***Competent authority.**

13.(1) The Minister shall be the competent authority for the purposes of granting approvals under Chapters III and IV of the Community Regulation, the Annexes to that Regulation and these Regulations.

- (2) The Minister shall also be the competent authority for–
- (a) intermediate plants in accordance with articles 10(2)(d) and 10(3)(d) of the Community Regulation;
 - (b) checking storage plants in accordance with article 11(2)(b) of that Regulation;
 - (c) validating and checking Category 1 and Category 2 processing plants in accordance with articles 13(2)(c) and 13(2)(e) of that Regulation; supervising Category 1, 2 and 3 plants in accordance with Annex V, Chapter IV, paragraph 1

to that Regulation and validating those plants in accordance with Annex V, Chapter V, paragraph 1 to that Regulation;

- (d) authorising the temporary use of a Category 2 processing plant for the processing of Category 1 material in accordance with Annex VI, Chapter 1, paragraph 2 to that Regulation;
- (e) checking oleochemical plants in accordance with article 14(2)(d) of that Regulation and shall be the person to whom records shall be produced in accordance with article 14(2)(c) of that Regulation;
- (f) checking biogas plants and composting plants in accordance with article 15(2)(c) of that Regulation;
- (g) validating and checking Category 3 processing plants in accordance with article 17(2) (c) and 17(2)(e) of that Regulation;
- (h) authorising the temporary use of a Category 3 processing plant for the processing of Category 1 or Category 2 material in accordance with Annex VII, Chapter 1, paragraph 2 of that Regulation or the use of a Category 2 processing plant as a collection centre in accordance with Annex IX, paragraph 3 of that Regulation;
- (i) presentation of records relating to a petfood or technical plant in accordance with article 18(2)(a)(iv) of that Regulation;
- (j) recognising laboratories for the purposes of analysing samples from petfood and technical plants in accordance with article 18(2)(a)(iii) of that Regulation, receiving information under article 18(2)(a)(v) of that Regulation and checking petfood plants and technical plants in accordance with article 18(2)(b) of that Regulation;
- (k) carrying out inspection and supervision in accordance with article 26 of that Regulation;
- (l) giving instructions for the purposes of Annex II, Chapter II, paragraph 4 to that Regulation;
- (m) the presentation of commercial documents under Annex II, Chapter V to that Regulation;
- (n) authorising a representative point in the combustion chamber of an incinerator in accordance with Annex IV, Chapter II, paragraph 3 to that Regulation and

inspecting them in accordance with Annex IV, Chapter VII, paragraph 8 to that Regulation; and

- (o) authorising specific requirements in accordance with Annex VI, Chapter II, Part C, paragraphs 14 and 15 to that Regulation.

Approval of premises.

14.(1) No person shall operate any—

- (a) category 1, 2 or 3 intermediate plant;
- (b) storage plant;
- (c) incineration or co-incineration plant;
- (d) category 1 or category 2 processing plant;
- (e) category 2 or category 3 oleochemical plant;
- (f) biogas or composting plant;
- (g) category 3 processing plant; or
- (h) petfood or technical plant;

for the storage, processing, treatment, disposal or use of animal by-products unless the premises, the operator of the premises and any equipment are approved for that purpose in accordance with these Regulations and the Community Regulation.

(2) The operator of approved premises shall ensure that—

- (a) the premises are maintained and operated in accordance with the conditions of approval and with the requirements of these Regulations and the Community Regulation;
- (b) any person employed by him and any person permitted to enter the premises complies with those conditions and requirements.

(3) The operator of a high capacity incineration plant shall dispose of the ash in accordance with Annex IV, Chapter VII, paragraph 4 to the Community Regulation in the same way as the operator of a low capacity incineration plant.

(4) Any person who fails to comply with any provision of this regulation shall be guilty of an offence.

Biogas and composting plants.

15.(1) The provisions of Part I of Schedule 1 shall apply in a biogas and composting plant used for treating any animal by-products (including catering waste) in addition to the requirements of paragraphs 1 to 11 of Annex VI, Chapter II to the Community Regulation.

(2) In accordance with article 6(2)(g) and Annex VI, Chapter II, paragraph 14 to the Community Regulation—

- (a) catering waste shall be treated in a biogas or composting plant either in accordance with Annex VI, Chapter II, paragraph 12 or 13 to the Community Regulation or in accordance with Part II of Schedule 1; and
- (b) any other animal by-product treated in a biogas or composting plant shall be treated in accordance with Annex VI, Chapter II, paragraph 12 or 13 to the Community Regulation.

(3) Any person who fails to comply with any provision of this regulation shall be guilty of an offence.

Composting catering waste on the premises on which it originates.

16. In accordance with article 6(2)(g) of, and Annex VI, Chapter II, paragraph 14 to the Community Regulation, the provisions of that Chapter and of regulation 14(1)(f) above do not apply to the composting of Category 3 catering waste on the premises on which it originates if—

- (a) decomposed material is only applied to land at those premises;
- (b) no ruminant animals or pigs are kept at the premises; and
- (c) if poultry is kept at the premises the material is composted in a secure container which prevents the poultry having access to it during decomposition.

Processing and intermediate plants' own checks.

17.(1) Any person who fails to comply with article 25(1) or 25(2) of the Community Regulation shall be guilty of an offence.

(2) The plant operator shall record the action taken in accordance with article 25(2) of the Community Regulation and failure to do so shall be an offence.

Sampling at processing plants.

18.(1) If a processing plant is processing Category 1 or Category 2 material and the processed material is to be sent to landfill (or, in the case of Category 2 material, a biogas or composting plant) the operator shall once every week–

(a) take from the outlet of the cooker in which the material is processed a sample of at least 50 grams of processed material; and

(b) send the sample to a laboratory approved to test it for *Clostridium perfringens*.

(2) In the case of Category 3 processing plants, where the processed material is intended for use in feeding stuffs, the operator shall take a representative sample of the material on each day that the material is consigned from the premises and send it to a laboratory approved to test it for Salmonella and Enterobacteriaceae.

(3) In the case of Category 3 processing plants, where the processed material is not intended for use in feeding stuffs, the operator shall take a sample once every week of the material that is consigned from the premises and send the sample to a laboratory approved to test it for Salmonella and Enterobacteriaceae.

(4) Any person who fails to comply with any provision of this regulation shall be guilty of an offence.

Sampling at biogas and composting plants.

19.(1) In the case of biogas and composting plants the operator shall, at intervals specified in the approval, take a representative sample of material that has been treated to the time temperature parameters specified in Part II of Schedule 1 or the Community Regulation and send it for testing for Salmonella and Enterobacteriaceae (or, in the case of material derived from catering waste, Salmonella only) in a laboratory approved to carry out those tests under regulation 21..

(2) No person shall consign any material from a biogas or composting plant until the results of the test are received from the laboratory.

(3) In the event of tests establishing that treated material does not comply with the limits in Annex VI, Chapter II, paragraph 15 to the Community Regulation, the operator shall–

- (a) immediately notify the Minister, giving full details of the failure, the nature of the sample and the batch from which it was derived;
- (b) ensure that no digestion residue or compost suspected or known to be contaminated is moved from the premises unless –
 - (i) it has been re-treated under the supervision of the Minister and resampled and re-tested by the Minister and the re-testing has shown that the re-treated digestion residue or compost complies with the standards in the Community Regulation; or
 - (ii) it is consigned for processing or incineration at an approved processing plant or incinerator or (in the case of catering waste) it is consigned to landfill; and
 - (iii) record the action taken in accordance with this regulation.

(4) Any person who fails to comply with any provision of this regulation shall be guilty of an offence.

Samples sent to laboratories.

20.(1) Whenever an operator sends a sample to a laboratory in accordance with this Part, he shall send with the sample, in writing, the name and address of the premises at which the sample was taken, the date on which it was taken and the description and identity of the sample.

(2) No person shall tamper with a sample taken under these Regulations with intent to affect the result of the test.

(3) The operator shall keep a record of all results of laboratory tests.

(4) Any person who fails to comply with any provision of this regulation shall be guilty of an offence.

Laboratories.

21.(1) The Minister shall approve laboratories to carry out one or more of the tests in this regulation if he is satisfied that they have the necessary facilities, personnel and operating procedures to do so.

(2) In deciding whether to grant or continue an approval, the Minister may require the laboratory to successfully undertake any quality control tests as he reasonably thinks fit.

(3) The operator of an approved laboratory carrying out tests for the purposes of these Regulations or the Community Regulation shall do so in accordance with the following provisions and failure to do so shall be an offence.

(4) A test for *Clostridium perfringens* shall be carried out in accordance with the method in Schedule 2 below or (if specified in the approval) with a method which conforms with ISO 7937/1997 (BS-EN 13401:1999) (Enumeration of *Clostridium perfringens*) [*Published by the British Standards Institute*] or equivalent.

(5) A test for *Salmonella* shall be carried out in accordance with the method in Schedule 2 below or (if specified in the approval) with a method that conforms with ISO 6579/2002 (BS-EN 12824:1998) (Detection of *Salmonella*) [*Published by the British Standards Institute*] or equivalent or NMKL 71: 1993 [*Published by the British Standards Institute*] or equivalent.

(6) A test for *Enterobacteriaceae* shall be carried out in accordance with the method in Schedule 2 below or (if specified in the approval) with a method which conforms with ISO 7402/1993 (BS 5763: Part 10: 1993) (Enumeration of *Enterobacteriaceae*) [*Published by the British Standards Institute*] or equivalent.

(7) Where tests are carried out for the detection of any of the following, the operator of an approved laboratory shall immediately notify the Minister and the operator of the premises if—

- (a) the tests fail to establish that the material is free from *Clostridium perfringens* or *Salmonella*,
- (b) the material successfully passes the test for *Enterobacteriaceae* in paragraph 5 of Part III of Schedule 2 below,

and failure to do so shall be an offence.

(8) The operator of an approved laboratory shall in relation to processed material notify the Minister on the last day of each month of the number, type and results of tests carried out and failure to do so shall be an offence.

(9) Reprocessing in accordance with article 25(2)(c) and (d) of the Community Regulation shall be carried out under the supervision of the Minister.

(10) If the sample has been sent to the approved laboratory from premises outside Gibraltar, the requirements in this regulation to notify the Minister shall be construed as a requirement to notify the competent authority for the premises from which the sample was sent.

Part V

*Placing animal by-products and processed products on the market***Placing on the market of processed animal protein and other processed products that could be used as feed material.**

22. Any person who places on the market processed animal protein or other processed products that could be used as feed material which do not meet the requirements of article 19 of the Community Regulation shall be guilty of an offence.

Placing on the market of petfood, dogchews and technical products.

23.(1) Any person who places on the market petfood, dogchews, technical products (other than fat derivatives produced from category 2 material) or those animal by-products referred to in Annex VIII to the Community Regulation which do not meet the requirements of article 20(1) of that regulation shall be guilty of an offence.

(2) Any person who places on the market fat derivatives produced from category 2 material which do not meet the requirements of article 20(3) of the Community Regulation shall be guilty of an offence.

Placing on the market of compost or digestion residues for use on agricultural land.

24. Any person who places on the market compost or digestion residues for use on agricultural land shall ensure that it is labelled or accompanied by documentation in such a way that the recipient has his attention drawn to the requirements of regulation 11 above (provisions relating to pasture land) and any person who fails to do so shall be guilty of an offence.

Part VI*Derogations***Competent authority for Chapter V of the Community Regulation.**

25. The Minister shall be the competent authority for the purposes of Chapter V of the Community Regulation.

Derogations regarding the use of animal by-products.

26.(1) The use of animal by-products for diagnostic, educational or research purposes is permitted if it is in accordance with an authorisation in accordance with regulation 3.

(2) The use of animal by-products for taxidermy is permitted if it is in accordance with an authorisation and if it is in an approved technical plant.

(3) The feeding of animal by-products specified in article 23(2)(b) of the Community Regulation to—

- (a) zoo animals;
- (b) circus animals;
- (c) reptiles and birds of prey other than zoo or circus animals;
- (d) dogs from recognised kennels or recognised packs of hounds; or
- (e) maggots for fishing bait,

is permitted if it is in accordance with an authorisation.

(4) The Minister shall maintain a register of premises used for the feeding of such animal by-products to zoo or circus animals, dogs from recognised kennels or recognised packs of hounds and maggots for fishing bait.

(5) The register in sub-regulation (4) above shall contain the name of the operator, the address of the premises and the business carried on at the premises.

(6) Any person who uses animal by-products for any of the purposes in this regulation other than in accordance with an authorisation shall be guilty of an offence.

Collection centres.

27.(1) For the purposes of article 23(2) of the Community Regulation no person shall operate a collection centre, as defined in Annex I to that Regulation, for the purposes of feeding animal by-products to dogs from recognised kennels or recognised packs of hounds or maggots for fishing bait, unless the premises and the operator of the premises are authorised.

(2) The operator of the authorised premises shall ensure—

- (a) that the premises are maintained and operated in accordance with the conditions of the authorisation and the requirements of these Regulations and the Community Regulation; and
- (b) that any person employed by him and any person invited to the premises complies with these conditions and requirements.

(3) Any person who fails to comply with any provision of this regulation shall be guilty of an offence.

Burial of pet animals.

28. In accordance with article 24(1)(a) of the Community Regulation, dead pet animals may be buried.

Burial in the event of a disease outbreak.

29.(1) In accordance with article 24(1)(c) of the Community Regulation, if there is an outbreak of disease mentioned in List A of the International Office of Epizootic Diseases, on site burning or burial (as defined in Part A of Annex II to Commission Regulation (EC) No. 811/2003) of animal by-products shall not be an offence if the animal by-product is transported and buried or burnt in accordance with—

- (a) a notice given by the Minister under article 24(1)(c) authorising disposal in accordance with that provision; and
- (b) the provisions of article 6 of and Part B of Annex II to Commission Regulation (EC) No. 811/2003.

(2) The Minister shall be the competent authority for the purposes of article 6 of and Part B of Annex II to Commission Regulation (EC) No. 811/2003.

Burning and burial of bees and apiculture products.

30. In accordance with article 8 of Commission Regulation (EC) No. 811/2003, bees and Category 2 apiculture products may be disposed of by burial or burning on site if this is done in accordance with that article.

PART VII*Records***Records.**

31. Any record required to be kept under these Regulations may be in written or electronic form and shall be kept for at least two years.

Records for consigning, transporting or receiving animal by-products.

32. Any person who fails to comply with article 9(1) of the Community Regulation shall be guilty of an offence.

Records for burying or burning of animal by-products.

33. Any person who fails to comply with article 9 of Commission Regulation (EC) No. 811/2003 shall be guilty of an offence.

Records for disposal or use on premises.

34.(1) Subject to sub-regulation (2) below, an operator of any premises who disposes or uses any animal by-product (other than manure or material excluded from the Community Regulation by article 1(2) of that regulation), or processed product on the premises shall make on disposal or use, a record of each disposal or use, showing the date on which the animal by-product was disposed of or used and the quantity and description of the material disposed of or used, and failure to do so shall be an offence.

(2) The requirement in sub-regulation (1) above shall not apply to disposal on the premises by feeding of animal by-products or processed products to reptiles and birds of prey other than zoo or circus animals.

Delivery records to be kept by operators of biogas and composting plants.

35. The operator of any biogas or composting plant receiving catering waste shall record—

- (a) the date on which the catering waste was delivered to the premises,
- (b) the quantity and description of the catering waste, including a statement of whether measures were taken at source to ensure that meat was not included in the waste, and
- (c) the name of the haulier,

and failure to do so shall be an offence.

Treatment records for biogas and composting plants.

36. The operator of a biogas or composting plant treating catering waste or other animal by-products shall record—

- (a) the dates on which the material is treated,
- (b) a description of the material treated,
- (c) the quantity of material treated,

- (d) the result of all checks carried out at the critical points identified under paragraph 3 of Part I of Schedule 1 below, and
- (e) sufficient information to show that the material has been treated to the required parameters,

and failure to do so shall be an offence.

Records for approved laboratories.

37. The operator of a laboratory approved under regulation 21 shall record—

- (a) the name and address of the premises at which the sample was taken,
- (b) the date on which the sample was taken,
- (c) the description and identity of the sample,
- (d) the date on which the sample was received at the laboratory,
- (e) the date on which the sample was tested at the laboratory, and
- (f) the result of the test,

and failure to do so shall be an offence.

Records of consignments of compost or digestion residue.

38.(1) Subject to sub-regulation (2), the occupier of premises on which ruminant animals, pigs or poultry are kept shall record—

- (a) the date on which compost or digestion residue is brought on to the premises,
- (b) the quantity and description of the compost or digestion residue,
- (c) the land to which the compost or digestion residue is applied,
- (d) the date of such application, and
- (e) the date on which the land is first cropped or the date on which ruminant animals, pigs or poultry were allowed access to the land, whichever is the sooner,

and failure to do so shall be an offence.

(2) The requirement in sub-regulation (1) to make records shall not apply in the case of any supply of compost or digestion residue for use at any premises used only as a dwelling.

PART VIII

Administration and enforcement

Grant of approvals.

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

(2) An approval shall specify—

- (a) the address of the premises 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 Minister refuses to grant the approval, or approves it subject to a condition he shall, by notice in writing served on the applicant, give his reasons and explain the right of the applicant to make written representations to the Minister.

Suspension, amendment and revocation of approvals and registrations.

40.(1) The Minister, by notice in writing served on the operator—

- (a) shall suspend immediately an approval or registration if any of the conditions under which the approval was granted are not fulfilled; and
- (b) may suspend or amend an approval or registration if he is satisfied that the provisions of these Regulations or the Community Regulation are not being complied with.

(2) A suspension or amendment under sub-regulation 1(b) shall have immediate effect if the Minister considers that it is necessary for the protection of public or animal health; otherwise it shall not have effect for at least 21 days following service of the notice.

(3) The notice shall give the reasons and explain the right of the operator of the premises to make written representations to the Minister.

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

(5) The Minister may by notice in writing revoke an approval if, following an appeal, if any, in accordance with regulation 41, which upholds a suspension, he 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 may within 21 days beginning with the day on which the notice is served, provide written representations to the Minister and provide notice of whether or not he wishes to appear before an independent person appointed by the Minister.

(2) Where an appellant gives notice of his wish to appear before and be heard by an independent person—

- (a) the Minister shall appoint an independent person to hear representations and specify a time limit within which representations must be made;
- (b) the appointed person shall not, except with the consent of the appellant, be an officer of the Minister;
- (c) if the appellant so requests the hearing shall be in public;
- (d) if the appellant so requests, the Minister shall furnish to him a copy of the report of the appointed person.

(3) The independent person shall report to the Minister.

(4) The Minister shall give to the appellant written notification of his 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 and the method of disposal of any material remaining in the vehicle, container or premises; or
- (b) 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) Any 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) Any person on whom a notice is served who contravenes or fails to comply with 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; and in this regulation “premises” includes any vehicle or container.

(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, 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 such other persons as he considers necessary and any representative of the European Commission acting for the purpose of the Community Regulation.
- (3) Any person who defaces, obliterates or removes any mark applied under sub-regulation (2)(f) 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.

Obstruction.

46.(1) Any 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 sub-regulation (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 level 5 on the standard scale or to imprisonment for a term not exceeding six months or both, or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or both.

(2) Where a body corporate is guilty of an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of any director, manager, secretary or other similar person of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(3) For the purposes of sub-regulation (2), “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

SCHEDULE 1

Regulation 15

ADDITIONAL REQUIREMENTS FOR BIOGAS AND COMPOSTING PLANTS

PART 1

Premises

1.(1) There shall be—

- (a) a reception area in which untreated animal by-products (including catering waste) are received;
- (b) an area in which vehicles and containers are cleansed and disinfected with adequate facilities for doing this; and
- (c) a clean area in which treated compost or digestion residues are stored.

(2) The clean area shall be adequately separated from the reception area and the area in which vehicles and containers are cleansed and disinfected so as to prevent contamination of the treated material. Floors shall be laid so that liquid cannot seep into the clean area from the other areas.

(3) The reception area shall be easy to clean and disinfect and shall have an enclosed and lockable place or container to receive and store the untreated animal by-products.

2. The animal by-products shall be unloaded in the reception area and either treated immediately or stored in the reception area and treated without undue delay.

3. The plant shall be operated in such a way that—

- (a) treated material is not contaminated by untreated or partially treated material or liquids arising from it; and
- (b) partially treated material is not contaminated with material which has not been treated to the same extent or liquids arising from it.

4. The operator shall identify, control and monitor suitable critical points in the operation of the plant to demonstrate that—

- (a) these Regulations and the Community Regulation are complied with;

- (b) treated material is not contaminated by untreated or partially treated material or liquids arising from it; and
 - (c) partially treated material is not contaminated with material which has not been treated to the same extent or liquids arising from it.
5. Containers, receptacles and vehicles used for transporting untreated animal by-products shall be cleaned in the dedicated area before they leave the premises and before any treated material is loaded. In the case of vehicles transporting only untreated catering waste and not subsequently transporting treated material, only the wheels of the vehicle need be cleaned.

PART II

Treatment systems and parameters for catering waste.

1. Unless an approval specifically permits a different system, catering waste shall be treated by one of the systems specified in the table below. The system shall ensure that the material is treated to the following parameters:

Composting.

Systems	Composting in a closed reactor	Composting in a closed reactor	Composting in housed windows
Maximum particle size	40cm	6cm	40cm
Minimum temperature	60°C	70°C	60°C
Minimum time spent at the minimum temperature	2 days	1 hour	8 days (during which the window shall be turned at least 3 times at no less than 2 days interval)

The time temperature requirements shall be achieved as part of the composting process.

Biogas.

System	Biogas in a closed reactor	Biogas in a closed reactor
Maximum particle size	5cm	6cm
Minimum temperature	57°C	70°C
Minimum time spent in the minimum temperature	5 hours	1 hour

2. The approval shall normally specify one of the methods in the table, but the Minister may approve a different system if he is satisfied that it achieves the same reduction in pathogens as those methods (including any additional conditions imposed on those methods) in which case the approval shall fully describe the whole system.

Composting plants.

3. If the approval for a composting plant specifies one of the methods in the table, it shall specify which one and, in addition, shall have as a condition either that—

- (a) measures shall be taken at source to ensure that meat was not included in the catering waste and that following treatment the material is stored for at least 18 days; or
- (b) following the first treatment, the material shall be treated again using one of the methods in the table and specified in the approval (not necessarily the same method as was used for the first treatment) except that, if the treatment is in a windrow, the second treatment need not be in a housed windrow.

Biogas plants.

4. The approval for a biogas plant shall specify one of the methods in the table and in addition require that either—

- (a) measures were taken at source to ensure that meat was not included in the catering waste; or
- (b) following treatment the material is stored for an average of 18 days after treatment (storage need not be in an enclosed system).

SCHEDULE 2

Regulation 21

TESTING METHODS

PART I

*Method for the isolation of clostridium perfringens.***Time of testing.**

1. Tests shall be begun on receipt of the sample or on the first working day which allows this method to be completed. If the test is not begun on the day of receipt the sample shall be stored in a refrigerator at between 2°C and 8°C until required. If the sample has been refrigerated it shall be removed from the refrigerator and stored at room temperature for at least one hour before the test is started.

Sample.

2. Tests shall be carried out using two 10 gram portions of each sample submitted for testing. Each 10 gram sample shall be placed aseptically in a sterile container containing 90 ml *Clostridium perfringens* diluent consisting of 0.1% peptone and 0.8% sodium chloride at a pH of 7 and mixed thoroughly until the sample is evenly suspended.

Inoculations.

3. For each portion of the sample 1 ml of solution shall be transferred to a sterile 90 mm petri dish (in duplicate), to which 15 ml of Shahidi - Ferguson agar (SF agar) at a temperature of 47°C±1°C shall be added and immediately gently mixed by swirling the dish with 5 clockwise and 5 anticlockwise circular movements.

4. Once the agar has set, each agar plate shall be overlaid with a further 10 ml SF agar at a temperature of 47°C±1°C. Once the overlay has set and with the plate lids uppermost the plates shall be incubated anaerobically at 37°C±1°C for 20 hours±2 hours.

Samples with colonies of Clostridium perfringens.

5. After incubation each set of duplicate plates shall be examined for colonies characteristic of *Clostridium perfringens* (black). The sample provisionally fails if any colonies characteristic of *Clostridium perfringens* are present, in which case the following procedure shall be followed to establish whether or not the colonies are *Clostridium perfringens*.

6. In the case of each plate, 10 characteristic colonies of *Clostridium perfringens* shall be

subcultured on to a further SF agar plate. If there are less than 10 colonies on the plate, all characteristic colonies shall be subcultured on to the further plate. The plates shall be incubated anaerobically at $37^{\circ}\text{C} \pm 1^{\circ}\text{C}$ for 20 hours ± 2 hours.

7. If the surface area of the plates is overgrown and it is not possible to select well isolated characteristic colonies, 10 suspect colonies shall be subcultured on to duplicate SF agar plates and incubated anaerobically at $37^{\circ}\text{C} \pm 1^{\circ}\text{C}$ for 20 hours ± 2 hours.

8. One characteristic colony from each plate shall be subcultured on to SF agar and incubated anaerobically at $37^{\circ}\text{C} \pm 1^{\circ}\text{C}$ for 20 hours ± 2 hours.

Subcultured colonies.

9. After incubation each plate shall be examined for colonies characteristic of *Clostridium perfringens*. All colonies characteristic of *Clostridium perfringens* shall be—

- (a) stab inoculated into motility nitrate medium; and
- (b) inoculated into either lactose gelatin medium or charcoal gelatin discs,

and incubated anaerobically at $37^{\circ}\text{C} \pm 1^{\circ}\text{C}$ for 20 hours ± 2 hours.

Examination of subcultures – Motility.

10. The motility nitrate medium shall be examined for the type of growth along the stab line. If there is evidence of diffuse growth out into the medium away from the stab line, the bacteria shall be considered to be mobile.

Reduction of nitrate to nitrite.

11. After examination of the motility nitrate medium, 0.2 ml to 0.5 ml of nitrite detection reagent shall be added to it. The formation of a red colour confirms that the bacteria have reduced nitrate to nitrite. Cultures that show a faint reaction (i.e. a pink colour) should be discounted. If no red colour is formed within 15 minutes, a small amount of zinc dust shall be added and the plate allowed to stand for 15 minutes. If a red colour is formed after the addition of zinc dust no reduction of nitrate to nitrite has taken place.

Production of gas and acid from lactose and liquefaction of gelatin.

12. The lactose gelatin medium shall be examined for the presence of small gas bubbles in the medium.

13. The lactose gelatin medium shall be examined for colour. A yellow colour indicates fermentation of lactose.

14. The lactose gelatin medium shall be chilled for one hour at 2 - 8°C and then checked to see if the gelatin has liquefied. If the medium has solidified it shall be re-incubated anaerobically for a further 18 - 24 hours, the medium chilled for a further one hour at 2 - 8°C and again checked to see if the gelatin has liquefied.

15. The presence of *Clostridium perfringens* shall be determined on the basis of the results from sub-regulations 10 to 14. Bacteria which produce black colonies on SF agar, are non-motile, reduce nitrate to nitrite, produce gas and acid from lactose and liquefy gelatin within 48 hours shall be considered to be *Clostridium perfringens*.

Control Tests.

16. Control tests shall be carried out each day that a test is initiated using—

- (a) *Clostridium perfringens* no more than seven days old at the time of use;
- (b) *Escherichia coli* NCTC 10418 [*National Collection of Types Cultures*] or equivalent not more than seven days old at the time of use; and
- (c) processed animal protein or compost or digestion residue which is free of *Clostridium perfringens*.

17. 10 gram portions of the rendered animal protein shall be placed aseptically in each of two sterile containers containing 90 ml Buffered Peptone Water (BPW) and mixed thoroughly until the samples are evenly suspended.

18. One colony of *Clostridium perfringens* shall be placed in 10 ml BPW and mixed to form an even suspension. 0.1 ml of the suspension shall be added to the suspension in the preceding sub-regulation. This shall be repeated for *Escherichia coli*.

19. These are then treated and examined in the same way as test samples. If no typical colonies are formed then that day's testing shall be invalid and shall be repeated.

PART II

Methods for the isolation of salmonella

A. BACTERIOLOGICAL METHOD.

1. Tests shall be begun on receipt of the sample or on the first working day which allows this method to be completed. If the test is not begun on the day of receipt the sample shall be stored in a refrigerator until required. If the sample has been refrigerated it shall be removed from the refrigerator and stored at room temperature for at least four hours before the test is started.

Day 1.

2. Tests shall be carried out in duplicate using two 25 gram portions of each sample submitted for testing. Each 25 gram sample shall be placed aseptically in a container containing 225 ml Buffered Peptone Water (BPW) and incubated at $37^{\circ}\text{C} \pm 1^{\circ}\text{C}$ for $18 \text{ hours} \pm 2 \text{ hours}$.

Day 2.

3. 0.1 ml from the container of incubated BPW shall be inoculated into 10 ml Rappaports Vassiliadis broth (RV broth) and incubated at $41.5^{\circ}\text{C} \pm 0.5^{\circ}\text{C}$ for $24 \text{ hours} \pm 3 \text{ hours}$.

Day 3.

4. The RV broth shall be plated out on to two 90 millimetre plates of Brilliant Green Agar (BGA) or on to one 90 millimetre plate of BGA and one 90 millimetre plate of Xylose Lysine Deoxycholate Agar (XLD) using a 2.5 mm diameter loop. The plates shall be inoculated with a droplet taken from the edge of the surface of the fluid by drawing the loop over the whole of one plate in a zig zag pattern and continuing to the second plate without recharging the loop. The space between the loop streaks shall be 0.5 cm - 1.0 cm. The plates shall be incubated at $37^{\circ}\text{C} \pm 2^{\circ}\text{C}$ for $24 \text{ hours} \pm 3 \text{ hours}$.

5. The residual RV broth shall be reincubated at $41.5^{\circ}\text{C} \pm 0.5^{\circ}\text{C}$ for a further 24 hours.

Day 4.

6. The plates shall be examined and a minimum of 3 colonies from each plate showing suspicion of Salmonella growth shall be subcultured—

- (a) to a blood agar plate;
- (b) on to a MacConkey agar plate; and
- (c) into biochemical media suitable for the identification of Salmonella.

These media shall be incubated at 37°C overnight.

7. The reincubated RV both shall be plated out as described in paragraph 4 above.

Day 5.

8. The incubated composite media or equivalent shall be examined and the findings recorded, discarding cultures which are obviously not *Salmonella*. Slide serological tests shall be performed using *Salmonella* polyvalent “O” and polyvalent “H” (phase 1 and 2) agglutinating sera on selected suspect colonies collected from the blood agar or MacConkey plates. If reactions occur with one or both sera, the colonies shall be typed by slide serology and a subculture sent to a Regional Veterinary Laboratory of the Veterinary Laboratories Minister of the Department for Environment, Food and Rural Affairs for further typing.

9. The plates referred to in sub-regulation 7 shall be examined and further action taken as in sub-regulation 6 and 8.

B. ELECTRICAL CONDUCTANCE METHOD.

1. Tests shall be begun on receipt of the sample or on the first working day which allows the following method to be completed. If the test is not begun on the day of receipt the sample shall be stored in a refrigerator until required. If the sample has been refrigerated it shall be stored at room temperature for at least four hours before the test is started.

Day 1.

2. Tests shall be carried out in duplicate using two 25 gram portions of each sample submitted for testing. Each 25 gram sample shall be placed aseptically in a sterile container containing 225 ml Buffered Peptone Water/Lysine/Glucose (BPW/L/G) and incubated at 37°C for 18 hours.

Day 2.

3. The incubated BPW/L/G shall be added to Selenite Cystine Trimethylamine-N-Oxide Dulcitol (SC/T/D) and Lysine Decarboxylase Glucose (LD/G) media in electrical conductance cells or wells. For cells or wells containing more than 5 ml medium 0.2 ml of the BPW/L/G shall be added and for cells or wells containing 5 ml or less medium 0.1 ml of the BPW/L/G shall be added. Cells or wells shall be connected to appropriate electrical conductance measuring equipment set to monitor and record changes in electrical conductance at 6 minute intervals over a 24 hour period. The temperature of cells and wells shall be kept at 37°C.

Day 3.

4. At the end of the 24 hour period, the information recorded by the conductance measuring equipment shall be analysed and interpreted using criteria defined by the manufacturers of the equipment. Where a well or cell is provisionally identified as being positive for *Salmonella*,

the result shall be confirmed by subculturing the contents of the well or cell on to two 90 millimetre plates of BGA or on to one 90 millimetre plate of BGA and one 90 millimetre plate of Xylose Lysine Deoxycholate Agar (XLD) using a 2.5 mm diameter loop. The plates shall be inoculated with a droplet taken from the edge of the surface of the fluid by drawing the loop over the whole of one plate in a zig zag pattern and continuing to the second plate without recharging the loop. The space between the loop streaks shall be 0.5 cm - 1.0 cm. The plates shall be incubated at 37°C overnight.

Day 4.

5. The plates shall be examined and a minimum of 3 colonies from each plate showing suspicion of *Salmonella* growth shall be subcultured—

- (a) on to a blood agar plate;
- (b) on to a MacConkey agar plate; and
- (c) into biochemical media suitable for the identification of *Salmonella*.

These media shall be incubated at 37°C overnight.

Day 5.

6. The incubated composite media or equivalent shall be examined and the findings recorded, discarding cultures which are obviously not *Salmonella*. Slide serological tests shall be performed using *Salmonella* polyvalent “O” and polyvalent “H” (phase 1 and 2) agglutinating sera on selected suspect colonies collected from the blood agar or MacConkey plates. If reactions occur with one or both sera, a subculture shall be sent to a Regional Veterinary Laboratory of the Veterinary Laboratories Minister of the Department for Environment, Food and Rural Affairs for further typing.

PART III*Method for the isolation of enterobacteriaceae*

1. Tests shall be begun on receipt of the sample or on the first working day which allows this method to be completed. If the test is not begun on the day of receipt the sample shall be stored in a refrigerator until required at between 2°C and 8°C. If the sample has been refrigerated it shall be removed from the refrigerator and stored at room temperature for at least one hour before the test is started.

Samples.

2. Tests shall be carried out using five 10 gram portions of each sample submitted for testing. Each 10 gram sample shall be placed aseptically in a sterile container containing 90 ml Buffered Peptone Water and mixed thoroughly until the sample is evenly suspended.

Inoculations.

3. For each portion of the sample 1 ml of solution shall be transferred to a sterile 90 mm petri dish (in duplicate). The plates shall be labelled to identify the portion of sample they were taken from. 15 ml of Violet Red Bile Glucose Agar (VRBGA) at a temperature of $47^{\circ}\text{C} \pm 2^{\circ}\text{C}$ shall be added to each petri dish and immediately gently mixed by swirling the dish with five clockwise and five anticlockwise circular movements.

4. Once the agar has set, each agar plate shall be overlaid with a further 10 ml VRBGA at a temperature of $47^{\circ}\text{C} \pm 2^{\circ}\text{C}$. Once the overlay has set, the plates shall be inverted and incubated aerobically at $37^{\circ}\text{C} \pm 1^{\circ}\text{C}$ for 20 hours \pm 2 hours.

Samples with colonies of Enterobacteriaceae.

5. After incubation each set of duplicate plates shall be examined for colonies characteristic of Enterobacteriaceae (purple colonies 1 - 2 mm in diameter). All characteristic colonies on each plate shall be counted and the arithmetic mean of the duplicate plates taken.

The sample provisionally fails if either—

- (a) any arithmetic mean is above 30 [an arithmetic mean of 30 is equivalent to $3 \times 10 \times 10$ colony forming units per gram of original sample]; or
- (b) three or more arithmetic means are above 10;

in which case the following procedure shall be followed to establish whether or not the colonies are *Enterobacteriaceae*.

6. After counting the colonies, characteristic colonies shall be taken at random from the agar plates, the number being at least the square root of the colonies counted. The colonies shall be subcultured onto a blood agar plate and incubated aerobically at $37^{\circ}\text{C} \pm 1^{\circ}\text{C}$ for 20 hours \pm 2 hours.

Examination of subcultures.

7. An oxidase test and a glucose fermentation test shall be performed on each of the five subcultured colonies. Colonies which are oxidase-negative and glucose fermentation-positive shall be considered to be Enterobacteriaceae.

8. If not all of the colonies prove to be Enterobacteriaceae, the total count in sub-regulation 5 shall be reduced in proportion prior to establishing whether or not the sample should fail.

Controls.

9. Control tests shall be carried out each day that a test is initiated using–

- (a) *Escherichia coli* NCTC 10418 no more than seven days old at the time of use; and
- (b) processed animal protein or compost or digestive residue which is free of *Enterobacteriaceae*.

10. A 10 gram portion of the rendered animal protein shall be placed aseptically in a sterile container containing 90 ml BPW and mixed thoroughly until the sample is evenly suspended.

11. One colony of *Escherichia coli* shall be placed in 10 ml BPW and mixed to form an even suspension. 0.1 ml of the suspension shall be added to the suspension in the preceding sub-regulation.

12. This is then treated and examined in the same way as test samples. If no typical colonies are formed then that day's testing shall be invalid and shall be repeated.