4b. Implementation, enforcement and monitoring of the animal SBO ban: discussion

Introduction

4.593 This is an unhappy chapter in the BSE story. The animal Specified Bovine Offal (SBO) ban should have kept out of the feed chain those bovine tissues most likely to transmit BSE to other animals (including poultry). Some four years after its implementation it was appreciated that it was not doing so. Infectious tissue was being incorporated in feed for non-ruminants and penetrating by cross-contamination into cattle feed.

4.594 We propose in this discussion to analyse (with the benefit of hindsight) what went wrong, by looking at the effectiveness of the ban and the reasons why it was not effective. For each category of these reasons we examine whether there were inadequacies of response meriting criticism of individuals, given the knowledge available to them at the time. This will include discussion of the questions we mentioned in Chapter 3, namely, whether adequate consideration was given to the terms of the 1990 Order; and whether those terms were adequate to achieve the objective of the Order. We consider whether shortcomings in the regulations, or the manner in which they were operating, should have been identified and addressed before 1994, and whether action was taken promptly after 1994. Finally, we discuss a simple lesson which emerges from this part of the BSE story.

The effectiveness of the ban

4.595 When the animal SBO ban was introduced, the ruminant feed ban (RFB) was already in place. It was forbidden to feed any ruminant protein to cattle, so there should have been no question of cattle feed including any ingredient derived from bovine tissue. The SBO ban was introduced in order to address the risk that non-ruminant animals might be infected with BSE as a result of eating infective tissue derived from an animal infected with the disease.

4.596 The ban aimed to ensure that animals generally were protected against the risk that cattle tissues might be capable of transmitting BSE orally. Humans were already protected against this risk by the human SBO ban. Now bovine tissues which might carry sufficient infectivity to give rise to a risk of transmission would be excluded from animal feed. The evidence set out in this chapter shows that this aim was not achieved.

1626 For convenience, we use the term ‘animals’ in the remainder of this chapter to include birds.
4.597 Had pigs or poultry or other non-ruminant animals proved susceptible to oral transmission of BSE, the success of the animal SBO ban would have been gauged by the extent to which such animals succumbed to the disease. Happily, these animals have not proved susceptible to oral transmission. The failure of the animal SBO ban has been demonstrated in an unexpected fashion – by the birth of BABs (victims of BSE born after the RFB came into force). Of significance in the present context are those BABs born after the animal SBO ban came into force.

**The significance of the BABs**

4.598 The Inquiry has been particularly concerned with the implementation of the animal SBO ban in relation to the SBO that was sent to renderers. This is because there were shortcomings in the implementation of the ban in this area which had serious consequences. Those consequences were not the infection of the animals that the SBO ban had been designed to protect. So far as we are aware, no non-ruminant farm animal has been infected with BSE as a result of the inclusion in its feed of meat and bone meal (MBM) contaminated by SBO.

4.599 What occurred was something that had not been foreseen when the animal SBO ban was introduced. Animal feed for non-ruminants, which contained ruminant protein, contaminated feed for ruminants, which should not have contained this protein. Some of the protein contained the BSE agent, and the contaminated feed transmitted BSE to some of the cattle to which it was fed.

4.600 This cross-contamination occurred in feedmills which produced feed both for ruminant and non-ruminant animals. It may also have occurred in transit and on farms where farmers mixed their own feed for their animals, or where the same equipment was used when handling feed for different types of animals. The ruminant protein that contaminated the cattle feed was MBM, produced and sold by renderers for incorporation in feed for non-ruminants. Had the animal SBO ban operated as intended, this MBM would not have been derived from material that included SBO and would not have been potentially infective.

4.601 The statistics of the BABs, and more particularly those born after the animal SBO ban came into force, give some indication of the extent to which infective material was being incorporated by renderers in the MBM which they were producing. Over 11,000 BABs were born after 25 September 1990 when the animal SBO ban came into force.

4.602 These figures are a startling indictment of the efficacy of the animal SBO ban. MAFF’s epidemiologists concluded that only a small proportion of BABs can have resulted from maternal transmission. Most of them resulted from cross-contamination of cattle feed with feed prepared for non-ruminant animals (see vol. 2: *Science*).
4.603 The scale of infection is the more remarkable, when one considers the following facts:

i. For every cow which lived to develop clinical symptoms several must have been infected, but slaughtered before the symptoms developed.

ii. The contaminant matter will have been subject to the rendering process, and thus:
   a. to a degree of inactivation
   b. to dilution with non-infective material.

iii. The contaminant matter will have been further diluted by incorporation, as a result of cross-contamination, into ruminant feed containing no animal protein.

4.604 A further remarkable feature is that almost all the infective material must have originated from subclinical animals. The evidence considered in vol. 6: Human Health, 1989–96, Chapter 2 indicates that few animals showing clinical symptoms will have escaped compulsory slaughter and destruction. The wisdom of the human SBO ban is clear.

Why was the animal SBO ban not effective?

4.605 We have identified a number of reasons why the animal SBO ban failed to keep infectious material out of the animal feed chain:

i. The ban did not cover all potentially infective material.

ii. SBO was not cleanly removed from matter which went into the animal feed chain.

iii. Tissues designated as SBO were incorporated in animal feed despite the ban.

We shall consider each in turn.

(i) Potentially infective material not covered by the ban

Bovine eyes

4.606 Bovine eyes were recognised as having high potential infectivity – hence the recommendation that the eyeball should not be dissected in schools (see vol. 6: Human Health, 1989–96). They were not included in the list of SBO because industry advised that they were not used in the production of food for human consumption.¹⁶²⁷ The practice of removing the brain from the skull and then sending the skull for rendering as BSE-free material had the result that bovine eyes were included in the material rendered for animal feed. This position persisted until August 1995 when the removal of the eyes was prohibited by the Specified Bovine Offal Order 1995.¹⁶²⁸

¹⁶²⁷ YB95/3.31/4.1–5
¹⁶²⁸ Specified Bovine Offal Order 1995, art. 10 (L2 tab 13)
Obvious nervous and lymphatic tissue

4.607 By Decision 90/200 as amended by Decision 90/261 the European Commission prohibited the UK from exporting boneless beef unless it was certified to be:

Fresh meat from which during the cutting process obvious nervous and lymphatic tissue has been removed.\(^{1629}\)

4.608 Ministers agreed that the Decision ought to be implemented administratively by issuing guidelines rather than by legislation, a decision which is discussed in vol. 6: *Human Health, 1989–96*, Chapter 4. Accordingly, obvious lymphatic and nervous tissue were not included in the definition of SBO.

4.609 There would also be lymphoid tissue not normally removed because it was associated with organs (e.g., lungs) not normally used for human consumption.

4.610 Although mouse and calf bioassay has not to date detected infectivity in any lymphoid tissue, it is possible that these tissues were a source of infectivity in MBM.

Thymus and intestine of calves

4.611 Offal from calves under the age of 6 months was initially excluded from the human and animal SBO bans on the basis that it was not likely to be infective. In June 1994 infectivity was detected in the distal ileum (small intestine) of calves subject to the pathogenesis experiment within six months of having been fed BSE-infected material. This led to an extension of both the human and animal SBO bans to include the thymus and intestines of calves aged between 2 and 6 months (see paragraph 4.389 above). It is possible that these tissues may have carried infectivity into animal feed before this extension was made.

Dorsal root ganglia

4.612 This peripheral nervous tissue was liable to be left attached to the spinal column when the spinal cord was removed. Spinal columns went to be rendered to produce MBM for supply to manufacturers of animal feed (see vol. 11: *Industry, Processes and Controls*). Thus dorsal root ganglia would have been a source of MBM used for animal feed. Results of the pathogenesis experiment have now shown dorsal root ganglia to carry high infectivity (see vol. 2: *Science*). This, then, was a further potential source of infectivity in MBM that was sold for animal feed.

Tallow and gelatine

4.613 Tallow contained traces of protein. Thus tallow derived from SBO material contained traces of SBO. When derived from cattle it contained traces of ruminant protein. Gelatine, when derived from cattle, contained ruminant protein. Both were incorporated in cattle feed.\(^{1630}\)

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\(^{1629}\) Commission Decision 90/261, art. 2 (L18 tab 8) adding a new art. 2a to Commission Decision 90/200 (L18 tab 9).

\(^{1630}\) See Chapter 2, paragraphs 2.619–2.624 and vol. 11: *Industry, Processes and Controls* for fuller coverage of this topic
Conclusions on potentially infective material not covered by the ban

4.614 We do not suggest that anyone is to be criticised for failure to appreciate the potential infectivity of thymus and intestines of calves and dorsal root ganglia. This was, of course, primarily of importance in the context of precautions to protect human health and these issues receive consideration in vol. 6: *Human Health, 1989–96*. The exclusion of obvious nervous and lymphatic tissue from the animal SBO ban appears to have been an oversight. So too was the exclusion of tallow and gelatine. The consequences will have been relatively insignificant compared to those of the incorporation of SBO in animal feed, which we are about to consider, and we have not explored the extent to which any particular individuals are responsible for that oversight.

(ii) Failure cleanly to remove SBO from matter which went into the animal feed chain

Brain

4.615 In a draft submission to the Minister dated 31 March 1995, Mr Howard explained that head-boning plants removed the brain from the skull so that the latter could be disposed of at a cost of £30 per tonne, rather than £60 per tonne payable if the brain was retained and the entire skull had to be disposed of as SBO. He added:

> Complete removal of the brain is difficult. To remove the brain the skull has to be opened and sharp edges are formed at the opening. The brain is scooped out by hand but since it is friable and firmly attached, in parts, to the interior of the skull, the brain can break up and is removed in pieces. There is a risk that skulls still containing brain tissue may be rendered into meat and bone meal and subsequently incorporated into animal feedingstuffs.\(^{1631}\)

4.616 We believe that remnants of brain in skulls sent for rendering as SBO-free material are likely to have made a significant contribution to the contamination of MBM with the BSE agent. The practice of removing the brain was prohibited by the Specified Bovine Offal Order 1995.\(^{1632}\)

Spinal cord

4.617 In vol. 6: *Human Health, 1989–96* we have described the risk to human health consequent upon failure cleanly to remove the whole of the spinal cord from the spinal column, and the additional risk posed by dorsal root ganglia. The presence of these in spinal columns sent for rendering was a further possible source of contamination of MBM produced for animal feed. This risk was particularly marked in those cases where knacker’s yards attempted to remove spinal cord, with a view to disposing of the spinal column to renderers at the lower rate payable in respect of SBO-free material (see paragraph 4.61). This practice was prohibited by the Specified Bovine Offal Order 1995.\(^{1633}\)

\(^{1631}\) YB95/3.31/4.2
\(^{1632}\) Specified Bovine Offal Order 1995, art. 10 (L2 tab 13)
\(^{1633}\) Specified Bovine Offal Order 1995, art. 11 (L2 tab 13)
Conclusions on lack of clean removal of SBO

4.618 The delay in addressing these potential sources of contamination of animal feed was, we believe, a consequence of the failure to appreciate (i) the small amount of infective tissue capable of oral transmission of the disease and (ii) the importance of the SBO ban in helping to prevent the infection of cattle. These are matters dealt with in detail later in this chapter.

(iii) Tissues designated as SBO were incorporated in animal feed despite the ban

4.619 We have seen in this chapter how, from the introduction of the animal SBO ban, informal reports were received from time to time indicating that SBO was being delivered to and processed by renderers as if it was matter that was fit for incorporation in animal feed. The first hard evidence of the extent to which this was happening was Mr Fleetwood’s impromptu telephone survey in July 1994 (see paragraphs 4.346 to 4.350 above). This suggested that SBO was going astray on a large scale. His rough and ready calculations showed a shortfall of over 400 tonnes on the total of some 1,200 tonnes of SBO that he calculated should, on average, be being collected each week for disposal. In the following year further evidence supported the conclusion that this was indeed the scale of the shortfall that was taking place.

4.620 In 1995 Unichema, an oleochemical company, was the only processor of tallow derived from SBO. Their purchasing department informed Prosper De Mulder that their calculations indicated that they were seeing less than half the amount of tallow derived from SBO that they would have expected to see.

4.621 Further indications of SBO entering the animal feed chain were obtained as a result of the national surveillance of slaughterhouses organised by Mr Fleetwood in and after July 1995 (see paragraphs 4.485ff above). Of particular significance was the increase of 100 per cent or more in SBO being presented for rendering that followed this surveillance and the enforcement campaign conducted by the Meat Hygiene Service (MHS) (see paragraph 4.534 above).

4.622 We have concluded that SBO came to be incorporated in MBM that was sold as an ingredient for animal feed both by accident and by design.

Accidental admixture or cross-contamination

4.623 We shall consider shortly whether there was any legal requirement to keep SBO separate from other material, unfit for human consumption, which was going to be rendered. Whether or not they were legally required to do so, slaughterhouses, renderers and, to some extent, knackers, followed a policy of keeping SBO separate from other material. This practice had its origin in the voluntary SBO ban imposed by the United Kingdom Agricultural Supply Trade Association (UKASTA), though at that stage it was by no means universal. In February 1990 Mr Foxcroft stated that
about 25 per cent of Prosper De Mulder’s customers did not require SBO-free meal. Once, however, the animal SBO ban had come into force, slaughterhouses were constrained to separate SBO from other material, as their contractual arrangements with renderers required the two to be distinguishable.

4.624 Renderers, for their part, were contractually required to keep SBO separate from material which they were rendering for on-sale to feed compounders on terms that it should be free of SBO (see Chapter 3).

4.625 There was scope for accidental admixture or cross-contamination at all stages: in the slaughterhouse, in transit vehicles, at collection centres and at renderers. The difficulty of distinguishing visually between SBO and other material, once in a container and in the course of decomposition, was demonstrated to us in the course of the Inquiry by Mr Fleetwood, with the aid of a particularly repulsive slide show. He showed us how, after 48 hours, offal that is in a skip or a bin will sink below a ‘level of disgusting liquid’. When commingled in the absence of stain it is almost impossible to tell whether it does or does not contain SBO.

4.626 Staining was not, of itself, a satisfactory means of identifying SBOs, for the stain that had to be used was the same stain that the 1982 Meat (Sterilisation and Staining) Regulations (MSSR) 1982 required to be used for carcass meat and specified offal other than SBO.

4.627 Mr Brian Rogers, Chairman of the United Kingdom Renderers’ Association (UKRA) since 1994, told us of his experience of accidental admixture:

In my experience material got mixed both ways. This rather goes against the suggestion of deliberate flaunting of the rules. I certainly saw plenty of examples of SBO being in with clean material, but I also saw clean material in with SBO, which was disastrous from the abattoir’s financial point of view, but this occurred on plenty of occasions.

4.628 Cross-contamination at the renderers was a particularly acute problem. We shall consider the efficacy of the Code of Practice that UKRA introduced in an attempt to meet this problem. At best, however, as Mr Fleetwood told us, it was not an adequate precaution to preclude infectivity that could be carried by a single gram of material.

Passing off

4.629 While some admixture of SBO with clean material will have occurred inadvertently, we are satisfied that some slaughterhouses deliberately passed off SBO as ‘clean’ material. Equally we think it likely that some renderers will have yielded to the temptation to render as ‘clean’ material, material that they knew consisted of or contained SBO.
Thetemptation was considerable. As Mr Howell remarked in his letter to Mr Scott (see paragraph 4.284 above) there was often a substantial difference in price between the SBO product and the non-SBO product.

So far as slaughterhouses were concerned, offal which was not SBO was a by-product of their operations which could be sold to renderers. SBO was waste which they had to pay to have removed and processed. The temptation to include a portion of SBO within a container of offal for which they were being paid must have been very considerable. It would be surprising if some did not succumb, particularly as we were told that many were operating on the margin of profitability.

Renderers, equally, were faced with the contrast between MBM produced from SBO, which had to be disposed of by incineration or landfill, and MBM produced from other offal, which could be sold. Prosper De Mulder expressed concern to MAFF that some renderers would not be scrupulous in identifying SBO, particularly if it arrived unstained (see paragraph 4.350). We suspect that this concern was justified.

From March 1990 the major feed companies stipulated that MBM should be free from fallen stock. Thereafter, knackers had to pay to have offal removed by renderers. They had, however, to pay at a higher rate for SBO than for other material, and some, at least, purported to separate the two. Once again, knackers had an incentive to pass off SBO as non-SBO material.

A number of witnesses gave evidence of their belief that SBO was deliberately passed off as ‘clean’ material. Mr Rogers, whom we quoted earlier as giving evidence of accidental admixture, added subsequently:

I have said accurately that I have seen examples of clean material being consigned with SBO. By far the majority of incorrect allocation was in the other direction. It does indicate that it was not all deliberate; that there was some sloppiness.

Mr Peter Carrigan is an animal by-product contractor, whose business involved taking over the gut rooms of slaughterhouses under what he described as ‘a turnkey job’. He had assisted Mr Lawrence with advice and Mr Lawrence had been impressed by his expertise. In his witness statement he spoke of correspondence evidencing:

. . . people cheating. There were not proper audits and MAFF and the Meat Inspectors were barely interested in appropriate controls being applied at the abattoirs.

In a letter to Mr Lawrence of 12 December 1990 he commented:

I am sorry to have to report that the rules on staining are being grossly flouted and there are areas which require your very urgent attention.
4.637 He explained to us that he was referring to people not staining, and hiding proscribed material with fit material destined for the animal feed chain.¹⁶⁴⁶

4.638 Mr Fleetwood told us of an instance where a slaughterhouse was found to have deliberately concealed bovine intestine in bins of best fat.¹⁶⁴⁷

4.639 These instances were but straws in the wind. We would not have expected in this Inquiry to receive a host of examples of incidents of fraudulent practice which was going undetected. We are satisfied, however, to adopt language used in relation to staining by Mr Fleetwood, that there was ‘flagrant and widespread’ disregard of the requirement to keep SBO separate and identifiable from other matter that was essential if the animal SBO ban was to be effective.¹⁶⁴⁸ The extent to which this involved breaches of the regulatory requirements we shall consider shortly.

Conclusion on incorporation of tissues designated as SBO

4.640 There was a widespread failure to keep SBO separate from other matter. The result was that the object of the ban – to keep SBO out of all animal feed – was not fully achieved. We examine later in this chapter whether any individual should be criticised for this failure.

What went wrong?

4.641 The stimulus for the introduction of the animal SBO ban was experimental transmission of BSE by inoculation to a pig. It is a mercy that pigs have proved not to be susceptible to oral infection with BSE. Had this not been the case, the animal SBO ban would, for the reasons we have given, have failed to prevent a feed-borne epidemic of porcine spongiform encephalopathy, with the further risk of onward transmission to humans.

4.642 In writing to Mr Hogg and Mrs Browning on 13 July 1995 about unsatisfactory treatment of SBO in slaughterhouses, Mr Packer wrote: ‘We must expect questions on why we allowed this situation to persist for so long’.¹⁶⁴⁹ In Phase 2 of the Inquiry we sought answers to Mr Packer’s question from those involved. The shortcomings which we focused on are those which led to a widespread failure to keep SBO separate from other matter, and it is those shortcomings which we shall examine in the remainder of this chapter. We have sought to determine how it was that a scheme was introduced and operated for over four years which had such serious shortcomings.

The failure to keep SBO separate

4.643 With hindsight one can see that it would have been better if the animal SBO ban had included regulations that prohibited sending SBO to any plant producing animal feed, or ingredients destined for animal feed. Indeed with hindsight it

¹⁶⁴⁶ T58 pp. 65–7
¹⁶⁴⁷ T55 p. 142
¹⁶⁴⁸ YB95/7.4/3.3
¹⁶⁴⁹ YB95/7.13/4.2
appears extraordinary that, having identified material as potentially lethal to animals, it should be sent to be processed to plants whose primary business was the manufacture of components of animal feed. We shall consider later the reasons why this course was followed. Given that SBO was to be processed by renderers who also produced MBM for animal feed, if SBO was to be kept out of the animal feed chain, the following steps were necessary:

i. SBO had to be kept separate and distinguishable from other offal unfit for human consumption upon removal from the carcass, during subsequent storage in the slaughterhouse, knacker’s yard or hunt kennels, and at the stage when it left those premises.

ii. This separation had to be maintained during transit to the renderer.

iii. The renderer had to maintain the segregation and process the two categories of offal separately.

iv. The solid product from rendering the SBO had to be disposed of by the renderer as waste. The solid product of the other unfit offal could be sold as MBM for incorporation in animal feed.

4.644 We propose to consider for each of these stages whether effective requirements were made or whether they were in practice adopted (including the regime for enforcement by local authorities and monitoring by MAFF). We do this with the benefit of hindsight, before examining whether individuals should have acted differently either when preparing for the introduction of the animal SBO ban or during the years when it was in operation.

In the slaughterhouse

4.645 The requirement in the slaughterhouse was that SBO should be kept separate and distinguishable not merely from meat destined for human consumption, but from other matter unfit for human consumption that was destined to be incorporated in animal feed. To what extent was this requirement, imposed by law, followed in the slaughterhouse? We examine this question at the stage of removal of SBO from the carcass (including subsequent storage) and at the stage when it left the slaughterhouse. We then turn to look at enforcement by local authorities and monitoring of that enforcement by MAFF.

The animal SBO ban

4.646 The material provisions of the Order introducing the animal SBO ban (The Bovine Spongiform Encephalopathy (No. 2) Amendment Order 1990) provided:

8 (3) No person shall knowingly sell or supply for feeding to animals or poultry any specified bovine offal or any feedingstuff which he knows or has reason to suspect contains specified bovine offal or animal protein which is derived from any specified bovine offal.

(4) Subject to paragraph (5) below, no person shall feed to an animal or poultry any specified bovine offal or any feedingstuff which he knows or has
reason to suspect contains specified bovine offal or animal protein which is derived from any specified bovine offal.\textsuperscript{1650}

\textbf{4.647} Article 8(4) is plainly addressed to farmers and others who feed animals. The natural meaning of article 8(3) suggests that it is addressed to those who sell or supply feedstuffs to those who feed animals. It is far from clear that any person occupying a more remote position in the animal feed chain could commit an offence under 8(3). It is at least arguable that a renderer who supplied a feed merchant with MBM that contained SBO was not supplying this ‘for feeding to animals’. The renderer, it could be argued, was supplying the MBM ‘for incorporation in animal feed’, which was not the same thing.

\textbf{4.648} More forcibly, it could be argued that a slaughterhouse which included SBO in ‘clean’ material that it supplied to a renderer was not supplying SBO ‘for feeding to animals’.

\textbf{4.649} The above considerations are reflected in the following passage in AHC 94/106, dealing with the wording of article 8(3) and (4) as reproduced in the Bovine Spongiform Encephalopathy Order 1991:

Although 	extit{direct} responsibility rests with the persons supplying feedstuffs and persons feeding animals, it is clear that persons handling, transporting and processing SBO have an 	extit{indirect} responsibility for ensuring that SBO is not mixed with other material directly or indirectly intended for animal feedstuffs.\textsuperscript{1651}

\textbf{4.650} The emphasis is ours. The responsibility described as ‘indirect’ was not one which was imposed by the Order. A problem with the animal SBO ban was that it did not impose legal responsibility for ensuring that SBO was not mixed with material directly or indirectly intended for animal feedstuffs.

\textbf{4.651} Solicitors acting on behalf of Mr Meldrum made the following written submission to us:

The 1990 Order clearly stated the prohibition on the use of SBO material for feeding to animals and poultry (sections 8(3) and (4)). The objective of the legislation was to reduce, and if possible to prevent, the risk of exposure of any species to the BSE agent, although, of course, ruminants were protected by the ruminant protein ban. Whether or not it is expressly stated, it is axiomatic that enforcement of such legislative provisions would require separation of the prohibited SBO material from other material intended for animal feed. To do otherwise would be to fail to comply with the law.

\textbf{4.652} We do not accept this submission. Regulations which impose criminal liability have to be construed strictly. They did not, by implication, impose the obligations which solicitors acting for Mr Meldrum suggested were axiomatic. The 1990 Order imposed no obligation on slaughterhouses to keep SBO separate and distinguishable from other offal.
These deficiencies in the 1990 Order were addressed when the animal and human SBO bans were consolidated in a single Order in 1995 (see paragraph 4.853 below).

**Separation upon removal: the human SBO ban**

Evidence to which we shall refer later indicates a general assumption that provisions of the 1989 Regulations which introduced the human SBO ban required SBO to be kept separate and distinguishable from other material. Some witnesses persisted in that view when they gave evidence to us. Thus Mr Lowson said that at the slaughterhouse:

. . . there was a well-established system with well-established requirements for enforcement and the requirement under the 1989 legislation for SBOs to be packaged and labelled distinctly from other condemned material, as I read the 1989 order. So you have there the basic requirement, which is that the stuff is separate at the point where it is extracted from the animal. 1652

Mrs Brown accepted that SBO could be mixed with other material unfit for human consumption, but considered that the 1989 Regulations required:

. . . anything with SBO in it to be identified during storage at the slaughterhouse . . . They required the staining of the SBOs . . . 1653

The manner in which meat that was unfit for human consumption, other than SBO, had to be handled in the slaughterhouse was governed by the 1982 MSSR. The human SBO ban imposed by the 1989 Regulations followed an almost identical scheme. The question of whether, when the two sets of Regulations are read together, they required SBO to remain separated from other unfit meat, or alternatively, required anything with SBO in it to be identified as such, requires consideration of the two sets of Regulations.

**Separation upon removal under the 1982 MSSR**

A detailed analysis of the provisions of the 1982 MSSR, including its legislative history, is at Annex A to this chapter. For the present purposes the following requirements of those regulations are material:

i. Unfit carcass meat and specified offal [hearts, kidneys, livers and lungs from animals with certain specified diseases] that was destined to be sent to renderers had to be stained.

ii. Unfit green offal [stomachs and intestines and their contents] destined to be sent to renderers did not have to be stained.

iii. Unfit offal, other than specified offal, destined to be sent to renderers had to be stained unless held in a container containing mainly green offal.

iv. Meat which was unfit or not intended for human consumption had to be stored separately from meat fit for human consumption in a container bearing a notice ‘to the effect that the meat held therein is not for human consumption’.

1652 T127 p. 233
1653 T129 p. 81
Separation upon removal under the 1989 Regulations

4.658 A detailed analysis of the provisions of the 1989 Regulations is at Annex A of this chapter. For present purposes the following requirements are material:

- i. SBOs destined to be sent to a renderer had to be stained. The stain in question was the same black stain that was required to be used under the 1982 MSSR in order to identify carcase meat and specified offal.
- ii. SBO had to be stored separately from meat fit for human consumption in a container bearing a notice ‘to the effect that the specified bovine offal contained therein is not for human consumption’.

4.659 The 1989 Regulations thus treated SBO in precisely the same way as specified offal under the 1982 MSSR. Nothing in these Regulations required SBO to be separated from other unfit material. A single container could legitimately contain stained specified offal, stained SBO, unstained unfit meat and unstained green offal.

4.660 We note that Mr Fry’s instructions to MAFF lawyers in respect of the drafting of the 1989 Order directed as follows:

> The material in question may not be sold for human consumption, and we are requiring that in effect it be treated as if it were ‘specified offal’ within the terms of the Meat (Sterilisation and Staining) Regulations. We would expect therefore that these offals would be treated like condemned/rejected/detained material in the slaughterhouse, knacker’s yard or elsewhere except as I have outlined above. With those exceptions, depending upon practices, etc, the material would be dropped in bins, or down chutes, with other material to be carried to a condemned room or skip where it would be stained and subsequently collected and transported to a processor, or other approved destination under cover of a movement permit. No record-keeping provisions are required.

4.661 The 1989 Regulations made one important change to the scheme under the 1982 MSSR. Intestines were SBO and thus bovine green offal consisting of intestines and their contents was required to be stained.

Conclusions on the separation of SBO in slaughterhouses after removal from the carcass

4.662 One thing is relatively clear. The 1989 Regulations did not require SBO to be kept separate from other unfit material, either in the slaughterhouse or at any stage thereafter. It follows that it was no part of the District Councils’ enforcement duties to ensure that such separation occurred. The object of both the 1982 MSSR and the human SBO ban was to ensure that the material that each covered did not

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1654 Initially this was not the case. The Regulations provided that SBO could be removed unstained from a slaughterhouse under authority of a movement permit to ‘premises used for the manufacture of products other than food and not used for the manufacture of food’ (regs 2, 5(2) and 12). By virtue of s.131 of the Food Act 1984 (L1 tab 2B), ‘food’ fell to be interpreted as human food and did not extend to animal feed. Thus SBO destined for renderers which did not manufacture human food did not have to be stained, in contrast to the position of specified offal under the MSSR. It appears that this result was unintended, and unappreciated by most. Mr Roberts told us that the Staffordshire Moorlands District Council and other District Councils in his area all decided that SBO should be stained. Mr Lodge told us that the same was true in Birmingham (T64 p. 104). The error was corrected by the Bovine Offal (Prohibition) (Amendment) Regulations 1992 (L2 tab 7A, reg. 2).

1655 L2 tab 3B, reg. 14(3)
1656 YB89/6.22/6.4
get into the human food chain. So far as those Regulations were concerned, there was no reason why the two should not be amalgamated and sent off together to be rendered.

4.663 The 1982 MSSR required unfit meat to be stored or transported in a container bearing:

\[\ldots\text{a notice of adequate size which is conspicuously visible and contains a distinct, legible and unambiguous statement to the effect that the meat held [or carried] therein is not for human consumption.}^{1657}\]

4.664 The 1989 Regulations had identical provisions, save that they stipulated that the notice should be:

\[\ldots\text{to the effect that the specified bovine offal held [or carried] therein is not for human consumption.}^{1658}\]

4.665 In both cases the emphasis is ours.

4.666 It seems to us that in either case a large notice on the container saying ‘not for human consumption’ would suffice to satisfy the Regulations, whether the container held unfit meat, SBO or both.

4.667 It follows that we disagree with Mrs Brown’s reading of the Regulations as requiring anything with SBO in it to be identified during storage at the slaughterhouse.

4.668 Although the Regulations permitted, and we believe envisaged, that SBO would be amalgamated with other unfit material in the slaughterhouse, in principle this should not generally have occurred once the voluntary animal SBO ban was introduced. Contractual arrangements with renderers required SBO to be separated from other unfit material, so that in practice slaughterhouses held SBO in separate bins or containers (see paragraph 4.109). Any accidental or deliberate failure to observe strict separation did not, however, constitute a breach of the Regulations. As we have explained, we believe that substantial quantities of SBO were, in fact, passed off as material fit for inclusion in animal feed.

4.669 We refer to the picture painted by Mr Fleetwood of the approach of the industry to SBO, as discovered in 1995 (see paragraphs 4.485–4.487 above). Failure to stain SBO involved a breach of the Regulations. The more significant failures to separate SBO from other material did not.

**Separation when leaving the slaughterhouse under the 1982 MSSR**

4.670 The provisions of the 1982 MSSR relating to removal of material from the slaughterhouse were complex. Their object was to ensure that matter that was unfit for human consumption did not get, unsterilised, into the human food chain. The Regulations reflected the fact that large quantities of such matter would be transported to renderers and there rendered. This achieved the object of the exercise,
for the rendering process amounted, by definition, to sterilisation and the solid products of the process would not be likely to be used for human consumption.

4.671 The Regulations set out to ensure that where unfit matter was removed from a slaughterhouse or a knacker’s yard to a renderer it did not escape, en route, into the human food chain. The manner in which this was achieved depended upon the nature of the unfit matter, and involved a system of movement permits.

**Green offal**

4.672 Unfit green offal could be removed from a slaughterhouse to a renderer unstained and without a movement permit. This was because green offal was unlikely to be used for human consumption.

4.673 Unfit offal was defined as including ‘separate pieces of fat’. So long as it was not specified offal, it could be removed from a slaughterhouse to a renderer unstained (i) under cover of a movement permit or (ii) without a movement permit if in a container, the contents of which consisted mainly of green offal.

**Carcass meat and specified offal**

4.674 Carcass meat was defined as ‘the flesh of an animal . . . including heads . . . but excluding offal’. Specified offal was defined as ‘hearts, kidneys, livers and lungs’ from animals rejected as unfit by reason of certain specified disease. This material could be removed to a renderer from a slaughterhouse only if:

i. stained, and

ii. under cover of a movement permit or in a container, the contents of which consisted mainly of green offal.

**Permits**

4.675 Movement permits were issued by the local authority. They were in quintuplicate and entries had to be made in five parts:

- **Part 1**: Was completed by the local authority and gave the address of the consignor and the consignee.
- **Part 2**: Was completed by the consignor and set out:
  i. description of material
  ii. quantity of material
  iii. number of containers
  iv. size and type of containers
  v. expected date of arrival.

  It also set out particulars of the means of transport.

- **Part 3**: Was completed by the consignee, certifying receipt of the material.
• **Part 4**: Was to be completed should the material be delivered to someone other than the consignee.

• **Part 5**: Was completed by the local authority in whose area the material was delivered, recording receipt of the form. This local authority then returned the form to the local authority which had issued it, which would then be able to do a paper check to confirm that the material covered by the permit had reached its destination.

4.676 Where a slaughterhouse or knacker’s yard made regular deliveries to a renderer, the Regulations provided that the local authority could issue batches of permits in advance. These would then be filled in as and when needed by the slaughterhouse.

4.677 The renderers would normally collect material for rendering from the slaughterhouse. Sometimes a single lorry would collect material from a number of individual slaughterhouses. Sometimes material from a number of slaughterhouses would be amalgamated at a collection centre, before being on-carried to the renderer. In that event the Regulations required the permit system to operate in two stages. Permits would have to be issued for the deliveries from the individual slaughterhouses to the collection centre. Further permits would have to be issued for the transit from the collection centre to the renderer. The exception from the requirement for a permit in respect of matter travelling under a cloak of green offal did not apply.

4.678 Matter being transported to a renderer or to a collection centre was required to be contained in a vehicle, or in an impervious container, which was kept closed and locked or sealed, bearing a notice containing ‘a distinct, legible and unambiguous statement to the effect that the meat carried therein is not for human consumption’.

**Separation when leaving the slaughterhouse under the 1989 Regulations**

4.679 SBO could be removed to a renderer only if stained and under cover of a movement permit. The provisions as to the issue of movement permits and the information to be set out in them were virtually identical to those of the 1982 MSSR.

4.680 The provisions as to transportation were also identical, save that they required the notice to contain a statement ‘to the effect that the specified bovine offal carried therein is not for human consumption’.

4.681 The Regulations prescribed separate forms of movement permit for SBO. Not surprisingly, some confusion arose as to the appropriate procedure in relation to a container holding a mixture of SBO and other unfit material. This was not the only confusion generated by the 1989 Regulations.

4.682 On 1 February 1990 Mr Mike Corbally, who was concerned with Professional and Technical Services at the Institution of Environmental Health Officers (IEHO), wrote to the Animal Health Division of MAFF with no fewer than 11 pages of enquiries and comments about the human SBO ban that the Institution had received. Those relevant to this point of the discussion were as follows:
Without guidance, differing standards of enforcement were likely to arise, not only throughout the country but also in localised areas. Furthermore, certain aspects of the Regulations quickly proved to be illogical, taking little account of meat inspection procedures. Many Departments report that they turned to the Ministry for advice. However, they have received an answer of ‘you are the enforcing authority, you interpret the Regulations and enforce them as per that interpretation’. While the professional training of EHOs, together with their knowledge of meat inspection, would certainly allow them to satisfactorily interpret and enforce legislation, lack of guidance invariably leads to differing interpretations. Given the public prominence of the Regulations both in the UK and Europe clear interpretative guidance should have been regarded as a fundamental part to the enforcement process.1659

The subject of storage and disposal of SBO and the issuing of movement permits has caused considerable confusion and presented many practical difficulties. The points most commonly raised are detailed below. In view of the close association between storage, transportation and the issuing of the permits, the comments have not been divided into the individual Regulations.

(i) Considerable difficulties are being experienced with respect to the storage and removal of SBO in compliance with the Regulations, e.g. provision of containers/vehicles which are closed, locked, sealed etc. Effectively, the requirements would appear to be impractical and unenforceable. In the absence of any guidance from the Ministry, and I understand this has been sought by many of the authorities, a number of practices have therefore evolved that, whilst maintaining public safety take into account the practicalities of meat inspection and disposal of offal:

- In large slaughterhouses, where they are not processing or sterilising the SBO on site, the practice is to mix the SBO with other green offal from species other than bovine, as per arrangements currently available for the disposal of ‘unfit meat’ under the [1982 MSSR]. Under the [1982 MSSR], such unfit meat, which would normally require a movement permit, can travel without one. Three questions that arise therefore are: is the mixing of SBO with other green offal acceptable? Does the mixture of offal (which will be predominantly ‘green’) require a movement permit to be issued as stated by the [1989 Regulations]?
- SBO is mixed with meat that is classified as ‘unfit’ under the [1982 MSSR] and disposed of as such. Again, questions posed are: Is it acceptable to mix the SBO in this way? Does the mixture require the issuing of two permits, one under the [1982 MSSR] and one under the [1989 Regulations]?
- In many situations this mixture of offal is stored in large open skips, as are used by most large slaughterhouses before being sheeted over then transported to food processor under the authorisation of a Movement Permit. This clearly does not follow the letter of the law, but alternatives

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1659 YB90/2.01/2.2
are considered impractical when sealed containers etc have to be provided which necessitate a separate collection.

Whilst the above practices do account for practical situations, the issuing of movement permits in situations where SBO is mixed with other offal means that it becomes extremely difficult, if not impossible, for those officers in the local authorities and in whose area material is delivered, to be able to evaluate that the quantity of specified offal delivered matches the quantity stated on the movement permits. Furthermore, the issuing of two sets of permits leads to administrative and resource implications.

(ii) The alternative to the above is to demand that SBO is stored in separate, clearly labelled containers. Whilst in some circumstances it may be possible to subsequently transport the SBO in a manner whereby the receiving authority can check the accuracy of the movement permit details etc, in some circumstances there may be a collection of SBO from a number of slaughterhouses by a single vehicle (albeit sealed and lockable). The result would be the bulk movement of SBO by one vehicle with a number of movement permits, the details of which could not be quantified at the final destination. Such practices of a single vehicle being used to collect offal from a number of slaughterhouses would also occur in a situation described in (i) above, thereby resulting in still further impracticalities of enforcement.

(iii) Although some authorities operate systems such as described in (i) above, the Institution are aware that waste processors have requested abattoirs to separate all SBO, or a considerable increase in charge for collection would be levied, i.e. a system of separate containers etc would have to be operated. This could have severe financial implications for abattoirs.

(vi) The quick introduction of the Regulations initially resulted in authorities utilising makeshift permits for the movement of SBO. In many instances permits for the movement of unfit meat made under the [1982 MSSR] were used. This caused considerable problems in the early stages. However, as authorities were supplied with correctly printed forms the result was a passage of different kinds of form relating to both similar and different offal. That is, SBO movement permits, [1982 MSSR] permits for SBO and [1982 MSSR] permits for unfit meat. When considering the points made in (i) above, this has caused particular confusion for those authorities who have specialist boning plants etc within their area. The necessity to provide additional movement permits for SBO is causing administrative difficulties with regard to the logistics involved, again, especially for those Environmental Health Departments responsible for premises receiving SBO from a number of other premises. Even where blocks of permits can be issued, the quantity of SBO being produced is resulting in considerable resources being directed at filling in forms and following up delays in the return of relevant sections. In practice we would question the efficiency of administrative controls which are proving difficult to operate. It has been suggested that it would be extremely difficult to prove an offence or perhaps more specifically at what point an offence took place in the event of the non-return of the final copy of the movement permit to the originating authority.
This is in spite of the fact that under the Regulations there is a requirement for certain individuals to hold copies of completed permits at various stages of its movement. What the Regulations do not take account of is the ability for the permit to go astray, either unintentionally or because of some unscrupulous act. The conclusion appears to be that it would be extremely difficult to achieve a successful prosecution.\textsuperscript{1661}

Many Environmental Health Departments have raised the question of the resource implications of these new Regulations, e.g. time spent on issuing and controlling movement permits. Although resource implications are normally an issue for the local authority associations, the Institution would make the following comment with respect to ensuring the safety of public health. There are instances where premises covered by these Regulations (such as smaller abattoirs and specialist boning plants) do not under normal circumstances receive permanent or daily EHO/OVS [Environmental Health Officer/Official Veterinary Surgeon] supervision. To provide this service, thereby ensuring the Regulations are being complied with and public health is being protected, local authorities are experiencing a significant resource implication. Where these resources are not available the public cannot be said to have been adequately protected.\textsuperscript{1662}

In view of the practical difficulties that are being experienced, and the general feeling of unease in relation to the effectiveness of the legislation you may feel that a meeting between ourselves will be appropriate . . .\textsuperscript{1663}

\textbf{4.683} An unknown reader at MAFF endorsed the comment ‘Ouch’ on this letter.

\textbf{4.684} The letter appears to have taken a little while to circulate. On 6 February Mr Meldrum minuted Mr Baker asking:

\ldots would it not be wise to draft instructions to Local Authorities on the implementation of the BSE Sterilisation and Staining Regulations or are our current instructions quite clear?\textsuperscript{1664}

\textbf{4.685} Mr Baker’s reply reported:

No problems have come to our attention in implementing the Regulations.\textsuperscript{1665}

\textbf{4.686} However, a meeting took place on 9 April 1990 between Mr Corbally and Mr Baker, Miss Jones, Mr Maslin and Ms Rimmington, at which answers were supplied to some of the questions raised in Mr Corbally’s letter. The only relevant answer recorded in the minutes was as follows:

\textit{Storage/Transportation/Disposal}

Specified bovine offal (SBO) can be stored in the same container as other unfit meat, but would require a movement permit whenever it was moved.
and whatever state it was in. It was apparent that operations were not clear on this point. The permit required under the Bovine Offal (Prohibition) Regulations 1989 would take precedence over that required by the [1982 MSSR], and only one permit would be necessary for each consignment.\textsuperscript{1666}

4.687 The minute of the meeting with Mr Corbally on 9 April records, in relation to the interpretation of the Regulations:

The IEHO accepted, however, that definitive interpretation could only be provided by the courts and agreed that for detailed legal advice District Councils should be encouraged to consult their own lawyers and if necessary seek Counsel’s opinion.\textsuperscript{1667}

4.688 It also records, in relation to the topics of storage, transportation and disposal of SBO:

The IEHO expressed willingness to help draft or distribute any guidance which was felt necessary on these subjects.\textsuperscript{1668}

4.689 The minute was circulated to, among others, Mrs Attridge and Mr Lawrence. This offer was repeated in a letter from Mr Corbally to Mr Baker on 18 April 1990.\textsuperscript{1669}

4.690 On 22 May 1990 MAFF held a meeting with the Association of County Councils, the Association of Metropolitan Authorities, the Association of District Councils and representatives of the slaughtering industry. Following the meeting, the three local authority associations were sent a four-page guidance note on the movement and disposal restrictions that applied to the specified offal.\textsuperscript{1670}

4.691 This guidance focused on the requirement to dispose of unsterilised offal by movement to a permitted destination. It did not deal with the problems raised by Mr Corbally. Furthermore, under a heading ‘Green Offal’ the guidance note stated that this could be moved to a processor for sterilisation (eg, a renderer) unsterilised and unstained and without a movement permit. The note did not point out that this option was not open in relation to bovine green offal that included intestines.\textsuperscript{1671}

4.692 In a submission to us, the Chartered Institute of Environmental Health remarked of the meeting of 9 April that:

While some of the issues of concern were addressed, there were a significant number that were not.\textsuperscript{1672}

4.693 We agree. It seems to us that considerable areas of uncertainty as to the manner of operation of 1982 MSSR and the 1989 Regulations in combination were left unresolved, not least as to the status of green offal. Nor were there any ready answers to some of the practical problems that would arise in relation to transportation if the regulations were strictly applied.
Conclusions on separation when leaving the slaughterhouse

4.694 We noted earlier (see paragraph 4.693 above) that where SBO and other unfit meat were in the same container, MAFF took the view that a single permit under the 1989 Regulations would suffice. But while in theory the permit should identify that a load included SBO, the practice of issuing these in batches, to be completed by the consignors, was not consistent with the use of them for enforcement purposes. It seems to us that it must in many cases have been impossible to identify the material to which a movement permit related. We have, in any event, no evidence that any District Council considered it part of its enforcement duties to carry out spot checks of unfit material against movement permits when material left the slaughterhouse, let alone thereafter. It seems to us that all that movement permits may have achieved in practice was to enable a check to be made, after the event, that a container that had left a slaughterhouse had arrived at its destination. We had no evidence to suggest that movement permits were of any assistance to local authorities or to renderers in determining whether SBO was being presented as material fit for feeding to animals.

4.695 We note that in 1995 the Local Authorities Co-Ordinating body on food and Trading Standards (LACOTS), UKASTA and Prosper De Mulder all expressed concerns about the movement permit system and that Dr Cawthorne concluded that the system:

 [...] is administratively complex and does not provide an effective check on the amounts of SBO removed at slaughterhouses and disposed of at rendering plants.\(^{1673}\)

4.696 While evidence in relation to the use of movement permits in Great Britain is sparse, a draft minute to Dr McCracken, Deputy Chief Veterinary Officer, Department of Agriculture for Northern Ireland (DANI), written in July 1994, gives an informative picture of the position in Northern Ireland:

A. Weaknesses in present system

1. Waste skips carrying SBO from slaughter plants/head boning rooms are not labelled to indicate this. (There is no legal requirement other than to label ‘Unfit meat – not for human consumption’ and this does not differentiate SBO from other animal waste.)

   This would suggest that identification of a load would be dependent either on (i) the load being accompanied by suitable documentation (this does not happen in practice – see point 9 below) or (ii) the renderer scrutinising the contents prior to rendering to establish the identity of the skip contents (we cannot assume the renderer will do this).

2. Documentation to accompany movements of SBO is required by Regulation 12 of the Bovine Offal Prohibition Regulations. EHOs have developed the practice of leaving pre-signed movement permits under the Regulations with Plant Management for completion once the exact number (eg bovine heads) or weight of SBO becomes known. Although an ‘audit’ procedure exists where the permits are endorsed at point of destination by the
receiver and returned to the issuing council, there is clearly a weakness since **EHOS are generally not aware of the number of slaughterings and hence not in a position to verify the quantity of SBO which plant management enter on the permit in the first place. Nor are they necessarily in a position to know whether a permit has been issued with an individual load as required.** This, added to the fact that SBO costs the plant £65 per tonne for disposal must provide incentive and opportunity for certain plants to send SBO out as other waste and so avoid paying the heavy disposal fee.\(^{1674}\)

7. The Bovine Offal Prohibition Regulations were introduced to protect public health. There would be no real suspicion at present that SBO is entering the human food chain (the specified tissues are certainly not human delicacies in NI!). As a result it is **understandable that EHOs are not overly concerned about close monitoring of movement/disposal of SBO.**

**Consignments of animal waste leave fresh meat premises without documentation on a regular basis; this is the case with all classes of animal waste and SBO is unlikely to be an exception.** Drivers of skip lorries are accustomed to collecting licences relating to previous loads upon subsequent collection occasions or at the end of the week. The licences may even be posted in retrospect to the renderer.\(^{1675}\)

4.697 It seems that the picture was not much different in other parts of the United Kingdom. Mr Shepherd, a Senior Executive Officer (SEO), employed by LACOTS, wrote as follows to Mr Lackenby on 7 October 1994:

The current movement permit system has inherent faults and is considered to have limitations as a means of public health protection. It is supposed to be a monitoring system in which a paper record of the movement of SBO is made and can then be checked at the originating premises. There are opportunities for fraudsters to fill in the details incorrectly or to divert part of a load during transport. Then at the next stage of the process there is usually a week’s delay before the renderer’s local authority receives a copy of the permit, during which time the material is processed. In any case, even if the local authority is present at the time of delivery, it is not possible to check that the quantities specified on the permit have actually arrived. At the final stage of the system, the local authority for the originating premises receives a document which is not necessarily accurate, relates to material which has probably already been consumed or used. They quite often do not receive any copy at all due to human administrative failures.

The system is administratively onerous particularly for those local authorities with large rendering plants in their areas; they have to employ staff purely for administering receipt and return of permits. In practice, the system of movement permits has to rely on trust.\(^{1676}\)

4.698 Mr Hibbett, who had been a Senior Environmental Health Officer (SEHO) with Peterborough City Council, told us that when the 1989 Regulations came into force, the provisions in relation to movement permits:

\(^{1674}\) YB94/07.00/6.1
\(^{1675}\) YB94/07.00/6.2
\(^{1676}\) YB94/10.07/4.1–4.2
... involved one officer doing nothing else but chasing these around, making sure they went out, checking them, checking in particular the difficulty of actually getting them back from the authority where they had been sent to. 1677

4.699 He went on to describe the difficulty that was experienced in getting the formalities of movement permits taken seriously, having regard to the impression given by Government that BSE was not a matter of serious concern:

You were seeing Ministers on television saying one thing; and yet on the other hand we were going to abattoirs saying: 'Look, we need you to fill in, in careful detail, exactly what is happening, exactly how much, exactly where it is going to', trying to persuade the lorry driver that he must keep it carefully and not have it blow away when he was stepping in and out of his wagon. That was our frustration, I think, where we were in a position where we were trying to enforce a piece of legislation, where the people we were trying to enforce it on were getting differing impressions as to its importance, that BSE was not a problem. 1678

We were dealing with transporters who were not enthusiastic about it. We were having difficulty in emphasising to them how difficult it was and important it was to follow this complex procedure, they were reading their papers and getting a completely different picture. 1679

4.700 The movement permit system introduced in 1982 was complex and bureaucratic. Its aim was to ensure that unfit meat did not enter the human food chain, but was made innocuous by sterilisation. By 1989, up and down the country, there must have developed well established courses of dealing, under which slaughterhouses consigned the offal that was unfit, or not suitable, for human consumption, to renderers. It would not be surprising if the movement permit system had, by then, become no more than a formality so far as many local authorities were concerned.

4.701 The evidence that we have quoted above indicates that there were widespread failures to implement the movement permit system in accordance with the 1989 Regulations. Even where the formalities were properly observed, it seems to us that the system provided no adequate safeguard, when containers of offal were received by renderers, that it would be apparent whether or not they contained SBO.

Enforcement of the Regulations in slaughterhouses

4.702 We shall see in due course that MAFF officials were relying upon the staff of the District Councils who were responsible for enforcing the Regulations made under the Food Act 1984, replaced by the Food Safety Act 1990, to ensure that all SBO was kept separate from other unfit material in slaughterhouses. With hindsight it is plain that they did not do so – indeed Mr Meldrum submitted to us more than once that, having regard to what has since been learned of the standards of enforcement of the local authorities, until the Meat Hygiene Service (MHS) had taken over the slaughterhouse duties of the local authorities, there were no measures...
that MAFF could have taken which would have made a significant improvement in standards of enforcement of the animal SBO ban.

4.703 There were many reasons why the Meat Inspectors, the Environmental Health Officers (EHOs) and the Official Veterinary Surgeons (OVSs) employed by District Councils in slaughterhouses did not enforce a strict separation of SBO from other material unfit for human consumption.

Lack of obligation to separate SBO from other unfit material

4.704 We have explained above that there was no statutory obligation on slaughterhouse operatives to carry out this separation. The District Councils could not reasonably be expected to enforce Regulations which did not exist. This point is not, however, a complete explanation. The complexity of the Regulations was such that some officials at least were under the impression that separation of SBO from other matter was a statutory requirement.

4.705 Mr Hibbett told us that the Meat Inspectors in the plants he dealt with were ‘very assiduous in making sure that bovine offal did come out of the process and did go to where it was supposed to’. 1680

4.706 Mr Roberts, who had served as an SEHO with Staffordshire Moorlands District Council, described a system in which there were two bins in the slaughter hall, one for SBO and the other for unfit meat. He was asked whether he saw it as the job of his Meat Inspectors to make sure the correct material went in the correct bins. He replied:

Yes. That would have been something that I saw was routinely checked on the way through the slaughterhouse, obviously do these things in the sequence. But the bins in the smaller slaughterhouse would be to one side of the slaughter hall and the meat inspector, I would expect, to instantly recognise which tissues should be going into which bins; and it was also, certainly from my recollection, routine procedure to check the dye that we had left with the slaughterhouse operators had been applied, and at the end of the day, when the meat inspector left, to reapply the dye to make sure everything was as covered as it could practically be. 1681

4.707 We have no doubt that there were others who adopted a similar approach.

4.708 Nonetheless, the need to separate SBO from other unfit meat was not a human health requirement. The only point of this separation was to assist in keeping SBO out of animal feed. This was no part of the duties of the District Councils.

4.709 In 1994 Mr Simmons reported:

It is clear that some [local authorities] see the legislation as merely an exercise in removal of SBO from carcases and preventing its use for human foodstuffs. 1682

1680 T56 p. 122
1681 T64 p. 112
1682 YB94/3.25/1.3.
Dr Cawthorne, drafting a submission for Mr Waldegrave, echoed Mr Simmons’s concern that:

Some local authorities are less diligent than others in controlling and reconciling the movement of SBO from slaughterhouses to renderers, [possibly through the mistaken belief that the controls are aimed solely at protecting public health, overlooking the animal health implications should they find their way into animal feedstuffs].\textsuperscript{1683}

The words in square brackets were not included in the final submission.

Mr Fleetwood commented on Mr Simmons’s concerns:

My general perception, and it stems from the origin of these local authorities, their parent bodies are primarily almost exclusively concerned with protection of the public, protection of human health, and it would be a quite natural thing for the local authority focus to be on human health controls, not animal health.\textsuperscript{1684}

District Councils who took the view that the 1989 Regulations were aimed solely at protecting public health were correct. It is true that they had implications for animal health, but it is not surprising if District Councils, or officials employed by them, were less than enthusiastic about enforcing public health regulations for the sake of animal health.

Mrs Attridge made the point to us that District Councils and County Councils could be expected to cooperate in enforcement of regulations. It was suggested to her that it might not be reasonable to expect District Council officers to be assiduous in ensuring that those provisions of the 1989 Regulations, which might in practice protect animal health, were complied with for that purpose. She replied:

I find this an extraordinary suggestion. There has been a long history of co-operation between two tiers of Local Authorities and no evidence I have seen would support the Inquiry’s contentions.

Mrs Brown referred us to an occasion on which the Association of County Councils, the Association of Metropolitan Authorities and the Association of District Councils had been invited to a joint meeting to discuss cooperation in controlling the disposal of SBO and other unfit material to landfill sites.\textsuperscript{1685} This was one area where their respective enforcement rules overlapped.

Mr Meldrum made a similar point in evidence to us.\textsuperscript{1686}

Guidance to local authorities

Had District Councils been asked to cooperate with County Councils in order to facilitate the enforcement of the animal SBO ban, it may well be that in many instances they would have done so. However, no request was made by MAFF to the two tiers of local authorities to work together in the interests of animal health. No
guidance was given to either County Councils or District Councils as to how MAFF expected the 1990 Order to impact on their enforcement activities.

4.717 Mr Maslin sent a copy of the 1990 Order to, among others, the associations of County Councils and District Councils, with an invitation to arrange a meeting if they wished to discuss the Order, as to its enforcement. There was no response to this invitation (see paragraphs 4.71–4.72 above). So far as the Association of District Councils is concerned, we do not find this surprising. The Order, made under the Animal Health Act 1981, was not one which District Councils were required to enforce. Nor do we think it likely to have occurred to many District Council officials that they would have a role to play in relation to regulations dealing with the supply and use of animal feed.

4.718 So far as the Association of County Councils was concerned, its silence cannot have indicated that its members perceived no problems with the enforcement of the Order. We think it likely that most Councils must have taken the view that the Order was patently unenforceable. No test existed which would demonstrate whether or not animal feed contained SBO. Mr Gresty of the North Yorkshire County Council told us that:

. . . the enforcement of the regulations without any guidance, without some partnership arrangements, I think was very much sketchy on the basis of which each county decided to do,\textsuperscript{1687}

I think there was some confusion at this time. There was a difference in enforcing these regulations [as against] every other animal health regulation. There was certainly not the close contact, close cooperation between MAFF and the county councils. I think it left, as I say, a somewhat uniform approach. We really were doing our own thing at the time which I think is one of our major criticisms of the operation.\textsuperscript{1688}

4.719 In oral evidence, Mr Meldrum explained MAFF’s approach:

[In] this case we did not give detailed advice to local authorities on how we expected [the animal SBO ban] to work because we did not have time. The DVOs [Divisional Veterinary Officers] were instructed, as you know, by Mr Crawford to contact local authorities about enforcement and disposal and discuss with them the new arrangements, and to ensure that they were fully aware of the new obligations placed upon them, placed upon slaughterhouses in the first place on compliance. If we had had months and months to plan it, which we did not, we could have drawn out some guidance, no doubt, on that Order. But we were very keen to get that information out and to get the Order in place on the basis that we wished to remove that material from the animal feed supply as soon as possible after SEAC [Spongiform Encephalopathy Advisory Committee] had given us advice. You take the choice. Either you do it immediately, knowing full well that there may be some details that are not clear to local authorities, but then you advise DVOs to talk to them or you spend more time drafting advice, which will take time, and then you say: ‘Here is a new Order’, and you have

\textsuperscript{1687} T64 p. 115
\textsuperscript{1688} T64 p. 116
lost two or three weeks. The view was taken by Ministers: ‘We get on with it’.1689

4.720 When asked why guidance to local authorities was not prepared for them after the Order was made, Mr Meldrum said:

One could have done, of course, but we had given quite clear advice, instructions to DVOs as to what they should do. If they had reported back to Mr Crawford, the DVOs, that there were problems of interpretation, then I have no doubt that we would have in fact gone further. We specifically said if difficulties are arising he, Iain Crawford, would like to know so that we have a picture of the position throughout the country as a whole. That was the way it was dealt with. We did not have any problems raised with us formally or informally, so far as I am aware, on the way that this Order should be put in place, or how it should be implemented in slaughterhouses.1690

4.721 In Mr Meldrum’s opinion, there would have been ‘a great deal of consultation’ between local authorities and the Divisional Veterinary Officers (DVOs), which would have informed the local authorities of the details of the animal SBO ban in a manner superior to any written guidance:

From my experience in the field I would prefer to have discussed an issue face to face with a senior officer in a local authority and discussed the importance of the measure rather than expecting them to read a piece of paper later which might well have been put into the in-tray and then put to one side.1691

4.722 On the same issue, Mrs Brown said that:

... our experience was that the most effective way to get the message across was to have this sort of discussion at local level with the people who had the hands-on responsibility, rather than perhaps to sit down in Tolworth or central London with the representatives of the Association who were not necessarily themselves hands on practitioners.1692

4.723 We did not find this evidence realistic. It is not clear to us that there was anything that the DVOs could have said to either District Councils or County Councils about ‘the details of the animal SBO ban’ that would or could have resulted in its enforcement. Before they could give guidance to the local authorities, the DVOs needed themselves to understand the effect of the 1990 Order and what steps the local authorities could properly be expected to take by way of enforcement. This was not a straightforward matter, yet, as we shall show, it was not one in respect of which the DVOs were given much assistance.

Standards of local authority enforcement

4.724 We have already observed that District Councils were not likely to be enthusiastic about enforcing regulations in order to address problems of animal,
rather than human, health. Quite apart from this, we received evidence that indicated very varying standards in the manner in which they performed those enforcement duties in slaughterhouses that were properly their concern, in particular those relating to standards of hygiene.

4.725 We have referred to this evidence in some detail in vol. 6: Human Health, 1989–96. In Chapter 4 of that volume we set out details of the lamentable standards of hygiene prevalent in many slaughterhouses, and the problems that resulted in very variable standards of enforcement in this area.

4.726 We have accepted the evidence of a number of witnesses that there was no general read-across from standards of enforcement of hygiene regulations to the standards applied to ensuring that unfit meat and SBO was removed from the carcass under the 1982 MSSR and the 1989 SBO Regulations. A point made was that preoccupation with the latter left Meat Inspectors little time to concentrate on the former. This is one of the reasons why we are satisfied that there was a read-across from poor standards of hygiene enforcement to the standard of enforcement of whatever Meat Inspectors and EHOs may have understood to be the requirements as to separation and staining of SBO after removal from the carcass, particularly in the gut room.

4.727 The draft report of Mr Swann of the Hygiene Advice Team (HAT) inspection of slaughterhouses after the MHS had taken over enforcement responsibilities from local authorities in 1995 gives the following picture of standards in the gut room:

The procedures for the receipt and handling of stomachs and intestines from the slaughterhall were often compromised by undermanning. Insufficient gut room staff resulted in accumulations of viscera on trays and overspill onto floors.

... 

The standards of operation in most gut rooms, even in otherwise excellent meat plants, were often very poor. This was usually due to the practice of contracting out gut room functions to outside companies.

Washing stomachs in very heavily soiled tubs and hanging outside in a yard were common practices.

The effectiveness of procedures for disposal of intestines was variable. Green offal skips were often overfilled, with overflow, smell and fly attraction. This was a major source of complaint from neighbouring premises.

Procedures for disposal of by-products varied with the size of abattoir. In smaller plants, tubs or bins were often dirty when returned empty, unlidded and unmarked, either as unfit material, or SBO bins.

...
Larger plants, with automated systems and skips, were generally seen to be satisfactory.\footnote{1693}

4.728 We believe that a similar picture could have been painted of conditions in the gut room of many slaughterhouses at any time between 1985 and 1995.

4.729 We had conflicting evidence of the frequency with which Meat Inspectors would visit the gut room. Mr Carrigan, who was a gut room contractor, was well qualified to speak on this topic. He told us that, in his experience, Meat Inspectors and EHOs did not visit the gut room. He said that Meat Inspectors confined their activities to the separation (on the slaughter line) of that which was not fit for human consumption from that which was. The unfit matter went to the gut room. The Meat Inspectors did not have any concerns with that which was not going for human consumption. To have walked from the clean area of the slaughterhall to the dirty area of the gut room and back would have been in conflict with restrictions designed to prevent contamination.\footnote{1694} As for EHOs, he had never seen one in the gut room in 22 years.\footnote{1695}

4.730 Perhaps more important than the attitude of the Meat Inspectors was the attitude of the OVSs, in those slaughterhouses where their services were required – that is export slaughterhouses up to the beginning of 1993 and all slaughterhouses thereafter.

4.731 Mr Clark, who had served as a local authority Meat Inspector before he joined the MHS, told us that:

In the small abattoirs the gut room would not have been visited at all, because we were not there. In the larger abattoirs possibly once a day, something like that, once or twice a day, again due to staffing levels.

Q. If a visit were made to the gut room, what steps had to be taken before returning to the main part of the slaughterhouse?

A. Obviously a different hygienic practice. You would have to wash your hands, wellingtons, et cetera.

Q. Could I ask how often an Official Veterinary Surgeon would visit the gut room in the days when this was enforced by local authorities?

A. Probably never.\footnote{1696}

4.732 Mr Burgess, who had worked in a slaughterhouse as an OVS, told us in a statement\footnote{1697} that the local authority which had contracted for his services reduced his hours of work so that he was unable to carry out adequate supervision. Working hours of Meat Inspectors were similarly reduced. This led to abuses of the system which included inadequate separation.
4.733 In oral evidence he told us that in the gut room there were no Meat Inspectors to supervise operations:

We did not have the staff. Legally we probably should have.\textsuperscript{1698}

4.734 Ms Hovi, who had taken her duties as an OVS particularly seriously, told us that she visited the gut room every day.

4.735 Mr Burgess and Ms Hovi gave us the following evidence of their experience of the separation of SBO from other material:

Mr. Burgess: In the morning there would be some separate containers, coloured sometimes, occasionally they were marked, and we used to kill in excess sometimes of 300 cattle a day. By the end of the day, because I had to leave by about 2 o’clock, things gradually started to deteriorate and the actual separation between the bins would be less obvious than it was earlier on, the level of waste material would build up in the abattoir. It was a question of the person cutting it off and throwing it into the bin, occasionally they miss. Unless you are actually there watching it constantly you could not be sure it was being done absolutely correctly. But there were attempts made to separate it, but in practical terms it is actually quite difficult to do unless the line speed is such and there are enough operatives there that it can be done properly. It was adequate, but I would not say it was foolproof.\textsuperscript{1699}

Ms Hovi: This particular abattoir, when I was working there, the spleens were put into the petfood bin. The bins were clearly separated at the abattoir and apart from the general confusion that Mr Burgess and Mr Swann described, the system seemed to operate fairly well apart from the spleens. The meat inspector who started working at the abattoir at the same time as me came to report to me immediately that the abattoir management had reported to him that the spleens can go in the pet food bin. That was their practice and asked me what my opinion on that was. We immediately enforced obviously a proper disposal of the spleens into the SBO bin and it was not questioned by the management after that, they obviously just tried it on.\textsuperscript{1700}

4.736 Mr Burgess and Ms Hovi were impressive witnesses, and OVSs of their calibre would have taken their enforcement duties seriously. We had evidence, however, of difficulty in recruiting OVSs, and of the fact that many did not integrate well into the enforcement system.

4.737 Mr Brian Etheridge, who had been Assistant Secretary for Environmental Health with the Association of District Councils (ADC) told us:

\ldots local authorities were having enormous difficulty in securing the offices of veterinary surgeons. Those that they did were often engaged in private practice and therefore were not able to spend the greatest part of their commitment to this post. Some local authorities were also complaining to us that once at the plant they were unsure of their responsibilities, were not entirely sure why they were there. And local authorities, I think sadly, in a

\textsuperscript{1698} T62 p. 100
\textsuperscript{1699} T62 p. 120
\textsuperscript{1700} T62 pp. 120–1
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way, did not encourage the employment of these vets to become part of the management system of the local authority, so perhaps understandably they felt slightly detached and confused.\footnote{1701 T65 p. 63}

4.738 He added:

There was some professional difficulty between veterinary surgeons and Chief EHOs. The perception as I recall among Chief EHOs at the time was that they were not entirely sure why they were having to employ these people sometimes at extremely elevated costs. And in fact very cynically some local authorities have said to us, and we have recorded, that they felt they had to do this merely because the regulations said so. And their objective was to fulfil the regulations by employing them and largely left them to their own devices beyond that.\footnote{1702 T65 pp. 64--5}

4.739 Mr Du Val, an EHO who joined LACOTS in 1991, elaborated:

There was a concern, from the local authority side, that one was having an official imposed on you as part of the enforcement regime where they, essentially, had no training in enforcement, and their conversion course from a veterinary practice to being able to enter the slaughterhouse was essentially just a five-day course without an examination, which really did not cover enforcement of the regulations that were there. I know it was a recurring concern that was expressed to them, with that lack of enforcement perspective, to say that perhaps enforcement in these situations is not seen as that important.\footnote{1703 T65 p. 70}

Deregulation

4.740 A further point made by a number of witnesses was the dampening effect of the Government’s deregulation initiative upon the enthusiasm with which the SBO Regulations were enforced.

4.741 A minute of 14 October 1992 recorded views expressed by Mr Gummer in the context of a European Directive on red meat. This included the following passage:

Overall, the Minister said that he wished to give a policy steer. The mood of the public had changed; they were now more worried about overzealous enforcement than about the risk of food poisoning. MAFF’s policies should therefore be as relaxed as possible while still protecting public health.\footnote{1704 YB92/10.14/1.1}

4.742 Mr Mike Ashley, who had environmental health responsibilities for both the Association of District Councils\footnote{1705 Assistant Secretary covering environmental health, tourism and leisure} and the Local Government Association,\footnote{1706 Under Secretary for Housing and Environment} told us:

. . . the associations were concerned about the government policy in respect of a strong deregulatory campaign, and also the linked – I think they bounced
off each other – and the linked sort of media campaign that was run. It was particularly associated with [a] journalist Mr Christopher Booker who wrote a series of articles around this time, who very much portrayed local authority enforcement officials as ‘little Hitlers’. That in many ways picked up and reflected an increasing government campaign to go for so-called ‘light-touch’ regulation.\textsuperscript{1707}

\ldots the Government was clearly signalling in various ways that a pretty light touch in applying this and many other regulations ought to be used. And frankly it did contribute to a considerable level of confusion and concern in the regulatory enforcement community generally about what they were supposed to do.\textsuperscript{1708}

4.743 Mr Etheridge summarised the position in his witness statement as follows:

The government was pursuing very vigorously its deregulation agenda and was very public in its condemnation of alleged overzealous application of regulations by local authorities. It was imploring local authorities to adopt the so-called ‘soft touch’ to enforcement.

Local authorities were also grappling with the introduction of a series of new regulations which were often implemented at short notice and came into force before copies were available. Guidance often followed rather than preceded regulations. There was also some hostility to the introduction of the need for veterinary surgeon presence. MAFF’s position appeared unclear, its guidance on the need and extent of veterinary presence constantly changing as its interpretation of the relevant Directives was modified.

The overall state of local authority meat inspection at the time was a service in low morale, subject to conflicting messages from the centre, receiving little support locally and having to carry the burden of additional veterinary presence and an extremely disgruntled trade.\textsuperscript{1709}

4.744 This picture related to the years leading up to the introduction of the Meat Hygiene Service, and we think that morale of those employed by local authorities in slaughterhouses was likely to have been at its lowest during this period. When the MHS replaced the local authorities as the enforcement authority in slaughterhouses, Mr McNeill, the Chief Executive, described what he found:

We endeavoured to find out what level of enforcement activity had been employed by local authorities in enforcing the regulations and were unable to get any clear picture, although it did not appear to be of any great substance. And in discussions with staff, particularly as we took a much more robust enforcement line, on issues such as presenting carcasses with spinal cord present and what not, it became apparent to us that there was, I think it would be fair to say, a reluctance on the part of some of our veterinary surgeons and indeed meat inspection staff to move down this more formal enforcement road. Previously in previous cases it had been perhaps a more relaxed approach to enforcement.\textsuperscript{1710}

\textsuperscript{1707} T65 p. 67
\textsuperscript{1708} T65 pp. 67–8
\textsuperscript{1709} S177 Etheridge paras 16–17 and 20
\textsuperscript{1710} T37 p. 135
Conclusions on enforcement of the Regulations in slaughterhouses

4.745 Mr McNeill’s description, quoted in the previous paragraph, takes us back to the passages in vol. 6: Human Health, 1989–96 to which we referred earlier in this section. In retrospect, it is not surprising that there were serious shortcomings in the enforcement of MAFF’s policy of keeping SBOs out of the animal feed chain. We turn next to consider why it was that it took the Veterinary Field Service (VFS), who was monitoring the implementation and enforcement of the animal SBO ban, so long to become aware of these shortcomings.

Monitoring by the Veterinary Field Service

4.746 The national surveillance of slaughterhouses that was carried out by the State Veterinary Service in and after June 1995 disclosed widespread breaches of the rules requiring staining of SBO and of the requirement to keep SBO separate from other unfit material. The question arises as to why monitoring of slaughterhouses by the SVS over the previous five years had failed to bring such findings to light.

4.747 During the earlier part of the period this is more easy to understand. A schedule of instructions to DVOs and Regional Veterinary Officers (RVOs) in relation to monitoring compliance with the Regulations that affected, or were thought to affect, slaughterhouse operations is annexed to this chapter as Annex B. Initially these were in general terms and, in particular, failed to focus on the importance of ensuring separation between SBO and other unfit material. As this was not something that the Regulations required, it is perhaps not surprising if the Veterinary Officers (VOs) did not give it attention.

4.748 Thus the proforma sent out by Mr Crawford on 18 January 1991 (see paragraph 4.129 above) asked about brain removal and about movement permits, but nothing else. The first specific instructions in relation to separation appear to have been those given by AHC 92/94 in August 1992 (see paragraph 4.150 above). Thereafter, however, the instructions in relation to monitoring grew steadily more specific and more rigorous.

4.749 AHC 94/106 issued on 29 June 1994 (see paragraph 4.340 above) required attention to separation, comparison between animals slaughtered and movement permits issued, to establish by weight analysis whether there was any shortfall, and that this should be done on unannounced visits. One might have expected monitoring on these lines to have picked up any significant ‘leakage’ of SBO into offal that was being consigned to renderers as ‘SBO free’. And yet, two rounds of inspection in accordance with those instructions showed no significant deficiencies.

4.750 We discussed the reason for this with Mr Fleetwood. His suggestions were necessarily conjectural. They were, essentially, that whether or not visits were made by formal appointment, slaughterhouses would have had advance warning of them and taken steps to ensure that the right bins were in place and liberal quantities of stain being applied when the MAFF veterinarians arrived.\textsuperscript{1711}
4.751 On 12 August 1991 DVOs had first been instructed by AHC 91/61 to ‘arrange for occasional unannounced visits’ to slaughterhouses to ensure compliance with the Regulations (see paragraph 4.146 above). Mr Fleetwood’s concern was that ‘unannounced visits’ might have fallen into a pattern, so that they were anticipated.\textsuperscript{1712} He also suggested that the Animal Health Officers (AHOs) making the visits might have been fairly recent recruits to the SVS who were ‘easily browbeaten’ by slaughterhouse managers.\textsuperscript{1713}

4.752 There may be something in these speculations, but we have not been able to form a firm conclusion as to the reasons for the discrepancy between these results and those of the national surveillance that was to follow. We are unable to accept the suggestion made by some witnesses that there was a sudden collapse of standards in the slaughterhouses. We think it more likely that, with the surveillance operation fully supported by the enforcing authority, the MHS, a more rigorous inspection was carried out by the members of the VFS.

**Knacker’s yards**

4.753 The nature of the business carried on at a knacker’s yard is described in vol. 13: *Industry, Processes and Controls*, Chapter 5. The essential features, for present purposes, we can summarise as follows:

i. Knackers processed fallen stock and animals that had to be put down.

ii. The processing included cooking meat for pet food in a manner which constituted ‘sterilisation’ under the Meat Staining and Sterilisation Regulations 1982.

iii. Before 1989 knackers sold residual waste to renderers, who derived from it MBM that was sold for incorporation in animal feed.

**Regulation of knacker’s yards**

4.754 The handling of carcasses by knacker’s yards was subject to the 1982 MSSR. An analysis of those Regulations is at Annex A to this chapter, together with an analysis of other regulations which are relevant to the implementation of the animal SBO ban.

4.755 The effect of the 1982 MSSR, insofar as relevant for present purposes, can be summarised as follows:

i. All knacker meat was presumed to be unfit for human consumption.

ii. Knacker meat could be sold for use as pet food, provided that it was first ‘sterilised.’

iii. Knacker meat destined to be sent to a renderer was subject to the same regulations, including the exemptions in relation to green offal, as applied in the case of meat from an animal slaughtered in a slaughterhouse.
**Implementation, Enforcement and Monitoring of the Animal SBO Ban: Discussion**

4.756 The 1989 Regulations defined SBO by reference to an animal ‘slaughtered in the United Kingdom’. It thus did not apply to fallen stock or, arguably, animals put down on the farm rather than slaughtered in the slaughterhouse. This was logical, for under the Slaughterhouses Act 1974, animals whose flesh was intended for human consumption could only be slaughtered at a licensed slaughterhouse (see Annex A). The detailed regulations in relation to storage and removal of SBO applied specifically to slaughterhouses and not to knacker’s yards. This, too, was logical. The object of the 1989 Regulations was to prevent SBO from entering the human food chain. In the case of knacker’s yards that object had already been achieved by the Food and Drugs Act 1955 and the 1982 MSSR, which treated all knacker’s meat as unfit for human consumption.

4.757 It had been the intention that the 1990 Order should apply to all cattle carcasses dealt with by knacker’s yards, so as to render it illegal for knackers to supply the offal defined as SBO to animals. By oversight this aim was not achieved. Because the 1990 Order adopted the same definition of SBO as the 1989 Regulations, offal derived from fallen stock was not covered.

4.758 This error was rectified by the 1991 Order. This extended the definition of SBO to include tissues from cattle which had died or been slaughtered.\(^{1714}\) Fallen stock was now within the definition, and it was illegal for knacker’s yards or anyone else to supply SBO from any cattle carcass for feeding to animals. So far as requirements for staining and movement permits were concerned, the governing regulations remained the 1982 MSSR, which did not distinguish between SBO and other unfit material.

**Practice in knacker’s yards**

4.759 It is not clear on the evidence to what extent material emanating from knacker’s yards was liable to enter the animal feed chain. Prior to the human SBO ban, residual material not processed by knackers for other purposes, including the material subsequently to be specified as SBO, was sold to renderers and rendered to produce MBM that was used for animal feed. Historically fallen stock accounted for around 10 per cent of the total material processed by renderers.\(^{1715}\)

4.760 The voluntary SBO ban introduced by UKASTA overlooked material emanating from knacker’s yards. In March 1990, however, it recommended that its members should stipulate for the purchase of MBM that was free of fallen stock. All major feed companies complied with this recommendation.\(^{1716}\) At this point, however, fallen stock continued to contribute to the MBM supplied by Prosper De Mulder to those customers – some 25 per cent – who were not observing the voluntary SBO ban.\(^{1717}\)

4.761 When the animal SBO ban was introduced, it is unclear to what extent knacker’s yards and renderers appreciated and took advantage of the fact that the definition of SBO did not embrace fallen stock. Mr Maslin referred to unconfirmed reports that renderers were doing so (see paragraph 4.48 above). This lacuna in the Regulations persisted until November 1991.

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\(^{1714}\) Bovine Spongiform Encephalopathy Order 1991, art. 4 (L2 tab 7)

\(^{1715}\) S37 Foxcroft para. 43

\(^{1716}\) S37C Foxcroft para. 5.3

\(^{1717}\) YB90/2.13/5.1
4.762 The wider question is whether knacker’s yards may have provided to renderers, both before and after November 1991, SBO to be rendered as material fit for feeding to animals. Mr Crawford told us that his understanding was that renderers treated all material emanating from knacker’s yards as SBO (see paragraph 4.59 above). Were this the case, we have difficulty in understanding why a price differential developed, whereby renderers charged more to remove SBO from knacker’s yards than they did for other material. The evidence clearly establishes that this was the case, and that some knackers purported to separate SBO from other waste before consignment to renderers (see paragraph 4.61 above).

4.763 If, before 1990, some renderers incorporated fallen stock in the material from which they produced MBM supplied to feed merchants, it seems to us likely that they would have continued to incorporate material from knacker’s yards that was supplied to them as SBO-free. In so doing, they would have been relying on the knacker’s yards to have separated SBOs from other material. Yet knacker’s yards could not be expected to be over-meticulous about the standard of removal of brain and spinal cord and would have been subject to the commercial temptation to pass off SBO as other material. The fact that the only relevant Regulations, the 1982 MSSR, drew no distinction between handling SBO and handling other material would have facilitated this. We have concluded that knacker’s yards are likely to have contributed to the infective material which was finding its way, via renderers and feed compounders, into cattle feed.

Local authority enforcement in respect of knacker’s yards

4.764 Mr Colin Penny was, from April 1992, the SEO head of Branch C in Meat Hygiene Division at MAFF. He told us in a statement that he understood from his staff that ‘Local Authorities were reading the Regulations as applying to knacker’s yards’.1718 Before 1989 EHOs employed by District Councils would have been visiting knacker’s yards to check on compliance with the MSSR 1982. One witness told us that such visits would take place only once or twice a year.1719 Under the 1990 Order, as amended in 1991, Trading Standards Officers of the County Council would have been concerned to ensure that SBOs were not included in the material that knacker’s yards were processing to produce pet food.

4.765 We would not have expected inspectors from either District Councils or County Councils to be concerned with the efficacy of the separation made by knacker’s yards of material consigned to renderers. It was, we think, reasonably clear that there were no regulations which required this. Mr Penny referred us to a flurry of correspondence between MAFF and District Councils in 1995 in which District Councils made the point that the 1989 Regulations did not apply to knacker’s yards.1720 This correspondence appears to have been stimulated by attempts by MAFF to tighten up on enforcement of the 1989 Regulations. We would not have expected District Councils, in the period between 1989 and 1995, to have been attempting to enforce the 1989 Regulations in knacker’s yards (see paragraphs 4.221–4.224 above).

4.766 It appears, nonetheless, that some officers of the VFS and some District Councils may have proceeded under the erroneous belief that the 1989 Regulations...
applied in the case of knacker’s yards and hunt kennels, notwithstanding the fact that they did not apply to offal from fallen stock. The evidence does not enable us to judge on how wide a scale such enforcement activities took place. Certainly the monitoring reports from the VFS do not suggest that attention was being focused on separation by knacker’s yards of SBO from other material supplied to renderers (see paragraphs 4.219–4.252).

**Monitoring of knacker’s yards**

**4.767** On 18 December 1990 Mr Crawford sent a fax to RVOs which stated:

> In recent days, we have discussed the plethora of requests which have gone out to the Field requiring them to submit returns on various aspects of the rendering and knackery operations and the problems of disposal of dead stock from farms. I am very aware that DVOs are probably thoroughly confused about what is now required of them and, by this minute, I would hope to standardise these returns. 1721

**4.768** Mr Crawford then set out the information that should be obtained from renderers, which included ‘how the specified offals are kept separate from other material’. So far as hunt kennels and knackeries were concerned, he instructed:

> Hunt kennels and knackeries – until further notice, these should continue to receive a monthly visit by veterinary or technical staff to report on the removal of dead stock from farms. At these visits staff should also review the procedures for the disposal of waste material generally and the specified offals in particular. 1722

**4.769** Mr Hutchins’ summary of only 23 returns received from knackers and hunt kennels, despite a reminder telex, painted a general picture of a depressed knacker industry, with an increasing number of carcasses being abandoned outside kennels, knackers and local authority tips. The report dealt with compliance with the MSSR 1982, but said nothing about SBO. 1723

**4.770** Mr Hutchins’ summary of returns for the following months were in similar terms and to similar effect. His comment in May 1991 that there was considerable confusion amongst both operators and supervising authorities about the application of the legislation (see paragraph 4.235 above) was coupled with a report of requests for ‘a plain man’s guide’ to the legislation. 1724 We are not surprised at the confusion. There appears to have been no response to the request for a plain man’s guide to the legislation.

1721 YB90/12.18/2.1
1722 YB90/12.18/2.1
1723 YB91/1.17/1.1
1724 YB91/5.20/6.1
4.771 Despite requests in AHC 91/55 for checks on ‘handling, storage and disposal procedures for SBO’, no such information was to feature in the returns that were made, insofar as we have details of them, through to 1993. References to compliance with Regulations were invariably restricted to comments on the MSSR (see paragraphs 4.232–4.250 above).

4.772 This suggests to us that the VOs who were visiting knacker’s yards were proceeding on the correct premise that the 1982 MSSR applied and the 1989 Regulations did not apply.

4.773 In his minute to Dr Render, Head of Branch B, Animal Health (Disease Control) Division, of 10 November 1995, Mr Fleetwood gave details of visits to 212 knacker’s yards and hunt kennels in September 1995. He commented:

Although the SVS has been active in knacker and hunt premises for some time, detailed record keeping at a central level began in September this year when the new Order was introduced.

4.774 We suspect that detailed record-keeping began at this stage because, for the first time, there existed detailed Regulations to monitor.

4.775 The details included 51 cases when there were problems with identification, removal or separation of SBO, 66 cases of unsatisfactory staining and 75 cases of weight discrepancies in relation to SBO. These figures suggest to us that the purported separation by renderers of SBO from other matter is likely to have been unreliable and that knacker’s yards were a significant source of the infective material that ended up in animal feed.

4.776 AHC 94/100 instructed DVOs that, in accordance with article 12 of the BSE Order 1991, SBO should be separated from other knackery waste material that was intended to be consigned to a rendering plant for processing into MBM that was destined to be incorporated into animal feed. DVOs were instructed to record any failure to do this on form MH4 and to bring the failure to the attention of ‘the relevant enforcement authority’. We have no evidence of any reports being made pursuant to these instructions.

Hunt kennels

4.777 Almost precisely the same considerations applied to hunt kennels as applied to knacker’s yards. They accept fallen stock in order to provide feed for the hounds. Surplus material went to renderers. We received little independent evidence in relation to hunt kennels. Some appear to have blatantly disregarded the 1990 Order, as amended in 1991 (see paragraph 4.578 above). Insofar as they sent material to renderers which purported to be SBO-free, we feel it likely that this description would often have been inaccurate.
Transit to renderers

4.778 In his witness statement Mr Simmons told us:

In collating the returns required by AHCs 91/9 and 91/55, I became concerned that not all aspects of the disposal of SBO had been covered. I was most concerned that the handling of SBO was not being significantly monitored after its removal from the premises of origin (eg, the slaughterhouse) to its ultimate disposal (eg, landfill). This was partly because there was a split between the enforcement of various parts of the legislation that referred to SBO controls.\textsuperscript{1728}

4.779 Mr Simmons’s concerns were well founded. We shall shortly be considering the problems that arose in enforcing the animal SBO ban at the rendering stage. So far as transit from slaughterhouses, knacker’s yards or hunt kennels to renderers was concerned, there was no local authority supervision of any kind. Transit from the slaughterhouse required an SBO movement permit, but the District Council officials considered that their duties under the 1989 Regulations were complete once the offal left the slaughterhouse – subject only to a duty to reconcile movement permits after the transit was complete. We have seen no evidence that County Councils considered that they had any role to play in enforcing the 1990 Order, as amended in 1991, before offal collected from the slaughterhouse arrived at the renderers. As we have already explained, there were no regulations which prohibited the mixing of SBO and other material in the course of their transit, other than the obligation to convey the SBO in sealed containers, which, as Mr Corbally had pointed out, was disregarded (see paragraph 4.689 above). Transit from knacker’s yards and hunt kennels required no SBO movement permit at all.

4.780 Mr Simmons’s remedy, as implemented by AHC 93/32, relied on monitoring by the VFS to fill the gap in the local authority enforcement cover. The ‘cradle to grave’ returns that VOIs were required to make included confirmation that SBO was separated from other material while in transit and at collection centres (see paragraph 4.255 above). The results of these indicated, initially, that separation was satisfactory in transit and at collection centres. These results contrasted with what was found when an additional round of unannounced visits was made, pursuant to Mr Crawford’s instructions of 1 February. Mr Simmons reported evidence of mixture of SBO and other waste in transit and commented that at the collection centres determining the constituents of the stained material was almost impossible and had to be taken on trust (see paragraph 4.287 above).

4.781 In summary, the regulations did not require separation during transit, there was no attempt by local authorities to enforce separation during transit and at collection centres, and the monitoring carried out by the VFS did not provide a reliable indication of whether or not commixture had occurred.

Renderers

4.782 We have already referred to the possibility that some renderers may not have been over-scrupulous about distinguishing SBO from other matter. What is clear beyond doubt is that, in the initial years of the SBO ban, MBM produced for sale to

\textsuperscript{1728} S87 Simmons para. 14
feed compounders must, in the course of production, have been contaminated with SBO in those plants which rendered both categories of material. We discuss this aspect before turning to local authority enforcement and monitoring by MAFF.

**Cross-contamination at rendering plants**

4.783 Mr Hutchins’s report of 7 May 1991 (see paragraph 4.167 above) and Mr Simmons’s report of 16 October 1991 demonstrated that, where common plant was used to render SBO and other matter, contamination was inevitable. Mr Simmons reported that the amount of infectious agent reaching susceptible animals through contamination of animal protein feed with SBO would be very small (see paragraph 4.183 above). This view was, however, expressed before Mr Simmons knew that one gram of infectious material would suffice to transmit BSE. With hindsight, we are of the view that the cross-contamination in the course of rendering that was occurring at this time was a significant cause of infection of the BABs.

4.784 The voluntary Code of Practice designed to prevent cross-contamination during transit, storage and rendering was not introduced until August 1992. The Code called for dismantling and cleaning of cooking equipment, or purging with material that would then be treated as SBO (see paragraphs 4.210–4.214 above).

4.785 Mr Fleetwood told us that at large premises such purging would consume at least one tonne of material. We have some scepticism as to whether all renderers would have been prepared to sacrifice material on this scale under a voluntary scheme. Even where they were, Mr Fleetwood told us that such purging would not have been sufficient to prevent contamination sufficient to result in transmission. That was one of the reasons why a decision was taken to introduce a requirement for dedicated lines.

**Enforcement and monitoring at rendering plants**

4.786 We raised the question earlier of whether a renderer who knowingly sold to a feed compounder MBM which contained SBO was guilty of the offence of selling or supplying this material ‘for feeding to animals’ (see paragraph 4.648 above). This rather technical point of statutory construction would not necessarily have inhibited a Trading Standards Officer from prosecuting a renderer who could be shown to have knowingly supplied to a feed compounder MBM derived from SBO. What would have inhibited prosecution was the virtual impossibility of proving that the MBM in question contained protein derived from SBO.

4.787 The difficulties facing both County Councils and MAFF were demonstrated by one incident in respect of which we heard evidence from Mr Heafield, the County Trading Standards Officer for Lincolnshire. A rendering plant in Lincolnshire was consistently failing to keep SBO separate from non-SBO material in its reception area. On the initiative of Mr N M James, an SVS Veterinary Officer, a meeting, chaired by Mr James, was held with representatives of both the County Council and the District Council to decide what, if anything, could be done. The note of this meeting made the following points:

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1729 T55 p. 57
1730 T55 p. 57
The Chairman advised the meeting that material in transit to the plant for rendering was covered largely by the Bovine Offal Prohibition Regulations 1989 and as such was the province of the Environmental Health Department of the District Council. Once it has arrived at the plant MAFF was responsible for licensing SBO material away from the premises, while Trading Standards had to ensure that the SBO products (or non-SBO ruminant material for ruminant feed) did not re-enter the animal or poultry food chain.

There was considerable discussion on this latter point. Mr Seymour pointed out that the witnessed mixing of SBO and non-SBO material in the reception area . . . would not itself constitute proof that such ‘contaminated’, non-SBO material would actually enter the food chain.

Further, it was agreed that, while Trading Standards would be the prosecuting authority in the event of SBO material entering a non-ruminant and poultry food chain, or ruminant material entering the ruminant food chain, it would be for MAFF inspectors to indicate that this was likely to be taking place prior to any investigation by Trading Standards. MAFF inspectors should therefore routinely seek to establish the destination of rendered products and species sampling may be necessary at feed company premises.

It was thought likely to be impossible (in the absence of a specific test) to demonstrate the presence of SBO material in a consignment of rendered, supposedly non-SBO material destined for non-ruminant feed.

There was no provision in the BSE Order to prosecute a company for failing to prevent the mixing of SBO material with non-SBO material in their reception facility. They could only be advised to follow the Code of Practice.

4.788 This was but one incident of a lengthy saga. The long and the short of it was, however, that both the County Council and MAFF were powerless to prevent cross-contamination of non-SBO material with SBO, whether accidental or otherwise, until the introduction of the Specified Bovine Offal Order 1995. The animal SBO ban could not, in practice, be enforced by the local authorities charged with its enforcement.

Consideration given to the 1990 Order

Responsibilities for the 1990 Order

4.789 The 1995 Order addressed a number of deficiencies in the operation of the animal SBO ban that had become apparent in the years that elapsed after it came into force. It addressed, in particular, two matters: (i) the need for enforceable obligations to keep SBO separate from other material in all places and at all times; (ii) the risk of contamination in the course of the rendering process. Should either

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1731 YB94/5.5/7.2 and S171 Heafield para. 45
or both of these matters have been appreciated and addressed when the 1990 Order was drafted?

4.790 Mrs Attridge was head of the Animal Health and Veterinary Group, which had responsibility for the legislation. She told us that Ministers wanted effect to be given to SEAC’s recommendation to exclude SBO from animal feed as quickly as possible, and that it was her responsibility to ensure, insofar as she could, that the Animal Health and Veterinary Group carried out ministerial wishes. This responsibility extended to taking an active interest in the way the Order would operate. We explored with Mrs Attridge how far this responsibility required her to give personal consideration to the terms of the Order and who should have been applying their mind to the practical requirements of the Regulations to make sure that they were viable.

4.791 Mrs Attridge told us that this would have been a team effort. On the administrative side Mr Maslin would have been reporting to Mr Lowson on the terms of the legal conditions. The Chief Veterinary Officer (CVO) and the Meat Hygiene veterinarians would have been providing input on the practicalities. Mrs Attridge said that she would normally have left it to them:

. . . except if I had not been on leave I would probably have seen the draft and commented on it at the time it went to the lawyers, but I would not normally intervene until that stage.1733

4.792 In the case of an important Order she would ‘keep an eye that any points of concern had been looked at’.1734

4.793 Mrs Attridge was on leave from 20 August to 10 September. We consider that she could properly leave it to her team, under Mr Lowson, to attend to the details of the Order. When she gave evidence to us it was apparent that she did not have previous knowledge of the manner in which the 1989 Regulations operated or of the details of the working of the voluntary animal SBO ban. We do not consider that she could reasonably be expected to concern herself with these details.

4.794 We do not think responsibility for considering how the Order would operate extended any higher in the administrative hierarchy. In particular, Sir Derek Andrews told us that he was not personally concerned with this statutory instrument, which was one of 153 that the Department made in 1990.1735

4.795 Mr Lowson, as head of the Animal Health Division, confirmed that the drafting of the Order fell within the responsibilities of his division.1736 In a written statement Mr Lowson explained the nature of his involvement in the preparation of the Order. He told us that once the policy decision had been taken to ban SBO in animal food, while he saw most of the papers, he was less directly involved. Mr Lowson said he left Mr Lawrence and Mr Maslin to consult with colleagues about and carry forward the preparation of legislation and associated documents. We were told by Mr Lowson that his role was to ensure that the necessary work was being

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1732 S78B Attridge para. 49
1733 T117 p. 97
1734 T117 p. 97
1735 T124 pp. 90–1
1736 S104B Lowson para. 66
carried forward and that the views of veterinary and legal colleagues were being taken into account.

4.796 We consider that Mr Lowson had ultimate responsibility on the administrative side of the team for ensuring that the terms of the Order were satisfactory.

4.797 As CVO, Mr Meldrum was responsible for seeing that the administrators had any veterinary advice that he could see was needed, either by providing this himself or by making sure that it was provided by the appropriate section of the SVS. Although originally he had no memory of personal involvement, Mr Meldrum was reminded by some contemporary documents that he had, in fact, been consulted about a draft of the Order. Mr Meldrum told us that he would have been thinking about the position in slaughterhouses once he learned of transmission of BSE to a pig in August 1990. He added:

Quite clearly I was consulted on the Order. Therefore I obviously gave considerations to the provisions in that Order and how they would have applied. I would not have agreed to the Order going forward if I thought that a major problem could arise in a slaughterhouse in the implementation. 1738

4.798 Mr Meldrum was also in a position, as a result of his previous experience with the rendering industry, to give consideration to how the Order would operate at the rendering stage of the animal feed chain. 1739

4.799 It seems to us that Mr Meldrum had lead responsibility for providing veterinary advice on the practicalities of the Order. Mrs Attridge told us that she would have expected the Meat Hygiene veterinarians to be involved in advising on the practical side, but Mr Baker told us that he had no recollection of being consulted before the animal SBO ban was introduced. Had he been consulted he felt that he would have contributed to the discussion. Mr Meldrum had thought that input about slaughterhouse practices was required which Mr Meldrum was not himself in a position to provide, we do not doubt that he would have made sure that Mr Baker was consulted.

4.800 We appreciate that the preparation of the Order was a team effort and that others lower in the hierarchy were involved in it. We were concerned, however, that the matters which troubled us were matters which ought to have been considered personally by Mr Lowson and Mr Meldrum and it was with them and with Mrs Attridge that we explored our concerns about the adequacy of the Order.

**Fallen stock**

4.801 The 1990 Order had a drafting error which was overlooked by everyone. Because the definition of SBO was lifted from the 1989 Regulations, it failed to cover fallen stock. This error was quickly identified and instructions were given to the lawyers to rectify the error. We do not see that a drafting error of this nature, rapidly identified, calls for criticism. It was, as Mr Maslin remarked, a consequence

1737 T132 p. 55
1738 T132 p. 67
1739 S184 Meldrum paras 5–9
1740 T107 pp. 122–3
of the speed with which the Order had been produced. Perhaps more significant is the fact that it took the lawyers a year to rectify the error. This is not a matter that we have felt it necessary to explore – there may have been reasons for the delay and, in practice, most knacker’s yards were proceeding on the basis that the Order applied to them (see paragraphs 4.46–4.53 above).

The 1990 Order and accidental contamination at renderers

4.802 When the 1990 Order was being drafted, renderers were already drawing a distinction between SBO and other material, in accordance with the voluntary SBO ban. Many renderers were processing both categories of material, stockpiling or disposing of as waste the MBM derived from SBO, and selling to feed manufacturers the MBM derived from other material. Mr Meldrum had advised Ministers that it was desirable that renderers should continue to process SBO.

4.803 Mr Meldrum told us that he was conscious of the risk of contamination, where renderers used the same plant to process SBO and material fit for incorporation in animal feed. When giving evidence in Phase 2 he raised this matter:

The question could be asked by you later to yourselves as to why we did not go for dedicated lines in 1990. The answer was there was insufficient capacity within the industry to do that. Between 1990 and 1995 additional plant was put on stream, put in at quite high cost, so that by 1995 we were able in fact to go for dedicated lines in rendering plants.

At the same time there was a problem, I will not go into too much detail, but there was a Monopolies Commission problem that arose in all of this . . .

4.804 He went on to confirm that his mention of the Monopolies Commission was a reference to the position of Prosper De Mulder. They might have had sufficient capacity to provide a rendering service for all SBO produced in Great Britain. Had the 1990 Order required rendering of SBO in dedicated plant, this might have had the effect of setting up Prosper De Mulder as a monopolist provider of this service, which would not have been acceptable.

4.805 The evidence does not appear to support Mr Meldrum’s assertion that renderers had installed separate lines by 1995. They were granted six months to install such lines under article 26 of the 1995 Order.

4.806 We believe that there are two reasons why it did not occur to Mr Meldrum in 1990 that renderers should have been required to install separate lines for processing SBO. The first was that such a measure would have seemed disproportionate if its only purpose was to enhance the protection of non-ruminant animals against what was no more than a possible risk. The second was his failure to appreciate that cross-contamination in feedmills might put cattle at risk. We have found that Mr Meldrum should have addressed this at or soon after the introduction of the ruminant feed ban. He did not do so because of his failure to contemplate the possibility that a small quantity of infectious material might suffice to transmit BSE to cattle.

1741 T132 p. 119
1742 T132 pp. 119–20
1743 S184A Meldrum para. F156
1744 L2 tab 13
Given that at this time Mr Meldrum did not envisage that the integrity of the animal SBO ban had any significance for cattle, we do not consider that he is open to criticism for considering that it was acceptable for renderers to use common plant to render sequentially SBO and other material. In such circumstances it would have been hard to justify requiring renderers to go to the expense of installing dedicated plant as a condition of continuing to render SBO. If the regulations had required renderers to avoid mixing SBO with other material, so that they would have been obliged to take reasonable measures to avoid contamination, this would have been an adequate response to what at the time was perceived as a remote risk. The County Councils would then have been in a position to insist that renderers took reasonable steps to avoid contamination. We deal with that aspect below, when considering our concern at the lack of an enforceable obligation to keep SBO separate from non-SBO material.

For similar reasons, we consider that Mr Meldrum acted reasonably in advising that renderers should continue to be permitted to render SBO. Renderers were already processing SBO as waste under the voluntary ban. Had this been forbidden, a significant waste disposal problem would have been created and it was reasonable to conclude that the better course was to avoid this consequence.

**Enforceability of the 1990 Order**

In the course of oral evidence, Mrs Attridge commented:

> Would we make a law that we thought was unenforceable? No, I do not think we would is the short answer to that.\(^1\)

For the reasons that we have explored at length, the 1990 Order was unenforceable. The 1995 Order remedied that. Should it have been apparent to Mr Meldrum and Mr Lowson that the 1990 Order was defective in this respect?

Broadly, witnesses gave two answers as to why they believed that there would be no problem in relation to the implementation of the 1990 Order:

i. The human SBO ban already in place under the 1989 Regulations was working satisfactorily and thus there was no reason to believe that there would be any problem with the 1990 Order.

ii. Separation of SBO from other unfit material was already taking place under the voluntary SBO ban and there was no reason to believe that this was not operating satisfactorily.

Mr Meldrum had this to say about the suggestion that he should have anticipated problems with the 1990 Order:

> The information available to me in September 1990, was that there were no major problems with the SBO Regulations and voluntary separation of SBOs by slaughterhouses and renderers was already taking place . . . It is difficult to see, without the benefit of hindsight and experience gained over 4 years, what steps I could have taken when the 1990 Order was first introduced to ensure that there was a system to monitor compliance with the SBO.
Regulations and the 1990 Order. To do so, I and my staff would have needed unbelievable foresight verging on inspired guesswork and that is quite clearly an unacceptable manner in which to conduct Government business.\footnote{S184E Meldrum para. G19}

4.813 He added:

So far as the new SBO regulations were concerned in 1990 (ie, the 1990 Order) it was the primary responsibility of the relevant administrators to commission the draft statutory instrument and to draw up the relevant instructions to field staff and advice to Local Authorities based on advice from SEAC and the AHVG veterinary advisors. As CVO at the time, I would not have become involved with this procedure unless a particular problem was identified which required my input. However, since I was not aware of any particular problems with the implementation of the SBO regulations introduced in November 1989, I would not be in a position to provide any advice to Ministers as to how the existing regulations might be improved, if at all.\footnote{S184E Meldrum para. 25}

4.814 Mr Maclean’s note of 5 July 1990 had called for MAFF to be ready with an immediate offal ban for pigs and poultry in the event of experimental transmission of BSE to a pig.\footnote{YB90/7.5/4.5 – 4.6} Mr Lowson’s reaction had been that experimental transmission to a pig would not make it necessary to introduce an animal SBO ban.\footnote{YB90/7.9/4.1} He told us that he would have agreed this answer with his veterinary colleagues and it was endorsed by Mr Andrews. Mr Lowson acknowledged that it turned out to be wrong.\footnote{T127 p. 208} Mr Andrews also endorsed Mr Lowson’s conclusion that:

There is not much that we can do now to prepare for the possibility that offals (presumably specified offals) will need to be banned from pig and poultry feed.\footnote{YB90/7.10/4.9}

4.815 In oral evidence Mr Lowson explained:

Yes, in response to Mr Maclean’s minute I did think to myself, ‘What will we have to do if it turns out that we are required to introduce a ban?’ And my conclusion was not much because we already had what seemed to me to be a workable legislative framework, in that there were already controls on SBO in slaughterhouses, there was already a system which controlled the use of one category of animal feed, namely ruminant material into ruminants, that it would be legislatively straightforward to implement an SBO ban. In that case one would simply be adapting the existing legislation through statutory implementation, probably under the Animal Health Act which would be a very quick procedure, that the logistical problems, because a ban was \textit{de facto} in place already, would probably not be overwhelming.\footnote{T127 p. 211}
Mr Lowson did not suggest that there were detailed discussions prior to deciding on the Order, but summarised his perception of the position as follows:

At that time we knew that the industry itself was *de facto* operating a ban which we had I think good reason to believe I think was taken seriously. We knew that at the first stage of the process, that is in the slaughterhouse, rules had been adopted under a familiar and workable system, namely the old Staining and Sterilisation Regulations, which provided for the separate handling of SBO, so at the second stage of the process at the rendering plant, we knew that this was an industry in a relatively small number of hands and the major player in that industry was processing material separately already.

We knew there was a strong commercial incentive on each stage in the production chain, particularly the compounders, to ensure that keeping SBO material out of animal feed was in fact adhered to because if we go back to the meeting with the NFU, their concern arose from the demands being placed on them by the multiple retailers, so there was a strong commercial incentive to do the job properly already existing. 1753

In a written statement Mr Lowson made a number of points, which included:

I have been referred to legislative changes that were recommended as a result of a meeting of MAFF officials on 3 May 1994. If and in so far as such changes were a reaction to matters that became apparent only after the introduction of the Order, such matters could hardly have been identified when the order was introduced. 1754

The problems of enforcement which give rise to the possible problems of operation and enforcement . . . were in general not identified at this stage. This was not surprising as the proposed legislation followed a familiar format which had in the past, I understand, been found to work well . . . 1755

Mr Lowson described discussion of the 1990 Order, in which he took part, as ‘straightforward as it required only relatively minor changes to the 1988 Order already in place’. 1756

We do not believe that Mr Lowson gave rigorous consideration to the requirements of an animal SBO ban in response to Mr Maclean’s minute of 5 July. He differed from Mr Maclean on the need for this, in that he did not believe that experimental transmission to a pig would necessitate the introduction of an animal SBO ban. He was wrong about this, as he acknowledged, but his assessment was expressly endorsed by Mr Andrews and implicitly by other senior colleagues, including Mr Meldrum and Mrs Attridge (see Chapter 3, paragraphs 3.179–3.181). We do not consider that either he or they are to be criticised for what proved to be an error of judgement. It was important, however, that when SEAC advised that SBO should be withdrawn from animal feed, rigorous thought was given by Mr Lowson – and by Mr Meldrum – to the steps that needed to be taken to achieve this.

1753 T127 pp. 217–18
1754 S104B Lowson para. 66
1755 S104B Lowson para. 69
1756 S104B Lowson para. 76
4.820 Mrs Attridge remarked that the report of transmission to a pig on 20 August could not have come at a worse time because August and September was when most of the top people in the Ministry took their leave, so that they were thin on the ground.1757 A much more serious impediment to detailed discussion was, however, a policy that combined secrecy and haste in preparing the Order.

4.821 When Mr Meldrum learned that BSE had been transmitted to a pig, he decided that this should be kept confidential until it could be discussed by SEAC. He discussed the finding by video conference link with Mr Gummer, of which no record was made in order to preserve confidentiality.1758 Mr Gummer endorsed and adopted the policy of keeping news of transmission to a pig confidential until the Government had its response to this in place.1759

4.822 SEAC advised on 7 September that SBO should be excluded from the feed of all animals. This advice, also, was kept confidential until the draft Order was prepared, whereupon both the fact of transmission of BSE to a pig and MAFF’s response were announced simultaneously (see Chapter 3, paragraphs 3.213–3.216).

4.823 It is a natural reaction of government to defer making public news of an event that is liable to cause alarm or concern until the appropriate response has been determined. Such a course is not necessarily to be decried. It has, however, its dangers. It may prevent those affected by the event from taking timely action to avoid or mitigate its consequences and it may prevent consultation that is necessary or desirable in order to be sure that the measures adopted to deal with the event are appropriate and adequate.

4.824 We do not believe that when Mr Meldrum urged that news of transmission to a pig should be kept ‘under wraps’ he intended that this should preclude any consultation necessary to ensure that appropriate action was taken in response to this event. No doubt the same is true of Mr Gummer. He could reasonably expect his officials to inform him if his call for confidentiality was in conflict with the demands of sound planning. With hindsight, we believe that it would have been better if MAFF had made public SEAC’s advice of 7 September, stated that the voluntary ban that was already in place would be replaced by a mandatory ban, and proceeded to consult with industry and with local authorities as to what would be needed to make such a ban effective. In the event, the secrecy and haste resulted in an absence of consultation that would have proved valuable. We suspect, too, that they contributed to a failure on the part of Mr Lowson and Mr Meldrum to give the requirements of the ban the rigorous consideration that they required.

4.825 When, on 3 May 1994, Mr Eddy chaired a meeting to consider tightening up existing controls on the handling of SBO, the first thing he and his colleagues had to do was to spend ‘a great deal of time clarifying in our own minds how the current arrangements work’.1760 It does not seem to us that anyone devoted the necessary time and effort to considering how the arrangements would work before the animal SBO ban was introduced. The fact that a voluntary ban was already in operation was treated as satisfactory demonstration that a mandatory ban could and would work. This was not a satisfactory approach. The question that needed to be asked was whether ‘self-policing’ would ensure that the ban was properly implemented and, if

1757 T117 pp. 91–2
1758 S184A Meldrum para. E49
1759 T132 p. 95
1760 YB94/5.17/1.1
not, what legal obligations should be imposed to enable the local authorities to carry out their enforcement responsibilities.

4.826 Had that question been asked and rigorously considered; had opinions been canvassed in the usual manner of professionals and administrators within what, in the course of 1990, became the Animal Health and Veterinary Group, we believe that it would have become apparent that all was not plain sailing. In 1994 Mr Eddy wrote:

The current arrangements are complex because they involve three policy Divisions at Tolworth and operate under the Food Safety and Animal Health Acts and therefore fall to two Divisions in Legal Department. To make matters worse the animal health aspects are implemented by County Council level local authorities and the Food Safety Act aspects by the District Council tier.1761

4.827 The complexity was no less great in 1990 and its implications needed to be addressed.

4.828 We do not suggest that Mr Lowson and Mr Meldrum should have been able to resolve, without assistance from the lawyers, the difficult points of statutory interpretation that we have set out earlier in the discussion. We do believe, however, that consideration of the position as it existed in August 1990 should have led to the following conclusions:

i. The 1989 Regulations did not simply forbid the sale or use for human consumption of SBO; it coupled that prohibition with a complex series of regulations designed to enable that prohibition to be enforced and monitored.

ii. It was, at the least, unclear whether the 1989 Regulations required SBO to be kept separate and identifiable at all times.

iii. The 1989 Regulations imposed no obligations on knacker’s yards or hunt kennels, nor on renderers, and did not require movement permits for material in transit from knacker’s yards and hunt kennels.

iv. If the 1990 Order was to be enforceable, it needed to couple the prohibition on feeding SBO to animals with a series of requirements covering handling of SBO that could be enforced.

4.829 Mr Lowson told us:

. . . there was a well-established system with well-established requirements for enforcement and the requirement under the 1989 legislation for SBOs to be packaged and labelled distinctly from other condemned material, as I read the 1989 Order. So you have there the basic requirement, which is that the stuff is separate at the point where it is extracted from the animal.1762

4.830 Mr Meldrum made these comments on the effects of the 1989 Regulations and 1990 Order:
At this time SBOs were being separated from other waste material. The 1989 Regulations in my view require that, in the way that they are marked and licensed off to a renderer.

The 1990 Animal Health SBO Order put some obligations on slaughterhouse owners as to what they may do with SBOs and what they could not do in particular. That is quite clear. They could not in fact consign SBO material for use for feeding to livestock. Therefore that means, again, you have to keep the SBO material separate in the slaughterhouse. So I do believe that separation was required. It was quite clearly required and was in fact anyway part of the voluntary arrangement in place at that time.\textsuperscript{1763}

4.831 For the reasons set out above, both these statements were incorrect. We believe, however, that they are the product of recent consideration of the Regulations by Mr Lowson and Mr Meldrum. We do not believe they reflected consideration given when the 1990 Order was being drafted. They were not conclusions which could safely be made without consulting the lawyers and such consultation did not take place. Had they done so, the lawyers would not have advised that either Order imposed a duty to separate SBO from other material in slaughterhouses.

4.832 Any reliance on the 1989 Regulations as an answer to the practical problems of the animal SBO ban would have been misplaced for two reasons. In the first place, the requirement to ensure that SBO was at all stages separately treated from other material did not arise under the 1989 Regulations. Whatever the position in slaughterhouses, these Regulations simply had no impact on knacker’s yards, hunt kennels and renderers, nor did they control transit from knacker’s yards and hunt kennels to renderers. In the second place, the 1989 Regulations had given rise to very considerable problems, as itemised by Mr Corbally. These included ‘impractical and unenforceable’ requirements in relation to storage and removal of SBO (see paragraph 4.689 above). It is not clear whether knowledge of these had got beyond Mr Baker and the Meat Hygiene Veterinary Section. It would not have been right to make assumptions about the smooth operation of those Regulations without checking with veterinarians responsible for meat hygiene. But we do not think either Mr Lowson or Mr Meldrum reached this stage.

4.833 Had rigorous consideration been given by Mr Lowson and Mr Meldrum to the requirements of an effective animal SBO ban, they could not have concluded that the simple amendment that was made to the ruminant feed ban would be satisfactory. The problem was not an easy one. It merited discussion and consultation with those who would be affected by the ban and those who would have the duty to enforce it. This was sacrificed to speed and secrecy.

4.834 We consider that both Mr Meldrum and Mr Lowson should have identified and drawn attention to the problems. In saying this, we bear in mind that Mr Lowson was absent on leave from August 23 to September 2. He has not suggested that this inhibited him from giving the matter proper attention. Nor should it have done. He had primary administrative responsibility for the Order and had been asked by Mr Maclean to give consideration to it in July.
4.835 We sought information from the lawyers involved as to the instructions that they were given in relation to the drafting of the Order and the circumstances in which it was drawn up. After such a lengthy period of time they were unable to add any significant details to those to be gleaned from the contemporary documentation. This is scanty, for it seems that the lawyers were initially instructed by telephone. We note, however, that in a manuscript minute to Mr Lawrence, Miss Richmond ‘flagged-up’ a warning that officials might be criticised for including provisions which were unenforceable.\textsuperscript{1764} We do not consider that the lawyers are to be criticised for the form of the Regulations. It was primarily for those instructing them to consider how they would operate in practice.

**Reliance on the voluntary SBO ban**

4.836 It seems to us that the principal factor that fostered a belief that the animal SBO ban would work effectively was the existence of the voluntary SBO ban. This is no doubt what Mr Maslin had in mind when he included in his submission to the Minister the statement that ‘as with the existing ruminant feed prohibition, the ban on its sale, supply and feeding will, to a large extent, be self-policing’ (see Chapter 3 paragraph 3.246). Deliberate breach of the ruminant feed ban was unlikely, for renderers had an alternative market for ruminant protein and feed compounders had no commercial motive for disregarding the ban. The same was not true of either the voluntary or the statutory animal SBO ban. Mr Lowson’s statement to us that ‘we knew there was a strong commercial incentive on each stage in the production chain, particularly the compounders, to ensure that keeping SBO material out of animal feed was in fact adhered to’ was nonsensical.\textsuperscript{1765} Both slaughterhouses and renderers had a strong commercial incentive to pass off SBO as material fit for feeding to animals.

4.837 The voluntary SBO ban did not, in fact, demonstrate that ‘self-policing’ was satisfactory.

4.838 We have already pointed out that the voluntary SBO ban was not applied by all feed manufacturers and that a market existed for MBM that contained SBO (see paragraph 4.624 above). The market was shrinking and by August 1990 MAFF had been told that MBM made from SBO was ‘largely unsaleable’.\textsuperscript{1766} We do not think it was reasonable to assume that all slaughterhouses and renderers were complying strictly with the requirements of the voluntary ban, having regard to the financial consequences that the ban involved.

4.839 We explored with witnesses from the rendering industry the extent to which it was possible in practice to rely on slaughterhouses and renderers to comply with the voluntary ban. Mr Foxcroft told us that Prosper De Mulder did its best to check that material received was SBO-free, but that this ‘could be very difficult. You were very reliant on co-operation from the abattoirs.’\textsuperscript{1767}
4.840 Mr Rogers explained the position:

UKASTA imposed their unilateral voluntary ban on the inclusion of SBOs on 9 November 1989. And UKRA met with UKASTA on the 21st, at which UKASTA accepted that it was impractical, impracticable for either the rendering or the meat industries to give cast iron guarantees that offals used would exclude SBOs. That was on the basis that their exclusion from rendering material was voluntary at the abattoir . . . UKASTA would however agree to buy meat and bone meal on the basis of substantially free on a best efforts basis, and that we did. In accordance with that undertaking UKRA advised all its members that they were now strongly recommended to totally exclude this material and to insist upon its separation at source at the abattoirs, and UKRA members were requested to sign to that effect. I have a copy of the document here called the 1990 UKRA Code of Conduct dated 26th February, and all of them did.1768

4.841 Mr Rogers added that the onus was on the abattoir to ensure separation:

Where it was evident that separation was not complete, then attempts were made to rectify the situation at the abattoirs, but with extreme difficulty because of the lack of legislation. It was entirely voluntary. As I said just now, in complying with what we were requesting them to do they were in fact costing themselves considerable sums of money.1769

4.842 Mr Lowson said that he had good reason for believing that the industry was taking seriously the voluntary animal SBO ban, on the basis of what he had been told by Mr Lawrence and Mr Maslin.1770 But that did not mean that there was full compliance with that ban, nor that there would be full compliance with a statutory ban. On the evidence that we have received, there were no reasonable grounds for concluding that there was or would be satisfactory compliance with the animal SBO ban on a ‘self-policing’ basis.

Could remedial measures have been included in the 1990 Order?

4.843 We now turn to consider whether it would, in practice, have been possible to remedy the deficiencies that we have identified in the regulatory scheme before the MHS had taken over the enforcement duties of the local authorities in slaughterhouses. There were suggestions that it would not be right to criticise individuals for deficiencies that could not have been remedied.

4.844 The intense consideration given by MAFF officials in 1994 to shortcomings in the operation of the animal SBO ban led to the introduction, in 1995, of a package of remedial measures. They were able to capitalise on the transfer of enforcement functions from local authorities to central government, so that the MHS became responsible for enforcement of the statutory regulations applicable in slaughterhouses. This step was effected by an amendment to the 1989 Bovine Offal (Prohibition) Regulations. At the same time, the staining requirements in those

1768 T60 pp. 103–4
1769 T60 p. 105
1770 T127 p. 220
Regulations were amended to provide for staining of SBO with a distinctive Patent Blue stain (see paragraphs 4.426–4.427 above).

4.845 This was followed in July by the Specified Bovine Offal Order 1995, which consolidated and extended the Regulations that made provision for both the human and the animal SBO bans. Thus the Order replaced the existing BSE legislation that had been introduced under both the Food Act 1984, the Food Safety Act 1990 and the Animal Health Act 1981. The Order was made pursuant to the powers conferred upon the Minister under the Animal Health Act 1981, rather than the Food Safety Act 1990.\footnote{L2 tab 13}

4.846 Under article 25 of the Specified Bovine Offal Order 1995, enforcement of the Order in slaughterhouses remained with the Minister, to be performed by the MHS. Elsewhere enforcement fell to the local authorities, ie, the County Councils.

4.847 Both Mr Meldrum and Mrs Attridge submitted to us that the statutory improvements that were made to the scheme of the animal SBO ban in 1995 were dependent upon the replacement of the District Councils by the MHS as the enforcement authority in slaughterhouses. This enabled consolidation of the Regulations under one Act, the Animal Health Act 1981. Had this been done before 1995, the County Councils would have been made responsible for enforcement in the slaughterhouses, an environment that had always been the province of the District Council.

4.848 This is all rationalisation after the event. We do not believe that adequate consideration was given in 1990 to the need for enforceable statutory requirements to keep SBO separate from other material at the point of origin, in transit to renderers and at the renderers. Had the need for this been appreciated, it could have been achieved by including in the 1990 Order the specific requirements as to separation subsequently embodied in articles 6(3), 15(4), 17(4) and 23(1) of the 1995 Order. These could have been coupled with the obligation to stain SBO with a distinctive stain.

4.849 We are thus satisfied that it would have been possible, in 1990, to impose on slaughterhouse operators, knacker’s yards, hunt kennels and renderers the duties as to separation, staining and handling of SBO that were imposed in 1995.

4.850 So far as the slaughterhouse is concerned, whatever changes were made, enforcement was in practice going to depend on the diligence of the officials employed by the District Councils. In these circumstances, both Mr Meldrum and Mrs Attridge made the point that alteration of the requirements in slaughterhouses would not have had any practical benefit. In practice, the slaughterhouses were already purporting to separate SBO from other material. They were under a duty to stain SBO black. If the District Council officials were not enforcing the separation and staining, what difference would it make if further requirements were made? Mrs Attridge suggested that, if there was a failure to comply with the obligation to supply a single stain, the introduction of a requirement to have separate stains for SBO and for other unfit material would have been likely to compound the situation.

4.851 We think that there is some force in these points. The factors that we have identified as responsible for poor enforcement by the District Councils of the
existing Regulations would adversely have affected enforcement of the Regulations imposed in 1995. We do not, however, go the whole way with Mr Meldrum and Mrs Attridge on this point. A statutory requirement to keep SBO separate at all times from all other material would have focused attention on the importance of this measure and could only have had a beneficial effect on the degree to which such separation was observed in slaughterhouses. The requirement for a separate stain for SBO would have had a similar effect.

4.852 So far as knacker’s yards, hunt kennels, collection centres, transit to renderers and renderers were concerned, there is no doubt that it would have been possible to impose clear and simple statutory obligations to keep SBO separate from other material. The County Councils would have been responsible for enforcing these. We are in no doubt that this would have resulted in significantly more effective enforcement and monitoring of the animal SBO ban.

4.853 We do not say that individuals ought to have decided in 1990 on the precise solutions that were adopted later. We conclude, however, that there is no merit in the suggestion that practical difficulties in 1990 were such that nothing more could usefully have been done.

Consideration given to banning MBM from all animal feed

4.854 We have noted earlier the advice of officials that it was not desirable to prevent the continued incorporation of animal protein in animal feed. The question continued to be a matter of public concern. SEAC advised in October 1992 of a possible danger if porcine protein were to be fed to cattle. However, even when considering the BABs in 1995, SEAC did not suggest any wider action prior to March 1996 (see vol. 11: Scientists after Southwood). We examine this question further in Chapter 2, where we conclude that it was reasonable for MAFF officials and Ministers to proceed on the basis that a general ban on animal protein in animal food was not required.

Consideration given to the animal SBO ban between 1990 and 1994

4.855 Thus far we have been considering whether shortcomings in the 1990 Order should have been addressed at the time that it was made. We now turn to consider whether shortcomings in the Regulations, or the manner in which they were operating, should have been identified and addressed before 1994.

Staining

4.856 While we have criticised Mr Meldrum for failing to identify the inadequacies of the 1990 Order at the time it was made, we should record our appreciation of the diligence that he showed in seeking to ensure that the ban operated satisfactorily in
the years that followed. Time and again it was Mr Meldrum, rather than one of his subordinates, who gave directions aimed at improving the efficacy of the ban.

4.857 As soon as the 1990 Order took effect, Mr Meldrum asked Mr Lawrence whether there were any means of identifying SBO in animal feed. This led Mr Lawrence to investigate the possibility of incorporating some form of marker in the SBO (see paragraph 4.118 above). At the meeting chaired by Mr Meldrum on 9 November 1990, it was agreed that Mr Lawrence and Mr Kevin Taylor should pursue with CVL the possibility of a simple cheap marker or dye (see paragraph 4.121 above). None of those involved has any recollection as to what transpired in relation to this enquiry. Mr Taylor told us that he had spoken to Mr Lawrence about this and that neither of them had any recollection of what they did about it.1772

4.858 Mr Lowson told us that it would have been his responsibility to see what happened about this, but he did not now know what had happened.1773

4.859 Mr Meldrum suggested that the whole issue might have been ‘subsumed’ within the development of the ELISA test that was taking place at the Worcester Veterinary Investigation (VI) Centre.1774 This does not strike us as very probable.

4.860 We regret that we cannot resolve what happened in relation to this matter. Had a suitable stain or marker been identified at this stage of the story, it would have been of value. A requirement to mark SBO with a separate stain would have focused attention on the need for separation and facilitated identification of SBO in transit and on arrival at the renderers. If the evidence showed that Mr Taylor and Mr Lawrence had let the search for a marker lapse without good reason, we would have been critical of their conduct. On the face of it there appears to have been a lack of diligence in pursuing this matter, but we are conscious that, after a lapse of ten years, there may be an explanation that has simply been forgotten. In the circumstances, we do not consider it fair to criticise individuals.

**Weight checks**

4.861 The consideration given at the meeting on 29 October 1990, chaired by Mr Andrews, to the desirability of policing the animal SBO ban was commendable (see paragraph 4.90 above). It may well have led to the series of early checks on renderers and slaughterhouses carried out on Mr Meldrum’s instructions, although we could equally envisage him giving these on his own initiative. It was in response to Mr Andrews’ instructions that Mr Lawrence put forward his suggestions for monitoring throughput of SBO material by the use of weight checks (see paragraph 4.111 above).

4.862 Mr Lawrence’s suggestions were received with some scepticism by Mr Hutchins.1775 Mr Crawford told us that he agreed with Mr Hutchins’s comments.1776 Mr Baker told us that he would not have considered weight checks to be practicably viable.1777 Mr Lawrence’s suggestions were not taken further.

1772 T122 p. 151
1773 T127 p. 244
1774 T132 p. 38
1775 YB90/11.26/3.1
1776 T125 p. 60
1777 T107 p. 122
4.863 The requirement to keep records of weights at all stages of the SBO’s progress from the slaughterhouse or other place of origin to final disposal was one of the requirements of the 1995 SBO Order. This requirement replaced the old system of movement permits which, as we have seen, did not operate effectively in practice. The practical problems of Mr Lawrence’s scheme identified by Mr Hutchins were, we believe, reasonable grounds for not pursuing the scheme further. Mr Crawford told us that attempts to employ weight checks in 1995 proved to be very difficult and not particularly worthwhile because there were so many variables.\textsuperscript{1778} We do not believe that if the Veterinary Field Service (VFS) had attempted to monitor throughput of SBO by weight checks in 1990 in the manner suggested by Mr Lawrence this would have proved viable.

4.864 Mr Lawrence raised the suggestion of weight checks again in March 1991 (see paragraph 4.163 above). Once again they were not pursued, and for the same reason. In August of the following year, however, the veterinary field staff were recommended to make occasional weight checks at renderers, in order to compare SBO raw material input and MBM yield. Such checks had become practical because renderers had been required to keep records of these weights under the 1991 Order for licensing disposal of SBO-derived protein (see paragraph 4.190 above). Thus part of Mr Lawrence’s overall scheme was ultimately adopted.

### Adequacy of monitoring

4.865 The activities of the VFS in monitoring the implementation of the animal SBO ban were bedevilled by the following complicating factors:

i. the lack of a statutory role;

ii. the lack of clearly defined obligations to be monitored;

iii. the lack of powers of entry;

iv. uncertainty as to the responsibility for directing these monitoring activities.

#### (i) Lack of a statutory role

4.866 Mr Meldrum observed in a witness statement:

> It is clear that the SVS had a responsibility set by Ministers to monitor the efficacy of the arrangements put in place to control/eradicate disease and to protect the public and to draw any deficiencies to the attention of Ministers with a recommendation as to how the problem could be resolved.\textsuperscript{1779}

4.867 A statement made by Mr Crawford expanded on the position:

> The State Veterinary Service (SVS) was, and still is, a part of MAFF. It had no enforcement role placed on it in relation to the Regulations by any of the relevant legislation. However, Ministers felt that it would be helpful if the SVS offered advice and guidance to Local Authorities, and thus indirectly, to operators of slaughterhouses, knacker’s yards and hunt kennels, in order to assist them in complying fully with the Regulations. This assistance was
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given by way of periodic visits by Veterinary Field Service (VFS) officers to those institutions, following which a report would be written. If any breaches were found, they would be reported to the relevant Local Authority. Advice would also be given to the relevant Local Authority as to how such breaches might be corrected . . .\textsuperscript{1780}

It must be stressed that this assistance was not a formal obligation placed upon the SVS under the legislation introducing the Regulations. Rather, Ministers felt that an extra layer of support would be valuable to an industry that had seen so many changes taking place and new obligations put upon it. Ministers therefore gave MAFF the task of undertaking this support work. Equally important was the fact that by monitoring the Regulations in this way, MAFF could decide whether they were adequate, or whether further legislative change was needed.\textsuperscript{1781}

4.868 We had no direct evidence of Ministers conferring these roles on the VFS. The advising and monitoring roles of the VFS in relation to the enforcement obligations of local authorities appear to be of long standing. The roles were plainly of value. Often, however, the SVS lacked the statutory powers that were needed if these roles were to be properly performed. This was certainly the case in relation to BSE, as appears below.

(ii) Lack of clearly defined obligations to be monitored

4.869 We have dealt with this at length earlier in the Discussion (see paragraph 4.644 above).

(iii) Lack of powers of entry

4.870 When the Food Safety Act 1990 replaced the Food Act 1984, the SVS lost its powers of entry to slaughterhouses and knacker’s yards, previously available in order to check upon compliance with Regulations made under that legislation (see paragraph 4.26 above).

4.871 The SVS had powers of entry under the Animal Health Act 1981, but was only entitled to use this power for monitoring compliance with the Regulations where there were reasonable grounds for supposing that they were not being complied with (see paragraph 4.23 above). As the 1990 Order did not, as we have explained, impose obligations in slaughterhouses, the SVS had no right of entry to those premises for the purpose of monitoring implementation of the animal SBO ban.

4.872 The lack of access rights did not prevent members of the VFS from entering slaughterhouses or other premises in order to carry out their monitoring function. Mr Crawford told us that lack of access rights did not prevent the obtaining of information, although sometimes it made it more difficult:

I do not think we had any insurmountable problems in collecting the information. I think we got the information as we required it, but it did put

\textsuperscript{1780} See S84 Crawford paras 23–52 for a description of this work
\textsuperscript{1781} S84C Crawford paras 5–6
the staff in the field under some pressure at times, and the antagonism, if you like, varied from one part of the country to the other. In some parts our staff had real problems in making joint visits and having cooperation; in other parts the relationships were extremely good. To an extent, it was a conflict, if you like, between veterinary presence and the EHO presence in abattoirs, where environmental health officers had the responsibility and saw no reason why there should be any veterinary involvement, and our staff had to work in a diplomatic fashion with these people to get cooperation, which they always managed to get, but it could be and was difficult on some occasions.\(^{1782}\)

4.873 Because they had no rights of entry, Mr Crawford told us that members of the VFS would normally arrange to visit slaughterhouses with the Environmental Health Officers (EHOs) who were responsible for them.\(^{1783}\) Clearly, the lack of entry rights must have been an inhibition to the making of unannounced visits.

(iv) Uncertainty as to responsibilities for direction of the operations

4.874 The monitoring obligations that we have examined in this chapter were carried out in support of the enforcement of the animal SBO ban. One might have expected them to be directed by Mr Kevin Taylor as veterinary head of the Notifiable Diseases Section and subsequently Assistant Chief Veterinary Officer (ACVO) responsible for animal health and welfare. He told us, however:

I had no direct responsibility for advising on the SBO regulations, or monitoring compliance with them, before Dr Cawthorne joined my Section in April 1995, bringing with him the veterinary responsibilities of his previous post as Head of the Animal Health (Zoonoses) Division (which was being disbanded as a unified Division). SBO controls were mainly exercised at the slaughterhouse, and responsibility for veterinary advice therefore fell to the Section headed by my fellow ACVO, Mr Baker.\(^{1784}\)

4.875 In oral evidence he explained why it was that responsibility for the implementation of the animal SBO ban in the field did not fall to him:

For whatever reason, and even I myself find this quite difficult to understand, this is not an area that fell to me. You will see that quite clearly by looking at the Animal Health circulars, the circular letters, the exchanges of minutes. You see, the animal SBO ban in a sense simply extended a ban which was already in place, the human SBO ban, and the action was taken at slaughterhouses and downstream from slaughterhouses.

Thinking back to what I said in my opening statement about responsibilities, it sort of naturally fell to the Meat Hygiene Section, even though primarily their concern was public health, in the same way that I did certain things, or advised on certain things which were done for public health reasons but they affected the animals on the farm.

\(^{1782}\) T125 pp. 82–3
\(^{1783}\) T125 p. 54
\(^{1784}\) S92D K Taylor para. 35
So we were building on something that was already there and I think it was natural that the surveillance and the monitoring remained with the meat hygiene veterinary staff because of this pre/post-abattoir split.

If you look at the animal health circulars on the subject which were issued, they were all issued by Meat Hygiene Division. The returns were collated by the Meat Hygiene Division vets, the reports were sent to the Director of the Veterinary Field Service, but they were copied to others, including me, for information. That is how the system worked.\textsuperscript{1785}

\textbf{4.876} Mrs Attridge explained that, while her administrative division had responsibility for monitoring and keeping the regulations in relation to the animal SBO ban under review, her ‘eyes and ears’ in doing so were the field vets.\textsuperscript{1786} Mrs Attridge went on to say that the Meat Hygiene vets would have had an ‘eyes and ears function’ for the benefit of the Animal Health Division, although the Meat Hygiene Division was primarily responsible for regulations safeguarding human health.\textsuperscript{1787} Mr Baker’s staff, Mr Hutchins, or Mr Simmons, were the experts involved in monitoring and reviewing the SBO Regulations as applied in the field, but the Director of Field Services and the CVO would be very much involved. ‘Those two both took an extremely acute interest in this and the reports were all going to them and they would have brought in any others they considered necessary.’\textsuperscript{1788}

\textbf{4.877} Mr Baker told us that he was initially in the lead in implementing Mr Andrews’s request in November 1990 for policing action of the animal SBO ban.\textsuperscript{1789} Subsequently the responsibility for monitoring the handling of SBO material in slaughterhouses passed to Mr Crawford. Thereafter, Mr Baker received summaries of the reports from the field as a matter of ‘politeness as much as anything else’ because the summaries were being prepared by one of his staff.\textsuperscript{1790}

\textbf{4.878} It was pointed out to Mr Baker that the initiative for the review of monitoring the handling of SBO in April 1994 came from Mr Meldrum. He was asked whether the initiative should not have come from his department. Mr Baker replied that he was not sure that it should have come from his department. Mr Meldrum, because of his previous work, was in touch with the renderers far more than any of the others involved.\textsuperscript{1791}

\textbf{4.879} In a statement to the Inquiry Mr Crawford explained that it was no part of his responsibilities to oversee the amendment of the Regulations:

My responsibility was to advise on the practical problems of implementing policy in the field, and how such matters might affect the VFS, rather than to assist in the production of policy. I did not have any responsibility for amending and/or overseeing the amendment of the Regulations, or for making policy decisions.
Throughout the period up to April 1994, there was extensive monitoring and analysis of how the Regulations were being applied in practice. I received regular reports of the situation in the field, and where problems were identified, I was satisfied that staff dealt with them appropriately. I also regularly analysed the application of the Regulations in practice, as far as I was able. When I thought changes needed to be made, I issued the necessary instructions to the staff of the VFS, either of my own volition, or following discussion with policy-making colleagues.

As I have explained above I had very little involvement in advising Ministers on the adequacy of the Regulations in practice. My role with senior policymakers would be to ensure that they were copied in on reports of the visits being made to slaughterhouses, knacker’s yards and hunt kennels, and any other relevant information from the VFS.

4.880 We have found this a somewhat confusing picture. No one person appears to have been responsible for reviewing the adequacy of the monitoring of the animal SBO ban. The Regulations being enforced were largely the 1989 Regulations, which were chiefly concerned with slaughterhouse activities. This explains the input from the Meat Hygiene veterinarians of the SVS. While Mr Crawford had overall responsibility for directing the operations of the VFS and ensuring that it provided the information that policy-makers needed, many of the initiatives came from Mr Meldrum.

The monitoring of enforcement in slaughterhouses

4.881 Mr Baker’s first request to DVOs to provide information in relation to slaughterhouses simply stated ‘We would like to know how slaughterhouses are handling specified offals’ (see paragraph 4.98 above). The response to this varied so much in format and detail that it was useless. A further round of reports was then called for, for which a pro forma was provided. This called for information in relation to brain removal, staining and movement permits (see paragraph 4.98 above). At this stage the importance of ensuring the separation of SBO from other material does not appear to have been appreciated.

4.882 Mr Hutchins’s follow-up of deficiencies was exemplary. So was Mr Crawford’s decision to call for a third round of reports (see paragraph 4.136 above). These used the same pro forma as before. Once again there was an exemplary follow-up of deficiencies. This was, for the time being, the last series of reports that was called for specifically relating to the SBO Regulations.

4.883 Six months later Mr Meldrum intervened. He had heard from a reliable source within the rendering industry that significant quantities of SBO were not being stained. Mr Crawford’s reaction was to call for ‘the occasional unannounced visit’. The AHC which was sent out in compliance with these instructions spoke simply of ‘significant shortfalls in compliance with the Regulations’ (see paragraphs 4.144–4.147 above).
4.884 We move on a further year to 7 August 1992. AHC 92/94 was sent out reporting ‘quite a number’ of reports from industry contacts alleging that SBO was not being kept separate from other material and thus was being incorporated in animal feed. The circular emphasised, for the first time, the importance of ensuring that SBO was kept separate from other material at the abattoir and during transportation to rendering plants. Renderers were now being required to record, on movement licences for protein derived from SBO, the weight of the incoming material and its source. The AHC called for spot checks on this information at the sources in question.1794

4.885 This AHC was issued from Animal Health (Disease Control) Division Branch B, rather than the usual source, Meat Hygiene Division. We have difficulty in envisaging how this check was intended to work. Presumably it was intended to identify any discrepancy between the weight that left the slaughterhouse and the weight that arrived at the renderers. This was the exercise suggested by Mr Lawrence, which had been ruled out as unrealistic because any calculations of weight at the slaughterhouse would be unreliable.

4.886 The next step in the story was the introduction of Mr Simmons’s ‘cradle to grave’ monitoring on Form MH6 (see paragraph 4.255 above). This was a significant improvement in the system, for which Mr Simmons deserves commendation. In particular, it called for confirmation that separation between SBO and other material was satisfactory at all stages. Without a marker or separate dye this was, however, a question that was easier to ask than to answer. The circular called for occasional unannounced visits to slaughterhouses.

4.887 Mr Crawford’s reminder to VOs of the need to review arrangements for the separation of SBO in abattoirs on 1 February 1994 produced reports which indicated that separation was generally adequate, but that compliance with staining requirements was patchy (see paragraph 4.287 above).

4.888 The next step in the story was the tightening up of monitoring in slaughterhouses effected by AHC 94/106,1795 which we have described above. This was the last stage before the MHS replaced District Councils as the enforcement authority in slaughterhouses.

Conclusions on monitoring in slaughterhouses

4.889 While initially the guidance given to the Veterinary Field Service as to what it should be looking for in the course of monitoring left something to be desired, there was a steady process of improving the instructions given until, in 1994, they were commendable. Having regard to the absence of satisfactory requirements for separation and distinctive staining of SBO in the Regulations and the other factors referred to at paragraph 4.825 above, we have concluded that this aspect of the monitoring story constituted an adequate response on the part of those directing the monitoring of slaughterhouses.

1794 M42 tab 13
1795 YB94/6.29/4.1–4.10
**Monitoring of enforcement at renderers**

4.890 In the first years after the introduction of the animal SBO ban officials were clearly much more concerned at the risk that SBO might get into the animal feed chain at renderers than in slaughterhouses. We have no criticism to make of the returns that were called for or their frequency during the first two years that the ban was in operation. The additional weight checks that were introduced in August 1992, once provision of the data had been made a requirement under the scheme for licensing the disposal of protein, was a commendable addition to the monitoring scheme.

4.891 The Achilles heel in relation to the attention given to rendering was the delay in tackling the problem of contamination where common plant was used to render both SBO and other material. The importance of addressing this problem was identified both by Mr Hutchins and by Mr Meldrum early in 1991 (see paragraphs 4.154–4.158 above). Serious deficiencies in relation to precautions against contamination were identified in May 1991 (see paragraph 4.168 above). Once again Mr Meldrum intervened and the result of his intervention was the preparation and agreement with the industry of the Code of Practice. In the absence of any regulations making cross-contamination an offence, the negotiation of agreement to a voluntary Code was a sensible approach. It was not introduced until August 1992. We observe that the negotiation and introduction of this Code went far beyond the monitoring function of the VFS. It was an important non-statutory step in implementing the policy of keeping SBO out of animal feed. Checking up on the due implementation of the Code thereafter became part of the monitoring function of the VFS.

4.892 Insofar as there is criticism to be made of the failure to address the problem of cross-contamination at the outset, we would direct this to the initial failure to impose any statutory obligation to keep SBO separate from other material. Had there been such an obligation, MAFF and the County Councils together would have been in a position to require more rapid steps to be taken by renderers to deal with this problem.

**Monitoring of enforcement at collection centres**

4.893 Until 1995 there were no regulations requiring separation to be maintained at collection centres. There was no local authority enforcement at collection centres, so far as we are aware. Once this gap in the enforcement system had been identified, the VFS took on the role of attempting to check the adequacy of separation at collection centres (see paragraph 4.150 above). In the absence of a distinctive dye to assist in identifying SBO, separation at collection centres depended, as was observed, largely on trust.

**Monitoring of enforcement in knacker’s yards and hunt kennels**

4.894 As we have already observed, the absence of any Regulations dealing specifically with SBO at knacker’s yards and hunt kennels, other than the 1990 Order itself, as amended in 1991, had the result that monitoring appears to have
been directed to compliance with the 1982 MSSR. This was manifestly unsatisfactory. The cause was the failure to think through the requirements of the animal SBO ban when drafting the initial Order.

Conclusions on monitoring

4.895 We have in the course of the Inquiry cast a very critical eye over the actions taken to monitor the animal SBO ban, provoking indignant responses to our concerns that some involved might have been giving no more than superficial consideration to the implementation of the ban. We have concluded that this was not the case. There were unsatisfactory features of the monitoring, but these were largely the consequence of the absence of a clear regulatory scheme and do not constitute additional grounds for criticism. For the reasons given, we are satisfied that any such concerns were unfounded. There remains, however, one fundamental concern which we now turn to consider.

Failure to take action before 1994

4.896 Returns from the VFS suggested that SBO was being handled satisfactorily in a manner which kept it out of the animal feed chain. These official returns were at odds with periodic unofficial reports that the staining requirement of the 1989 Regulations was being flouted and that SBO was being processed into protein that was going into animal feed. In 1994 there was a fundamental review of the Regulations and in 1995 a national surveillance campaign, which disclosed that the unofficial reports had been well founded. Our concern was that these unofficial reports should have led to action of the kind taken in 1994 at a much earlier stage in the story.

4.897 The reply given by the witnesses with whom we raised this concern was that the action taken in 1994 was a response to an accumulation of factors which could not reasonably have been appreciated at an earlier stage.

4.898 In a written statement Mr Meldrum gave the following explanation as to why action was taken in 1994 and not before:

The recognition that the arrangements for disposal of SBOs required a full review was the culmination of four years of experience from (i) slaughterhouse operators, renderers, etc who were responsible for complying with and executing the SBO regulations, (ii) enforcement of the SBO regulations by Local Authorities (both district and borough councils) and (iii) SVS staff monitoring and providing guidance on the SBO regulations. It should not be forgotten that at the time they were introduced the SBO regulations were an unprecedented (and far seeing) piece of legislation. As far as I am aware, it was the first time action had been taken against a perceived risk from potentially sub-clinically infected animals through the removal of specific parts of the carcass from animals that appeared totally healthy and normal at the time of slaughter.

From the period of the introduction of the SBO regulations in November 1989 to the meetings in April/May 1994, MAFF undertook a series of
inspection visits to slaughterhouses, rendering plants, knacker’s yards and other premises to monitor compliance with the SBO regulations and the 1990 Order . . . It was only through the visits conducted over that period and through information received from industry contacts on allegations of non-compliance that a picture could be built up of the handling and disposal of SBOs throughout the chain and appropriate action taken. The difficulty in gaining that complete picture stems from the fact that MAFF had no role in the enforcement of the SBO regulations and the 1990 Order and that the presence of SVS staff in the relevant premises was bound to be extremely limited, although all of this changed on 1 April 1995 when the Meat Hygiene Service took over the enforcement responsibility from Local Authorities. Further, some of the information on non-compliance that was received within MAFF were only unsubstantiated allegations and it was difficult for SVS staff to find evidence of actual wrong-doing.

. . .

In 1994 there was a combination of factors which included (i) the increasing numbers of BABs and investigations into the possible source of the feed contamination that may have been the cause, (ii) knowledge obtained from the continuing epidemiological investigations and the case control study, (iii) knowledge of the time/temperature required for deactivation of the BSE agent (and consequent discovery that the agent survived in two of the makes of plant then in use in the UK), and (iv) industry reports on circumvention of the legislation being confirmed on 25 March 1994 after unannounced visits by SVS staff . . . All of these factors pointed to the need for a comprehensive review of the controls on the disposal of SBOs. Such a combination of factors did not, and indeed could not have, existed in September 1990. 1796

4.899 Mr Meldrum also made the point that, because the Meat Hygiene Service was about to take over the District Councils’ enforcement role under the SBO Regulations, changes to secondary legislation were required and it was thus an opportune moment to review the legislative arrangements for the SBO controls. 1797

4.900 Mr Crawford said that by February 1994 ‘information was beginning to build up’ of non-compliance with the Regulations. ‘Reports were becoming more regular from sources that there was a problem.’ 1798

4.901 Mr Taylor gave evidence to similar effect:

The information obtained from [monitoring] exercises, together with the results of research (the rendering and attack rate studies), epidemiological studies, observation of the progress of the epidemic, and actual evidence of failure to comply with SBO controls, eventually accumulated to provide a body of information which indicated the need to carry out a thorough review of the controls, which in turn led to the changes introduced in 1995. The conclusions which were reached in May 1994 were based on an assessment of all the information and evidence then available. If a similar meeting had been held a couple of years earlier, it is most unlikely that the same
Conclusions on failure to take action before 1994

4.902 We were not greatly impressed with the suggestion that it was not until 1994 that MAFF had cogent indications that the animal SBO ban was being evaded. We have identified a series of reports from external sources that SBO was not being stained and was being processed for animal feed:

i. Reports to Mr Lawrence ‘on the grapevine’ in November 1990 (see paragraph 4.109 above).

ii. A report from Mr Lawrence of a note from a reliable but unnamed source alleging wrong-doing in respect of certain rendering plants in March 1991 (see paragraph 4.162 above).

iii. Information received by Mr Meldrum from ‘other sources’ which caused him extreme concern in June 1991 (see paragraph 4.145 above).

iv. Three ‘phone calls to Mr Lawrence in the space of two days in June 1992 alleging that SBO was being processed to make MBM that was being used in feedstuffs (see paragraph 4.209 above).

v. Reports from industry that some MBM derived from SBO was going into animal feed recorded in August 1992 (see paragraph 4.213 above).

4.903 These are in addition to the reports in 1994 which led to the unannounced checks on renderers. We believe that these reports constituted a powerful indication that the animal SBO ban was being breached. The investigations headed by Mr Lawrence into standards of local authority enforcement of hygiene regulations in slaughterhouses should have sufficed to dispel any illusions that officials might have had as to there being a uniformly high standard of local authority enforcement arrangements around the country.

4.904 MAFF officials’ reaction to these unofficial reports was steadily to step up the stringency of monitoring by the VFS until, finally, this confirmed the unofficial reports. Once again we have concluded that the failure to respond more positively is attributable to the failure to focus at the outset on the possibility that a very small quantity of infectious material might suffice to transmit BSE to cattle. As the years passed, without any cases of transmission of BSE to pigs or poultry, it must increasingly have seemed that the concerns which had given rise to the animal SBO ban were unfounded.

4.905 We received one cogent piece of evidence of MAFF officials’ reaction to the animal SBO ban at the end of 1993. This was an extract from a minute of an UKRA Council meeting held on 15 December, at which SBO was discussed. It read:

Problem – SBO regs not working? Renderers not sure if materials are SBO or not. Regulation of input and output et cetera is voluntary. MAFF do not seem concerned or bother to enforce. Why? Ruminant recycling ban – this is the main safeguard say MAFF. 1800
Mr Stephen Woodgate, Chairman of UKRA Technical Committee, who made the note, told us that this expressed his feelings at the time, following ‘extensive discussions with a lot of people from MAFF’. His personal view was that MAFF felt that the ruminant feed ban was the main mechanism of disease control:

The SBO ban was something, I believe, they felt was sort of important but, at the time, I do not think they really understood or realised how important SBOs were. [BABs] had not started to show themselves yet, the pathogenesis study which eventually showed one gram of material to be enough to be an infective dose did not come through until 1994. Those elements that were subsequently found were not understood, were not well understood. My feeling was, with colleagues, that the SBO ban was not as strictly adhered to, because perhaps it was not felt to be that important.

SBO, which may be filtering into meat and bonemeal, which is then going into pig and poultry feed – I felt their opinion was that was of lesser importance [than the RFB]. It was subsequently, as I said, the one gram issue, the looking at feedmills and realising that there could be possible cross-contamination, and the general coming together of the [BABs], that if I put it in my own language the penny clicked that perhaps this was more important; and the feeling was that the tightening up of all these regulations all came in line with the new evidence as it came on board. ¹⁸⁰¹

We believe that Mr Woodgate’s analysis was correct. Had MAFF officials had reason to believe that the animal SBO ban was an essential protection for animal health, we are confident that they would have put in hand a thorough review of the system prior to 1994.

The factor which we believe made all the difference in 1994 was the appreciation that MBM had been getting into ruminant feed by cross-contamination in feedmills and infecting cattle with BSE, not merely before the introduction of the animal SBO ban, but after the date that the ban came into effect. Of the 6,271 BABs confirmed by the end of 1993, only five had been born after 1 July 1990. A further 18 BABs born after that date were confirmed in the first quarter of 1994.

In these circumstances, Mr Bradley concluded that ‘We have to quickly and effectively re-assess and, if necessary, improve the policing of the controls both via MAFF and the local authorities’ (see paragraph 4.297 above). We believe that Mr Meldrum and his colleagues reached the same conclusion. Are they to be criticised for not reaching it sooner? We have concluded that there is nothing to add to our criticism of the original failure to appreciate the danger of cross-contamination at the time of introduction of the ruminant feed ban. Given that failure, we do not consider that the manner in which MAFF officials performed their role of policing the animal SBO ban fell outside the range of acceptable responses to the facts as they appeared at the time.

¹⁸⁰¹ T60 pp. 127–9
Did MAFF move with adequate speed to introduce the new scheme?

4.910 The shortcomings in the existing regulations had been identified by the end of May 1994. The requirement for a distinctive stain for SBO was introduced on 1 April 1995. The consolidated regulations making up the new scheme did not come into force until 15 August 1995. Does this delay reflect inadequacies in responding to the shortcomings that had been identified?

4.911 Dr Cawthorne was asked by Mr Haddon to take over from Mr Eddy responsibility for progressing legislative changes to the SBO Regulations in July 1994. By 10 August Dr Cawthorne had prepared a submission to Ministers and carried out internal consultation with his colleagues as to its contents. The submission dealt at length with this complex topic with admirable clarity. Dr Cawthorne had lost no time in the first stage of the task entrusted to him by Mr Haddon.

4.912 In his submission to Ministers, Dr Cawthorne dealt with timing:

The introduction of these changes is not time limited but having identified deficiencies in the way SBO is being collected and disposed of, officials believe corrective action should be taken without unnecessary delay. Many of the changes are not controversial but some, such as the possibility of requiring SBO to be disposed of in dedicated rendering facilities, could have important economic consequences for the industry and adequate time is required for their discussion. Officials would therefore like to consult with interested organisations as soon as possible with a view to reporting back to Ministers in October.

4.913 What then ensued was a thorough consultation exercise, which led to a valuable reconsideration of the movement permit system. Ministerial approval was given to the revised proposals on 19 January 1995. The next few months saw internal discussions as to the form of the Order, and the addition to it of a prohibition on the removal of brains and eyeballs from the skull. This reflected an increased concern about infectivity, following the interim result of the attack rate experiment. This involved a further short period of consultation (see paragraphs 4.414–4.415 above).

4.914 The requirement for a separate stain for SBO was introduced on 1 April 1995, when the MHS took over enforcement duties in slaughterhouses from the District Councils. The Specified Bovine Offal Order 1995, which made the remainder of the amendments, was made on 20 July and came into effect on 15 August.

4.915 This sequence of events showed a lack of urgency. The steady course of the legislative process resulted in a well considered and well constructed Statutory Instrument. We feel, however, that this could have been achieved in a shorter timescale. Is the failure to move faster a matter for criticism?
4.916 We have decided that it is not. The new scheme could not sensibly have been introduced before 1 April 1995, when the MHS took over the enforcement functions from the District Councils. In the event, a further three months or so elapsed before the Order took effect. It is really only that period that is at issue. We consider that, having regard to the situation as it appeared at the time, this degree of delay can be excused.

4.917 Although the Regulations had proved less than watertight, the combined effect of the RFB and the animal SBO ban had removed the major source of infection. It was reasonable to expect that, by 1994, infectivity caused by contamination of cattle feed would have been reduced to fairly modest proportions. Looking back from a standpoint of 1 June 2000, we can see that the number of BABs confirmed by then, which had been born in 1994, was just over 1,000. Had MAFF moved faster, this number would have been commensurately reduced, but achieving such a result was not a goal of critical importance. While Dr Cawthorne can claim no credit for expedition, he can claim credit for an admirable new statutory code. The result of that code, and of the diligence with which it was enforced, is demonstrated by the fact that, as at 1 June 2000, no more than 30 BABs had been confirmed among cattle born in or after September 1995.

The lesson

4.918 There is one simple but vital lesson to be learned from the history of the animal SBO ban. When making regulations, rigorous consideration must be given to all aspects of their practical application.

4.919 In the course of his oral evidence Mr Lowson was asked whether he thought it desirable to think through what practical problems might arise in trying to implement a ban such as the animal SBO ban. He replied:

My experience is that if you try to think through such problems, you always fail to identify the one which actually comes up. What is necessary is to be sure that you have mechanisms in place that will identify problems if they emerge.¹⁸⁰⁴

4.920 We do not subscribe to this philosophy. If problems are not identified when regulations are made, it can often be much more difficult to identify and rectify them after the event. In the case of the animal SBO ban there was neither rigorous forethought nor a satisfactory mechanism for identifying problems with the operation of the scheme. The mechanism that identified problems was the death of BABs. By the time the problems were identified, many thousands of cattle had been fatally infected.
Annex A to Chapter 4:
Unfit meat and human food

1 The following section describes the regulatory measures preventing meat which was unfit for human consumption from entering the human food chain. For this purpose it is desirable to look at the position before and after the introduction of the Meat (Sterilisation and Staining) Regulations 1982 (1982 MSSR).

Protections against unfit meat entering the human food chain prior to 1982

Licensing of slaughterhouses and knacker’s yards

2 A first protection was the requirement that any premises used as slaughterhouses or knacker’s yards be licensed under the Slaughterhouses Act 1974. The use of any place for slaughtering animals, whose flesh was intended for human consumption, was an offence unless that place was licensed as a slaughterhouse. The use of any premises in connection with the business of slaughtering, flaying, or cutting up animals, whose flesh was not intended for human consumption, was an offence unless those premises were licensed as a knacker’s yard. By section 12(1) of the Food and Drugs Act 1955 it was an offence to sell for human consumption any part of, or product derived wholly or partly from any animal slaughtered in a knacker’s yard or whose carcass was brought into such a yard.

Admission of animals and carcasses to a slaughterhouse

3 The Slaughterhouses (Hygiene) Regulations 1977 imposed two restrictions upon the admission of live animals to a slaughterhouse. First, there was a prohibition whereby a person who knew or suspected any animal to be either diseased or injured was not to bring that animal or permit that animal to be brought into the slaughterhouse. This prohibition did not apply in the event that the animal in question was accompanied by a veterinary certificate and was either slaughtered without delay or taken to a part of the slaughterhouse lairage provided for the isolation of such animals.

4 The veterinary certificate was required to identify the owner of the animal, to describe the animal and any identification marks, to identify the date and time of the clinical examination and to contain a statement as follows:
It is my opinion, after making due enquiries and taking and testing any necessary samples, that this animal is not affected with any disease or condition liable to render the whole carcass unfit for human consumption and to the best of my knowledge and belief has not received any medicament, antibiotic or chemotherapeutic which might do likewise.\textsuperscript{1811}

5 Second, there was a prohibition on the bringing in to a slaughterhouse of an animal which was not intended for human consumption.\textsuperscript{1812} This prohibition did not apply to working dogs (in certain circumstances) and horses.

6 Further, there were restrictions on the admission of carcasses. First, there was a prohibition whereby no person was to bring, or permit to be brought, into the slaughterhouse the carcass of an animal which had died or had been killed and not bled.\textsuperscript{1813} This prohibition was subject to an exception where an animal died in transit to the slaughterhouse, but in that event the carcass was to be removed from the slaughterhouse immediately following the carrying out of any necessary examination. The result was that only the carcass of an animal that had been killed and bled could be brought into, and remain at, a slaughterhouse. Even this was subject to certain requirements affecting undressed and dressed carcasses respectively.\textsuperscript{1814}

7 In the case of an undressed carcass, such a carcass was required to be accompanied by a veterinary certificate upon being brought into the slaughterhouse.\textsuperscript{1815} This certificate was required to identify the owner of the carcass, to describe the carcass and any identification marks, to identify the reason for the slaughter of the animal and to contain a statement as follows:

It is my opinion, after making due enquiries and taking and testing any necessary samples, that the animal from which this carcass was produced was not affected with any disease or condition liable to render the whole carcass unfit for human consumption and to the best of my knowledge and belief had not received any medicament, antibiotic or chemotherapeutic which might do likewise.\textsuperscript{1816}

8 In the case of a carcass being admitted already dressed, that carcass was required to be accompanied by either:

i. a certificate certifying that the carcass and its offal had been inspected and passed fit for human consumption; or

ii. its offal, including the stomach and intestines, and a veterinary certificate in the same terms as that required for an undressed carcass (see above).\textsuperscript{1817}

9 Further information concerning the Slaughterhouse (Hygiene) Regulations 1977 is to be found in Chapter 10 of vol. 6: \textit{Human Health, 1989–96}. 

\textsuperscript{1811} L1 tab 3C schedule 1 para. 1  
\textsuperscript{1812} L1 tab 3C Regulation 22  
\textsuperscript{1813} L1 tab 3C Regulation 19(2). By Regulation 2 ‘carcasses’ included parts of carcasses  
\textsuperscript{1814} Unless the animal in question had been the subject of an ante-mortem inspection, and other requirements were met, fresh meat from such a carcass could not be exported.  
\textsuperscript{1815} L1 tab 3C Regulation 19(3) where an exception is set out for the undressed carcass of a sheep or lamb in certain circumstances  
\textsuperscript{1816} L1 tab 3C schedule 1 para. 2  
\textsuperscript{1817} L1 tab 3C Regulation 21
Determination in a slaughterhouse of fitness of meat for human consumption

10 In an export slaughterhouse an animal could not be slaughtered for human consumption unless it had passed an ante-mortem health inspection. However, no such requirement applied to animals slaughtered in a domestic slaughterhouse.

11 In both domestic and export slaughterhouses there were requirements for the dressing of carcasses, for post-mortem inspection to determine fitness for human consumption, and for the marking of meat which had been passed as fit for human consumption. These requirements are described in Chapter 2 of vol. 13: Industry, Processes and Controls.

12 In summary, if inspection revealed that the animal was suffering from any of certain specified diseases, the whole carcass and all the offal and blood removed from it, was to be declared unfit. Certain specific diseases or conditions (such as some forms of tuberculosis), did not, if identified, require the whole carcass and all the offal and blood to be declared unfit, but only those parts specified in the Regulations. In addition, where the inspector or authorised officer was satisfied that the whole or any part of a carcass or any offal was affected by any other disease or condition, he was to regard as unfit for human consumption the whole carcass and the offal or such lesser part thereof as he thought appropriate in the circumstances.

Sterilisation of unfit meat at the slaughterhouse

13 Under the Meat (Sterilisation) Regulations 1969 a number of restrictions were imposed upon the way in which knacker meat and meat unfit for human consumption could be dealt with. In each case ‘meat’ was defined to include offal and fat and any product of which a principal ingredient was meat. Subject to certain exceptions, these restrictions applied so long as the ‘meat’ in question had not been sterilised. ‘Sterilised’ was defined as meaning treated by boiling or by steam under pressure until every piece of meat was cooked throughout, or dry-rendered, digested or solvent-processed into technical tallow, greases, glues, feeding meals or fertilisers.

14 Enforcement powers were given to authorised officers of local authorities. ‘Local authority’ was defined under the Food and Drugs Act 1955 as meaning, as respects any borough and any urban district or rural district, the council of the borough or district.

15 ‘Authorised officer’ was defined (also under the Food and Drugs Act) as meaning an officer of the council authorised by them in writing, either generally or specially, to act in matters of any specified kind or in any specified matter, and, for the purpose of taking samples, included a police constable so authorised with the
approval of the police authority concerned.\textsuperscript{1824} In order to be authorised to act in relation to the examination and seizure of meat an officer was required to be either:

i. the medical officer of health;

ii. a sanitary inspector;

iii. a member of the Royal College of Veterinary Surgeons (RCVS) employed for the purpose of inspection of food; or

iv. a person having such qualifications as may be prescribed by Regulations made by the Ministers.\textsuperscript{1825}

16 The medical officer of health and the sanitary inspector of a council were to be deemed authorised officers by virtue of their appointments.\textsuperscript{1826} A member of the RCVS employed for the purpose of inspection of food was to be deemed authorised for the purpose of examination and seizure of meat under the provisions of Part I of the Act relating to food unfit for human consumption.\textsuperscript{1827}

17 As regards the restrictions imposed by the 1969 Regulations, first, the occupier of a slaughterhouse was prohibited from causing or permitting to be removed from the slaughterhouse, and any person was prohibited from removing from a slaughterhouse, any meat which was unfit for human consumption, unless that meat had first been sterilised.\textsuperscript{1828}

18 Second, the occupier of a knacker’s yard was prohibited from causing or permitting to be removed from the knacker’s yard, and any person was prohibited from removing from a knacker’s yard, any meat, unless that meat had first been sterilised.\textsuperscript{1829}

19 Each of these prohibitions was subject to exceptions for removal:

i. to any hospital, medical or veterinary school or similar institution for instructional or diagnostic purposes or to any manufacturing chemist for the manufacture by him of pharmaceutical products;

ii. to any processor for sterilisation by him, or to any zoological garden, menagerie, mink farm, or trout farm, or to any person by arrangement in writing with an authorised officer for preparation before further removal to any processor or manufacturing chemist or for storage if such meat is in each case removed in a vehicle or impervious container which is kept closed and locked at all times except when necessary for the loading or unloading of the contents or their examination by an authorised officer and which bears a notice of adequate size which was conspicuously visible containing a distinct, legible and unambiguous statement to the effect that the meat was not for human consumption.\textsuperscript{1830}

A further exemption is described in paragraph 22 below.

20 Thirdly, it was an offence for any person to possess for the purpose of sale or preparation for sale butcher’s meat which was unfit for human consumption or knacker meat unless that meat had first been sterilised.\textsuperscript{1831} ‘Butcher’s meat’ was
defined as meaning meat from any animal slaughtered in the UK for sale for human consumption.¹⁸³² ‘Knacker meat’ was defined as meaning meat from any animal slaughtered in, or carcass brought into, a knacker’s yard in the UK.¹⁸³³ The Regulations provided for two defences to proceedings for contravention of this prohibition. It was a defence for an individual to prove either:

i. that he did not know and could not with reasonable diligence have ascertained, that the meat was unfit for human consumption or, as the case may be, was knacker meat; or

ii. that he had made arrangements for it to be sterilised without any unnecessary delay.¹⁸³⁴

21 There was exempted from this prohibition any meat.¹⁸³⁵

i. in any slaughterhouse or knacker’s yard;

ii. subject to certain requirements,¹⁸³⁶ in the possession of any person while in transit from a slaughterhouse or knacker’s yard to:
   a. any processor;
   b. any zoological garden, menagerie, mink farm or trout farm;
   c. any person by arrangement in writing with an authorised officer for preparation before removal to any processor or manufacturing chemist;

iii. in the possession of any person while in transit from a slaughterhouse or knacker’s yard to any hospital, medical or veterinary school or similar institution for instructional or diagnostic purposes or to any manufacturing chemist for the manufacture by him of pharmaceutical products;

iv. on the premises:
   a. of any processor for sterilisation by him;
   b. of any manufacturing chemist for the manufacture by him on those premises of pharmaceutical products;
   c. of any zoological garden, menagerie, mink farm or trout farm;
   d. subject to certain requirements,¹⁸³⁷ of any person by arrangement in writing with an authorised officer for preparation before removal to any processor or manufacturing chemist or for storage on those premises;
   e. in transit to the premises of any processor or manufacturing chemist in a vehicle or container in accordance with (iv)(d) above.

¹⁸³¹ L17 tab 14 Regulation 7
¹⁸³² L17 tab 14 Regulation 2(1)
¹⁸³³ L17 tab 14 Regulation 2(1)
¹⁸³⁴ L17 tab 14 Regulation 7(1)
¹⁸³⁵ L17 tab 14 Regulation 7(2)
¹⁸³⁶ These requirements were that in each case the meat was removed in a vehicle or impervious container which is kept closed and locked at all times except when necessary for the loading or unloading of the contents or their examination by an authorised officer and which bears a notice of adequate size and conspicuously visible containing a distinct, legible and unambiguous statement to the effect that the meat is not for human consumption
¹⁸³⁷ These requirements were that the person’s arrangements are suitable and sufficient for ensuring that the meat is kept segregated from other meat and he does not part with possession of the meat otherwise than on its destruction or delivery or consignment to a processor or manufacturing chemist in a vehicle or impervious container which is kept closed and locked at all times except when necessary for the loading or unloading of the contents or their examination by an authorised officer and which bears a notice of adequate size and conspicuously visible containing a distinct, legible and unambiguous statement to the effect that the meat is not for human consumption
22 This prohibition, along with the first two prohibitions described above, was subject to an exemption where there were no facilities for sterilisation in a slaughterhouse or knacker’s yard. In that event those prohibitions did not apply as respects any meat removed from that slaughterhouse or knacker’s yard by arrangement in writing with an authorised officer to a place where it would be sterilised or destroyed.1838

23 Fourthly, no person was permitted to sell, or offer or expose for sale, by retail, any butcher’s meat which was unfit for human consumption or knacker meat unless that meat had first been sterilised.1839 It was a defence to proceedings for contravention of this prohibition for an individual to prove that he did not know and could not with reasonable diligence have ascertained, that the meat was unfit for human consumption or was knacker meat.1840

24 All of the above restrictions were subject to the application of provisions from the Food and Drugs Act 1955 as follows:1841

i. section 113 provided that a person against whom proceedings were brought was entitled to bring before the court in proceedings any person to whose act or default he alleged that the contravention of the provisions in question was due and prove that the contravention was due to the act or default of that person;

ii. section 115(2) imposed restrictions upon the circumstances in which it was possible for it to be a defence in a set of proceedings that a warranty had been given that any article or substance could be lawfully sold or dealt with under the name or description or for the purpose under or for which it was sold or dealt with;

iii. section 116 set out offences of applying to an article or substance a warranty or certificate of analysis given in relation to another article or substance and of giving of a false warranty in writing, and provisions relating to those offences; and

iv. section 108(1)(b) provided that proceedings under section 116 had to be commenced within 12 months.1842

25 The 1969 Regulations required that any person responsible for the consignment or delivery of any butcher’s meat which was unfit for human consumption or knacker meat, in any of the circumstances covered by the Regulations, was to give or send with the meat to the person by whom or on whose behalf the meat was to be received a notice. That notice was to bear information relating to the meat including particulars of the date of its consignment or delivery, the quantity and description of it and the respective names and addresses of the person responsible for its consignment or delivery and of the person by whom or on whose behalf it was to be received.1843 The person responsible for the consignment was required to retain a copy of the notice and the person by whom or on whose behalf the consignment was received was required to retain the original. In each case, the notice was to be retained for three months after the date of the consignment and be produced for inspection to an authorising officer upon his request.1844

1838 L17 tab 14 Regulation 8(1)
1839 L17 tab 14 Regulation 11
1840 L17 tab 14 Regulation 11
1841 L17 tab 14 Regulation 16
1842 See also L11 tab 20
1843 L17 tab 14 Regulation 12(1)
1844 L17 tab 14 Regulation 12(2)
26 An authorised officer had, at all reasonable times, a power to examine any meat not intended for human consumption which had been sold, was offered or exposed for sale or was in the possession of, or had been deposited with or consigned to any person for the purpose of sale or preparation for sale. The authorised officer had a further power to seize the meat and remove it in order for it to be dealt with by a Justice of the Peace (JP), if it appeared to the authorised officer that the meat either:

i. is required to be sterilised, but it has not been sterilised; or

ii. is required to bear but does not bear a notice.\textsuperscript{1845}

27 Having seized any meat under this power, the officer was required to inform the person in whose possession the meat was found of his intention to have it dealt with by a JP.\textsuperscript{1846} Anyone liable for prosecution under the terms of the Regulations was entitled, if he attended before the JP, to be heard and to call witnesses.\textsuperscript{1847} If it appeared to the JP that the meat brought before him, whether seized under the provisions of this Regulation or not, was meat to which the Regulations applied and was required to be but had not been dealt with in accordance with those Regulations, he was required to condemn it and order it to be destroyed or to be so dealt with.\textsuperscript{1848} In the event that a JP refused to condemn any such meat, the council was required to compensate the owner of the meat for any depreciation in its value resulting from its seizure and removal.\textsuperscript{1849}

28 The Regulations also provided that if an authorised officer had reason to suspect that any vehicle or container contained any meat to which the Regulations applied and which was intended for sale or was in the course of delivery after sale, then he had a power to examine the contents, and, if necessary, detain the vehicle or container\textsuperscript{1850} (subject to exceptions in the case of certain vehicles).\textsuperscript{1851} In the event that he found any meat which was required to be but was not dealt with in accordance with the Regulations, the authorised officer was able to seize the meat and remove it as set out at paragraph 26 above.

**Concerns of Environmental Health Officers in 1977**

29 In 1977 the Environmental Health Officers Association published a report by their Working Party on Slaughterhouse Hygiene chaired by Mr F G Sugden.\textsuperscript{1852} Among the recommendations made in the report were the following:

i. the particular needs for dealing with casualty animals be given further examination (paragraph 3.9);

ii. legislation requiring the ante-mortem inspection of animals be introduced for the domestic trade (paragraph 11.5);

\textsuperscript{1845} L17 tab 14 Regulation 13(1)
\textsuperscript{1846} L17 tab 14 Regulation 13(2)
\textsuperscript{1847} L17 tab 14 Regulation 13(2)
\textsuperscript{1848} L17 tab 14 Regulation 13(3)
\textsuperscript{1849} L17 tab 14 Regulation 13(4)
\textsuperscript{1850} L17 tab 14 Regulation 14(1)
\textsuperscript{1851} L17 tab 14 Regulation 14(1)
\textsuperscript{1852} M22A tab 11
iii. further investigations to be made to develop an acceptable uniform system of meat inspection recording (paragraph 11.10); and

iv. an investigation be made into meat inspection requirements as specified by Regulations currently in force with a view to assessing the most effective system for controlling meat hygiene and safety (paragraph 11.13).

30 The report noted that an increasing health hazard arose from the fact that certain items (eg, head meat) may have either an industrial or human food outlet. It stated:

Whilst there is no objection to material handled throughout in hygienic fashion being ultimately relegated to industrial processing the converse is not the case. Where such a commodity has ostensibly left the slaughterhouse for industrial processing and a decision during transit or on arrival is taken to restore it to the edible market, danger arises from the intermediate substandard handling. This is further discussed in the section on by-products and attention is drawn to the Working Party’s recommendation that a material once classified as inedible should be handled throughout, to final processing, in accordance with the Meat Sterilisation Regulations, 1969.1853

31 Concern as to what might happen after completion of the meat inspection process was repeated in paragraphs 16.23–16.28:

16.23 The system described by the Working Party in which sound stock is safely processed under hygienic conditions and full-time expert supervision would be brought to nought if some of the products of such a system were allowed to return unchecked to farm, kennel or stable. The law subscribes surprisingly little to this view, beyond limiting the removal of raw material, unfit or not intended for human food, from slaughterhouses and knackers’ yards and prescribing, in the case of statutory seizure and submission to a magistrate, a procedure for destruction or prohibition of sale for food. This latter situation rarely arises as the vast majority of unfit meat is dealt with informally on the basis of its voluntary surrender to the local authority. To avoid doubts as to ownership and the destruction or disposal of unfit meat the local authority may agree to purchase such material from the owner.

16.24 It is in the context of voluntary action or advice tendered by the local and central authorities that the vast majority of industrial utilisation of unfit and inedible (including surplus) materials from the slaughtering industry takes place. Current public opinion, however, is not satisfied to hear that even marginal amounts of hazardous or toxic material escape effective treatment. In this context the hazardous materials are the agents responsible for the spread of zoonoses; the pollutants are the odorous volatile substances emanating from heat treatment necessary for safe re-cycling of the organic chemical constituents of slaughterhouse wastes.

16.26 The real hazards arise not only from materials which may get out of course, but from materials which may legitimately be handled raw, eg, direct to feed certain animals and from lack of appreciation in the processing

1853 M22A tab 11 para. 15.2.3
industry of the risks of cross-infection between the raw and finished product sides of their plant.

16.27 Comments on hazards arising from the dual nature of certain slaughterhouse surpluses have already been made but an unsatisfactory situation can arise when on the same site edible and inedible processing takes place. Even though plant personnel may be separated there is no firm sanction to require segregated provision of sanitary and ablution facilities – a vulnerable point of cross-infection – and ‘decontamination’ of personnel on movement from ‘dirty’ to ‘clean’ sections.

16.28 A complete prohibition of such mixed processing on the same site would appear a simple solution until one examines the effect both on the factory abattoir complex and the economics of by-product utilisation.1854

32 These concerns were reflected in two further recommendations:

i. The disposal of unfit, inedible and surplus materials from slaughterhouses be further regulated so as to ensure:

   a. that the application of the Meat Sterilisation Regulations to all such materials be beyond doubt;

   b. that where edible and inedible processing is conducted on the same site adequate segregation of plant, personnel and welfare facilities be required, including facilities for decontamination before moving to edible from inedible areas;

   c. that arrangements for disposal of such materials be subject to prior approval by the local authorities in despatch and reception areas and that copies of the consignment notes required by the above Regulations to accompany the materials be supplied also to the respective authorities (paragraph 16.29).

ii. That an appropriate Code of Practice be produced in consultation with the industries concerned to provide for acceptable methods of collection, storage, distribution and processing of industrial and pharmaceutical products of animal origin (paragraph 16.30).1855

‘Operation Meathook’

33 Concerns were increased following the uncovering of an illegal market in unfit meat and knacker meat in 1980 as a result of ‘Operation Meathook’.1856 Enquiries which initially commenced in the London Borough of Hammersmith and Fulham led to the discovery of a nationwide fraud in which knacker meat was being substituted for beef in the catering and food manufacturing industries.

34 A number of factors were believed to have lead to and assisted this fraud. The Chartered Institute of Environmental Health provided to the Inquiry a synopsis of ‘Operation Meathook’ which included the following summary:

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1854 M22A tab 11
1855 M22A tab 11
1856 M43 tab 3
At this time there were more knacker’s yards operating than there are now and farmers were paid a reasonable price for sick, injured and fallen stock. When the fraud was discovered, price for fallen stock had reached an all-time high.

Control was exercised by local authority employees, environmental health officers and authorised meat inspectors. The meat from knacker’s yards was processed primarily for the animal food industries. The staining of this meat was rigorously opposed by the Pet Food Industry, in particular as marketing a stained product was difficult. Local authority officers spent little time supervising these operations as the food produced was not intended for human consumption. All operators of knacker’s yards were obliged to keep records of the stock they picked up, its origin and description. Due to the calibre of operative and the nature of this operation, these records were difficult to police. Equally, details of the amounts paid for stock were difficult to access by local authority officers, due to the way farmers ‘prefer to do business’. Veterinary certification was infrequent as the cost of consulting a vet was often more than the value of the stock item.\(^{1857}\)

\(^{35}\) The findings of ‘Operation Meathook’ led the Environmental Health Officers and others to lobby for changes to legislation to make the sale of unfit meat more difficult if not impossible.\(^{1858}\)

**Meat (Sterilisation and Staining) Regulations 1982 (the 1982 MSSR)**

**Overview of changes**

\(^{36}\) Changes were brought into effect by the introduction of the 1982 MSSR.\(^ {1859}\) The principal changes were:

i. staining was reintroduced as an alternative to sterilisation;\(^ {1860}\)

ii. different measures were required for different categories of meat and offal; and

iii. a new system of movement permits intended to assist in tracking unfit meat was introduced.

The precise changes are set out in more detail below.

**Detailed provisions**

\(^{37}\) The 1982 MSSR revoked the 1969 Regulations. They applied to particular categories of ‘meat’ (including ‘offal’), and required, unless certain exceptions applied, that the meat or offal in question be:

i. sterilised;

\(^ {1857}\) M43 tab 3  
\(^ {1858}\) M43 tab 3  
\(^ {1859}\) L1 tab 5; L17 tab 15  
\(^ {1860}\) Staining of knacker meat as an alternative to sterilisation was permissible under the Regulations which preceded the 1969 Regulations, namely, Regulations 5, 7, and 9 of the MSSR 1960
ii. subject to restrictions on removal, prior to sterilisation;
iii. not sold, prior to sterilisation; and
iv. subject to restrictions on storage and freezing, prior to sterilisation.

One of the exceptions available in certain cases required that the meat or offal in question be stained. The discussion below deals first with the relevant categories of meat and offal, second with the procedure for staining and sterilisation, third with the requirements of the Regulations and the exceptions to those requirements, and fourth with the enforcement of the Regulations.1861

Categories of meat and offal

38 The 1982 MSSR defined ‘meat’ to mean carcass meat, poultry meat, and offal. Each of these terms was itself defined in the Regulations, and for present purposes the first and third are relevant:
i. ‘carcass meat’ was defined as the flesh of an animal, including thick or thin skirt, and heads of cattle or swine, but excluding offal; and
ii. ‘offal’ was defined as including separate pieces of fat, but not including thick or thin skirt, heads of cattle or swine, or poultry offal.

Also relevant is the definition of ‘knacker meat’ which was defined as carcass meat and offal from an animal slaughtered in, or from a carcass brought into, a knacker’s yard situated in the UK.1862

39 Two specific categories of offal were defined in the 1982 MSSR.1863

i. ‘green offal’ was defined as stomachs and intestines derived from animals and the contents of such organs; and
ii. ‘specified offal’ was defined as hearts, kidneys, livers and lungs derived from an animal and which, in the case of an animal in a slaughterhouse, had been rejected as unfit for human consumption under the relevant provisions for that purpose.1864

40 For the purposes of the 1982 MSSR, the following categories of meat were to be presumed, until the contrary was proved, to be unfit for human consumption:

i. knacker meat;1865

ii. meat from any variety of cattle, sheep, pig, equine animal or goat, which had died or been slaughtered in any place other than a slaughterhouse or knacker’s yard, or which has been brought to such a place after having died or been slaughtered;1866

iii. meat which had not been handled or kept in a slaughterhouse in a hygienic manner.1867

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1861 The 1982 MSSR applied to poultry and to imported meat but for ease of exposition this is not described below
1862 L17 tab 15 Regulation 3
1863 L17 tab 15 Regulation 3
1864 Namely, by reason of any disease or condition referred to in schedule 2 to the Meat Inspection Regulations 1963 or in Part VI of schedule 8 to the Fresh Meat Export (Hygiene and Inspection) Regulations 1981 by a person authorised under the Food and Drugs Act 1955 to act in relation to the examination of meat (see para. 12 above)
1865 L17 tab 15 Regulation 4
1866 L17 tab 15 Regulations 4 and 13(1)
1867 L17 tab 15 Regulation 4
**Sterilisation**

41 ‘Sterilisation’ was defined as being either:

i. treated by boiling or by steaming under pressure until every piece of meat is cooked throughout;

ii. dry-rendered, digested, or solvent processed into technical tallow, greases, glues, feeding meals or fertilisers; or

iii. subjected to another process other than those previously described in this definition which results in all parts of the meat no longer having the appearance of raw meat and which inactivated all vegetative forms of human pathogenic organisms in the meat.\(^{1868}\)

**Staining**

42 The 1982 MSSR defined ‘stained’ to mean treated with a solution of the colouring agent Black PN or Brilliant Black BN (E151, Colour Index 197 No.28440), the solution to be of such a strength that the colouring on the stained meat is clearly visible. The definition added that for this purpose ‘treated’ meant that all pieces of meat not smaller than primal cuts had been opened by multiple and deep incisions, and the whole surface of the meat had been covered with a solution as aforesaid either by immersing the meat in, or spraying or otherwise applying, the solution.

**Requirements and exemptions: permitted destinations**

43 The availability of some exceptions depended on whether it was intended to remove meat or offal to particular destinations. These destinations were listed in Regulation 17(1) as follows:

i. 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 of pharmaceutical products;

ii. the premises of a processor for sterilisation by him;

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

iv. the premises of a waste food processor licensed under the provisions of the Diseases of Animals (Waste Food) Order 1973 to receive unprocessed waste food and in addition authorised in writing by the issuing authority\(^{1869}\) to receive unsterilised meat to which these Regulations apply; or

v. the premises of a person for preparation prior to further removal to a processor or manufacturing chemist or for storage before further removal to another destination referred to in this paragraph.\(^{1870}\)

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\(^{1868}\) L17 tab 15 Regulation 3  
\(^{1869}\) For these purposes ‘issuing authority’ was given the meaning assigned to it by article 2(1) of the Diseases of Animals (Waste Food) Order 1973  
\(^{1870}\) L17 tab 15 Regulation 17(1)
Requirements for sterilisation in slaughterhouses

44 Subject to the exceptions in the next paragraph, carcass meat at a slaughterhouse found to be unfit for human consumption and specified offal at a slaughterhouse\textsuperscript{1871} was required either:

i. to be sterilised immediately;\textsuperscript{1872} or

ii. to be placed immediately in a room or receptacle designed for the purpose of holding meat awaiting sterilisation and bearing a notice stating that its contents were to be sterilised on the premises, and then to be sterilised at the slaughterhouse.\textsuperscript{1873}

45 There were two exemptions from this requirement in the case of carcass meat or specified offal which:

i. was stained by the occupier of the slaughterhouse immediately after it was brought into separate accommodation dedicated to the retention of unfit meat;\textsuperscript{1874} or

ii. was intended to be removed from the slaughterhouse under the authority of a movement permit issued pursuant to the Regulations to a destination referred to in 17(1)(a).\textsuperscript{1875}

The requirements governing movement permits are discussed at paragraphs 71 to 85 below. Reference should also be made to the discussion of the defence available to one charged with contravention of this provision (paragraph 50 below) and the further exemption discussed at paragraph 49 below.

46 Subject to the exceptions in the next paragraph, any offal other than specified offal at a slaughterhouse found to be unfit for human consumption was required either:

i. to be sterilised immediately;\textsuperscript{1876} or

ii. to be placed immediately in a room or receptacle designed for the purpose of holding meat awaiting sterilisation and bearing a notice stating that its contents were to be sterilised on the premises, and then to be sterilised at the slaughterhouse.\textsuperscript{1877}

47 For present purposes, there were two exemptions from this requirement:

i. in the case of offal other than specified offal found to be unfit (including any green offal not intended to be removed in accordance with the exception at (ii) below) which was intended to be removed from the slaughterhouse under the authority of a movement permit issued pursuant to the Regulations to a destination referred to in Regulation 17(1);\textsuperscript{1878} and

\textsuperscript{1871} By definition, in the case of an animal in a slaughterhouse, specified offal had been rejected as unfit for human consumption: see para. 39
\textsuperscript{1872} L17 tab 15 Regulation 6(1)
\textsuperscript{1873} L17 tab 15 Regulation 6(1)
\textsuperscript{1874} L17 tab 15 Regulation 6(2)(a); cf. chapter 10 of vol. 6: Human Health, 1989–96
\textsuperscript{1875} L17 tab 15 Regulation 6(2)(b); for Regulation 17(1)(a) see para. 43
\textsuperscript{1876} L17 tab 15 Regulation 7(1)
\textsuperscript{1877} L17 tab 15 Regulation 7(1)
\textsuperscript{1878} L17 tab 15 Regulation 7(2)(a); for Regulation 17(1) see para. 43
ii. any green offal unfit for human consumption, and any other offal not being specified offal which was in a container the contents of which consist mainly of green offal, which in either case was intended to be removed from the slaughterhouse to the premises of a processor for sterilisation.\footnote{L17 tab 15 Regulation 7(2)(c)}

The requirements governing movement permits are discussed at paragraph 71 to 85 below. Reference should also be made to the discussion of the defence available to one charged with contravention of this provision (paragraph 50 below) and the further exemption discussed at paragraph 49 below.

\textbf{Restrictions on removal from slaughterhouses}

\textbf{48} Subject to the exceptions in the next paragraph, the Regulations imposed a prohibition upon any person removing or causing or permitting to be removed from any slaughterhouse of which he was the occupier any meat unfit for human consumption\footnote{L17 tab 15 Regulation 8(1)} unless that meat either:

i. had been sterilised;\footnote{L17 tab 15 Regulation 8(1)(a)}

ii. being carcass meat or specified offal, had been stained, and was intended and authorised by a movement permit to be delivered to a destination referred to in Regulation 17(1)(b) to (e);\footnote{L17 tab 15 Regulation 8(1)(b); for Regulation 17(1)(b) to (e) see para. 43}

iii. being carcass meat or specified offal, was intended and authorised by a movement permit to be delivered to a destination referred to in Regulation 17(1)(a);\footnote{L17 tab 15 Regulation 8(1)(c); for Regulation 17(1)(a) see para. 43}

iv. being offal other than specified offal, was intended and authorised by a movement permit to be delivered to a destination referred to in Regulation 17(1).\footnote{L17 tab 15 Regulation 8(1)(d); for Regulation 17(1) see para. 43}

\textbf{49} A person was exempted from the requirement to obtain a movement permit in respect of the removal from a slaughterhouse occupied by him of either:

i. of any green offal intended to be delivered to the premises of a processor for sterilisation;\footnote{L17 tab 15 Regulation 8(2)(a)} or

ii. of any carcass meat or offal other than green offal if such meat was removed in a container the contents of which consisted mainly of green offal and which was intended to be delivered to the premises of a processor for sterilisation.\footnote{L17 tab 15 Regulation 8(2)(b)}

\textbf{50} It was a defence for any person charged with a contravention of, or a failure to comply with, the Regulations set out at paragraphs 44–49 above, to prove that he did not know, and could not with reasonable diligence have ascertained, that the meat was unfit for human consumption.\footnote{L17 tab 15 Regulation 9}
Requirements for sterilisation in knacker’s yards

51 Subject to the exceptions in the next paragraph, carcass meat and specified offal derived from an animal slaughtered in, or brought into, a knacker’s yard was required to be sterilised immediately after skinning, evisceration, or cutting up (whichever operation was the last carried out at the yard).

52 There were three exemptions from this requirement in the case of carcass meat or specified offal which was either:

i. placed immediately after skinning, evisceration, or cutting up (whichever operation was the last carried out at the yard), in a room or receptacle designed for the purpose of holding meat awaiting sterilisation and bearing a notice stating that its contents were to be sterilised on the premises, and then to be sterilised at the yard;

ii. stained at the knacker’s yard immediately after skinning, evisceration, or cutting up, (whichever operation was the last carried out at the yard); or

iii. intended to be removed from the knacker’s yard under the authority of a movement permit to a destination referred to in Regulation 17(1)(a).

53 The requirements governing movement permits are discussed at paragraphs 71 to 85 below. Reference should also be made to the further exemption discussed at paragraph 57 below.

54 Subject to the exceptions in the next paragraph, any offal other than specified offal derived from an animal slaughtered in, or brought into, a knacker’s yard was required immediately after evisceration either:

i. to be sterilised; or

ii. to be placed immediately in a room or receptacle designed for the purpose of holding meat awaiting sterilisation and bearing a notice stating that its contents were to be sterilised on the premises, and then to be sterilised at the yard.

55 For present purposes, there were two exemptions from this requirement:

i. in the case of offal other than specified offal (including any green offal not intended to be removed in accordance with the exception at (ii) below) which was intended to be removed from the knacker’s yard under the authority of a movement permit issued pursuant to the Regulations to a destination referred to in Regulation 17(1); and

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 in either case was intended to be removed from the knacker’s yard to the premises of a processor for sterilisation.

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1888 L17 tab 15 Regulation 10(1)
1889 L17 tab 15 Regulation 10(2)
1890 L17 tab 15 Regulation 10(3)(a)
1891 L17 tab 15 Regulation 10(3)(b); for Regulation 17(1)(a) see para. 43
1892 L17 tab 15 Regulation 11(1)
1893 L17 tab 15 Regulation 11(2)(a); for Regulation 17(1) see para. 43.
1894 L17 tab 15 Regulation 11(5)(b)
The requirements governing movement permits are discussed at paragraphs 71–85 below. Reference should also be made to the further exemption discussed at paragraph 57 below.

**Restrictions on removal from knacker’s yards**

56 Subject to the exceptions in the next paragraph, the regulations imposed a prohibition upon any person removing or causing or permitting to be removed from any knacker’s yard of which he was the occupier any meat unless that meat either:

i. had been sterilised;

ii. being carcass meat or specified offal, had been stained, was intended and authorised by a movement permit to be delivered to a destination referred to in Regulation 17(1)(b) to (e);

iii. being carcass meat or specified offal, was intended and authorised by a movement permit to be delivered to a destination referred to in Regulation 17(1)(a); or

iv. being offal other than specified offal, was intended and authorised by a movement permit to be delivered to a destination referred to in Regulation 17(1).

57 A person was exempted from the requirement to obtain a movement permit in respect of the removal from a knacker’s yard occupied by him either:

i. of any green offal intended to be delivered to the premises of a processor for sterilisation; or

ii. of any carcass meat or offal other than green offal if such meat was removed in a container the contents of which consisted mainly of green offal and which was intended to be delivered to the premises of a processor for sterilisation.

**Requirements affecting removal of unfit meat from a place other than a slaughterhouse or knacker’s yard**

58 The Regulations imposed a prohibition upon any person removing or causing or permitting to be removed from any place of which he was the occupier, not being a slaughterhouse or knacker’s yard, any meat unfit for human consumption cut from any variety of cattle, sheep, pig, equine animal or goat which had died or been slaughtered at that place or had been brought there having died or been slaughtered, unless that meat either:

i. had been sterilised;
ii. being carcass meat or specified offal, had been stained, and was intended and
authorised by a movement permit to be delivered to a destination referred to in
Regulation 17(1)(b) to (e);\(^{1903}\)

iii. being carcass meat or specified offal, was intended and authorised by a
movement permit to be delivered to a destination referred to in Regulation
17(1)(a);\(^{1904}\)

iv. being offal other than specified offal, was intended and was authorised by a
movement permit to be delivered to a destination referred to in Regulation
17(1);\(^{1905}\) or

v. was intended to be delivered to a knacker’s yard.\(^{1906}\)

**Requirements as to freezing of meat**

59 Subject to the exceptions in the paragraph below, the Regulations imposed a
prohibition against any person freezing any carcass meat which was unfit for human
consumption or specified offal in a slaughterhouse\(^{1907}\) or any carcass meat or
specified offal in a knacker’s yard unless that meat had been sterilised or stained.\(^{1908}\)

60 There were two exemptions from this prohibition:

i. in the case of any meat which was intended to be removed under the authority
of a movement permit from the slaughterhouse or knacker’s yard to a destination
referred to in Regulation 17(1)(a);\(^{1909}\) and

ii. in the case of any meat from a carcass infested with cysticercus bovis which was
frozen in accordance with relevant meat inspection provisions.\(^{1910}\)

**Requirements as to possession for sale, and preparation for sale,
of meat**

61 Subject to the exceptions in the paragraph below, the Regulations prohibited
any person from possessing for the purpose of sale or preparation for sale either:

i. any meat removed from a slaughterhouse which was unfit for human
consumption;

ii. any meat removed from a knacker’s yard; or

iii. any meat unfit for human consumption from an animal which had died or had
been slaughtered at a place other than a slaughterhouse or knacker’s yard, or had
been brought to such a place after having died or been slaughtered;

unless that meat had been sterilised.\(^{1911}\)

\(^{1903}\) L17 tab 15 Regulation 13(1)(b); for Regulations 17(1)(b) to (e) see para. 43
\(^{1904}\) L17 tab 15 Regulation 13(1)(c); for Regulation 17(1)(a) see para. 43
\(^{1905}\) L17 tab 15 Regulation 13(1)(d); for Regulation 17(1) see para. 43
\(^{1906}\) L17 tab 15 Regulation 13(1)(f)
\(^{1907}\) By definition, in the case of an animal in a slaughterhouse, this had been rejected as unfit for human consumption;
see para. 37
\(^{1908}\) L17 tab 15 Regulation 14(1)
\(^{1909}\) L17 tab 15 Regulation 14(2); for Regulation 17(1)(a) see para. 43
\(^{1910}\) L17 tab 15 Regulation 14(2); the relevant provisions were para. 7 of schedule 2 of the Meat Inspection Regulations 1963 or
para. 7 of Part VI of schedule 8 to the Fresh Meat Export (Hygiene and Inspection) Regulations 1981
\(^{1911}\) L17 tab 15 Regulation 20(1); ‘animal’ was defined by Regulation 13(2) to mean any variety of cattle, sheep, pig, equine animal,
or goat
62 There were exemptions from this prohibition in the case of any meat which was in the possession of a person either:

i. while in transit under the authority of a movement permit to a destination referred to in Regulation 17(1)(a);¹⁹¹²

ii. referred to in Regulation 17(1)(e) at his premises; and, where required by the Regulations, had been stained;¹⁹¹³

iii. while in transit under the authority of a movement permit to a destination referred to in Regulation 17(1)(b) to (e); and, where required by the Regulations, had been stained;¹⁹¹⁴ or

iv. at premises listed in Regulation 17(1)(a) to (d) for any purpose contemplated in the provisions or with a view to its removal from those premises in accordance with the provisions relating to closure, breakdown or trade dispute (see paragraph 68 below) or while in transit from such premises in accordance with those provisions.¹⁹¹⁵

63 It was a defence for any person charged with a contravention of this provision to prove either:

i. that he did not know, and could not with reasonable diligence have ascertained, that the meat was unfit for human consumption or removed from a knacker’s yard; or

ii. that any meat removed from a slaughterhouse became unfit only after its removal.¹⁹¹⁶

64 The Regulations imposed a prohibition against any person selling or offering or exposing for sale, by retail, any meat which was unfit for human consumption or any knacker meat unless that meat had been sterilised.¹⁹¹⁷ For the purposes of this prohibition, a sale by retail did not include a sale of meat direct from a slaughterhouse or knacker’s yard to a destination referred to in Regulation 17(1).¹⁹¹⁸

65 It was a defence for any person charged with a contravention of this provision to prove that he did not know, and could not with reasonable diligence have ascertained, that the meat was meat to which this prohibition applied.¹⁹¹⁹

Requirements as to storage of meat

66 No person was permitted to store any unsterilised meat which was unfit, or not intended, for human consumption:

i. in the same room as any meat which was fit for human consumption, unless that meat was stored according to an arrangement which ensured that it was adequately separated from the meat which was fit for human consumption and that arrangement had been approved by the appropriate local authority; and

¹⁹¹² L17 tab 15 Regulation 20(2)(a); for Regulation 17(1)(a) see para. 43
¹⁹¹³ L17 tab 15 Regulation 20(2)(b); for Regulation 17(1)(e) see para. 43
¹⁹¹⁴ L17 tab 15 Regulation 20(2)(b); for Regulations 17(1)(b) to (e) see para. 43
¹⁹¹⁵ L17 tab 15 Regulation 20(2)(c); for Regulations 17(1)(a) to (d) see para. 43
¹⁹¹⁶ L17 tab 15 Regulation 20(3)
¹⁹¹⁷ L17 tab 15 Regulation 21(1)
¹⁹¹⁸ L17 tab 15 Regulation 21(2); for Regulation 17(1) see para. 43
¹⁹¹⁹ L17 tab 15 Regulation 21(3)
ii. unless any container, wrapper, or other packaging used to hold the meat bore a notice of adequate size which was conspicuously visible and contained a distinct, legible and unambiguous statement to the effect that the meat held therein was not for human consumption, together with the name of the packer and the address at which the meat was packed. 1920

67 It was a defence for any person charged with a contravention of the provisions described at sub-paragraphs (i) to (ii) above to prove that he did not know, and could not with reasonable diligence have ascertained, that the meat was unfit, or not intended for, human consumption. 1921

**Exemption in cases of lack of equipment or exhaustion of supplies**

68 Meat unfit for human consumption and knacker meat could be removed unsterilised and unstained from a slaughterhouse or knacker’s yard which was not equipped for the sterilisation of meat provided:

i. all the destinations referred to in Regulation 17(1) and to which it was reasonably practicable to deliver that meat were, by reason of permanent or temporary closure of the premises or breakdown of machinery or a trade dispute, unable to receive the meat;

ii. the meat was transported in a vehicle or impervious container which was locked or sealed at all times and which bore a notice of adequate size which was conspicuously visible and contained a distinct, legible and unambiguous statement that the meat contained therein was not for human consumption; and

iii. the meat was removed in accordance with an arrangement in writing with, and under the supervision of, an authorised officer of the local authority in whose district the slaughterhouse or knacker’s yard was situated, to a place where it was buried or destroyed. 1922

69 Further, carcass meat unfit for human consumption or specified offal and knacker meat consisting of carcass meat or specified offal could be removed unsterilised and unstained from a slaughterhouse or knacker’s yard which had exhausted and could not practicably replenish, its supplies of staining fluid, to a destination referred to in Regulation 17(1)(b) to (d). This could be done if that meat was delivered in accordance with an arrangement in writing with, and supervised by, an authorised officer of the local authority. 1923

70 The removal of any meat in accordance with these provisions exempted the occupier of the slaughterhouse or knacker’s yard from any requirement imposed by the Regulations to sterilise or stain the meat. 1924

**Requirements on movement**

71 The 1982 MSSR imposed requirements on destinations and mode of transport, limiting what could be done at such destinations, and imposing, (with exceptions) a scheme of movement permits. These are described below.

1920 L17 tab 15 Regulations 22(1) and (2)
1921 L17 tab 15 Regulations 21(3) and 22(3)
1922 L17 tab 15 Regulation 16(1)
1923 L17 tab 15 Regulation 16(2)
1924 L17 tab 15 Regulation 16(3)
72 Meat unfit, or not intended, for human consumption or knacker meat could be removed, in accordance with any movement permit required by the Regulations to be issued in respect of that movement, to one of the destinations identified in Regulation 17(1). These are listed in paragraph 43 above.1925

73 Meat removed to a destination referred to in Regulation 17(1)(b) to (e) was required to be removed in a vehicle or impervious container which:

i. was kept closed and locked or sealed at all times except when necessary for the loading or unloading of the contents or their examination by an authorised officer; and

ii. bore a notice of adequate size which was conspicuously visible and contained a distinct legible and unambiguous statement to the effect that the meat carried therein was not for human consumption.1926

74 Once meat unfit, or not intended, for human consumption, or knacker meat had reached any of the premises referred to in Regulation 17(1)(a) to (e) it could not be further removed from those premises unless that meat either:1927

i. had been sterilised;

ii. was removed from the premises referred to in Regulation 17(1)(e), and was intended to be delivered to another destination listed in Regulation 17(1)(a) to (e) and its removal to that destination was authorised by a movement permit issued pursuant to the Regulations; or

iii. could not be disposed of at those premises by reason of permanent or temporary closure of the premises or breakdown of machinery or a trade dispute, and it was removed in accordance with an arrangement in writing with, and under the supervision of, an authorised officer of the local authority in whose district those premises were situated, to another destination referred to in Regulation 17(1)(a) to (d) or a place where it was buried or destroyed.

75 Regulation 19 set out the procedure to be followed in those cases where the Regulations required that removal of meat from certain premises take place under the authority of a movement permit.1928 At least two working days before it was intended to remove the unsterilised meat from such premises, the occupier of the premises or owner of the meat had to apply to the local authority giving the following information:

i. the intended removal date;

ii. the description of the meat;

iii. the address and description of the premises to which the meat was to be delivered; and

iv. the expected date of arrival of the meat at those premises.1929
76 Upon receipt of an application the local authority was required, without undue delay, to satisfy itself that the premises to which it was intended to deliver the unsterilised meat were premises of a kind referred to in Regulation 17(1)\textsuperscript{1930} and were capable of processing or otherwise disposing of the meat. If the premises were situated in the district of another local authority, the authority to whom the application was made was required to notify that other authority that the application had been made, and was required to take into account any information obtained from that authority in reaching its decision as to the nature of the premises.\textsuperscript{1931}

77 When the occupier of any premises, or the owner of any meat, to which the Regulation applied, regularly delivered unsterilised meat of a specific description to a particular destination, the authority in whose district the premises or meat were situated was required, on application being made to it stating the description of that meat and the address and description of that destination, to authorise in advance each such movement by issuing such quantity of movement permits as it considered appropriate.\textsuperscript{1932}

78 Movement permits were to be in the form specified in the schedule to the Regulations. The permit was divided into Parts I to V. When satisfied of the matters referred to in Regulation 19(2)\textsuperscript{1933} a local authority was to complete Part I of the permit and issue to the applicant an original and three copies of the permit.\textsuperscript{1934} Part I was as follows:

\textsuperscript{1930} L17 tab 15 For Regulation 17(1) see para. 43 above
\textsuperscript{1931} L17 tab 15 Regulation 19(2)
\textsuperscript{1932} L17 tab 15 Regulation 19(4)
\textsuperscript{1933} See para. 76 above
\textsuperscript{1934} L17 tab 15 Regulation 19(3)
The occupier of the premises from which the unsterilised meat was removed under the authority of a movement permit was required to complete Part II of the document delivered to him and was required to give the original together with two copies to the driver of the vehicle in which the meat was removed and to keep the other copy for a period of two years.\(^{1935}\)
Part II was as follows:

**PART II (To be completed by the consignor)**

6. *Details of consignment*

   (i) Description of material (species of animal, type of meat/offal, etc):

   (ii) Quantity of material:

   (iii) Number of containers:

   (iv) Size and type of containers:

   (v) Expected date of arrival:

7. *Means of Transport*

   (i) Type of vehicle:

   (ii) Registration number:

   (iii) Name and address of owner:

8. *Declaration*

   I certify that the material described in (6) above was despatched today to the consignee at the address shown in (2) above, using the means of transport described in (7) above.

**WARNING:**

Any person who knowingly or recklessly makes a false statement or declaration in this document renders himself liable to prosecution.

**THIS FORM SHOULD NOW BE HANDED TO THE DRIVER OF THE VEHICLE, WHO SHOULD HAND IT TO THE CONSIGNEE ON ARRIVAL: KEEP ONE COPY FOR YOUR OWN RECORDS.**

80 Having completed Part II, the occupier handed the original and two of the copies to the driver of the vehicle in which the meat was removed and retained the third copy for at least two years.1936

81 When the driver delivered the meat to the premises named in the movement permit he was required to give that permit to the occupier of those premises.1937 The occupier was then required to complete Part III of the permit and to acknowledge receipt of the meat thus delivered to him by signing the original and two copies and was required, within seven days from the date of receipt of the meat, to send the original and one copy to the local authority in whose district his premises were
The occupier was required to retain the other copy for a period of two years from the date on which he received that meat. Part III was as follows:

PART III (To be completed by the consignee)

(9) Declaration
I certify that the material described in (6) above was received at the address shown in (2) above on .................................................. (date).

WARNING:
Any person who knowingly or recklessly makes a false statement or declaration in this document renders himself liable to prosecution.

(Signature of consignee)

(Date)

THIS FORM SHOULD NOW BE SENT TO THE LOCAL AUTHORITY AT THE ADDRESS SHOWN IN (3) ABOVE: KEEP ONE COPY FOR YOUR OWN RECORDS.

82 If the driver was unable to deliver the meat to the premises named in the movement permit, he was required without delay to inform or cause to be informed either the local authority which issued the permit, or the local authority in whose area the delivery premises were situated. That authority was required without delay to authorise the delivery of the meat to another destination referred to in Regulation 17(1), or, if no such alternative destination was available, require the meat to be returned to the premises from which it was removed, or to be buried or destroyed under its supervision. The driver was required to hand the movement permit to the occupier of the premises to which the meat was delivered, or, in the case of its burial or destruction, to the supervising authority.

83 The occupier of the premises to which the meat was delivered was required to complete Part IV of the movement permit and acknowledge receipt of the meat to which the permit related by signing the original and its two copies and was required, within seven days of the receipt of the meat, to send the original and one copy to the local authority in whose district his premises were situated. The occupier was required to retain the other copy for a period of two years from the date on which he received the meat to which it related. Part IV was as follows:

PART IV (To be completed by the person taking delivery of the material if it was not delivered to the consignee at the address shown in (2) above)

(10) Reason why material was not delivered to the address shown in (2) above:

84 Any local authority which was sent a movement permit was required to complete Part V of that permit and to send the original to the authority which issued it and retain the copy for a period of two years. Part V was as follows:

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1938 L17 tab 15 Regulation 19(7)
1939 L17 tab 15 Regulation 19(8)
1940 L17 tab 15 Regulation 19(9)
1941 L17 tab 15 Regulation 19(10)
1942 L17 tab 15 Regulation 19(11)
1943 L17 tab 15 Regulation 19(12)
Any person required to retain a document under Regulation 19 was required to make that document available for inspection by an authorised officer at any reasonable time.\cite{1944_L17_tab_15_Regulation_19(13)}

**Enforcement**

The local authority was to enforce and execute the provisions of the Regulations in its district.\cite{1945_L17_tab_15_Regulation_26(2)} The primary means of enforcing the Regulations was provided by powers conferred upon authorised officers under the Food and Drugs Act 1955. An authorised officer (see paragraph 15 above) of a council, on producing, if required, authenticated documents showing his authority had a right to enter any premises at all reasonable hours for the purposes of:

i. ascertaining whether there was or had been on, or in connection with, the premises any contravention of the Regulations; and

ii. performing the functions of the council under the Regulations.\cite{1946_L11_tab_20_section_100(1)}

Admission to a private dwelling house was not to be demanded as of right unless 24 hours’ notice of the intended entry had been given to the occupier.

If a JP, on sworn information in writing:

i. was satisfied that there was reasonable ground for entry into any premises for any such purpose set out above; and

ii. was also satisfied either:

   a. that admission to the premises had been refused, or a refusal was apprehended and that notice of the intention to apply for a warrant had 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 was one of urgency, or that the premises were unoccupied or the occupier was temporarily absent;

he had a power by warrant under his hand to authorise the council by any authorised officer to enter the premises, if need be by force.\cite{1947_L11_tab_20_section_100(2)} An authorised officer entering
any premises pursuant to either of these provisions had a power to take with him
such other persons as may have been necessary, and on leaving unoccupied
premises which he had entered by virtue of a warrant, was required to leave those
premises as effectively secured against trespassers as he found them.\textsuperscript{1948}

\textbf{88} In addition, an authorised officer (see paragraph 15 above) of a council, on
producing, if required, authenticated documents showing his authority had a right
at all reasonable hours to enter any vehicle, stall or place other than premises for any
purpose for which he was empowered under section 100.\textsuperscript{1949} In such circumstances
the provisions outlined above in relation to entry to premises applied to any vehicle,
stall or place other than premises as if a reference to the occupier referred to the
person in charge of the vehicle, stall or place other than premises.\textsuperscript{1950}

\textbf{89} Under the 1982 MSSR, an authorised officer had, at all reasonable times a
power to examine any meat not fit or not intended for human consumption which
had been sold, was offered or exposed for sale or was in the possession of, or had
been deposited with or consigned to any person for the purpose of sale or
preparation for sale.\textsuperscript{1951} The authorised officer had a further power to seize the meat
and remove it in order for it to be dealt with by a JP, if it appeared to the authorised
officer that the meat was required by the Regulations either:

i. to be sterilised, but it had not been sterilised;
ii. to be stained, but it had not been stained;
iii. to bear a notice, but it did not bear a notice; or
iv. to be accompanied by a movement permit, but it was not.

\textbf{90} Having seized any meat under this power, the officer was required to inform the
person in whose possession the meat was found of his intention to have it dealt with
by a JP.\textsuperscript{1952} Anyone liable for prosecution under the terms of the Regulations was
entitled, if he attended before the JP, to be heard and to call witnesses.\textsuperscript{1953} If it
appeared to the JP that the meat brought before him, whether seized under the
provisions of this Regulation of not, was meat to which the Regulations applied and
was required to be but had not been dealt with in accordance with those Regulations,
he was required to condemn it and order it to be destroyed or to be so dealt with.\textsuperscript{1954}
In the event that a JP refused to condemn any such meat, the council was required
to compensate the owner of the meat for any depreciation in its value resulting from
its seizure and removal.\textsuperscript{1955}

\textbf{91} The Regulations also provided that if an authorised officer had reason to suspect
that any vehicle or container contained any meat to which the Regulations applied
and which was intended for sale or was in the course of delivery after sale, then he
had a power to examine the contents, and, if necessary, detain the vehicle or
container.\textsuperscript{1956} In the event that he found any meat which was required to be but was
not dealt with in accordance with the Regulations, the authorised officer was able
to seize the meat and remove it as set out at paragraph 89 above.

\textsuperscript{1948} L11 tab 20 section 100(3)
\textsuperscript{1949} L11 tab 20 section 101(1); for section 100 see paras 86–87 above
\textsuperscript{1950} L11 tab 20 section 101(2)
\textsuperscript{1951} L17 tab 15 Regulation 23(1)
\textsuperscript{1952} L17 tab 15 Regulation 23(2)
\textsuperscript{1953} L17 tab 15 Regulation 23(3)
\textsuperscript{1954} L17 tab 15 Regulation 23(4)
\textsuperscript{1955} L17 tab 15 Regulation 24(1)
92 Any person contravening or failing to comply with any provision of the Regulations, or knowingly or recklessly making a false statement or declaration in the Regulations for the movement of meat, was guilty of an offence. This rendered him liable on summary conviction to a fine not exceeding £100 or to imprisonment for a term not exceeding three months, or to both, and, in the case of continuing offence, to a further fine not exceeding £5 for each day during which the offence continued after conviction.\(^\text{1957}\)

93 All of the above restrictions in the 1982 MSSR were subject to the application of provisions of the Food and Drugs Act 1955 as follows:\(^\text{1958}\)

i. section 113 provided that a person against whom proceedings were brought was entitled to bring before the Court in proceedings any person to whose act or default he alleged that the contravention of the provisions in question was due and prove that the contravention was due to the act or default of that person;

ii. section 115(2) imposed restrictions upon the circumstances in which it was possible for it to be a defence in a set of proceedings under the Act that a warranty had been given that any article or substance could be lawfully sold or dealt with under the name or description or for the purpose under or for which it was sold or dealt with;

iii. section 116 set out offences of applying to an article or substance a warranty or certificate of analysis given in relation to another article or substance and of giving of a false warranty in writing, and provisions relating to those offences;

iv. section 128 provided that an officer of the council acting in good faith in the execution or purported execution of the Act and within the scope of his employment was not to be held personally liable and that the council had a power to indemnify such an officer against any damages and costs in circumstances where he was not legally entitled to require such an indemnity.

94 Table 1 below summarises the principal requirements as to sterilisation and removal of unfit meat under the 1982 MSSR.
Table 1: Meat (Sterilisation & Staining) Regulations 1982: Principal requirements as to sterilisation & removal (excluding poultry and imported meat)

| Category of meat | Required to sterilise on premises unless excepted | Exception if stained | Exception if [unstained] to be removed under MP to any Reg.17(1)(a) destination | Exception if [unstained] to be removed under MP to any Reg.17(1)(b) destination | Prohibition on removal unless sterilised or excepted | Exception if to be delivered [unstained] under MP to any Reg.17(1)(a) destination | Exception if to be delivered [unstained] under MP to any Reg.17(1)(b) destination to (e) destination | Exception if to be delivered [unstained] under MP to Reg.17(1)(b) to (e) destination | Exception if to be delivered [unstained] under MP to any Reg.17(1)(b) destination to (e) destination | Exception: if to be delivered [without MP] to Reg.17(1)(b) destination |
|------------------|---------------------------------------------------|----------------------|--------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| Slaughter house  | **Yes, Reg.8(1)**                                 | **Yes, Reg.8(2)(a)** | **Yes, Reg.8(2)(b)**                                                                                                                                                                                                 | **Yes, Reg.8(1)(a)**                                                                                                                                                                                                 | **Yes, Reg.8(1)(b)**                                                                                                                                                                                                 | **Yes, Reg.8(1)(c)**                                                                                                                                                                                                 | **Yes, [unstained] if GO mainly GO *** Reg.8(2)**                                                                                                                                                                                                 | **Yes, [unstained] if GO mainly GO *** Reg.8(2)**                                                                                                                                                                                                 | **Yes, if stained and in container mainly of green offal, Reg.8(1)(b) & (2)(b)** |
| Ditto other offal | **Yes, Reg.7(1)**                                 | **Yes, Reg.7(2)(a)** | **Yes, if GO mainly GO *** Reg.7(2)(c)**                                                                                                                                                                                                 | **Yes, Reg.8(1)(a)**                                                                                                                                                                                                 | **Yes, Reg.8(1)(d)**                                                                                                                                                                                                 | **Yes, [unstained] if GO mainly GO *** Reg.8(2)**                                                                                                                                                                                                 | **Yes, if stained and in container mainly of green offal, Reg.12(1)(b) & (2)(b)**                                                                                                                                                                                                 | **Yes, if stained and in container mainly of green offal, Reg.12(1)(b) & (2)(b)**                                                                                                                                                                                                 | **Yes, if stained and in container mainly of green offal, Reg.12(1)(b) & (2)(b)** |
| Knacker's yard   | **Yes, Reg.10(1)**                                | **Yes, Reg.10(3)(a)** | **Yes, Reg.10(3)(b)**                                                                                                                                                                                                 | **Yes, Reg.12(1)(a)**                                                                                                                                                                                                 | **Yes, Reg.12(1)(b)**                                                                                                                                                                                                 | **Yes, Reg.12(1)(c)**                                                                                                                                                                                                 | **Yes, [unstained] if GO mainly GO *** Reg.12(2)**                                                                                                                                                                                                 | **Yes, [unstained] if GO mainly GO *** Reg.12(2)**                                                                                                                                                                                                 | **Yes, if stained and in container mainly of green offal, Reg.13(1)(b) & (2)(b)** |
| Ditto other offal | **Yes, Reg.11(1)**                                | **Yes, Reg.11(2)(a)** | **Yes, if GO mainly GO *** Reg.11(2)(b)**                                                                                                                                                                                                 | **Yes, Reg.12(1)(a)**                                                                                                                                                                                                 | **Yes, Reg.12(1)(d)**                                                                                                                                                                                                 | **Yes, [unstained] if GO mainly GO *** Reg.12(2)**                                                                                                                                                                                                 | **Yes, if stained and in container mainly of green offal, Reg.13(1)(b) & (2)(b)**                                                                                                                                                                                                 | **Yes, if stained and in container mainly of green offal, Reg.13(1)(b) & (2)(b)**                                                                                                                                                                                                 | **Yes, if stained and in container mainly of green offal, Reg.13(1)(b) & (2)(b)** |
| Other place       | **Yes, Reg.13(1)**                                | **Yes, Reg.13(1)(a)** | **Yes, Reg.13(1)(c)**                                                                                                                                                                                                 | **Yes, Reg.13(1)(b)**                                                                                                                                                                                                 | **Yes, Reg.13(1)(d)**                                                                                                                                                                                                 |                                                                                                                                                                                                 |                                                                                                                                                                                                 |                                                                                                                                                                                                 |                                                                                                                                                                                                 |                                                                                                                                                                                                 |
| Ditto other offal | **Yes, Reg.13(1)**                                | **Yes, Reg.13(1)(a)** | **Yes, Reg.13(1)(d)**                                                                                                                                                                                                 |                                                                                                                                                                                                 |                                                                                                                                                                                                 |                                                                                                                                                                                                 |                                                                                                                                                                                                 |                                                                                                                                                                                                 |                                                                                                                                                                                                 |                                                                                                                                                                                                 |

* carcass meat or specified offal found unfit for human consumption at slaughterhouse
** offal (other than specified offal) found unfit for human consumption at slaughterhouse
*** green offal, and other non-specified offal in container of mainly green offal
# carcass meat or specified offal at knacker’s yard
## offal (other than specified offal) at knacker’s yard
+ carcass meat or specified offal unfit for human consumption cut from animal at place other than slaughterhouse or knacker’s yard and not intended for knacker’s yard
++ offal, other than specified offal, unfit for human consumption cut from animal at place other than slaughterhouse or knacker’s yard and not intended for knacker’s yard
CIEH criticisms of the system

95 The Chartered Institute of Environmental Health (CIEH) was one of the groups at the forefront of the lobbying for legislative change which took place in the wake of ‘Operation Meathook’. However, whilst the regime set up by the 1982 MSSR built upon suggestions of the CIEH, its suggestions were not adopted in their entirety and the CIEH continued to have serious concerns about the scope and terms of the regime into the 1990s.1959

96 The CIEH submission to the Inquiry attached the transcript of a talk given by Mr K J Tyler, the CIEH Secretary, speaking at the CIEH Congress in 1982. Mr Tyler quoted from a letter sent by the Meat Legislation Review Group of the CIEH to MAFF on 7 June 1982 commenting upon the draft proposals for the 1982 MSSR:

The institution raises as a fundamental objection the proposed exclusion of offal and poultry meat from the full requirements of the Regulations, and in particular to staining and sterilisation. However, following consultations with various sections of the food trade and the Pet Food Manufacturers Association, the Institution may be prepared to make some concessions in respect of offal. The Institution is adamant that all offal emanating from knacker yards and unfit offal from slaughterhouses should be included within the staining and sterilisation requirements. In relation to imported offal for use by the pet food trade the Institution is prepared to consider foregoing the staining and sterilisation requirements but only if the licensing requirements for this importation are tightened up, i.e. that only bonafide petfood processors of this inedible offal are licensed to import. In other words the institution would be opposed to a dealer importing this product and then hawking it around the market in the hope of finding a buyer. 1960

97 However, in the event, as has been seen, a decision was taken to exempt ‘non-specified offal’ from the stricter requirements applied to carcass meat and ‘specified offal’.1961 Consequently, a regime came into being, about which Mr Tyler said the following:

We now have three different types of offal:- specified, green, any other. Some is stained, some is not; some is sterilised, some is not; dependant on where it is going. Some whether it is stained, sterilised or not requires a movement permit. I hope that all local authorities understand and interpret the Regulations in the same manner or confusion may well reign. Perhaps I am being rather too pessimistic: yes, the Regulations are complicated and the paperwork which the institution wanted, ‘the ‘paper’ control’, but only when the Ministry did not meet our original demands for all meat and offal to be either stained or sterilised and for there to be no exemptions to that rule. Had that been the case no paperwork would have been required.1962

98 Moreover, even after the 1982 MSSR were introduced, the CIEH continued to harbour concerns about the broader unfit meat regime. In a 1990 paper entitled ‘The
Illegal Trade in Unfit Meat for Human Consumption’ they drew attention to a number of these:

LEGISLATIVE FRAMEWORK

The original report called for changes in legislation available to enforcement authorities. Yet subsequent changes in the Meat (Staining and Sterilisation) Regulations and the Food Act 1984 failed to effectively control unfit meat.

– There were no changes in the existing unsatisfactory system of meat marking. The IEHO recommended a system of roller marking.

– It is still not an offence to possess an unauthorised meat inspection stamp.

– There has been no change in the reference to ‘for sale’ in the Meat Inspection Regulations. Constant enforcement problems are experienced when the ‘owner’ insists that a carcass is not intended for sale for human consumption. (This will change with the inception of the Food Safety Act).

– The BVA has introduced a new form for the Veterinary Certificate for Slaughterhouse Admission for Sick and Injured Animals, yet there is no legal requirement for proper documentation, and vets may continue to submit ‘back of cigarette packet’ certificates. There are still instances where vets certify dead animals for admission to a slaughterhouse, although this is illegal.

– There are no inspection requirements for knacker’s yards, which may be adjacent to slaughterhouses and which should be under similar control.

– Knacker activities at unfit meat places such as zoos and hunt kennels are still outside the scope of licensing requirements.

– There are no requirements for the labelling of boxed meat at the wholesale stage despite stringent controls at the later, retail stage.

RECOMMENDATIONS

A. All local authorities should urgently seek to identify areas of potential risk. In particular, EHOs should step up their checks of meat arriving at school and hospital kitchens and other institutions. Core samples should be taken for bacteriological examination and checks made back through the meat supply chain.

B. The Institution should set up a liaison network with other involved professions to establish closer working relationships.

C. Legislative controls must be introduced to cover knacker’s yards and other associated activities, including hunt kennels. Legislation must be quickly introduced to alter the meat stamping system.
D. Casualty slaughter must carefully controlled, while preserving the prime motive of preventing suffering to the animal.

E. Collection areas of knacker men/fallen stock collectors must be defined, with fixed unfit meat labelling to vehicles and it made an offence to sell dead animals to anyone other than a licensed operator.

F. Careful consideration should be given to the effectiveness of the Meat (Staining and Sterilisation) Regulations and to seek changes where necessary.1963

**Meat (Sterilisation and Staining) (Amendment) Regulations 1984**

99 A number of amendments to the 1982 MSSR were introduced by means of the Meat (Sterilisation and Staining)(Amendment) Regulations 1984.1964 What follows is a brief description of those amendments insofar as they are relevant to the discussion of the 1982 MSSR above.

100 The definition of ‘specified offal’ was amended to mean the hearts, kidneys, livers and lungs derived from an animal which, in the case of a carcass in a slaughterhouse, had been rejected by an authorised person as unfit for human consumption by reason of any disease or pathological condition other than either:

i. ascariasis, fascioliasis, telangiectasis; or

ii. changes caused by the operations of stunning, slaughter or dressing of the animal.1965

101 A Regulation was introduced disapplying the 1982 MSSR in respect of meat removed or intended to be removed from any place or premises by, or under the authority of, a veterinary surgeon for examination by him or on his behalf.1966

102 A further prohibition was introduced against any person bringing, or causing or permitting to be brought, into England and Wales from Scotland or Northern Ireland any meat unfit for human consumption.1967 The exemptions from this prohibition were identical to those which existed in relation to the removal of unfit meat from a slaughterhouse (as outlined at paragraph 48 above), save for the fact that importation of meat from Scotland and Northern Ireland required the meat to be accompanied to the destination by a consignment note or permit1968 rather than a movement permit.

103 The driver of the vehicle in which the meat was delivered to any premises accompanied by a consignment note or a permit was required to give that note or copy of that permit to the occupier of those premises. The occupier was required to

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1963 M43 tab 8
1964 L17 tab 18
1965 L17 tab 18 Regulation 3(c)
1966 L17 tab 18 Regulation 4 introducing Regulation 5A of the 1982 MSSR
1967 L17 tab 18 Regulation 6 introducing Regulation 15A of the 1982 MSSR
1968 A 'consignment note' was defined as a consignment note issued in pursuance of Part III of the Meat and Poultry Meat (Staining and Sterilisation) Regulations 1983, and a 'permit' was defined as meaning a permit issued under the provisions of section 16 of the Meat Shipping (Northern Ireland) Regulations 1964 authorising the removal of meat to the premises to which it was to be delivered
retain that document for two years and within seven days to send a copy to the local authority in whose area his premises were located. The document was required to be available for inspection by an authorised officer at any reasonable time. Upon receipt of the copy, the local authority was required forthwith to notify in writing of the arrival of the consignment either:

i. in the case of an importation from Scotland, the local authority from whose district the meat was imported; or

ii. in the case of an importation from Northern Ireland, the Department of Agriculture Northern Ireland.

This prohibition resulted in certain amendments elsewhere, namely:

i. the range of persons authorised to declare ‘specified offal’ as unfit; and

ii. amendments to the prohibition on possession for sale, the exemptions from that prohibition and the defences to it (Regulation 20 of the 1982 MSSR).

104 Amendments were made to the list of five destinations in Regulation 17 of the 1982 MSSR to which unfit meat could be delivered under the authority of a movement permit (see paragraph 43 above). The first destination was amended to include a ‘pharmaceutical extract supplier’ which was defined as a person whose business consisted, wholly or mainly, of the collection, storage, and preparation of glands, liquid extracts and other materials derived from the carcasses of animals, prior to their removal to a manufacturing chemist for the manufacture of pharmaceutical products.

105 The third destination was amended to prohibit the removal to a zoo, menagerie, fur farm, maggot farm, or greyhound kennels of carcass meat or offal rejected by an authorised person as unfit for human consumption by reason of tuberculosis. The fifth destination was amended so as to make removal or storage prior to further removal permissible only where the subsequent removal was to a processor; further removal to a ‘manufacturing chemist’ was to be no longer permitted.

106 Finally, subsequent removal under Regulation 17(3) of the 1982 MSSR from any of the listed destinations was now to be permitted in circumstances where the meat was removed from a hospital, medical or veterinary school, laboratory or similar institution in accordance with an arrangement in writing with, and under the supervision of, an authorised officer of the local authority in whose district the premises were situated to another destination listed in Regulation 17(1)(a) to (d) or to a place where it was buried or destroyed.

The Bovine Offal (Prohibition) Regulations 1989

107 The Bovine Offal (Prohibition) Regulations 1989 prohibited the sale or use in the preparation of food for sale for human consumption of ‘specified bovine offal’ (SBO). ‘Specified bovine offal’ was defined in the Regulations as being the...
brain, spinal cord, spleen, thymus, tonsils and intestines of a bovine animal slaughtered in the UK.\textsuperscript{1972} Thus, whilst SBO was not brought directly within the scope of ‘unfit’ meat as defined in the Meat Inspection Regulations 1963, it was effectively rendered unfit for human consumption.

\textbf{108} In order to effect the separation of SBO from non-SBO material at the slaughterhouse, the Regulations utilised the regime established under the 1982 MSSR for the separation of unfit meat from fit meat. The 1989 Regulations are described in vol. 6: \textit{Human Health, 1989–1996}.

\textbf{109} Thus, a parallel regime was introduced under the 1989 Regulations whereby SBO at a slaughterhouse was required to be immediately sterilised (or placed in a designated place for meat awaiting sterilisation and with a notice attached that the contents are for later sterilisation at the slaughterhouse).\textsuperscript{1973} Alternatively, the requirement to sterilise SBO was obviated by the SBO being stained immediately after slaughter.\textsuperscript{1974} ‘Sterilisation’ and ‘staining’ were defined by reference to the definitions in the 1982 MSSR. This meant that SBO would be stained with the same stains as unfit meat.

\textbf{110} An express provision was contained in the Regulations whereby it was made clear that the severance of SBO from non-SBO material which was not to be sterilised or stained was permissible under the Regulations.\textsuperscript{1975} Once severance of the SBO had been effected, the SBO had to be kept in a separate room from meat fit for human consumption unless or until it had been either sterilised or stained and was stored under an arrangement that ensured it was at all times kept separate from fit meat. In addition, the container or packing in which any SBO was stored was required to bear a clear notice stating that the SBO held in that container was not for human consumption.\textsuperscript{1976}

\textbf{111} Sterilised SBO could be removed from the slaughterhouse without restriction.\textsuperscript{1977} By contrast, unsterilised SBO could be removed from the slaughterhouse to one of only three specified destinations, and only under the authority of a movement permit. These destinations were as follows:

i. excepted premises;

ii. the premises of a processor for sterilisation; or

iii. the premises of a person for preparation prior to further removal to a processor, or for storage prior to further removal to one of the above two destinations.

\textbf{112} With one important exception, this removal could not be effected unless the SBO was both stained and to be removed in a vehicle or impervious container which was locked or sealed at all times and which bore a notice affixed by the occupier of the slaughterhouse clearly stating that the SBO therein was not for human consumption.

\textbf{113} The exception was in the case of ‘excepted premises’. These ‘excepted premises’ were defined in the Regulations as either:

\begin{itemize}
  \item \textsuperscript{1972} L2 tab 3B Regulation 2
  \item \textsuperscript{1973} L2 tab 3B Regulation 5(1)
  \item \textsuperscript{1974} L2 tab 3B Regulation 5(2)
  \item \textsuperscript{1975} L2 tab 3B Regulation 5(4)
  \item \textsuperscript{1976} L2 tab 3B Regulation 14
  \item \textsuperscript{1977} L2 tab 3B Regulation 6(a)
\end{itemize}
a. a hospital, medical or veterinary school, laboratory or similar institution for instructional or diagnostic purposes, a rennet manufacturer or a manufacturing chemist (in circumstances where he receives the offal for the manufacture by him of pharmaceutical products); or

b. premises used for the manufacture of products other than food and not used for the manufacture of food. 1978

114 In the case of removal to these excepted premises SBO could be removed neither sterilised nor stained provided the removal was carried out under the authority of a movement permit. 1979 This provision mirrors a similar exception in the 1982 MSSR, whereby the removal of unfit meat to laboratories, manufacturing chemists and the like could be carried out without material being sterilised or stained. However, the scope of the exception was wider in the 1989 Regulations, including, as it did, removal of SBO to any manufacturing premises not used for the manufacture of food.

115 Notwithstanding the scope of this exception, it did not, in practice, mean that unsterilised SBO was removed to manufacturers of animal feedstuff. Under the Food Act 1984, ‘food’ was to be interpreted as not including animal feedstuff. 1980 Consequently, the exemption included within its scope the removal of SBO to a manufacturer of animal feedstuff. However, such manufacturers would ordinarily receive SBO from a renderer after it had been rendered. A renderer was permitted under the Regulations to receive SBO unsterilised by virtue of being a processor to whom it was removed for sterilisation. 1981 The process of rendering the SBO would then constitute sterilisation of the SBO within the meaning of the Regulations. Sterilised SBO could then be removed from the rendering plant without restriction (whether to a manufacturer of animal feedstuff or otherwise). 1982

116 More generally, the removal of unsterilised SBO from a place other than a slaughterhouse or knacker’s yard was prohibited subject to identical exceptions as removal from a slaughterhouse with the addition of two further exceptions. These were delivery to a knacker’s yard and delivery to a slaughterhouse of the offal as an accompaniment to a dressed carcass. 1983

117 It follows from this that knacker’s yards were not covered in any way by the provisions of the SBO Regulations. SBO, by definition, was derived from slaughtered animals, whereas knacker’s yards dealt largely with fallen stock. The requirements as to sterilisation and staining of SBO applied only to the slaughterhouse. The prohibition on removal of SBO applied only to the slaughterhouse and ‘to a place other than the slaughterhouse or a knacker’s yard’. Thus, by contrast with the 1982 MSSR where knacker meat was presumed to be unfit, 1984 the regime introduced by the SBO Regulations left knacker’s yards untouched.

1978 L2 tab 3B Regulation 2
1979 L2 tab 3B Regulation 6(c)
1980 L1 tab 2B section 131
1981 L2 tab 3B Regulation 11(1)(a)
1982 It is possible that the definition of ‘excepted premises’ enabled SBO to go to manufacturers of pet food. This was remedied by the Bovine Offal (Prohibition) (Amendment) Regulations 1992, which revised the definition of ‘excepted premises’ in a number of respects.
1983 L2 tab 3B Regulation 7
1984 L17 tab 15 Regulation 4
A further specific exemption from the requirement to sterilise SBO was made in the case of the brain of a bovine contained within its head. Provided the head was intended to be separately removed from the slaughterhouse to a specialist boning plant for the recovery of the head meat (under the authority of a movement permit), the brain was exempted from the sterilisation requirement. However, the occupier of the boning plant was required, after removal of the head meat, either to sterilise or stain the skull with the brain still inside, or to remove the brain and sterilise or stain it separately.

The removal of unsterilised SBO was controlled by a system of movement permits. This system was identical in every respect to that which applied under the 1982 MSSR for controlling the removal of unfit meat, save that the material covered by the permit was SBO and the form of the permit reflected this.

The monitoring of this system of movement permits was in the hands of the local authority who controlled their issue. In order to acquire a permit from the local authority the occupier of the slaughterhouse had to lodge an application for a permit to his local authority at least two days before it was intended to remove the unfit meat from the premises. To enter an application the occupier was required to inform the local authority of the intended removal date, give them a description of the SBO, the address and description of the premises to which the SBO was to be delivered and the date on which the consignment would arrive at those premises. The local authority was to issue a permit only upon being satisfied that the premises destined to receive the SBO fell within the scope of the premises to which unsterilised SBO could be removed and that they were capable of processing or otherwise disposing of the SBO.

As with the 1982 MSSR, the need to apply for a separate permit for each removal was obviated by the fact that an occupier could apply for a block quantity of permits. This was possible where the occupier regularly delivered SBO to a particular destination. The local authority had a discretion, in such a case, to issue whatever quantity of permits it considered appropriate.

Each movement permit took a specified form and had to be completed in accordance with the Regulations. The permit was divided into Parts I to V. Part I was to be completed by the local authority upon authorising the removal. The local authority issuing officer was required to enter on the permit the name and address of the consignor, the name and address of the consignee and premises to which the SBO was to be delivered, and the name and address of the local authority in whose area those premises were located. The permit gave the local authority the option of specifying a maximum quantity of SBO to be removed and/or a date by which removal had to have taken place. Having completed Part I, the local authority was required to make three copies of the movement permit and hand both the original and the copies to the occupier. Completion of Part I thereby authorised the named consignor to despatch SBO to the specified delivery address subject to any limitations imposed by the authority as to quantity and/or time of delivery.
Part II was for completion by the occupier of the premises from which the meat was to be removed. He was required to fill in details of the consignment, including a description of the SBO, the quantity to be removed, and the containers in which it was to be carried. The occupier was then required to make a declaration that the SBO was despatched on the date shown. Having completed Part II, the occupier handed the original and two of the copies to the driver of the vehicle in which the SBO was removed and retained the third copy for at least two years. Upon delivering the consignment, the driver of the delivery vehicle was required to hand the original permit and the two remaining copies to the occupier of the premises named on the permit as the delivery premises. This occupier was then required to fill in Part III. This took the form of a declaration by him that the SBO described by the consignor had been duly delivered to the premises identified in the permit. Having made this declaration, the occupier then sent the original permit and one copy to his local authority, retaining the second copy for himself (again for at least two years).

In the event that, for whatever reason, the driver was unable to deliver the SBO to the named premises, he was immediately to inform either the local authority which issued the permit, or the local authority in whose area the delivery premises were located. That authority was required to immediately authorise either delivery to an alternative specified destination, return to the consignor, or burial and destruction. Only in these circumstances was Part IV required to be completed, the information and declaration being provided by the occupier of the premises which ultimately took delivery of the SBO.

The final stage in this process was the receipt of the original permit and one copy by the local authority in whose area the consignee premises were located. That authority was required simply to enter the date upon which it received the permit, and return the original to the issuing authority.

As Regulations made under the Food Act 1984, the 1989 Regulations were enforceable by means of the blanket power given to authorised officers of the local authority to enter any premises at a reasonable hour for the purpose of ascertaining whether any contravention of the Regulations had taken place. However, in contrast with the 1982 MSSR, the 1989 Regulations conferred upon authorised officers no additional power to examine and seize SBO with a view to securing its condemnation where it had not been dealt with in accordance with the Regulations.

It should be noted that the Regulations contained certain exemptions. First, the Regulations did not apply at all to SBO from a bovine not more than 6 months old when slaughtered. Second, the requirements as to sterilisation, staining and removal did not apply to two specified categories of SBO:

1992 L2 tab 3B Regulation 12(5)
1993 L2 tab 3B Regulation 12(6)
1994 L2 tab 3B Regulations 12(7) and (8)
1995 L2 tab 3B Regulations 12(9) and (10)
1996 L2 tab 3B Regulation 12(12)
1997 L1 tab 2B section 87
1998 See Regulation 23 of the 1982 MSSR
i. any SBO which is removed or is intended to be removed from any place by, or under the authority of, a veterinary surgeon for examination by him or on behalf of him; and

ii. any SBO which is neither held for the purposes of a business nor on premises on which the bovine animal whose offal it is has been slaughtered.1999

The animal SBO ban

129 The Bovine Spongiform Encephalopathy (No. 2) Amendment Order 1990 introduced the animal SBO ban.2000 This Order amended the Bovine Spongiform Encephalopathy (No. 2) Order 19882001 which had, among other provisions, introduced the prohibition on the sale or supply for feeding to animals of any feedstuff which incorporated animal protein—the ruminant feed ban.2002

130 The animal SBO ban was introduced by a simple amendment to this provision. By article 2 of the BSE (No. 2) Amendment Order 1990, article 8(3) of the BSE (No. 2) Order was amended to read as follows:

No person shall knowingly sell or supply for feeding to animals or poultry any specified bovine offal or any feedingstuff which he knows or has reason to suspect contains specified bovine offal or animal protein which is derived from specified bovine offal.2003

131 At the same time the definition of ‘animals’ in the ruminant feed ban was extended from meaning only ruminants to including all mammals except man, and any kind of non-mammalian four-footed beast. ‘Specified bovine offal’ was given the same meaning in the animal SBO ban as it was in the human SBO ban.2004 Consequently, the effect of this provision was to prohibit the sale or supply of feedstuff containing SBO for any mammal or four-footed beast.

132 The objective of the animal SBO ban was to keep SBO out of the animal feed chain. In legislative terms an effort was made to achieve this objective purely by means of this simple amendment to the ruminant feed ban. No separate legislation was introduced to regulate activity at any point prior to the point of sale of animal feedstuff by the feed manufacturer.

133 This was in contrast to the approach taken to the introduction of the human SBO ban. The Bovine Offal (Prohibition) Regulations 1989, which introduced the human SBO ban, are discussed in vol. 6: Human Health, 1989–96. The approach adopted in those Regulations was to legislate in the slaughterhouse in order to ensure that SBO was taken out of the human food chain at the earliest opportunity (the time of slaughter) and kept separate from material which was otherwise fit for human consumption.

134 One result of introducing the animal SBO ban by means of an amendment to the ruminant feed ban was that no new measures were introduced in order to

1999 L2 tab 3B Regulation 3 (2)
2000 L2 tab 5
2001 L2 tab 3
2002 L2 tab 3 article 2
2003 L2 tab 5 article 8
2004 L2 tab 5 article 2
augment the existing provisions for the separation of SBO from other material whether at the slaughterhouse or later in the feed production process. Rather, for all intents and purposes, the animal SBO ban relied upon the existing regime for the separation of SBO from non-SBO that was contained in the Bovine Offal (Prohibition) Regulations 1989. This regime was, in turn, based upon that established under the 1982 MSSR for the separation of unfit meat from meat fit for human consumption.

135 In comparing the existing regime for SBO separation under the human SBO ban with the requirements of the objective that SBO be kept out of the animal food chain, two central points emerge.

136 First, the existing regime for the separation of SBO was of limited scope in its application. That regime focused closely upon the slaughterhouse as the source of meat intended for human consumption. The separation provisions of the SBO Regulations applied neither to knacker’s yards and hunt kennels, nor to renderers and collection centres. These were under an obligation either to sterilise or stain all the material they handled under the 1982 MSSR.

137 Unsterilised material was subject to the system of movement permits imposed by the 1982 MSSR. Equally, whilst renderers were encompassed within the scope of the movement permit system as premises to which consignments of stained SBO might be delivered, the process of rendering the SBO constituted sterilisation of the SBO within the meaning of the Regulations and so the rendered SBO material could thereafter be moved without the authority of any permit.

138 In the context of the human SBO ban and its objectives, this limited scope was sufficient to meet the objective of keeping SBO out of the human food chain. However, all these variously exempted premises were potentially part of the animal feed chain by reason of the fact that they assisted in the production and processing of material for inclusion in animal feed.

139 Second, the provisions for separation under the human SBO ban did not provide for the separation of SBO from material which, whilst unfit for human consumption, was still fit for animal consumption.

140 ‘Staining’ was defined in the 1989 Regulations by reference to the same definition as in the 1982 MSSR. No separate and distinct stain was to be used in order to identify SBO. Rather, it would be stained using the same two agents as were used to identify other unfit meat, namely Black PN or Brilliant Black BN.

141 The provisions governing storage of SBO at the slaughterhouse merely stipulated that SBO should be stored separately from meat which was fit for human consumption. The 1989 Regulations made no provision for the method of storage of SBO vis-à-vis other unfit meat.

142 This material was required by the 1989 Regulations to be labelled ‘to the effect that the specified bovine offal held therein is not for human consumption’. However, the Regulations did not require the material to be identified expressly on
the label as ‘SBO’ rather than simply as ‘not for human consumption’. An identical labelling requirement was stipulated in respect of SBO being transported from the slaughterhouse to a processor for sterilisation or to premises for preparation or storage prior to further removal.\textsuperscript{2009}

143 In the context of the human SBO ban the distinction between SBO and other meat unfit for human consumption was irrelevant. The objective of that ban was to ensure that SBO was kept out of the human food chain in the same way as other meat which was unfit for human consumption.

**The Bovine Spongiform Encephalopathy Order 1991**

144 The Bovine Spongiform Encephalopathy Order 1991 was made on 1 October 1991 and came into force on 6 November 1991.\textsuperscript{2010} The 1991 Order replaced the BSE (No. 2) Order 1988 and the BSE (No. 2) Order 1990, and, in so doing, consolidated into one order the provisions governing notification, the ruminant feed ban and the animal SBO ban.

145 The 1991 Order effected two changes which are of particular note in the present context. First, the definition of SBO was amended to mean the brain, spinal cord, spleen, thymus, tonsils and intestines of a bovine animal over 6 months of age which has died or has been slaughtered in the UK.\textsuperscript{2011} This had the effect of applying the animal SBO provisions to fallen animals as well as to slaughtered animals, and thus to the stock-in-trade of knacker’s yards and to the animals collected by hunt kennels. Notwithstanding this, the 1991 Order did not substitute or amend the regime of movement permits which was laid down in the Bovine Offal (Prohibition) Regulations 1989, and so it continued to be the case that knacker’s yards and hunt kennels were simply subject to the requirements for movement permits in respect of all unsterilised material imposed by the 1982 MSSR.

146 Second, the 1991 Order introduced a prohibition on the removal by any person from any premises of any protein which is derived from any SBO, except under the authority of a licence issued by an officer of the appropriate Minister and in accordance with any conditions subject to which the licence is issued.\textsuperscript{2012} The person in charge of the protein being so moved was required to carry the licence during the authorised movement and was required, upon demand by an inspector or a member of the police force, to produce the licence, allow a copy or extract to be taken, and furnish his name and address.\textsuperscript{2013} It was an offence, without lawful authority or excuse, to remove protein derived from any SBO other than under the authority of a licence, to fail to produce a licence on demand, or to fail to comply with a condition of a licence.\textsuperscript{2014} Consequently, in contrast to the position before the 1991 Order, rendered protein derived from any SBO was no longer free to be removed from the premises of a renderer without restriction, despite having been sterilised for the purposes of the Bovine Offal (Prohibition) Regulations 1989.
Annex B to Chapter 4: Instructions to the Veterinary Field Service

Table 2: Slaughterhouse instructions

<table>
<thead>
<tr>
<th>Date of Instruction</th>
<th>Source</th>
<th>Instructions</th>
</tr>
</thead>
<tbody>
<tr>
<td>12 November 1990</td>
<td>Telex from Mr Baker</td>
<td>Instructions to all DVOs requesting information on handling of SBO in slaughterhouses from a recent visit or to arrange a one-off visit to obtain the information.</td>
</tr>
<tr>
<td>18 December 1990</td>
<td>Telex from Mr Crawford</td>
<td>Further request for all RVOs to submit information requested on 12 November 1990.</td>
</tr>
<tr>
<td>18 January 1991</td>
<td>Fax from Mr Crawford</td>
<td>Request to all RVOs for information provided following previous requests to be resubmitted on enclosed proformas by 25 February 1990.</td>
</tr>
<tr>
<td>15 April 1991</td>
<td>Letter from Mr Hutchins</td>
<td>Request to DVOs in divisions that recorded irregularities in previous returns to follow up with local authorities and report on the outcome.</td>
</tr>
<tr>
<td>17 April 1991</td>
<td>Fax from Mr Crawford</td>
<td>Request to all RVOs to arrange a further round of visits to slaughterhouses and to report on how SBO was handled to Mr Hutchins in previously agreed format by the end of May.</td>
</tr>
<tr>
<td>12 August 1991</td>
<td>AHC91/61</td>
<td>Request to all DVOs to arrange for occasional unannounced visits to slaughterhouses to ensure compliance with the Regulations, with follow-up visits where problems are identified. Local authorities also to be reminded of the sensitivity of the subject and of the need for their staff to ensure full observance of the Regulations. Deficiencies identified at visits to be notified in writing to the local authority and copied to Tolworth.</td>
</tr>
<tr>
<td>07 August 1992</td>
<td>AHC92/94</td>
<td>Advised all DVOs that the essential feature in effective control was to ensure that SBO was kept separate from other material at the slaughterhouse, and referred to AHC91/61. Movement licenses accompanying SBO were to be updated to include information about the origin of the raw material, and the information thereon was to be verified by spot checks (incorporated with regular visits if possible) at premises where SBO was produced.</td>
</tr>
<tr>
<td>18 January 1993</td>
<td>AHC93/6</td>
<td>Advised that from 1 January 1993, RMHAs were responsible for deciding the frequency of VO visits to slaughterhouses each year taking into account size, throughput, layout and standards of maintenance and hygiene. The minimum frequency of visits was every three months for full throughput slaughterhouses and yearly for low throughput. Unannounced visits could be made if considered necessary.</td>
</tr>
<tr>
<td>14 April 1993</td>
<td>AHC93/32</td>
<td>Issued new pro-forma MH6, which extended scope of the return to cover all aspects of SBO disposal – see also instructions for rendering plants and collection centres. Advised that staff should check compliance with SBO Regulations on routine visits and to make additional unannounced visits to ensure compliance. Follow-up visits to be made where problems identified and deficiencies to be notified in writing to local authorities.</td>
</tr>
<tr>
<td>01 February 1994</td>
<td>Fax from Mr Crawford</td>
<td>Instructed all RVOs that all plants processing SBO should receive an unannounced visit during February. A full and detailed report was to be provided to Mr Simmons, Tolworth, by 11 March. VOs should also be reminded of the need to review arrangements for the separation of SBO in abattoirs, with deficiencies brought to the attention of operators and a report submitted to Mr Simmons.</td>
</tr>
<tr>
<td>Date</td>
<td>Reference</td>
<td>Actions/Instructions</td>
</tr>
<tr>
<td>--------------</td>
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<td>--------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>29 June 1994</td>
<td>AHC94/106</td>
<td>Updated MH6 issued. Each cattle slaughterhouse to receive unannounced visits by AHOs every two months to ensure compliance with SBO Regulations. SBO consignment weights to be compared to bovine kills and checks to be made to establish that SBO remains separate from other waste.</td>
</tr>
<tr>
<td>24 March 1995</td>
<td>AHC95/40</td>
<td>MHS to take over responsibility for SBO control in slaughterhouses from 1 April 1995. DVOs to ensure visits to cattle slaughterhouses every two months in collaboration with MHS staff. Form MH6 to be returned to SVO at Tolworth detailing any deficiencies.</td>
</tr>
<tr>
<td>19 May 1995</td>
<td>AHC95/74</td>
<td>Announced the introduction of a period of national surveillance of all slaughterhouses and head-boning plants handling SBO. Every slaughterhouse handling SBO was to receive an unannounced visit by 23 June to monitor separation of SBO and the application of the new stain. For premises not adequately separating and staining SBO, a letter pointing out deficiencies and requiring remedial action was to be sent to the OVS. Such premises to receive a second unannounced visit about two weeks later. If there were still deficiencies, a further letter was to be sent to the OVS and MHS regional manager recommending prosecution.</td>
</tr>
<tr>
<td>19 June 1995</td>
<td>Circular letter 95/81</td>
<td>Required form MH4 to be sent to SVO (Protein Processing) at Tolworth by the second week of each month following the visit to the premises. Form MH6 to be sent to the SVO (Protein Processing) at Tolworth every second month.</td>
</tr>
<tr>
<td>12 July 1995</td>
<td>AHC95/101</td>
<td>Required that a weekly summary for all follow-up visits under AHC95/74 be sent to the SVO (Protein Processing) at Tolworth on the form provided. A retrospective return was required for premises already visited.</td>
</tr>
<tr>
<td>20 July 1995</td>
<td>Letter from Dr Cawthorne</td>
<td>Instructed that letters in respect of faults found at second visits to premises were to be sent to Mr Corrigan of the MHS and a copy to the MHS regional manager. Letters were not to be sent to the OVS or plant operator. Advised that third visits to premises with unsatisfactory results at second visit would take place, but arrangements were being finalised.</td>
</tr>
<tr>
<td>08 August 1995</td>
<td>AHC95/118</td>
<td>Advised that the SBO Order would come into force on 15 August 1995. Instructed that the attached copy of Inset 25A must be bought into use on that date. A new form (SBO9) was provided to be used as an individual work sheet for each routine visit, which would act as an input document for a new SBO function to be integrated into the VetNet system.</td>
</tr>
<tr>
<td>08 August 1995</td>
<td>AHC95/119</td>
<td>Advised that premises that recorded unsatisfactory results on second visit would receive further attention by senior MHS staff. Advised that SVS staff should contact MHS regional manager to ascertain outcome of MHS action since second visit. Required that outcome of MHS action, for each premises, be recorded on the form provided and sent to the SVO (Protein Processing) at Tolworth.</td>
</tr>
<tr>
<td>23 October 1995</td>
<td>AHC95/163</td>
<td>Advised that the period of special surveillance had ended and that all activities on SBO must take place in accordance with the instructions in Inset 25A.</td>
</tr>
</tbody>
</table>
Table 3: Rendering plants and collection centres – instructions

<table>
<thead>
<tr>
<th>Date of Instruction</th>
<th>Source</th>
<th>Instruction</th>
</tr>
</thead>
<tbody>
<tr>
<td>12 November 1990</td>
<td>Telex from Mr Baker</td>
<td>Instruction to all DVOs requesting monthly visits to rendering plants, preferably by SAHO, to obtain information on SBO. Returns to be submitted monthly to Mr Hutchins at Tolworth.</td>
</tr>
<tr>
<td>18 December 1990</td>
<td>Fax from Mr Crawford</td>
<td>Reiterated 12 November 1990 instruction. Instructions to all RVOs requiring monthly visits to rendering plants, preferably by SAHO, to obtain information on SBO. Returns to be submitted monthly (via RVO) to Mr Hutchins at Tolworth.</td>
</tr>
<tr>
<td>13 February 1991</td>
<td>AHC91/9</td>
<td>Instructions that rendering plants and collection centres handling SBO to be visited that month. Returns to be submitted mid-February. Thereafter rendering plants and collection centres handling SBO to be visited once every two months. Returns to be submitted (via RVO) to Mr Hutchins at Tolworth. Pro-formas were supplied for standardisation of information.</td>
</tr>
<tr>
<td>01 March 1991</td>
<td>AHC91/14</td>
<td>Addendum to 91/9</td>
</tr>
<tr>
<td>07 August 1992</td>
<td>AHC92/94</td>
<td>Advised that a comparison between the weight of SBO raw material input and protein yield was a check that should be carried out from time to time. Protein yield should have been 25 per cent of the original weight, and any discrepancies justified follow-up action. The Renderers Code of Practice was also to be distributed by DVOs, and in regular visits, it was to be ensured that the Code was fully understood and applied by management and staff. Persistent failure to comply with the Code should be reported.</td>
</tr>
<tr>
<td>14 April 1993</td>
<td>AHC93/32</td>
<td>New pro-forma MH6, extending the scope of the return to cover all aspects of SBO disposal – see also instructions for slaughterhouses – to be filled out for visits every two months to the Renderers and collection centres handling SBO. Checks should be made of the compliance with the Renderers Code of Practice, and where compliance was not satisfactory, operators should be informed and advice given to assist with compliance. Checks should also be made of compliance with licenses issued under article 9 of the BSE Order 1991, and details of non-compliance and action taken by SVS staff noted on form MH5. Returns via RVO to SVO at Tolworth.</td>
</tr>
<tr>
<td>29 June 1994</td>
<td>AHC94/106 (replacing 92/94 and 93/32)</td>
<td>Introduced weight checks at rendering plants. Collection centres to be visited every two months to check on separation of SBO from other material in storage and whilst in transit. Rendering plants to be visited to monitor compliance with Code of Practice and to perform check on yield of SBO-derived protein. MH6 forms to be returned via RVO to SVO at Tolworth every two months.</td>
</tr>
<tr>
<td>26 September 1994</td>
<td>AHC94/146</td>
<td>Set out procedures for validation of rendering plants under Commission Decision 94/382/EC. Upon receipt of instructions from the SVO (Protein Processing) Tolworth, DVOs were to action the instructions in Inset 39C Section F. DVOs to arrange with owners and operators a date and time to visit and undertake validation. AHO staff would validate premises operating batch rendering equipment. The SVO (Protein Processing) and AHO staff would undertake validation for those using continuous rendering equipment. Advised that it was of vital importance that validation visits took place when the rendering plant was in full operation, and for continuous rendering equipment, when each cooker was operating at maximum flow rate.</td>
</tr>
<tr>
<td>24 March 1995</td>
<td>AHC95/40 – Inset 25</td>
<td>Rendering plants known to be processing SBO to be visited every two months to monitor compliance with Code of Practice and to perform checks on the yield of SBO-derived protein. Collection centres to be visited every two months to check on separation of SBO from other material in storage and whilst in transit. The records of movements of SBO onto the premises to be compared with records of SBO moving off the premises. Returns to be submitted via RVO to SVO at Tolworth.</td>
</tr>
<tr>
<td>23 June 1995</td>
<td>AHC95/97</td>
<td>Advised that all premises that processed ruminant protein had been subjected to validation in accordance with Commission Decision 94/382/EC, and that letters had been sent to plant operators setting out operating parameters to be met when processing ruminant material. Instructed SVS officers to check time and temperature records during quarterly visits to validated premises. If records were incomplete or indicated conditions not complying with the letter of validation, the SVS officer was to make enquiries as to reasons and action taken, and report to the SVO (Protein Processing) at Tolworth.</td>
</tr>
</tbody>
</table>
### Table 3: Rendering plants and collection centres – instructions (cont.)

<table>
<thead>
<tr>
<th>Date</th>
<th>AHC/Order</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>08 August 1995</td>
<td>AHC95/118</td>
<td>Advised that the SBO Order would come into force on 15 August 1995. Instructed that the attached copy of Inset 25A must be used from that date. In particular, noted that frequency of visits to rendering plants and collection centres had been increased to once monthly. The first visit under Inset 25A was to be carried out by a VO, who would train AHOs to continue the visit programme. DVOs were responsible for ensuring premises applied for approval under the Order. Routine visits to continue during the transitional period. New forms (SBO10 for collection centres and SBO12 for rendering plants) provided to record routine visit details, to be entered into VetNet system when up and running.</td>
</tr>
<tr>
<td>29 December 1995</td>
<td>AHC/95/193</td>
<td>Provided list of head-boning plants, collection centres and incineration plants approved to receive SBO under the SBO Order 1995.</td>
</tr>
<tr>
<td>03 March 1996</td>
<td>AHC96/35</td>
<td>Provided list of rendering plants authorised to receive SBO under the SBO Order 1995. Reminded staff that SBO was not to be rendered at any premises other than an approved rendering plant.</td>
</tr>
</tbody>
</table>

1. Date of issuing the AHC annotated by hand, presumably reporting date not changed in light of this.
### Table 4: Knacker's yards and hunt kennels – instructions

<table>
<thead>
<tr>
<th>Date of Instruction</th>
<th>Source</th>
<th>Instruction</th>
</tr>
</thead>
<tbody>
<tr>
<td>01 June 1990</td>
<td>Telex from Mr Crawford</td>
<td>Request for all RVOs to arrange a veterinary inspection of all knacker's yards and hunt kennels to ascertain the level of compliance with the MSSR 1982 and to check whether prescribed offals were used in production of pet food and/or used to feed hounds. Visits to be completed as soon as possible, and returns submitted to Mr Hutchins at Tolworth by 27 June 1990.</td>
</tr>
<tr>
<td>15 October 1990</td>
<td>Telex from Mr Crawford</td>
<td>Request that all RVOs explain to DVOs that staff must be vigilant to identify any signs that disposal of fallen animals from farms was becoming a problem. DVOs were to submit a monthly report on the situation.</td>
</tr>
<tr>
<td>18 December 1990</td>
<td>Fax from Mr Crawford</td>
<td>Instructions to all RVOs requesting continuance of monthly visits to knackers' yards and hunts kennels by a VO or AHO to report on removal of dead stock from farms, disposal of waste in general and SBO in particular. Monthly returns (via RVO) to Mr Hutchins at Tolworth.</td>
</tr>
<tr>
<td>13 February 1991</td>
<td>AHC91/9</td>
<td>Advised that monthly returns for knacker’s yards and hunt kennels to continue.</td>
</tr>
<tr>
<td>26 July 1991</td>
<td>AHC91/55</td>
<td>Monthly visit to knacker’s yards and hunt kennels, which could be carried out by AHOs, to continue. Pro-formas MH3 and MH4 circulated to record information for monthly returns, to be submitted (via RVO) to SVO at Tolworth.</td>
</tr>
<tr>
<td>09 December 1992</td>
<td>AHC92/147</td>
<td>Frequency of visits to knacker’s yards and hunt kennels reduced from monthly to every two months from 1 January 1993. MH4 returns to be submitted (via RVO), to SVO at Tolworth, every second month.</td>
</tr>
<tr>
<td>24 March 1995</td>
<td>AHC94/40 – Inset 25</td>
<td>AHO should visit knacker’s yards and hunt kennels once every month, at least 50 per cent of visits to be unannounced. Returns on SBO in the form of MH6 to be submitted every two months (via RVO) to SVO at Tolworth. MH4 form to be sent (via RVO) to SVO at Tolworth every month following visit.</td>
</tr>
<tr>
<td>08 August 1995</td>
<td>AHC95/118</td>
<td>Advised that SBO Order would come into force on 15 August 1995. Instructed that the attached Inset 25A must be used from that date. First visits made under the Inset to be carried out by a VO, who would train AHOs to continue the visit programme. New form SBO11 to be used to record details of routine visits, which would be inputted into the VetNet system when it was up and running.</td>
</tr>
</tbody>
</table>