WELSH STATUTORY INSTRUMENTS

2009 No.3376 (W.298)

AGRICULTURE, WALES

FOOD, WALES

The Official Feed and Food Controls (Wales) Regulations 2009

Made - - - -	*21 December 2009*
Laid before the National Assembly for Wales - -	*22 December 2009*
Coming into force - -	*25 January 2010*

The Welsh Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of and paragraph 1A of Schedule 2 to the European Communities Act 1972 [F1].

The Welsh Ministers are designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to food (including drink) including the primary production of food and measures relating to feed produced for or fed to food-producing animals [F2], the common agricultural policy of the European Community [F3]and measures in the veterinary and phytosanitary fields for the protection of public health [F4].

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Welsh Ministers that it is expedient for any reference to a Community instrument defined in Schedule 1 to be construed as a reference to that instrument as amended from time to time.

As required by 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 [F5]there has been open and transparent public consultation during the preparation and evaluation of the following Regulations.

F1 1972 c. 68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (2006 c. 51).

F2 S.I. 2005/1971. Functions of the National Assembly for Wales under this designation and the designation under S.I. 2005/2766 were transferred to the Welsh Ministers by section 162 and paragraphs 28 and 30 of Schedule 11 to the Government of Wales Act 2006.

F3 S.I. 2005/2766.

F4 S.I. 2008/1792.

F5 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/EC 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

PRELIMINARY

Title, commencement and application

1. The title of these Regulations is The Official Feed and Food Controls (Wales) Regulations 2009, they come into force on 25 January 2010 and apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

F6"the Act" ("*y Ddeddf*") means the Food Safety Act 1990 ;

"the Agency" ("*yr Asiantaeth*") means the Food Standards Agency;

"authorised officer" ("*swyddog awdurdodedig*")—

(a) in relation to a competent authority, means any person (whether or not an officer of the authority) who is authorised by the authority in writing for the purposes of regulation 14; and

(b) in relation to a relevant enforcement authority, means any person (whether or not an officer of the authority) who is authorised by the authority in writing, either generally or specially, to act in matters arising under Part 2 of these Regulations in relation to its enforcement responsibilities under regulation 17;

"competent authority" ("*awdurdod cymwys*") means, other than in regulations 23 and 24, an authority which, by virtue of regulation 3, is designated for the purposes of any of the provisions of **[**F7Regulation 2017/625**]**;

F8...

F9"feed authority" ("*awdurdod bwyd anifeiliaid*") means the authority required by section 67(1A) of the Agriculture Act 1970 to enforce that Act within its area or district as the case may be;

"food authority" ("*awdurdod bwyd*") has the meaning it bears by virtue of section 5(1A) of the Act;

[F10"the Import Provisions" ("*y Darpariaethau Mewnforio*") means Part 3 of these Regulations, Chapter 5 of Title 2 of Regulation 2017/625 and the Regulation 2017/625 package insofar as it and they apply to product as defined in regulation 22;**]**

"the Official Control Regulations" ("*y Rheoliadau Rheolaethau Swyddogol*") means these Regulations and **[**F11the Regulation 2017/625 package**]** ;

"premises" ("*mangre*") includes any establishment, any place, vehicle, stall or moveable structure and any ship or aircraft;

"primary production" ("*cynhyrchu sylfaenol*") has the meaning it bears in Regulation 852/2004;

[F12"the Regulation 2017/625 package" ("*pecyn Rheoliad 2017/625*") means Regulation 2017/625 and the other Regulations listed in Schedule 1 below the heading "The Regulation 2017/265 package";**]**

"relevant enforcement authority" ("*awdurdod gorfodi perthnasol*") means a body which, by virtue of regulation 17, is made responsible for executing and enforcing any provision of Part 2 of these Regulations;

"relevant feed law" ("*cyfraith bwyd anifeiliaid berthnasol*") has the meaning given to it in Schedule 2; [F13]...

"relevant food law" ("*cyfraith bwyd berthnasol*") has the meaning given to it in Schedule 3.

[[F14]"third country" (*"trydedd wlad"*) means any country or territory other than the British Islands.**]**

[[F15](1A) Any reference in these Regulations to Regulation 2017/625 or any other Directive or Regulation referred to in Schedule 1 have the meanings respectively given to them in that Schedule.**]**

(2) Subject to paragraph (3), any expression other than one defined in paragraph (1) that is used both in these Regulations and in the Act has the meaning it bears in the Act.

[[F16](3) Unless the contrary intention appears, any expression used both in these Regulations and in Regulation 178/2002 or in the Regulation 2017/625 package has the meaning it bears in Regulation 178/2002 or in the Regulation 2017/625 package as the case may be.**]**

(4) Where any functions under the Act are assigned—

(a) by an order under section 2 [F17]... of the Public Health (Control of Disease) Act 1984 [F18], to a port health authority; or

(b) by an order under section 6 of the Public Health Act 1936 [F19], to a joint board for a united district,

any reference in these Regulations to a food authority is construed, so far as relating to those functions, as a reference to the authority to whom they are so assigned.

(5) In these Regulations, any reference to an EU instrument defined in Schedule 1 is a reference to that instrument as amended from time to time.

F6 1990 c. 16.
F7 Words in reg. 2(1) substituted (14.12.2019) by The Official Feed and Food Controls (Wales) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/1482), regs. 1(1), **9(a)(i)**
F8 Words in reg. 2(1) omitted (31.12.2020) by virtue of The Official Feed and Food Controls (Miscellaneous Amendments) (Wales) Regulations 2020 (S.I. 2020/1487), regs. 1(2), **3(2)(a)(i)**
F9 1970 c. 40.
F10 Words in reg. 2(1) substituted (14.12.2019) by The Official Feed and Food Controls (Wales) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/1482), regs. 1(1), **9(a)(iii)**
F11 Words in reg. 2(1) substituted (31.12.2020) by The Official Feed and Food Controls (Miscellaneous Amendments) (Wales) Regulations 2020 (S.I. 2020/1487), regs. 1(2), **3(2)(a)(ii)**
F12 Words in reg. 2(1) substituted (31.12.2020) by The Official Feed and Food Controls (Miscellaneous Amendments) (Wales) Regulations 2020 (S.I. 2020/1487), regs. 1(2), **3(2)(a)(iii)**
F13 Word in reg. 2(1) omitted (31.12.2020) by virtue of The Food and Feed Hygiene and Safety (Miscellaneous Amendments and Saving Provision) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1581), regs. 1(3), **10(2)(a)**
F14 Words in reg. 2(1) inserted (31.12.2020) by The Food and Feed Hygiene and Safety (Miscellaneous Amendments and Saving Provision) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1581), regs. 1(3), **10(2)(b)**
F15 Reg. 2(1A) inserted (31.12.2020) by The Official Feed and Food Controls (Miscellaneous Amendments) (Wales) Regulations 2020 (S.I. 2020/1487), regs. 1(2), **3(2)(b)**
F16 Reg. 2(3) substituted (31.12.2020) by The Official Feed and Food Controls (Miscellaneous Amendments) (Wales) Regulations 2020 (S.I. 2020/1487), regs. 1(2), **3(2)(c)**

F17 Words in reg. 2(4)(a) omitted (23.11.2010) by virtue of The Animal Feed (Wales) Regulations 2010 (S.I. 2010/2652), regs. 1, **16(2)**
F18 1984 c. 22.
F19 1936 c. 49; section 6 is to be read with paragraph 1 of Schedule 3 to the Food Safety Act 1990.

PART 2

MAIN PROVISIONS

Competent authorities

3.—(1) Subject to paragraphs (2) and (5), any body specified in Column 1 of Schedule 4 is designated as a competent authority for the purposes of the provisions of **[**F20Regulation 2017/625**]** indicated in the corresponding entry in Column 2 of that Schedule in so far as those provisions apply in relation to relevant feed law.

(2) Where the feed authority is designated as a competent authority pursuant to paragraph (1) the designation extends to its area or district only, as the case may be.

(3) Subject to paragraphs (4) to (6), any body specified in Column 1 of Schedule 5 is designated as a competent authority for the purposes of the provisions of **[**F21Regulation 2017/625**]** indicated in the corresponding entry in Column 2 of that Schedule in so far as those provisions apply in relation to relevant food law.

(4) Where the food authority is designated as a competent authority pursuant to paragraph (3) the designation extends to its area only.

F22(5) . . . . . .

(6) Where the Agency is designated as a competent authority pursuant to paragraph (3) for the purposes of **[**F23Article 148 of Regulation 2017/625, the designation extends**]** only to those operations in respect of which the Agency executes and enforces the Food Hygiene (Wales) Regulations 2006 by virtue of regulation 5(2) of those Regulations.

F20 Words in reg. 3(1) substituted (14.12.2019) by The Official Feed and Food Controls (Wales) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/1482), regs. 1(1), **10(a)**
F21 Words in reg. 3(3) substituted (14.12.2019) by The Official Feed and Food Controls (Wales) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/1482), regs. 1(1), **10(b)**
F22 Reg. 3(5) omitted (14.12.2019) by virtue of The Official Feed and Food Controls (Wales) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/1482), regs. 1(1), **10(c)**
F23 Words in reg. 3(6) substituted (14.12.2019) by The Official Feed and Food Controls (Wales) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/1482), regs. 1(1), **10(d)**

Exchanging and providing information

4.—(1) For the purposes of enabling competent authorities, other OFFC authorities and **[**F24the Welsh Ministers**]** to fulfil the obligations placed upon them by **[**F25Regulation 2017/625**]** competent authorities may exchange among themselves or provide to other OFFC authorities any information received by them in the execution and enforcement of relevant feed law or relevant food law.

(2) For the purpose of executing and enforcing relevant feed law or relevant food law, competent authorities may exchange among themselves any information received by them in the execution and enforcement of relevant feed law or relevant food law.

(3) Competent authorities may share information received by them in the execution and enforcement of relevant feed law or relevant food law with the bodies that execute and enforce relevant feed law or relevant food law in England, Northern Ireland and Scotland for the purposes of facilitating the execution and enforcement of relevant feed law or relevant food law in those countries.

(4) Paragraphs (1), (2) and (3) are without prejudice to any other power of competent authorities to disclose information by or under **[**F26any other applicable legislation**]**.

(5) For the purposes of this regulation, "other OFFC authorities" means authorities designated in the United Kingdom as competent authorities for the purposes of **[**F27Regulation 2017/625**]** other than the competent authorities designated under these Regulations.

F24 Words in reg. 4(1) substituted (31.12.2020) by The Food and Feed Hygiene and Safety (Miscellaneous Amendments and Saving Provision) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1581), regs. 1(3), **10(3)(a)**

F25 Words in reg. 4(1) substituted (14.12.2019) by The Official Feed and Food Controls (Wales) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/1482), regs. 1(1), **11(a)**

F26 Words in reg. 4(4) substituted (31.12.2020) by The Food and Feed Hygiene and Safety (Miscellaneous Amendments and Saving Provision) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1581), regs. 1(3), **10(3)(b)**

F27 Words in reg. 4(5) substituted (14.12.2019) by The Official Feed and Food Controls (Wales) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/1482), regs. 1(1), **11(b)**

Obtaining information

5.—(1) For the purpose of enabling competent authorities and **[**F28the Welsh Ministers**]** to fulfil the obligations placed on them by **[**F29Regulation 2017/625**]** and for the purpose of executing and enforcing relevant feed law or relevant food law, a competent authority may require a **[**F30delegated body**]**—

(a) to provide the competent authority with any information which it has reasonable cause to believe the **[**F30delegated body**]** is able to give; and

(b) to make available to the competent authority for inspection by it any records which it has reasonable cause to believe are held by the **[**F30delegated body**]** or are otherwise within its control (and, if they are kept in computerised form, to make them available in a legible form).

(2) The competent authority may copy any records made available to it under paragraph (1)(b).

(3) A person who—

(a) fails without reasonable excuse to comply with any requirement imposed under paragraph (1); or

(b) in purported compliance with such a requirement furnishes information which he or she knows to be false or misleading in any material particular or recklessly furnishes information which is false or misleading in any material particular,

is guilty of an offence.

(4) For the purposes of paragraph (1), the term "**[**F31delegated body**]**" includes any member, officer or employee of a **[**F31delegated body**]**.