Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Feeding Stuffs and the Feeding Stuffs (Enforcement) Amendment (Scotland) Regulations 2001. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCOTTISH STATUTORY INSTRUMENTS

2001 No. 334

AGRICULTURE

The Feeding Stuffs and the Feeding Stuffs (Enforcement) Amendment (Scotland) Regulations 2001

Made - - - -	*1st October 2001*
Laid before the Scottish Parliament - - - -	*1st October 2001*
Coming into force - -	*3rd November 2001*

The Scottish Ministers, in exercise of the powers conferred by sections 66(1), 68(1) and (1A), 69(1), 74A and 84 of the Agriculture Act 1970[F1] and, after consultation as required by section 84(1) of that Act with the persons or organisations appearing to represent the interests concerned, and in exercise of the powers conferred by section 2(2) of the European Communities Act 1972[F2] and of all other powers enabling them in that behalf, hereby make the following Regulations:

F1 1970 c.40; section 66(1) was amended by the Agriculture Act 1970 Amendment Regulations 1982 (S.I. 1982/980) ("the 1982 Regulations"), the Feeding Stuffs Regulations 1995 (S.I. 1995/1412), the Fertilisers (Sampling and Analysis) Regulations 1996 (S.I. 1996/1342) and the Feeding Stuffs (Sampling and Analysis) Regulations 1999 (S.I. 1999/1663); section 68(1A) was inserted by the 1982 Regulations; section 69(1) was amended by the Feeding Stuffs Regulation 1995 (S.I. 1995/1412) and section 74A was inserted by the European Communities Act 1972, (c.68), Schedule 4, paragraph 6. Section 66(1) contains definitions of the expressions "prescribed" and "regulations". The functions of the Secretary of State in so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

F2 1972 c.68; section 2(2) was amended by the Scotland Act 1998 (c.46), **Schedule 8**, paragraph 15(3). The function conferred upon Ministers of the Crown under section 2(2), in so far as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Feeding Stuffs and the Feeding Stuffs (Enforcement) Amendment (Scotland) Regulations 2001 and shall come into force on 3rd November 2001.

(2) These Regulations extend to Scotland only.

Amendment of the Feeding Stuffs (Scotland) Regulations 2000

2. The Feeding Stuffs (Scotland) Regulations 2000 [F3] shall be amended in accordance with regulations 3 to 21 below.

F3 S.S.I. 2000/453.

3. In regulation 2 (interpretation)–

(a) in paragraph (1)–

(i) after the definition of "EEA Agreement" there shall be inserted the following definitions–

""EEA approved Article 2.2(d) establishment" means an establishment listed on a register of approved establishments, maintained by a competent authority in an EEA State which is neither the United Kingdom nor a member State, in implementation of Article 5 of the Establishments Directive, as an establishment on which a compound feeding stuff, of any kind, the manufacture of which is regulated by Article 2.2(d) of that Directive, may be manufactured with a view to putting it into circulation;

"EEA approved Article 2.2(f) establishment" means an establishment listed on a register of approved establishments, maintained by a competent authority in an EEA State which is neither the United Kingdom nor a member State, in implementation of Article 5 of the Establishments Directive, as an establishment on which a compound feeding stuff, of any kind, the production of which is regulated by Article 2.2(f) of that Directive, may be produced for the exclusive requirements of the producer's holding;

"EEA permitted Article 2.2(d) establishment" means an establishment located in an EEA State which is neither the United Kingdom nor a member State (other than an EEA approved Article 2.2(d) establishment or an establishment which a competent authority in that EEA State has declined to approve as such an establishment)–

(a) on which a compound feeding stuff, of any kind the manufacture of which is regulated by Article 2.2(d) of the Establishments Directive, was being manufactured, with a view to putting it into circulation, on 10th March 2000; and

(b) in respect of which, before 10th August 2000, an application (which is pending) was made to a competent authority in the EEA State concerned, in accordance with any requirements in that State for the making of such applications, to approve the establishment, pursuant to the Establishments Directive, as an establishment on which a compound feeding stuff of any such kind may be manufactured with a view to putting it into circulation;

"EEA permitted Article 2.2(f) establishment" means an establishment located in an EEA State which is neither the United Kingdom nor a member State (other than an EEA approved Article 2.2(f) establishment or an establishment which a competent authority in that EEA State has declined to approve as such an establishment)–

(a) on which a compound feeding stuff, of any kind, the production of which is regulated by Article 2.2(f) of the Establishments Directive, was being produced, for the exclusive requirements of the producer's holding, on 10th March 2000, and

(b) in respect of which, before 10th August 2000, an application (which is pending) was made to a competent authority in the EEA State concerned,

in accordance with any requirements in that State for the making of such applications, to approve the establishment, pursuant to the Establishments Directive, as an establishment on which a compound feeding stuff of any such kind may be produced for the exclusive requirements of the producer's holding;";

(ii) for the definition of "put into circulation", there shall be substituted the following definition–

""put into circulation" means sell or otherwise transfer, have in possession with a view to selling or otherwise transferring, or offer for sale, to a third party, but, in regulation 14(3), (4) and (7), also means import into Scotland from a country which is neither an EEA State nor part of an EEA State;";

and

(iii) for the definition of "third country" there shall be substituted the following definition–

""third country" means a country other than an EEA State;";

(b) paragraph (2) shall be omitted; and

(c) for paragraph (7) there shall be substituted the following paragraph–

"(7) Any reference in these Regulations to a European Community Directive, Regulation or Decision shall be construed as a reference to that Directive or, as the case may be, Regulation or Decision, as amended as at the date the Feeding Stuffs and the Feeding Stuffs (Enforcement) Amendment (Scotland) Regulations 2001 were made.".

4. In regulation 7 (limits of variation), for paragraph (2)(a) and (b) there shall be substituted the following paragraphs:–

"(a) the material was first sold, or otherwise put into circulation, in a member State (other than the United Kingdom) or in an EEA State which is not a member State;

(b) the mis-statement did not, at the time of putting into circulation, exceed any limits of variation prescribed in relation thereto in the State concerned; and".

5. In regulation 9 (manner of packaging and sealing compound feeding stuffs, additives and premixtures)–

(a) in paragraph (1), for the words "no person shall sell a compound feeding stuff, or any additive or premixture" there shall be substituted the words " no person shall put into circulation a compound feeding stuff, or sell any additive or premixture ";

(b) in each of paragraphs (2) and (3), for the word "sold" there shall be substituted the words " put into circulation "; and

(c) in paragraph (2)(a), for the words "or sellers of compound feeding stuffs" there shall be substituted the words " of compound feeding stuffs or those putting them into circulation ".

6.—(1) In each of the provisions specified in paragraph (2) below, for the words "sell, or have in possession with a view to sale," there shall be substituted the words " put into circulation ".

(2) The provisions referred to in paragraph (1) above are regulations 10(3)(b) and (4), 15(1), 17, 18(1) and 19(1).

7. In regulation 10 (control of feed materials) for paragraph (6) there shall be substituted the following paragraphs:–

"(6) Without prejudice to sections 73 and 73A [F4], no person shall import into Scotland from any country which is neither a member State, nor an EEA State which is not a member State, nor another part of the United Kingdom, supply (otherwise than on sale) or have in possession with a view to so supplying, any feed material, or use any feed material, which is deleterious or dangerous to farmed creatures, to pet animals or, through consumption of the products of any animal fed with the feed material, to human beings.

(6A) No person shall import into Scotland from any country which is neither a member State, nor an EEA State which is not a member State, nor another part of the United Kingdom, sell or have in possession with a view to sale, supply (otherwise than on sale) or have in possession with a view to so supplying, any feed material, or use any feed material, which is deleterious to the environment.".

F4 Sections 73 and 73A of the Agriculture Act 1970 were modified by S.S.I. 2000/453.

8. In regulation 11 (applications for Community authorisation of additives and of new uses for additives) in each of paragraphs (2) and (5), after the words "each member State" there shall be added the words " and each EEA State (other than the United Kingdom) which is not a member State ".

9. In regulation 13(5) (control of additives in feeding stuffs) for the words "added substance" there shall be substituted the word " additive ".

10. In regulation 14 (control of feeding stuffs and feed materials containing undesirable substances)–

(a) in paragraph (4)–

(i) in subparagraph (a)(i)(cc) the word "or" where it appears at the end shall be omitted;

(ii) in subparagraph (a)(i)(dd) the word "and" where it appears at the end shall be omitted; and

(iii) after subparagraph (a)(i)(dd) there shall be added the following provisions:–

"(ee) an EEA approved or permitted Article 2.2(d) establishment; or

(ff) an EEA approved or permitted Article 2.2(f) establishment; and";

and

(b) in paragraph (5)–

(i) for the words "no UK or EC establishment" there shall be substituted the words " no UK, EC or EEA establishment "; and

(ii) for subparagraph (b) there shall be substituted the following subparagraph–

"(b) in the case of an EC or an EEA establishment, it is included in the most recently published list (if any) equivalent to the national list in the member State concerned or, as the case may be, in the EEA State concerned.".

11. In regulation 15 (control of compound feeding stuffs containing prohibited materials)–

(a) in paragraph (1), for subparagraph (e) there shall be substituted the following subparagraph–

"(e) subject to paragraph (3) below, waste (whether or not subjected, or to be subjected, to further processing) obtained from the treatment of "urban waste water", "domestic waste water" or "industrial waste water" (as those terms are defined in Article 2 of Council Directive 91/271/EEC concerning urban waste water treatment), whatever the origin of the waste water concerned [F5];"

and

(b) after paragraph (2) there shall be added the following paragraph–

"(3) For the purposes of paragraph 1(e) above, the term "waste water" shall be construed in accordance with second paragraph of point 5 of the Annex to Commission Decision 91/516/EEC establishing a list of ingredients whose use is prohibited in compound feeding stuffs [F6].".

F5 O.J. No. L 135, 30.5.91, p.40.

F6 O.J. No. L 281, 9.10.91, p.23. Last amended by Commission Decision 2000/285/EC amending Decision 91/516/EEC establishing a list of ingredients whose use is prohibited in compound feeding stuffs (O.J. No. L 94, 14.4.00, p.43).

12. In regulation 18(2) (control of ash insoluble in hydrochloric acid in compound feeding stuffs) for the word "sale" there shall be substituted the words " putting into circulation ".

13. In regulation 25(2), for the word "regulations" to the end there shall be substituted the following provisions–

"regulations 9(1) (in relation to putting into circulation), (2) and (3), 10(1) to (4), (6), (6A) and (7), 13(3)(a), (c) and (d), (4), (6) and (7), 14(3), (4), (6), (7) and (9), 15(1), 17, 18(1) and 19(1).".

14. Regulation 29 (modification of the feeding stuffs (enforcement) regulations 1999) shall be omitted.

15. In Schedule 1 (method of calculating the energy value of compound feeds) in paragraph 2, in paragraph (a) of the provisions having the heading "Feeding stuffs intended for particular nutritional purposes for cats and dogs", for the expression "0.1464 x protein" there shall be substituted the expression " 0.1464 x % protein ".

16. In Schedule 3 (permitted additives and provisions relating to their use)–

(a) for the entries in columns 1 to 7 of Part V of the Table (trace elements) relating to the element "Copper-Cu", there shall be substituted the provisions set out in Schedule 1 to these Regulations; and

(b) for the provisions in Part IX of the Table (European Community Regulations by which additives are controlled) there shall be substituted the provisions set out in Schedule 2 to these Regulations.