WELSH STATUTORY INSTRUMENTS

2005 No. 1323 (W.97)

AGRICULTURE, WALES

The Feed (Corn Gluten Feed and Brewers Grains) (Emergency Control) (Wales) Regulations 2005

Made - - - -	*12 May 2005*
Coming into force - -	*13 May 2005*

The National Assembly for Wales, being designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the control and regulation of the deliberate release, placing on the market and transboundary movements of genetically modified organisms, in exercise of the powers conferred by that section, makes the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Feed (Corn Gluten Feed and Brewers Grains) (Emergency Control) (Wales) Regulations 2005 and they come into force on 13 May 2005.

(2) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations —

"the Act" means the Agriculture Act 1970(**3**) and any expression used both in these Regulations and in the Act has the meaning it bears in the Act;

"the Commission Decision" means Commission Decision 2005/317/EC on emergency measures regarding the non-authorised genetically modified organism Bt 10 in maize products(**4**);

"controlled products" means —

(a) corn gluten feed containing or produced from genetically modified maize within CN code 2309 90 20 originating from the United States or America; and

(b) brewers grains containing or produced from genetically modified maize within CN code 2303 30 00 originating from the United States of America;

(**1**) S.I. 2003/2901.
(**2**) 1972 c. 68.
(**3**) 1970 c. 40.
(**4**) OJ No. L101, 21.4.2005, p.14.

"enforcement authority" means a county council or county borough council; and

"feed" means feed as defined in Article 3.4 of Regulation 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(**5**).

(2) Any term used both in these Regulations and in the Commission Decision has the meaning it bears in the Commission Decision.

Prohibition on first placing on the market

3.—(1) No person may first place on the market any controlled products unless —

(a) the conditions specified in Article 2 of the Commission Decision relating to analytical reports are satisfied in relation to those products; and

(b) the costs incurred in the implementation of Articles 2 and 4 in relation to that first placing on the market have been met by the operators responsible for that activity.

(2) Any person who knowingly contravenes paragraph (1) will be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding three months or to both.

Enforcement

4.—(1) Each enforcement authority must, within its area, enforce and execute the provisions of these Regulations.

(2) For the purposes of the exercise of the duty referred to in paragraph (1), an inspector of the authority concerned must ensure that the requirements referred to in paragraph (3) are met.

(3) The requirements are those specified in —

(a) Article 3 of that Decision (which is concerned with the sampling and analysis of controlled products), other than the requirement to supply the Commission with specified information; and

(b) Article 4 of that Decision (which is concerned with measures to be taken to ensure that controlled products that are found to contain Bt 10 maize or feed produced from Bt 10 maize are not placed on the market).

(4) Each enforcement authority must give such assistance and information to the National Assembly for Wales and the Food Standards Agency as they may reasonably request in connection with the execution and enforcement of these Regulations.

Application of various provisions of the Act

5.—(1) The provisions of the Act listed in paragraph (2) apply for the purposes of these Regulations subject to the modification set out in paragraph (2)(a) and as if —

(a) any reference in those provisions to a feeding stuff were a reference to feed;

(b) any reference in those provisions to the Act or any Part of it were a reference to these Regulations;

(**5**) OJ No. L31, 1.2.2002, p.1. That Regulation was last amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (OJ No. L245, 29.9.2003, p.4).

(c) any reference in those provisions to samples taken in a prescribed manner were a reference to samples taken in a manner prescribed in Part II of Schedule 1 of the Feeding Stuffs (Sampling and Analysis) Regulations 1999(**6**);

(d) any reference in those provisions to a prescribed manner of analysis were a reference to a method that is suitable and validated for the purposes of Article 2.1 of the Commission Decision.

(2) The provisions referred to in paragraph (1) are—

(a) section 76 (inspector's power to enter premises and take samples), which applies as if paragraph (b) of subsection (2) included power to require production of and to take copies of any documentation relating to the feed concerned;

(b) section 77 (division of samples and analysis by agricultural analyst);

(c) section 78(2), (3), (4), (5), (6), (7), (8) and (10) (further analysis by the Government Chemist);

(d) section 79(4), (5), (6), (8) and (10) (supplementary provisions relating to samples and analysis);

(e) section 80 (institution of prosecutions);

(f) section 81 (offences due to fault of other person);

(g) section 82 (defence of mistake, accident, etc.);

(h) section 83 (exercise of powers by inspectors);

(i) section 110 (offences by bodies corporate).

Application of various provisions of the Feeding Stuffs (Sampling and Analysis) Regulations 1999

6.—(1) The provisions of the Feeding Stuffs (Sampling and Analysis) Regulations 1999 listed in paragraph (2) apply for the purposes of these Regulations subject to the modifications set out in that paragraph and as if any reference in those provisions to a feeding stuff were a reference to feed.

(2) The provisions referred to in paragraph (1) are—

(a) regulation 3(a) (manner of taking, preparing, marking, sealing and fastening of samples);

(b) regulation 4 (methods of sending part of a sample), with the modification that the reference to "subsection (1)(b) or (2) of section 77 of the Act" is deemed to be a reference to these Regulations;

(c) regulation 5 (qualifications of agricultural analysts and deputy agricultural analysts), with the modification that the reference to "The prescribed qualifications for an agricultural analyst or a deputy agricultural analyst for the purposes of section 67(5) of the Act insofar as it relates to feeding stuffs" is deemed to be a reference to the qualifications required by a person analysing feed for the purposes of these Regulations;

(d) regulation 6(4) (applications of methods of analysis), with the modification that the reference to "the Act" is deemed to be a reference to these Regulations;

(e) regulation 7 (form of certificate of analysis), with the modification that the reference to "section 77(4) of the Act" is deemed to be a reference to section 77(4) of the Act as applied for the purpose of these Regulations by regulation 5;

(f) regulation 8 (period within which analysis of the oil content of feeding stuffs must be carried out) with the modification that the reference to "in the prescribed manner" is

(**6**) S.I. 1999/1663, amended by S.I. 1999/1871, S.I. 2001/2253 (W.163), S.I. 2002/1797 (W.172), S.I. 2003/1677 (W.180), S.I. 2003/1850 (W.200), S.I. 2003/3119 (W.297), S.I. 2004/1749 (W.186) and S.I. 2004/3091 (W.265).