5. The treatment of material deemed unfit for human consumption

Introduction

5.1 In addition to the controls on the production of animal feeds, described in Chapter 6, the use of material which was unfit for human consumption but which could be fed to animals was also controlled to prevent it spreading disease to animals. The controls required that all animal material intended to be fed to animals should be treated so as to reduce the presence in the material of harmful diseases or other organisms.

5.2 Much of this material was processed by the rendering industry into its two main products: fat, known as tallow, and protein, in the form of greaves or meat and bone meal (MBM). Early epidemiological investigations identified MBM in cattle feed as the likely vector of BSE: see vol. 3: *The Early Years, 1986–88*. It was postulated that some change or changes in the rendering process in the early 1980s had permitted the disease to arise, earlier processes presumably having been able to inactivate it. Once the disease had arisen, the incorporation into cattle feed of rendered cattle remains, including the remains of infected cattle, caused BSE to spread. Various suggestions were made about what it was that had changed so as to allow the disease to emerge. This is discussed in ch. 3, vol. 2: *Science*.

5.3 The identification of unfit material at the slaughterhouse and its treatment there is described in Chapter 3. Chapter 5 describes the framework of controls for handling such unfit material once it had left the slaughterhouse and where it originated elsewhere than the slaughterhouse; and for regulating the rendering industry. It is important to remember that the rendering industry also handled material which was fit for human consumption, from which was produced some edible fats, such as dripping.

5.4 The animal feed industry is discussed in Chapter 6 and the pollution control and waste management regime, which applied to knackers and renderers as well as to other industries, in Chapter 8. For descriptions of the operations of knacker’s yards, hunt kennels, renderers and other related industries, see vol. 13: *Industry Processes and Controls*.

Regulation of the handling of unfit meat

5.5 Chapter 3 described the regulation of the slaughtering industry, which produced meat for human consumption. It described how meat unfit for human consumption
was identified at the slaughterhouse and how it had to be treated under the Meat (Sterilisation and Staining) Regulations 1982.

5.6 Slaughterhouses were not the only source of unfit meat. Knacker’s yards dealt with elderly, diseased and fallen stock, ie, stock which die on farm or are not fit to be transported to a slaughterhouse to be slaughtered for human consumption. So did hunt kennels. Mr Alastair Jackson, Director of the Masters of Foxhounds Association, told the Inquiry that:

The collection of fallen stock is probably the most valuable service provided by Hunts to the rural community. Hunts are prepared to collect carcasses or humanely destroy an animal at any time, even when the carcass will not be suitable for feeding to the hounds, or is surplus to requirements.329

5.7 Knackers and hunt kennels were expressly prevented from selling meat for human consumption from the carcasses of such animals by the Food Act 1984. Thus all meat from animals which were slaughtered by, or which were slaughtered or died elsewhere and were brought into, knacker’s yards or hunt kennels had to be treated as unfit for human consumption.

5.8 Knacker’s yards and hunt kennels collected fallen animals from farms. Before the emergence of BSE, knackers would pay a small sum to the farmer for the carcass and assume responsibility for its removal and proper disposal. They would then salvage those products of value from the carcass, most notably the hide, hair and any meat suitable for inclusion in pet food. The hunt kennels tended to provide a free collection service and would feed the carcasses to their hounds. In both cases, the remains of the carcass would generally be sold to a renderer.

5.9 Mr Paul Foxcroft of Prosper De Mulder, the largest UK rendering company, explained and quantified the sourcing of materials as follows:

If we say the total amount – and this goes for Europe as well – of 1.25 million tons of material arising from the meat production industry in the UK, which we term as ‘animal by-products’ or some people would term as ‘animal waste’, that is processed by the industry – and in Europe this is about 50 million tons – the estimate is between 10, certainly in the UK. In some countries it may be as high as 15 per cent of that material. That goes into the rendering industry, is derived from animals which have not made it through their growth period, died on farm from things like milk fever, grass staggers or whatever, or being condemned on arrival at the abattoir on ante-mortem inspection, or being condemned after slaughtering as unfit for human consumption.

329 S437 Jackson p. 1 para. 3. The Health and Safety Executive issued guidance for the knackering, hunt kennel and maggot farms industries in June 1992 which noted that ‘Processes similar to those described under knackering’ were carried out at hunt kennels – that is, they ‘may also slaughter animals in extremis at the farmer’s request’. See YB92/06.09/7.1–7.4 paras 7 and 11.
That total amount accounts for 10 to 15 per cent maximum of the total material rendered. All the rest of the material that goes into the rendering industry is derived from animals that are slaughtered and found fit for human consumption; and indeed, if we chose to eat it, it could be – the fact that it goes into our industry, we chose not to eat it, means that it is handled not in a food manner.\textsuperscript{330}

**Licensing of knacker's yards**

5.10 Knackeries were required to be licensed under the Slaughterhouses Act 1974, section 13 of which required that they deal only with animals not intended for human consumption. The local authority\textsuperscript{331} could make such bylaws as were necessary to ensure that knackers’ premises were kept sanitary and that records were kept of animals brought into the yard and the manner of their disposal. Knacker’s yards and slaughterhouses were subject to the same provisions of the Slaughterhouses Act 1974 in respect of the slaughter of animals. The application of these provisions in slaughterhouses is described in Chapter 3.

**Licensing of hunt kennels**

5.11 Hunt kennels were not subject to the licensing requirements of the Slaughterhouses Act 1974 unless they were trading in pet food and were therefore deemed to fall within the definition of a knacker’s yard in section 34 – ie, they were ‘premises used in connection with the business of slaughtering, flaying or cutting up animals whose flesh is not intended for human consumption’.\textsuperscript{332} However, Mr Brian Etheridge\textsuperscript{333} told the Inquiry, in the context of a discussion of the ban on Specified Bovine Offal (the SBO ban), that his recollection was

\[\ldots\text{that there was a widespread understanding that hunt kennels were exempt from controls because the Hunt Kennels Association or a body representing their interest had in fact obtained counsel’s opinion which suggested that they were not a business and therefore fell outside of the remit of the existing regulations.}\textsuperscript{334}

5.12 The position changed from 1 July 1993. Under the Animal By-Products Order 1992,\textsuperscript{335} no person could receive or use on any premises any specified animal by-product for feeding to recognised packs of hounds\textsuperscript{336} unless his name and the address of the premises were registered with the appropriate Minister.
The handling of unfit meat at knacker’s yards and hunt kennels

Knacker’s yards

5.13 The requirements of the Meat (Sterilisation and Staining) Regulations 1982 are described in Chapter 3, and in detail in the Annex to that chapter. In knacker’s yards, carcass meat and offal specified in the Regulations\textsuperscript{337} was to be sterilised immediately after skinning, evisceration or cutting up. Alternatively

i. such meat and offal could be held in a room or receptacle designed for the purpose of holding meat awaiting sterilisation if it bore a notice saying that the contents were to be sterilised on the premises; or

ii. the meat and offal could be stained; or

iii. neither staining nor sterilising was necessary if the meat or offal was intended to be removed from the yard, under the authority of a movement permit issued by the local authority\textsuperscript{338} to a destination referred to in Regulation 17(1)(a) – ie: to a hospital, medical or veterinary school, laboratory or similar institution for instructional or diagnostic purposes, a rennet manufacturer or a manufacturing chemist for the manufacture by him of pharmaceutical products.

5.14 Similar sterilising requirements applied to offal other than the offal specified above. However, they did not apply to:

i. any such offal intended to be removed from the knacker’s yard under the authority of a movement permit issued by the local authority to a destination referred to in Regulation 17(1); ie, to:

   a. hospital, medical or veterinary school, laboratory or similar institution for instructional or diagnostic purposes, a rennet manufacturer or a manufacturing chemist for the manufacture by him of pharmaceutical products;

   b. the premises of a processor, for sterilisation by him;

   c. a zoological garden, menagerie, mink farm, maggot farm or greyhound kennels licensed by the National Greyhound Racing Club;

   d. the premises of a waste food processor licensed under the Diseases of Animals (Waste Food) Order 1973 to receive unprocessed waste food and in addition authorised in writing by the issuing authority\textsuperscript{339} to receive unsterilised meat to which the regulations applied; or to

   e. the premises of a person for preparation before further removal to a processor or manufacturing chemist, or for storage before further removal to one of the destinations referred to in (a) to (d) above;

or to:

\textsuperscript{337} That is, hearts, kidneys, livers and lungs
\textsuperscript{338} Movement permits were issued under Regulation 19
\textsuperscript{339} That is, a local authority or port health authority
ii. any green offal, and any other offal not being specified offal, which was in a container the contents of which consisted mainly of green offal, which was intended to be removed from the yard to the premises of a processor for sterilisation by him.

Hunt kennels

5.15 By virtue of Regulation 13, similar requirements applied to hunt kennels. No person could remove or cause or permit to be removed from any place of which he was the occupier, that was not a slaughterhouse or knacker’s yard, any meat unfit for human consumption from an animal that had died or been slaughtered at that place or been brought there having died or been slaughtered elsewhere, unless:

i. it had been sterilised;

ii. being carcass meat or specified offal, it had been stained and was intended to be delivered to one of the destinations listed in Regulation 17(1)(b) to (e) under an authorised movement permit;

iii. being carcass meat or specified offal, it was intended to be delivered to one of the destinations listed in Regulation 17(1)(a) under an authorised movement permit;

iv. being offal other than specified offal, it was intended to be delivered to one of the destinations listed in Regulation 17(1) above under an authorised movement permit; or

v. it was intended to be delivered to a knacker’s yard.

5.16 In practice, most unfit material from both slaughterhouses and knacker’s yards went to renderers.

The consignment of unfit meat to renderers and others

5.17 The requirements set out in the Meat (Sterilisation and Staining) Regulations 1982 for the handling of unfit meat are described in Chapter 3. The key features are briefly described here.

5.18 Unfit meat which had been sterilised could be removed from a slaughterhouse, knacker’s yard, port of entry or an ‘other place’, and sent to any destination without the need for a movement permit. However, there would generally be no point in sterilising unfit meat that was to be rendered, since the rendering process would itself be intended to sterilise. Thus it was assumed that unfit meat being consigned to a renderers whether from a slaughterhouse, knackery or elsewhere would not be sterilised.

5.19 Such meat could only be removed to certain destinations, specified in Regulation 17(1), and might need to be stained and/or accompanied by a movement permit. Regulation 19 set out the procedure to be followed in cases where a

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340 That is, stomachs and intestines derived from animals and the contents of such organs (L17 tab 15 Regulation 3)
341 See a note dated 23 July 1990 by Mr Meldrum, advising Ministers (YB90/07.23/20.1–20.2)
342 Defined as meat from poultry, cattle, sheep, pig, equine animal or goat
343 See para. 3.134 (b) to (e)
344 See para. 3.134 (a)
345 See para. 3.134 (a) to (e)
movement permit was required. At least two working days before the day on which
the unsterilised meat was to be removed, the occupier or owner had to apply to the
local authority or port health authority where the meat was located and give them
specific information. This included the day on which the meat was to be removed,
a description of the meat concerned, the address and description of the premises to
which the meat was to be delivered, and its expected date of arrival
(Regulation 19(1)).

5.20 On receipt of this information, the local authority or port health authority had
to satisfy itself that the destination premises were of a kind referred to in Regulation
17(1) and were capable of processing or otherwise disposing of the meat. If the
destination premises were in another authority’s district, the authority receiving the
application had to notify the destination authority and, in reaching a decision on the
application, had to take into account any information received from that authority
(Regulation 19(2)). When it was satisfied with the nature of the destination
premises, the authority which had received the application for the movement permit
could then, having completed Part I of such a permit, issue it in the form specified
in the schedule to the Regulations. Each movement permit comprised an original
and three copies (Regulation 19(3)). There was a concession in Regulation 19(4) for
occupiers of premises or owners of meat who regularly delivered unsterilised meat
of a specific description to a particular destination. In those circumstances the
authority for the district from which the meat would be sent could authorise
movements of meat by issuing whatever quantity of movement permits it
considered appropriate.

5.21 Once a movement permit had been issued, the occupier of the premises from
which the unsterilised meat was to be removed had to complete Part II of the permit
and give the original plus two copies to the driver of the removing vehicle. The third
copy of the movement permit had to be retained by the occupier for two years
(Regulation 19(5)). In turn the driver was required to give the movement permit to
the occupier of the destination premises named in the permit, who had to
acknowledge receipt by signing the original and two copies. The receiving occupier
then had to complete Part III of the permit and send the original and one copy to the
local authority for the receiving premises within seven days of receipt of the meat.
He then had to retain the other copy for two years from the same date
(Regulation 19(6)–(8)).

5.22 The Regulations recognised that a driver might not always be able to deliver
the unsterilised meat to the named premises. In those circumstances the driver had
to inform either the sending or receiving local authority without delay, and the
authority so notified had to authorise delivery to another destination referred to in
Regulation 17(1), also without delay. If no such alternative destination was
available, the notified authority could require the meat to be returned to the
destination from which it had been removed, or require it to be buried or destroyed
under its supervision. The driver was then required to hand the movement permit
either to the occupier of the premises to which the meat was in fact delivered or –
in the case of burial or destruction – to the supervising authority (Regulation 19(9)).
In this situation, the occupier of the receiving premises had to complete Part IV of
the movement permit and return the original and one copy to the local authority for
his district and retain the other copy for two years. A local authority receiving a
movement permit in the circumstances of destruction or burial had to complete Part
V, send the original to the issuing authority and retain one copy for two years. In all
cases the occupiers of premises holding copies of movement permits had to make them available for inspection by an authorised officer at any reasonable time (Regulation 19(10)–(13)).

### Enforcement of the Meat (Sterilisation and Staining) Regulations 1982

#### Day-to-day enforcement

5.23 As explained in Chapter 3, and especially the Annex to that chapter, the provisions of the 1982 Regulations were enforced by the local authority or port health authority for the district. In practice, this meant that the responsibility fell on the Meat Inspectors and Environmental Health Officers employed by district councils, metropolitan district councils and London borough councils.

5.24 An authorised officer had the power, at all reasonable times, to examine any meat not fit, or not intended, for human consumption which had been sold or offered for sale, or which had been deposited with anyone for the purpose of, or preparation for, sale. If it appeared to him that the meat concerned should have been sterilised or stained or should have been accompanied by a movement permit, but did not comply with those requirements, he could seize and remove the meat. If satisfied that the meat should have been dealt with as unfit meat, a Justice of the Peace (JP) could order it to be destroyed. If the JP refused to condemn the meat, then compensation was payable to the owner by the local authority. Where an authorised officer had reason to suspect that a vehicle or container held meat which was intended for sale, he could examine the contents of the vehicle or containers and if necessary detain them. Any meat found to which the Regulations applied could then be dealt with as unfit meat.

5.25 In addition, under section 87 of the Food Act 1984, an ‘authorised officer of a council’ had a right to enter any premises at all reasonable hours to ascertain whether there was or had been any contravention of the Regulations.

#### The role of central government

5.26 Central government had no direct role in day-to-day enforcement. As described in Chapter 3, the State Veterinary Service carried out certain inspection functions in slaughterhouses and knacker’s yards.

5.27 However, Ministers had certain relevant powers under the Food Act 1984:

i. Under section 13(8), they could publish codes of practice, to give guidance and advice to those responsible for compliance.

ii. Section 89(1) gave ‘an inspector or authorised officer of the Minister and an authorised officer of the Secretary of State’ similar powers of entry to those available to authorised officers of local authorities.

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346 Regulation 23(1)
347 Regulation 23(3)
348 Regulation 23(4)
349 Regulation 24
350 That is, an officer of the council authorised by them in writing to exercise the enforcement powers in the Act
351 That is, to ‘any premises’, ships, aircraft, stall or place other than premises
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under sections 87 and 88 ‘for the purpose of ascertaining whether there is or has been any contravention of the provisions of this Act or of any regulations or order made under it, being provisions which the Minister in question is required or empowered to enforce.’

iii. Section 89(3) provided that for the purposes of Regulations made under section 13 – ie, for securing the observance of sanitary and cleanly conditions and practices in connection with the sale of food for human consumption, or the importation, preparation, transport, storage, packaging, wrapping, exposure for sale, service or delivery of food intended for sale, or sold for human consumption – these powers of entry should have effect as if the Minister as well as the local authority was empowered to enforce those Regulations so far as they applied to slaughterhouses and knacker’s yards. Regulations made under section 13, or having effect as if so made, included:

- The Meat Inspection Regulations 1963;
- The Slaughterhouses (Hygiene) Regulations 1977;
- The Fresh Meat Export (Hygiene and Inspection) Regulations 1981; and
- The Meat (Sterilisation and Staining) Regulations 1982.

As noted in Chapter 3, section 89 was repealed by the Food Safety Act 1990, and these powers of entry were not thereafter available to the State Veterinary Service.

iv. Section 113 provided a default power whereby a Minister could cause a local inquiry to be held about whether any council or joint board had failed to discharge its functions under the Act when it ought to have done so. Either on the basis of a complaint to the Minister or because he considered that an investigation should be held.

The processing of unfit meat

5.28 Before the emergence of BSE, once unfit meat had reached the renderers, its processing was principally regulated by the Protein Processing Orders. These required that animal proteins produced by renderers be tested for the presence of salmonella. There were also some controls on renderers’ premises under the Public Health Act 1936 and controls on the treatment of waste food that may have been relevant to rendering.
Consent to operate an ‘offensive trade’

5.29 The Public Health Act 1936 applied in England and Wales and required an operator to obtain the written consent of the local authority before establishing an ‘offensive trade’. The Public Health (Scotland) Act 1897 and the Public Health (Ireland) Act 1878 contained similar provisions. The following trades were defined as ‘offensive’: ‘blood boiler, blood drier, bone boiler, fat extractor, fat melter . . . tallow melter’. This included rendering. Any consent was granted for a limited period specified by the local authority and operators were required to reapply for consent if they wished to carry on trading.

5.30 The Act empowered local authorities to inspect their areas for, and deal with, complaints about statutory nuisance, which included smells, accumulations and deposits and states of premises which were detrimental to human health or a nuisance. In May 1976 the Department of the Environment, the Ministry of Agriculture, Fisheries and Food (MAFF) and the Welsh Office issued a joint circular on ‘Control of smells from the animal waste processing industry’. The circular sought to make local authorities ‘fully aware of the national and local implications of any action they may be contemplating to reduce smell nuisance’:

> Local authorities will appreciate the importance of the [rendering] industry’s waste disposal role. If all or part of the industry ceases to operate, waste material will not be collected from slaughterhouses, abattoirs etc nor will it be processed. Emergency alternative arrangements will have to be made and local authorities will almost certainly find themselves having to assume some of the responsibility for them.

> Many local authorities are co-operating with the industry in providing facilities for the disposal of material where processing capacity is inadequate. But there is evidence that in some cases it is becoming increasingly difficult to find satisfactory sites for tipping where large quantities are involved. Such problems would be exacerbated if further processing plants closed. Therefore continued co-operation with the industry is desirable if material is to be disposed of safely, inoffensively and economically.

Diseases of Animals (Waste Food) Orders

5.31 Pigs have traditionally been fed on swill, a mixture of vegetable and bakery waste, the remains of human food and other soft waste material. The use of swill was encouraged during the Second World War, not only for feeding pigs, but also to supplement cattle feed and as a source of protein for animals. Local authorities organised separate household swill collections and swill feeders would also collect from commercial sources; this continued into the 1950s. But in the aftermath of outbreaks of swine fever and swine erysipelas disease, which had been traced back to the swill feeding of pigs, Regulations were brought in to ensure that swill was adequately treated to make it safe. The terms of these Regulations, however, were not limited to swill or other feed intended for pigs.

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353 Which for this purpose were District Councils, metropolitan District Councils or London Borough Councils
354 M12 tab 8 paras 12–13
5.32 The Diseases of Animals (Waste Food) Order 1957 was made under the Diseases of Animals Act 1950, the predecessor of the Animal Health Act 1981. Article 4 of the Order provided:

No person shall use any waste foods to which this Order applies for feeding to animals or poultry unless the waste foods (a) have been boiled; and (b) where the provisions of the next succeeding Article [article 5] require it, have been boiled by means of plant and equipment operated in accordance with the conditions of a licence in force under this Order.\footnote{L1 tab 2A Article 4}

5.33 The granting of a licence by the local authority was subject to a number of requirements, including the segregation of a plant into a number of distinct areas to prevent contamination of processed feed by unprocessed material, and the recording of source and distribution of waste food.

5.34 Article 2 of the Order defined ‘boiled’ as ‘exposed for at least one hour to a temperature of not less than 212° Fahrenheit’ (100° Centigrade); and Article 3 of the Order defined ‘waste foods’ as:

(a) any meat, bones, offal or other part of the carcass of any animal or of any poultry, and (b) any broken or waste food stuffs which contain or have been in contact with meat, bones or offal, or any other part of the carcass, any animal or poultry, provided that this Order shall not apply to any waste foods after they have been boiled in accordance with the requirements of this order as long as they are kept separate from all unboiled waste foods.\footnote{L1 tab 2A Article 3}

5.35 This definition of waste food appears to include the kind of material which would be sent for rendering, although the proviso in Article 3 would exclude greaves or meat and bone meal (MBM), provided that they were produced by boiling in accordance with the Order and were kept separate from the raw material which had not yet been rendered.

5.36 The Diseases of Animals (Waste Food) Order 1973\footnote{L1 tab 3} was made under the Diseases of Animals Act 1950, following the spread of swine vesicular disease in 1972. Swine vesicular disease was linked in some cases to pigs eating unprocessed or inadequately processed waste food.

5.37 The 1973 Order replaced its 1957 predecessor and prohibited the use of unprocessed ‘waste food’ for feeding to cattle, sheep, pigs, goats and poultry. ‘Processing’ required maintaining all the waste food for at least 60 minutes at a temperature of not less than 100°C unless treated by an alternative process which had been authorised in writing by the Minister of Agriculture, or in Wales by the Secretary of State for Wales.

5.38 Waste food was defined by article 2(1) as:

(a) any meat, bones, blood, offal or other part of the carcass of any livestock or of any poultry or product derived therefrom or hatchery waste or eggs or eggshells; or
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(b) any broken or waste foodstuffs (including table or kitchen refuse, scraps or waste) which contain or have been in contact with any meat, bones, blood, offal or with any other part of the carcase of any livestock or of any poultry.

5.39 This expressly did ‘not include meal manufactured from protein originating from livestock or poultry’. So MBM was excluded from the terms of the Order, which suggests that some thought was given to whether this Order should apply to MBM – ie, the protein product of the rendering process.

5.40 However, the Order contained a number of provisions relating to the handling of unprocessed waste material which could be construed as applying to renderers. It imposed controls on the handling and transport of unprocessed material and several provisions applied to waste food, without requiring that such materials be intended for feeding to livestock or poultry. For example, section (b) required those in possession of unprocessed waste food to prevent animals from gaining access to this material. This may have imposed an obligation upon renderers in relation to the storage of their raw materials, but not the MBM produced.

5.41 The Order also prohibited the feeding to animals, poultry or other bird of waste food from vehicles, ships, and aircraft originating from outside Great Britain. This complemented the Importation of Animal Products and Poultry Products Order 1980 that prevented imports, except under a licence.

5.42 Witnesses from the rendering industry considered that the Orders regulating the treatment of the waste food were directed solely at controlling the activities of swill feeders. They further believed that the Orders did not apply to rendering plants because in practice the raw material would always be boiled properly as part of the rendering process. They reasoned that MBM could not be produced without heating the raw materials, and so it was unnecessary to make boiling a requirement. Dr Jobling, retired Managing Director of Lensfield Products, explained:

In order to make meat and bonemeal, you have to dry the material completely, not only boil it, but dry it, otherwise you cannot grind it. So meat and bonemeal, by definition, has been heated to the necessary temperature otherwise it could not be manufactured.

5.43 Mr Brian Rogers, Chairman of the UK Renderers’ Association (UKRA), told the Inquiry:

...these waste food orders were in fact directed at waste-food processors, pig-swill feeders in the main. But not only would I suggest that it did not apply to renderers, but it was not applied to renderers by the authorities. To the best of my knowledge, no rendering plant was ever registered under the 57 or 73 Orders.

5.44 The issue of whether the 1957 Order had applied to rendering was explored with Mr Andrew Proud, MAFF Veterinary Officer at Gloucester, and Mr Martin Atkinson, Assistant Director of MAFF’s Veterinary Field Service:

358 L1 tab 3 Article 2 (1) (b)
359 T19 pp. 9–24. It is important to note that renderers stressed that most (and in some cases all) of their raw material was in fact technically fit for human consumption (see, for example, T19 pp. 75–79)
360 T19 p. 16
361 T19 p. 13
Mr Walker [Counsel to the Inquiry]: . . . I have been exploring with witnesses the suggestion which has been made to the secretariat on a number of occasions, that in this country regulations which affected the time and temperature by which MBM was produced had been relaxed.

When we came to look at the regulations, we found that the 1981 Protein Processing Order contained no provision specifying any time or temperature. We found that the 1973 Waste Food Order did contain provisions about time or temperature, but did not apply to meal which was produced from animal protein. We then looked back to the predecessor to the 1973 Order and found a 1957 Waste Food Order, and the wording of that Order seemed wide enough to include the rendering industry. When we raised that with representatives of the industry, they said: ‘Well, that may be the case but this order was never applied to us, it was intended for those who were producing swill, not those who were rendering material in order to produce MBM’.

Can any of you offer any comments on that for us? Perhaps I could ask those who were around at the time. Mr Proud?

Mr Proud: I do not date back to before the 1973 Order, but I spoke to one colleague, one retired colleague, this week, to try to tap their memories, and their memories agreed that they had no idea that rendering plants had been subject to waste food licensing, and that very much fitted my expectations. It is, of course, an acutely embarrassing thing for a civil servant to draft some legislation and Parliament pass it, and then it is discovered that it covers an area which he never intended it to cover. My guess would be that the reason why the 1973 Order contains an article which would exclude rendering plants was precisely because in the intervening years somebody had realised that the exact wording would cover them, which never had been the intention. I can only conclude that the overall assumption was that if you heat something sufficiently to extract tallow, you will kill the foot and mouth virus, you will kill the swine fever virus, you will kill the swine vesicular disease virus, and killing those viruses, was the object of the 73 Order, and the first two viruses, the object of the Order of the 1950s.

So I do not think that there ever was any licensing of rendering plants under that Order, those Orders, because they were intended to deal with pig farmers who collected waste and fed it to their pigs. And they were not intended to cover anything further than that.362

**Diseases of Animals (Protein Processing) Order 1981**

5.45 The Diseases of Animals (Protein Processing) Order 1981363 was made under the Diseases of Animals Act 1950. The Order concerned processed animal waste and animal proteins for feeding stuffs, and in particular it sought to control salmonella and similar organisms in meat and bone meal. It applied to Scotland as well as England and Wales. The equivalent legislation in Northern Ireland was the Diseases of Animals (Animal Protein) Order (Northern Ireland) 1989.
5.46 The 1981 Order did not approach the control of salmonella by prescribing particular processes or by making any provision relating to the layout and organisation of rendering plants. Instead, it relied upon testing for salmonella as an indicator that bacteriological standards had been satisfied by the rendering process adopted, that is to say, that the outcome was satisfactory. Accordingly, factories were responsible for producing salmonella-free meal and the method of production was not separately monitored and was for the producer to determine. Mr Bill Bacon, a Council member of UKRA from 1985 to 1989, described it thus:

. . . the emphasis in the Act was it was up to the factory to produce a salmonella-free meal. How the factory did it was the factory’s own concern.364

5.47 The Order gave an ‘authorised officer’ powers to enter any premises which he had reasonable grounds for supposing were being used for the purpose of processing animal protein,365 to take samples and test them. An ‘authorised officer’ was defined as a ‘veterinary inspector’ appointed by the Minister of Agriculture or an ‘officer’ authorised by the Minister or the Secretary of State for Scotland or Wales. The Order was to be executed and enforced, except where otherwise provided, by the local authority.366

5.48 Mr Paul Foxcroft of Prosper De Mulder explained what happened:

MAFF veterinary officers would have contact with production managers at all our rendering plants on an annual basis for inspection and Factory Approval Certification and from 1981 regular visits to take meal samples for Salmonella monitoring to ensure plants were operating to satisfactory microbiological standards.367

5.49 Salmonella tests were conducted routinely every six months. A veterinary inspector would inform the person responsible for the premises of the results of a sample test for the presence of salmonella, and could require conformity with bacteriological standards in protein thereafter. If the sample did not conform with the required standard, an inspector might by notice in writing require the person responsible for the premises to ensure that all animal protein processed on the premises after a specified time did so conform. The inspector could vary, revoke or suspend such a notice. Mr Bacon told the Inquiry that:

If you had a negative for salmonella, then the Ministry went away quite happily for six months. If you had a positive, then they came back and resampled. If you had not got your house in order, they put an immediate closure notice on you and you could not produce meat and bone meal until you could satisfy them it was salmonella-free.368

5.50 Thus the Order was designed to provide an incentive to factory operators to ensure that their products were free of salmonella and thereby avoid having to cease production.

364 T19 p. 27
365 That is, treating it so as to render it suitable for direct use as a feeding stuff or as an ingredient in a feeding stuff for livestock or poultry
366 Under section 50 of the Animal Health Act 1981, a London borough council, a county council, or a metropolitan district council.
367 S37 Foxcroft p. 7 para. 48
368 T19 p. 27
5.51 Such an Order had been under consideration by MAFF for some years before its introduction. A joint consultation paper circulated in April 1978 by MAFF, the Department of Agriculture and Fisheries for Scotland, and the Welsh Office Agriculture Department, took a different approach from the one eventually adopted in 1981. It proposed that:

i. all domestic plants processing animal protein for inclusion in animal feed should be licensed;

ii. licences would be issued only if the process itself was capable of killing salmonellae and other disease organisms. Before a licence would be granted, a plant would have to provide 20 bulk samples that passed a specified test;

iii. the layout, construction and operation of the processing plant was such that re-contamination of the finished product was prevented;

iv. the method of processing would not be laid down. The criterion would be that the final product was free of salmonellae organisms as indicated by a test method to be specified;

v. there would be a monthly post-licensing sampling regime; and

vi. licences would be renewable annually.369

5.52 The 1981 Order abandoned the idea of a licensing regime, reflecting

. . . the wish of Ministers that in the present economic climate the Industry should itself determine how best to produce a high-quality product, and that the role of Government should be restricted to prescribing a standard for the product and to enforcing observance of that standard.370

5.53 In oral evidence, Mr Bacon expressed the view that the Government’s deregulation initiative gave impetus to this change in approach.371

5.54 The Processed Animal Protein Order 1989 re-enacted and replaced the Protein Processing Order 1981. In addition to the provisions enabling authorised officers to enter rendering plants to take samples, the new Order:

i. required registration of animal protein processors;

ii. imposed a duty on the registered person to ensure the taking of samples from processed animal protein and its submission to a laboratory for testing for salmonella;

iii. imposed a duty on the registered person to ensure (where he knew that a test on a sample had proved positive) that for a period of one month no processed animal protein produced on the premises was removed or incorporated in a feedingstuff for livestock or poultry, unless the processed animal protein was taken from a separate storage facility or under the authority of a licence;

iv. prohibited any tampering with samples; and

369 YB78/04.00/1.1–1.18 pp. 3–4
370 Protein processing: joint consultation paper by MAFF, the Department of Agriculture and Fisheries for Scotland, and the Welsh Office Agriculture Department (April 1980) (YB80/04.16/2.1–2.12) p. 1 para. 3
371 T19 p. 27
v. required registered persons to keep records of the results of tests on samples and to give an ‘authorised officer’\footnote{That is, a veterinary inspector or an officer authorised by the appropriate Minister} information enabling contaminated feeding stuffs to be traced.

5.55 This regime placed greater responsibility on the ‘registered person’, ie, the rendering company, but also introduced an immediate one month ban on the use of MBM in feedstuffs following a positive test for salmonella. It remained the case that there were no requirements about time and temperature for the processing of MBM or tallow.

5.56 It is worth noting that the time and temperature combinations which had been under consideration by MAFF in earlier drafts of the 1981 Protein Processing Order would not have inactivated the BSE agent, and that the sampling and testing regime introduced by the 1981 Order could not have identified the agent or given any assurance that the MBM tested was free of the agent.

**Certificates for exported rendered products**

5.57 A licence was not a pre-requisite for exporting rendered products. However, MAFF would issue certificates confirming a rendering plant’s compliance with an importer’s hygiene standards. Importers often required such certificates before they would accept products from UK exporters. Mr Rogers, Chairman of UKRA explained the procedure, whereby MAFF would ‘determine the processing standard required by that country [the importer], and then carry out an inspection of the prospective exporter’s process to see if it complies, and if it did, would duly certify it with the appropriate EK certificate, which had to be renewed every twelve months’.\footnote{T19 p. 35} In addition, the certificates were welcomed by UK animal feed manufacturers as confirmation that the raw material had been adequately sterilised.\footnote{S35 Bacon p. 6 para. 20} Mr Hewitt, formerly managing director of Special Milling Limited, told the Inquiry that:

> Whether you were exporting or not, you used that vehicle in order to have a certificate, to prove that your works were in good condition and you produced a good product. It was a recognisable thing.\footnote{T19 p. 38}

5.58 Export certificates had to be renewed every twelve months following an inspection of the premises.\footnote{T19 p. 35} These certificates were frequently referred to as EK certificates, as a number with an EK prefix identified each certificate.\footnote{S35 Bacon p.6 para. 20} Any changes in a factory’s processing methods were noted at the annual inspection and would be recorded on MAFF files.\footnote{T19 p. 34. They were designed to assist the industry, and had no statutory basis}

5.59 The criteria for granting a certificate varied according to the standards specified by the importing nation. For example, for material going to the Channel Islands, inspection was undertaken to check that a rendering plant complied with the sterilisation requirements of the Island authorities with respect to the temperature of processing, and that incoming raw material did not cross the path of outgoing finished meal. Northern Ireland also required EK certificates for the importation of
MBM from Great Britain. Examples from 1992 show that certificates were issued to plants capable of processing material at 135–165°C for over two hours.³⁷⁹