Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Feed (Sampling and Analysis and Specified Undesirable Substances) (Wales) Regulations 2010. 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*

WELSH STATUTORY INSTRUMENTS

2010 No. 2287 (W.199)

AGRICULTURE, WALES

The Feed (Sampling and Analysis and Specified Undesirable Substances) (Wales) Regulations 2010

Made - - - -	*15 September 2010*
Laid before the National Assembly for Wales - -	*17 September 2010*
Coming into force - -	*11 October 2010*

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 66(1), 67(5), 74A, 79(9) and 84 of the Agriculture Act 1970 [F1], and under section 2(2) of the European Communities Act 1972 [F2].

The Welsh Ministers are designated for the purposes of section 2(2) in relation to measures in the veterinary and phytosanitary fields for the protection of public health [F3], the common agricultural policy of the European Union [F4] and measures relating to feed produced for or fed to food-producing animals [F5].

There has been consultation during the preparation of these Regulations in accordance with the requirements of section 84(1) of the Agriculture Act 1970 or, as appropriate, of Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety [F6].

F1 1970 c. 40. Section 66(1) contains definitions of the expressions "the Ministers", "prescribed" and "regulations". The definition of "the Ministers" was amended by the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I. 1978/272), **Schedule 5**, paragraph 1. Functions of "the Ministers", so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and thereafter transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (2006 c. 32).

F2 1972 c. 68.

F3 S.I. 2008/1792.

F4 S.I. 2005/2766. Functions of the National Assembly for Wales under this designation and the designation under S.I. 2005/1971 were transferred to the Welsh Ministers by paragraphs 28 and 30 of Schedule 11 to the Government of Wales Act 2006.

F5 S.I. 2005/1971.

F6 OJ No. L31, 1.2.2002, p.1, as last amended by Regulation (EC) No. 596/2009 of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468 with regard to the regulatory procedure with scrutiny: Adaptation to the regulatory procedure with scrutiny — Part Four (OJ No. L188, 18.7.2009, p.14).

PART 1

General and introductory

Title, application and commencement

1. The title of these Regulations is the Feed (Sampling and Analysis and Specified Undesirable Substances) (Wales) Regulations 2010, they apply in relation to Wales and come into force on 11 October 2010.

Interpretation

2.—(1) In these Regulations—

"the Act" ("*y Ddeddf*") means the Agriculture Act 1970;

"Regulation 152/2009" ("*Rheoliad 152/2009*") means Commission Regulation (EC) No. 152/2009 laying down the methods of sampling and analysis for the official control of feed [F7];

"the Feed Hygiene Regulations" ("*y Rheoliadau Hylendid Bwyd Anifeiliaid*") means the Feed (Hygiene and Enforcement) (Wales) Regulations 2005 [F8];

"the GM Feed Regulations" ("*y Rheoliadau Bwyd Anifeiliaid AE*") means the Genetically Modified Animal Feed (Wales) Regulations 2004 [F9]; and

"analyst" ("*dadansoddwr*") means an agricultural analyst or deputy agricultural analyst.

(2) Any expression used in these Regulations and Regulation 152/2009 has the meaning that it bears in Regulation 152/2009.

(3) Any reference to a numbered section is a reference to the section so numbered in the Act as modified by these Regulations.

F7 OJ No. L54, 26.2.2009, p.1.
F8 S.I. 2005/3368 (W.265) amended by S.I. 2006/3256 (W.290) and S.I. 2009/3376 (W.298).
F9 S.I. 2004/3221 (W.277) amended by S.I. 2007/3173 (W.278).

Prescribed metric substitution

3. For the purposes of its application to feeding stuffs, the Act is to be read as if—

(a) in section 68(2)(b) the words "to sales in quantities of not more than 25 kilograms" were substituted for the words " to sales of small quantities (that is to say, sales in quantities of not more than fifty six pounds or the prescribed metric substitution) "; and

(b) in section 76(5) the words "six kilograms" were substituted for the words " fourteen pounds or the prescribed metric substitution ".

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PART 2

Miscellaneous requirements relating to sampling and analysis

Methods of sending a final sample

F10**4.** . . . . . .

F10 Reg. 4 revoked (12.5.2016) by The Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations 2016 (S.I. 2016/387), reg. 1(2), **Sch. 5**

Qualifications of analysts

F11**5.** . . . . . .

F11 Reg. 5 revoked (12.5.2016) by The Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations 2016 (S.I. 2016/387), reg. 1(2), **Sch. 5**

Analysis other than in the course of official controls

F12**6.** . . . . . .

F12 Reg. 6 revoked (12.5.2016) by The Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations 2016 (S.I. 2016/387), reg. 1(2), **Sch. 5**

Form of certificate of analysis

F13**7.** . . . . . .

F13 Reg. 7 revoked (12.5.2016) by The Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations 2016 (S.I. 2016/387), reg. 1(2), **Sch. 5**

PART 3

Amendment and modification of other legislation with regard to sampling and analysis

Amendment or modification of the Act

8. The Act is amended or as the case may be modified in accordance with regulations 9 to 20.

9. In section 66(1) (interpretation of Part IV) insert at the appropriate place the following definitions— " "final sample" has the meaning that it bears in Annex I to Regulation 152/2009; ";

""Regulation 152/2009" means Commission Regulation (EC) No. 152/2009 laying down the methods of sampling and analysis for the official control of feed;".

Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Feed (Sampling and Analysis and Specified Undesirable Substances) (Wales) Regulations 2010. 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*

10. Section 68 (duty of seller to give statutory statement) in so far as it applies in relation to feeding stuffs will apply as if—

(a) in subsection (4)(b) "final sample" were substituted for " sampled portion "; and

(b) in subsection (5)—

(i) "final sample" were substituted for " sample taken from the portion in question ", and

(ii) "in accordance with Regulation 152/2009" were substituted for " in the prescribed manner ".

11. Section 69 (marking of material prepared for sale) in so far as it applies in relation to feeding stuffs will apply as if—

(a) in subsection (4)(c) "final sample" were substituted for " sampled portion "; and

(b) in subsection (5) "final sample in question" were substituted for " sample taken from the portion in question ".

12. Section 70 (use of names or expressions with prescribed meanings) in so far as it applies in relation to feeding stuffs will apply as if–

(a) in subsection (2) "final sample" were substituted for " sampled portion "; and

(b) in subsection (4)—

(i) "final sample" were substituted for " sampled portion ", and

(ii) "that sample" were substituted for " the sample taken from that portion ".

13. Section 71 (particulars to be given of certain attributes if claimed to be present) in so far as it applies in relation to feeding stuffs will apply as if—

(a) in subsection (2)(b) "final sample" were substituted for " sampled portion "; and

(b) in subsection (3)—

(i) "final sample" were substituted for " sampled portion ", and

(ii) "that sample" were substituted for " the sample taken from that portion ".

14. In section 73 (deleterious ingredients in feeding stuff)—

(a) in subsection (1)—

(i) for "sampled portion" substitute " final sample ", and

(ii) omit "the sample taken from"; and

(b) in subsections (2)(a) and (b), (2A) and (3)(b) in each case for "sampled portion" substitute " final sample ".

15. In section 73A—

(a) in subsection (1)—

(i) for "sampled portion" substitute " final sample ", and

(ii) omit "the sample taken from"; and

(b) in subsections (2)(a) and (b) and (3) in each case for "sampled portion" substitute " final sample ".

16. Section 75 (purchaser's right to have sample taken and analysed) in so far as it applies in relation to feeding stuffs will apply as if in subsection (1) "in accordance with Regulation 152/2009" were substituted for " in the prescribed manner ".

17. Section 76 (inspector's power to enter premises and take samples) in so far as it applies in relation to feeding stuffs will apply as if—

(a) in subsection (1) "in accordance with Regulation 152/2009" were substituted for " in the prescribed manner "; and

(b) for subsection (4) the following were substituted—

"(4) Without prejudice to any other power or duty as to the taking of samples, an inspector may for the purposes of this Part of this Act take a sample of any material which has been sold for use as a feeding stuff or which he has reasonable cause to believe to be intended for sale as such.".

18. Section 77 (division of samples and analysis by agricultural analyst) in so far as it applies in relation to feeding stuffs will apply as if—

(a) for subsection (1) the following were substituted—

"(1) Where an inspector has taken a sample and prepared and packaged final samples in accordance with Regulation 152/2009 the inspector, in addition to sending a final sample to the agricultural analyst for the inspector's area in accordance with the requirements of paragraph 8 of Annex I to that Regulation—

(a) shall send one final sample—

(i) where the sample was taken pursuant to the request of a purchaser under section 75 of this Act, to the seller or his agent;

(ii) in any other case, to the person on whose premises the sample was taken, or, if the person on whose premises the sample was taken purchased the material in question for use and not for resale, to the seller or his agent; and

(b) subject to section 78 of this Act, shall retain at least one final sample for nine months.";

(b) for subsection (2) the following were substituted—

"(2) If the person who manufactured any material of which an inspector has taken a sample as mentioned in subsection (1) is not a person to whom a final sample is required to be sent under that subsection, the inspector shall send a final sample to the manufacturer unless he does not know and is unable after making reasonable inquiries to ascertain before the expiration of fourteen days from the date when the sample was taken—

(a) the manufacturer's name; or

(b) any address of the manufacturer in the United Kingdom.";

(c) in subsection (3)—

(i) "final sample" were substituted for " part of a sample ", and

(ii) "in accordance with Regulation 152/2009" were substituted for " in the prescribed manner "; and

(d) in subsection (4)—