WELSH STATUTORY INSTRUMENTS

2004 No. 3091 (W.265)

AGRICULTURE, WALES

The Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) (No. 2) Regulations 2004

Made - - - -	*23 November 2004*
Coming into force - -	*24 November 2004*

The National Assembly for Wales, in exercise of the powers conferred by sections 66(1), 74A, 77(4), 79(2) and 84 of the Agriculture Act 1970 [F1], and being designated [F2] for the purposes of section 2(2) of the European Communities Act 1972 [F3] in relation to measures relating to feed produced for or fed to food-producing animals, in exercise of the powers conferred by that last mentioned section (in so far as these Regulations cannot be made under the powers of the Agriculture Act 1970 specified above), after consultation as required by section 84(1) of that Act and 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 [F4], makes the following Regulations:

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 Secretary of State", so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672. Section 74A was inserted by the European Communities Act 1972 (1972 c. 68), Schedule 4, paragraph 6.

F2 S.I. 2003/2901.

F3 1972 c. 68.

F4 OJ No. L31, 1.2.2002, p.1. Under Article 3 of the EC Regulation "food law" extends to feed produced for, or fed to, food producing animals.

Title, application and commencement

1. These Regulations may be cited as the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) (No. 2) Regulations 2004, apply in relation to Wales only and come into force on 24 November 2004.

Amendments to the Feeding Stuffs (Wales) Regulations 2001

2.—(1) The Feeding Stuffs (Wales) Regulations 2001 [F5] are amended in accordance with paragraphs (2) to (4).

(2) In regulation 12 (control of products intended for animal feed containing undesirable substances) after paragraph (6) add the following —

"(7) Paragraphs (8) and (9) apply to any person who has in his or her possession or control for the purposes of a trade or business any of the following products intended for animal feed —

(a) palm kernel expeller;

(b) feeding stuffs obtained from the processing of fish or other marine animals;

(c) seaweed meal and feed materials derived from seaweed; or

(d) complete feeding stuffs for fish or for fur producing animals.

(8) Any person referred to in paragraph (7) must, if requested by an inspector, procure and produce to the inspector an analysis in order to demonstrate that the content of inorganic arsenic in a product intended for animal feed listed in paragraph (7) is within the limit specified in the relevant entry in column 3 of Part I of Schedule 7.

(9) Any person who fails to comply with a request made under paragraph (8) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.".

(3) For regulation 13 (control of compound feeding stuffs containing prohibited materials) substitute the following —

"**Control of feeding stuffs containing prohibited materials**

13.—(1) No person shall put into circulation for use as a feeding stuff, or use as a feeding stuff, any material which contains —

(a) faeces, urine or separated digestive tract contents resulting from the emptying or removal of the digestive tract, irrespective of any form of treatment or admixture;

(b) hide treated with tanning substances, including its waste;

(c) seeds or other plant propagating materials which, after harvest, have undergone specific treatment with plant protection products for their intended use in propagation, or derived by-products;

(d) wood, including sawdust or other materials derived from wood, which has been treated with wood preservatives as defined in Annex V of Directive 98/8/EC of the European Parliament and of the Council concerning the placing of biocidal products on the market [F6];

(e) subject to paragraph (3), 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 waste water treatment), whatever the origin of the waste water concerned [F7];

(f) solid urban waste, such as household waste, but excluding catering waste as defined by Regulation (EC) 1774/2002 laying down health rules concerning animal by-products not intended for human consumption [F8];

(g) packaging and parts of packaging from products used in agriculture or the food industry.

(2) For the purposes of paragraph (1) "waste" has the meaning given in Article 1 of Council Directive 75/442/EEC[F9].

(3) For the purposes of paragraph (1)(e), the term "waste water" shall be construed in accordance with the footnote to point 5 of the Annex to Commission Decision 2004/217/EC adopting a list of materials whose circulation or use for animal nutrition purposes is prohibited [F10]. ".

(4) In Part IX (European Community Regulations by which additives are controlled) of Schedule 3 —

(a) after the reference to Commission Regulation (EC) No. 490/2004 insert the following — " Commission Regulation (EC) No. 879/2004 concerning the provisional authorisation of a new use of an additive already authorised in feeding stuffs (Saccharomyces cerevisiae) (27). Commission Regulation (EC) No. 880/2004 authorising without time limit the use of beta-carotene and canthaxanthin as additives in feeding stuffs belonging to the group of colouring matters including pigments (28). Commission Regulation (EC) No. 1259/2004 concerning the permanent authorisation of certain additives already authorised in feeding stuffs (29). Commission Regulation (EC) No. 1288/2004 concerning the permanent authorisation of certain additives and the provisional authorisation of a new use of an additive already authorised in feeding stuffs (30). Commission Regulation (EC) No. 1332/2004 concerning the permanent authorisation of certain additives in feeding stuffs (31). Commission Regulation 1333/2004 concerning the permanent authorisation of a certain additive in feeding stuffs (32). Commission Regulation (EC) No. 1453/2004 concerning the permanent authorisation of certain additives in feeding stuffs (33). Commission Regulation (EC) No. 1465/2004 concerning the permanent authorisation of an additive in feeding stuffs (34). ".

(b) at the end add the following —

"(27) OJ No. L162, 30.4.2004, p.65.

(28) OJ No. L162, 30.4.2004, p.68.

(29) OJ No. L239, 9.7.2004, p.8.

(30) OJ No. L243, 15.7.2004, p.10.

(31) OJ No. L247, 21.7.2004, p.8.

(32) OJ No. L247, 21.7.2004, p.11.

(33) OJ No. L269, 17.8.2004, p.3.

(34) OJ No. L270, 18.8.2004, p.11.".

(5) For the entries relating to arsenic, fluorine, lead, aflatoxin B1 free gossypol and endosulphan which are set out in columns 1 to 3 of Part I (feeding stuffs) of Schedule 7 (prescribed limits for undesirable substances) substitute the entries set out in columns 1 to 3 respectively of the Schedule to these Regulations.

F5 S.I. 2001/343 (W.15), amended by S.I. 2001/2253 (W.163), S.I. 2001/3461 (W.280), S.I. 2002/1797 (W.172), S.I. 2003/1677 (W.180), S.I. 2003/1850 (W.200), S.I. 2003/3119 (W.297) and SI 2004/1749 (W.186).

F6 OJ No. L123, 24.04.1998, p.1.

F7 OJ No. L135, 30.05.1991, p.40, as amended by Commission Directive 98/15/EC, OJ No. L67, 07.03.1998, p.29.

F8 OJ No. L273, 10.10.2002, p.1.

F9 OJ No. L194, 25.07.1975, p.39, as last amended by Regulation (EC) 1882/2003, OJ No. L284, 31.10.2003, p.1.

F10 OJ No. L67, 05.03.2004, p.31.

Consequential amendments to the Feeding Stuffs (Wales) Regulations 2001

3.—(1) The Feeding Stuffs (Wales) Regulations 2001 are further amended in accordance with paragraphs (2) and (3).

(2) In paragraph (1) of regulation 7 (limits of variation) after the second appearance of "(Wales)" insert " (No. 2) ".

(3) In paragraph (1) of regulation 24 (modification of section 74A(3) of the Agriculture Act 1970) after the second appearance of "(Wales)" insert " (No. 2) ".

Consequential amendments to the Feeding Stuffs (Sampling and Analysis) Regulations 1999

F11 4. . . . . . .

F11 Reg. 4 revoked (1.1.2006) by The Feed (Hygiene and Enforcement) (Wales) Regulations 2005 (S.I. 2005/3368), reg. 1, **Sch. 2**

Consequential amendments to the Feeding Stuffs (Enforcement) Regulations 1999

F12 5. . . . . . .

F12 Reg. 5 revoked (1.1.2006) by The Feed (Hygiene and Enforcement) (Wales) Regulations 2005 (S.I. 2005/3368), reg. 1, **Sch. 2**

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998 **F13**

D. Elis-Thomas
The Presiding Officer of the National Assembly

F13 1998 c. 38.