SCOTTISH STATUTORY INSTRUMENTS

2000 No. 453

AGRICULTURE

The Feeding Stuffs (Scotland) Regulations 2000

Made - - - -	*28th December 2000*
Laid before the Scottish Parliament - - - -	*3rd January 2001*
Coming into force - -	*31st January 2001*

The Scottish Ministers, in exercise of the powers conferred by sections 66(1), 68(1) and (1A), 69(1), (3), (6) and (7), 70(1), 74(1), 74A, 77(4), 78(6) and 84 of the Agriculture Act 1970(**1**) and, after consultation as required by section 84(1) of the said 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(**2**), and of all other powers enabling them in that behalf hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Feeding Stuffs (Scotland) Regulations 2000 and shall come into force on 31st January 2001.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations–

"the Act" means the Agriculture Act 1970;

"additive" means a substance or preparation used in animal nutrition in order to–

(a) affect favourably the characteristics of feed materials, compound feeding stuffs or animal products;

(**1**) 1970 c. 40; section 66(1) was amended by the Agriculture Act 1970 Amendment Regulations 1982 (S.I. 1982/980), 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 Agriculture Act 1970 Amendment Regulations 1982; 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".

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

(b) satisfy the nutritional needs of animals or improve animal production (in particular by affecting the gastro–intestinal flora or the digestibility of feeding stuffs);

(c) introduce into nutrition elements conducive to obtaining particular nutritional objectives or to meeting the nutritional needs of animals at a particular time; or

(d) prevent or reduce the harmful effects caused by animal excretions or improve the animal environment,

but excludes everything excluded from coverage of the Additives Directive by Article 1.2 and 1.3 thereof;

"the Additives Directive" means Council Directive 70/524/EEC concerning additives in feeding stuffs(**3**);

"the Agency" means the Food Standards Agency;

"ash" means the matter which results from the treatment of a feeding stuff in accordance with the appropriate procedure set out in the method of analysis for ash specified in Point 5 of the Annex to Directive 71/250/EEC(**4**);

"authorised", in relation to any additive, or the name of any additive, save in the expressions "authorised intermediate product" and "authorised medicated premix", and subject to paragraph (2) below, means authorised in or, as the case may be, under, the Additives Directive, and "authorisation" shall be construed accordingly;

"authorised intermediate product" and "authorised medicated premix" have the meanings given in regulation 2(1) of the Medicated Feedingstuffs Regulations 1998(**5**);

"the Certain Products Directive" means Council Directive 82/471/EEC concerning certain products used in animal nutrition(**6**);

"complementary feeding stuff", subject to regulation 14(10)(a), means a compound feeding stuff which has a high content of certain substances and which, by reason of its composition, is sufficient for a daily ration only if it is used in combination with other feeding stuffs;

"complete feeding stuff", subject to regulation 14(10)(a), means a compound feeding stuff which, by reason of its composition, is sufficient to ensure a daily ration;

"compound feeding stuff", subject to regulation 14(10)(a), means a mixture of feeding stuffs;

"the Compound Feeding Stuffs Directive" means Council Directive 79/373/EEC on the marketing of compound feedingstuffs(**7**);

"daily ration" means the average total quantity of feeding stuff, expressed on a 12% moisture basis, required daily by an animal of a given kind, age group and level of production in order to satisfy all its nutritional needs;

"dossier" means a dossier compiled in accordance with the relevant provisions of the Dossiers Directive and which includes–

(a) an identification note (containing where applicable the information specified in Article 9o.1 of the Additives Directive);

(b) any monograph supplied pursuant to Article 9n.3 of the Additives Directive; and

(c) in the case of an additive to which Article 7a of the Additives Directive applies, the documents referred to in the indented paragraphs of the first paragraph of that Article;

(**3**) O.J. No. L 270, 14.12.70, p.1 (O.J./S.E. Vol. 18, p.4).
(**4**) O.J. No. L 155, 12.7.71, p.13 (O.J./S.E. 1971(II), p.480).
(**5**) S.I. 1998/1046, to which there is an amendment not relevant to these Regulations.
(**6**) O.J. No. L 213, 21.7.82, p.8.
(**7**) O.J. No. L 86, 6.4.79, p.30.

"the Dossiers Directive" means Council Directive 87/153/EEC fixing guidelines for the assessment of additives in animal nutrition(**8**);

"EC approved Article 2.2(d) establishment" means an establishment listed on a register of approved establishments, maintained by a competent authority in 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;

"EC approved Article 2.2(f) establishment" means an establishment listed on a register of approved establishments, maintained by a competent authority in 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;

"EC permitted Article 2.2(d) establishment" means an establishment located in a member State (other than an EC approved Article 2.2(d) establishment or an establishment which a competent authority in the member State has declined to approve as such an establishment) if–

(a) 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 on the establishment, with a view to putting it into circulation, on 1st April 1998; and

(b) before 1st September 1998, an application (which is pending) in respect of the establishment, was made to a competent authority in the member State, in accordance with any requirements in the member 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;

"EC permitted Article 2.2(f) establishment" means an establishment located in a member State (other than an EC approved Article 2.2(f) establishment or an establishment which a competent authority in the member State has declined to approve as such an establishment) if–

(a) 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 on the establishment, for the exclusive requirements of the producer's holding, on 1st April 1998; and

(b) before 1st September 1998, an application (which is pending) in respect of the establishment, was made to a competent authority in the member State, in accordance with any requirements in the member 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;

"EEA Agreement" means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993(**9**);

"EEA State" means a State which is a Contracting Party to the EEA Agreement;

"energy value" means the energy value of a feeding stuff calculated in accordance with the relevant method specified in Schedule 1;

"establishment" has the meaning given by Article 1.3(b) of the Establishments Directive;

"the Establishments Directive" means Council Directive 95/69/EC which laid down the conditions and arrangements for approving and registering certain establishments and

(**8**) O.J. No. L 64, 7.3.87, p.19, as amended by Commission Directive 94/40/EC (O.J. No. L 208, 11.8.94, p.15) and Commission Directive 95/11/EC (O.J. No. L 106, 11.5.95, p.23).

(**9**) The reference for the EEA Agreement is O.J. No. L 1, 3.1.94, p.1. The reference for the protocol signed on 17th March 1993 is O.J. No. L 1, 3.1.94, p.571.

intermediaries operating in the animal feed sector and which amended 70/524/EEC, 74/63/EEC, 79/373/EEC and 82/471/EEC(**10**);

"fat" means the extract obtained following the treatment of a feeding stuff in accordance with the appropriate procedure set out in the method of analysis for oils and fats specified in Part IV of the Annex to Directive 71/393/EEC(**11**);

"feeding stuff", subject to regulation 14(10)(a), has the meaning attributed to it by section 66(1) as modified by regulation 20(1)(a);

"feeding stuff intended for a particular nutritional purpose" means a compound feeding stuff, the composition or method of manufacture of which distinguishes it from other feeding stuffs and from the type of products covered by the Medicated Feedingstuffs Directive, and in respect of which any indication is given that it is intended for a particular nutritional purpose;

"feed material", subject to regulation 14(10)(b), means–

(a) any product of vegetable or animal origin, in its natural state, (whether fresh or preserved);

(b) any product derived from such a product by industrial processing; or

(c) any organic or inorganic substance,

specified in Parts II or III of Schedule 2 (whether or not containing any additive) and for use in oral feeding to pet animals or farmed creatures, directly as such, or after processing, in the preparation of a compound feeding stuff or as a carrier of a premixture;

materials, amending Directives 70/524/EEC, 74/63/EEC, 82/471/EEC and 93/74/EEC and repealing Directive 77/101/EEC(**12**);

"fibre" means the organic matter calculated following the treatment of a feeding stuff in accordance with the procedure set out in the method of analysis for fibre specified in Point 3 of Annex 1 to Directive 73/46/EEC(**13**);

"identification note" has the same meaning as in the Additives Directive;

"intermediary" has the meaning given by Article 1.3(c) of the Establishments Directive;

"mammalian meat and bone meal" has the meaning given in Article 4(1) of the Bovine Spongiform Encephalopathy (No. 2) Order 1996(**14**);

"the Medicated Feedingstuffs Directive" means Council Directive 90/167/EEC laying down the conditions governing the preparation, placing on the market and use of medicated feedingstuffs in the Community(**15**);

"member State" means a member State other than the United Kingdom;

"MFS prescription" has the meaning given in regulation 2(1) of the Medicated Feedingstuffs Regulations 1998;

"micro–organism" has the meaning given by Article 2(aa) of the Additives Directive;

"milk replacer feed" means a compound feeding stuff administered in dry form, or after reconstitution with a given quantity of liquid, for feeding young animals as a supplement to, or substitute for, post–colostral milk or for feeding calves intended for slaughter;

(**10**) O.J. No. L 332, 30.12.95, p.15, as amended by Council Directive 98/92/EC (O.J. No. L 346, 22.12.98, p.49) and Council Directive 1999/20/EC (O.J. No. L 80, 25.3.99, p.20).
(**11**) O.J. No. L 279, 20.12.71, p.7 (O.J./SE 1971 (III) p.987. Part IV was replaced entirely by Annex 1 to Directive 84/4/EEC (O.J. No. L 15, 18.1.84, p.28). That Annex was in turn replaced entirely by Part B of the Annex to Directive 98/64/EC (O.J. L 257, 19.9.98, p.14).
(**12**) O. J. No. L 125, 23.5.96, p.35.
(**13**) O.J. No. L 83, 30.3.73, p.21. Point 3 of Annex 1 was replaced entirely by the Annex to Directive 92/89/EEC (O.J. No. L 344, 26.11.92, p.35).
(**14**) S.I. 1996/3183; the relevant amending instrument is S.I. 1999/921.
(**15**) O.J. No. L92, 7.4.90, p. 42.

"mineral feeding stuff" means a complementary feeding stuff which is composed mainly of minerals and which contains at least 40% by weight of ash;

"minimum storage life" means, in relation to a compound feeding stuff, the date until which, under proper storage conditions, that feeding stuff retains its specific properties;

"molassed feeding stuff" means a complementary feeding stuff prepared from molasses and which contains at least 14% by weight of total sugar expressed as sucrose;

"moisture" means water and other volatile material determined in accordance with the procedure set out in the method of analysis for moisture specified in Part I of the Annex to Directive 71/393/EEC(**16**);

"monograph" has the same meaning as in the Additives Directive;

"name", in relation to any additive specified in any of Parts I to VIII of the Table to Schedule 3, means the name specified for that additive in that Table, and, in relation to any other additive means, its authorised name;

"national list" means the list of establishments published in London by the Agency, for the purposes of Article 6.1 of the Establishments Directive;

"oil" means the extract obtained following the treatment of a feeding stuff in accordance with the appropriate procedure set out in the method of analysis for oils and fats specified in Part IV of the Annex to Directive 71/393/EEC;

"particular nutritional purpose" means the purpose of satisfying any nutritional requirement of pet animals or productive livestock, the process of assimilation or absorption of which, or the metabolism of which, may be temporarily impaired, or is temporarily or permanently impaired, and which may therefore benefit from ingestion of a feeding stuff capable of achieving that purpose;

"pet animal" has the same meaning as in the Additives Directive;

"pet food" means a feeding stuff for pet animals and "compound pet food" shall be construed accordingly;

"premixture" means a mixture of additives, or a mixture of one or more additives with substances used as carriers, intended for the manufacture of feeding stuffs;

"protein", except in paragraphs 12(2), 13, 28(2) and 29 of Part I of Schedule 4, and subject to paragraph (3) below, means the matter obtained as a result of treatment of a feeding stuff in accordance with the procedure set out in the method of analysis for protein specified in Point 2 of Annex 1 to Directive 72/199/EEC(**17**);

"protein equivalent of biuret, diureidoisobutane, urea or urea phosphate" in relation to an amount of biuret, diureidoisobutane, urea and urea phosphate nitrogen, means that amount multiplied by 6.25;

"put into circulation" has the same meaning as in the Feed Materials Directive 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;

"registered veterinarian" has the same meaning as in the Medicated Feedingstuffs Directive;

"starch" means the matter obtained as the result of treatment of a feeding stuff in accordance with the procedure set out in the method of analysis for starch specified in Point 1 of Annex 1 to Directive 72/199/EEC(**18**);

(**16**) O.J. No. L 279, 20.12.71, p.7 (O.J./SE 1971 (III), p.987), amended by Article 1 of Directive 73/47/EEC (O.J. No. L 83, 30.3.73, p.35).
(**17**) O.J. No. L 123, 29.5.72, p.6 (O.J./SE 1966-1972 supplement, p.74). Point 2 of Annex 1 has been replaced by the Annex to Directive 93/28/EEC (O.J. No. L 179, 22.7.93, p.8).
(**18**) O.J. No. L 123, 29.5.72, p.6 (O.J./S.E. 1966-1972 supplement, p.74). Point 1 of Annex 1 has been replaced entirely by the Annex to Directive 1999/79/EC (O.J. No. L 209, 7.8.99, p.25).