

# **STATES OF JERSEY**



## **DRAFT COMMUNITY PROVISIONS (ANIMAL FEEDING) (JERSEY) REGULATIONS 200**

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**Lodged au Greffe on 8th February 2005  
by the Environment and Public Services Committee**

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**STATES GREFFE**





Jersey

## **DRAFT COMMUNITY PROVISIONS (ANIMAL FEEDING) (JERSEY) REGULATIONS 200**

### **REPORT**

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These Regulations are required in order to be able to introduce legislation in the Island equivalent to Regulation (EC) No. 999/2001 of the European Parliament and of the Council of 22nd May 2001 laying down the rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (e.g. BSE).

Amongst other controls required is the necessity –

1. to ban the feeding of mammalian protein to livestock; and
2. to ban the use of fertilizers containing mammalian meat and bone meal on Agricultural Land.

These Regulations will give effect to the Committee's proposal to ban the feeding of certain animal proteins in order to help prevent the spread of BSE, by incorporating part of a European Community Regulation on the subject. The Committee also wishes to ban the use of such products as a fertiliser and this aspect is dealt with by the Draft Fertilisers and Feeding Stuffs (Amendment) (Jersey) Law 200- (P.28/2005). It had been hoped that instead of using 2 separate routes to achieve the Committee's aim, to have dealt with the matter by means of an Order under the Diseases of Animals (Jersey) Law 1956. However, it was discovered that the enforcement powers of the 1956 Law were not sufficiently wide enough to enable this to be done and therefore at the same time the Committee is bringing forward the Draft Diseases of Animals (Amendment No. 6) (Jersey) Law 200 (P.29/2005) which will facilitate a simpler and cheaper method of giving effect to similar restrictions in the future.

The original Agriculture and Fisheries Committee Act requesting these changes to legislation is dated 10th January 2002 and was submitted to the Law Draftsman's Office on 9th January 2003. Thereafter, it took some months to consider the complexities of the legislative framework and to take advice from the Law Officers' Department, resulting in the proposal for 3 separate pieces of legislation. Final drafts were sent out in March 2004, but delay since has been occasioned by the proposed transfer of functions to the Environment and Public Services Committee, which did not in the event take place until November 2004

There are no financial or manpower implications for the States arising from these Draft Regulations.

## Explanatory Note

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These Regulations give full force and effect in Jersey to that part of an EC Regulation that prohibits the feeding of certain animal proteins to specified animals. The provision concerned is set out in full in the *Schedule*.

*Regulation 1* contains the definitions and *Regulation 2* gives effect, with minor modifications, to Annex IV of Regulation EC No. 999/2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies.

*Regulation 3* empowers inspectors to make enquiries and carry out investigations for the purposes of administration and enforcement of the EC provision. The Regulation sets out the inspectors' powers in connection with entering premises. *Regulation 4* creates an offence of obstruction.

*Regulation 5* deals with offences and penalties and *Regulation 6* provides a defence where the commission of an offence is due to the act or default of another person and for that other person to be charged. *Regulation 7* is concerned with methods of service of notices and other documents.

*Regulation 8* contains the citation and commencement provisions.





Jersey

# **DRAFT COMMUNITY PROVISIONS (ANIMAL FEEDING) (JERSEY) REGULATIONS 200**

## **Arrangement**

### **Regulation**

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<u>1</u>	<u>Interpretation</u>
<u>2</u>	<u>Implementation of part of EC Regulation</u>
<u>3</u>	<u>Powers of inspectors</u>
<u>4</u>	<u>Obstruction-</u>
<u>5</u>	<u>Offences</u>
<u>6</u>	<u>Offences due to fault of another person and defence of due diligence</u>
<u>7</u>	<u>Service of notices and other documents</u>
<u>8</u>	<u>Citation and commencement</u>

### **SCHEDULE**

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EXTRACT OF EC REGULATION





Jersey

# DRAFT COMMUNITY PROVISIONS (ANIMAL FEEDING) (JERSEY) REGULATIONS 200

*Made*

*[date to be inserted]*

*Coming into force*

*[date to be inserted]*

**THE STATES**, in pursuance of Article 2 of the European Communities Legislation (Implementation) (Jersey) Law 1996,<sup>[1]</sup> have made the following Regulations –

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## 1 Interpretation

In these Regulations –

“applicable EC Regulation” means the provisions of the EC Regulation that have full force and effect in Jersey by virtue of Regulation 2;

“EC Regulation” means Regulation (EC) No. 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ L. 147, 31.5.2001, p. 1);

“inspector” means a person appointed as such by the Environment and Public Services Committee for the purposes of these Regulations;

“product” means any –

- (a) protein, including processed animal protein derived from mammals; and
- (b) rendered ruminant fat,

the feeding of which is prohibited by the applicable EC Regulation.

## 2 Implementation of part of EC Regulation

- (1) Subject to the modifications set out in paragraph (2), Annex IV of the EC Regulation shall have full force and effect in Jersey.
- (2) In Annex IV of the EC Regulation–
  - (a) in point (1) for the words “In Member States or regions thereof placed in category 5, the prohibition referred to in Article 7(1) shall be extended to” there shall be substituted the words “The following are prohibited”;
  - (b) for point (1)(b) there shall be substituted the following provision–
    - “(b) the feeding to any mammal other than a dog or a cat of processed animal protein derived from mammals;”
  - (c) in point (2) for the words “Article 7(1) and (2)” there shall be substituted the words “point (1) of this Annex”; and
  - (d) in point (2)(c)(ii) after the words “Article 24(2)” there shall be inserted the words “of the EC Regulation”.



- (3) The EC Regulation as it shall have effect in Jersey is set out in the Schedule to these Regulations.

### **3 Powers of inspectors**

- (1) An inspector may make such enquiries and carry out such investigations as the inspector considers necessary for any purpose connected with the administration or enforcement of the applicable EC Regulation.
- (2) For purpose mentioned in paragraph (1) an inspector shall, on producing, if required by the occupier to do so, some duly authenticated document showing the inspector's authority, have the right at all reasonable times to enter any premises (excluding premises used only as a dwelling) to –
- (a) ascertain whether any product is or has been kept on the premises;
  - (b) inspect and examine any product;
  - (c) make such tests and take such samples from any product as the inspector considers necessary;
  - (d) mark any product for identification purposes;
  - (e) serve a notice to restrict or prohibit the movement of product;
  - (f) seize any product or serve a notice in connection with the seizure;
  - (g) examine and take copies of any record, including any computer record; and
  - (h) ascertain whether there is or has been any contravention, or there is any evidence of contravention, of the applicable EC Regulation.
- (3) No person except an inspector shall remove or otherwise interfere with any mark applied under paragraph (2)(d).
- (4) If the Bailiff or a Jurat is satisfied that there is reasonable ground for an inspector to enter any premises (excluding premises used only as a dwelling) for any purpose mentioned in paragraph (1) and either –
- (a) that admission to the premises has been refused, or a refusal is expected, and that notice of the intention to apply for a warrant has been given to the occupier; or
  - (b) that an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier is absent,
- the Bailiff or Jurat, as the case may be, may issue a warrant authorizing an inspector to enter the premises for that purpose if need be by reasonable force.
- (5) The occupier of premises entered by an inspector under this Regulation and the occupier's employees and any person on the premises who is or has been in possession or charge of any product that is or has been on the premises shall –
- (a) provide such reasonable facilities and reasonable assistance to the inspector and comply with such reasonable requirements as the inspector considers necessary for any purpose connected with the administration or enforcement of the applicable EC Regulation; and
  - (b) if required by an inspector, give such information as he or she possesses as to –
    - (i) any product which is or has been on the premises,
    - (ii) any animal with which any product which is or has been on the premises may have come into contact, and
    - (iii) the location, transport and movement of any product that is or has been in his or her possession or charge.
- (6) An inspector entering any premises by virtue of this Regulation may be accompanied by such other persons as the inspector considers necessary to give adequate assistance.
- (7) If such premises are unoccupied the inspector shall leave them as effectively secured against unauthorized entry as they were prior to entry.

- (8) A person on whom a notice under this Regulation is served shall comply with the notice at his or her own expense and if the person fails to so comply, an inspector may arrange for the notice to be complied with at the person's expense.

#### **4 Obstruction-**

- (1) A person shall not –
  - (a) intentionally obstruct any person acting in the execution of these Regulations;
  - (b) without reasonable cause, fail to give to any person acting in the execution of these Regulations any assistance or information which that person may reasonably require for the purpose of carrying out any functions under these Regulations; or
  - (c) furnish to any person acting in the execution of these Regulations any information which the person knows to be false or misleading.
- (2) Nothing in paragraph (1)(b) shall be construed as requiring any person to answer any question or give any information if to do so might incriminate the person.

#### **5 Offences**

- (1) A person who feeds any product to an animal in contravention of the applicable EC Regulation shall be guilty of an offence.
- (2) A person who contravenes any other prohibition or requirement imposed by or under these Regulations shall be guilty of an offence.
- (3) A person guilty of an offence under this Regulation shall be liable to imprisonment for 2 years and to a fine.
- (4) A person who aids, abets, counsels or procures the commission of an offence under these Regulations shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.
- (5) Where an offence under these Regulations committed by a limited liability partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
  - (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
  - (b) any person purporting to act in any such capacity,the person shall also be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (6) Where the affairs of a body corporate are managed by its members, paragraph (5) shall apply in relation to acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

#### **6 Offences due to fault of another person and defence of due diligence**

- (1) Where the commission by any person of an offence under these Regulations is due to the act or default of some other person, that other person shall be guilty of the offence.
- (2) A person may be charged with and convicted of the offence by virtue of paragraph (1) whether or not proceedings are taken against another person.
- (3) In any proceedings for an offence under these Regulations, it shall, subject to paragraph (4), be a defence for the person charged with the offence to prove that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence personally or by a

person under his or her control.

- (4) If in any case the defence provided by paragraph (3) involves the allegation that the commission of the offence was due to an act or default of another person, or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless –
  - (a) at least 7 clear days before the hearing; and
  - (b) where he or she has previously appeared before a court in connection with the alleged offence, within one month of the first such appearance,the person has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his or her possession.
- (5) In paragraph (4) any reference to appearing before a court shall be construed as including a reference to being brought before a court.

## **7 Service of notices and other documents**

- (1) Any notice or other document to be given or served on any person under or in relation to these Regulations may be given or served either –
  - (a) by delivering it to that person;
  - (b) in the case of an incorporated body, by delivering it to their secretary or clerk at their registered or principal office, or by sending it by post to the person at that office; or
  - (c) in the case of any other person, by leaving it, or sending it by post to the person, at the person's usual or last known address.
- (2) Where a notice or other document is to be given or served on the owner, proprietor, operator or occupier of any premises and it is not practicable after reasonable enquiry to ascertain the name and address of the person to or on whom it should be given or served, or the premises are unoccupied, the document may be given or served by addressing it to the person concerned by the description of "owner", "proprietor", "operator" or "occupier" of the premises (naming them) and –
  - (a) by delivering it to some person on the premises; or
  - (b) if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

## **8 Citation and commencement**

These Regulations may be cited as the Community Provisions (Animal Feeding) (Jersey) Regulations 200- and shall come into force 7 days after they are made.

## **SCHEDULE**

(Article 2(3))

### **EXTRACT OF EC REGULATION**

#### **ANNEX IV**

#### **ANIMAL FEEDING**

1. The following are prohibited:
  - (a) the feeding to any farmed animal of protein derived from mammals;
  - (b) the feeding to any mammal other than a dog or a cat of processed animal protein derived from mammals;
  - (c) the feeding to any ruminant of rendered ruminant fat.
2. The prohibition laid down in point (1) of this Annex shall not apply to the following products from healthy animals:
  - (a) milk and milk products;
  - (b) gelatine derived from hides and skins;
  - (c) hydrolysed proteins with a molecular weight below 10 000 daltons which:
    - (i) have been derived from hides and skins obtained from animals which have been slaughtered in a slaughterhouse and have undergone an ante mortem inspection by an official veterinarian in accordance with Chapter VI of Annex I to Directive 64/433/EEC and passed fit, as a result of such inspection, for slaughter for the purpose of that Directive, and
    - (ii) have been produced by a production process which involves appropriate measures to minimise contamination of hides and skins, preparation of the hides and skins by brining, liming and intensive washing followed by exposure of the material to a pH of more than 11 for more than three hours at a temperature of more than 80°C and followed by heat treatment of more than 140°C for 30 minutes at more than 3,6 bar or by an equivalent production process approved by the Commission after consultation of the appropriate Scientific Committee in accordance with the procedure laid down in Article 24(2) of the EC Regulation, and
    - (iii) come from establishments which carry out an own checks programme (HACCP);
  - (d) dicalcium phosphate (with no trace of protein or fat);
  - (e) dried plasma and other blood products, with the exception of bovine blood products for feeding to ruminants.

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[\[1\]](#) *Recueil des Lois, Volume 1996-1997, page 4 and Volume 2000, page 29.*