WELSH STATUTORY INSTRUMENTS

2003 No. 1677 (W.180)

AGRICULTURE, WALES

The Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (Wales) Regulations 2003

Made - - - -	*2nd July 2003*
Coming into force - -	*14th July 2003*

The National Assembly for Wales, in exercise of the powers conferred on it by sections 66(1), 75(1), 76(1), 77(4), 78(6), 79(1) and (2) and 84 of the Agriculture Act 1970 [F1], 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 [F2], and being designated [F3] for the purposes of section 2(2) of the European Communities Act 1972 in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on it by that last mentioned section (in so far as these Regulations cannot be made under the powers in the Agriculture Act 1970 specified above), 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 Ministers", so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672.

F2 OJ No. L31, 1.2.2002, p.1. Under Article 3 of Regulation (EC) 178/2002 "food law" extends to feed produced for, or fed to, food producing animals.

F3 S.I. 1999/2788.

Title, commencement and application

1.—(1) These Regulations may be cited as the Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (Wales) Regulations 2003 and shall come into force on 14th July 2003.

(2) These Regulations shall apply to Wales only.

Amendment of the Feeding Stuffs (Sampling and Analysis) Regulations 1999

2. The Feeding Stuffs (Sampling and Analysis) Regulations 1999 [F4] shall be amended in relation to Wales in accordance with regulations 3 to 7.

F4 S.I. 1999/1663, amended by S.I. 1999/1871, **S.I**. 2001/343 (W 15), S.I. 2001/2253 (W 163) and S.I. 2002/1797 (W 172).

3. In regulation 1 (title, commencement and interpretation) for paragraph (2) there shall be substituted the following paragraph —

"(2) In these Regulations —

"the Act" means the Agriculture Act 1970;

"the sampling Directive" means First Commission Directive 76/371/EEC establishing the methods of sampling for the official control of feeding stuffs [F5]; and

"Directive 2002/70/EC" means Commission Directive 2002/70/EC establishing requirements for the determination of levels of dioxins and dioxin-like PCBs in feeding stuffs [F6].".

F5 OJ No. L162, 15.4.76, p.1.
F6 OJ No. L209, 6.8.2002, p.15.

4. For regulation 3 (manner of taking, preparing, marking, sealing and fastening of samples) there shall be substituted the following regulation —

"**Manner of taking, preparing, marking, sealing and fastening samples**

3. The manner in which samples of —

(a) feeding stuffs; and

(b) feed materials to be sampled pursuant to Directive 2002/70/EC,

are to be taken, prepared, marked, sealed and fastened shall be as prescribed in Schedule 1.".

5. In regulation 6 (application of methods of analysis) —

(a) for paragraph (1) there shall be substituted the following paragraph —

"(1) Subject to paragraphs (1A) and (2) below, to determine whether a substance of a kind listed in column 1 of Annex I to Part II of Schedule 2, or to which the method of analysis specified in Annex II or as the case may be Annex III to that Part relates, is present or active in a sample of —

(a) a feeding stuff to be analysed pursuant to the Act;

(b) (in the case of the substances vitamin A and vitamin E) a premixture to be analysed pursuant to Commission Directive 2000/45/EC establishing Community methods of analysis for the determination of vitamin A, vitamin E and tryphophan in feeding stuffs [F7]; or

(c) (in the case of dioxins and dioxin-like PCBs) a feed material to be analysed pursuant to Directive 2002/70/EC,

and if it is what quantity or proportion of such substance is present or active in such a sample —

(d) the provisions specified in Part I of Schedule 2 under the heading "GENERAL PROVISIONS" shall apply;

(e) in relation to a substance of a class or description listed (whether by itself or by reference to its activity) in column 1 of Annex I to Part II of that Schedule, the relevant method of analysis set out in the Community provision listed in the corresponding entry in column 2 of that Annex shall be used; and

(f) in relation to a substance to which the method of analysis specified in Annex II or as the case may be Annex III to Part II of that Schedule relates, that method shall be used.";

and

(b) immediately after paragraph (1) there shall be inserted the following paragraph —

"(1A) Where more than one method of analysis is provided for in any of the Community provisions listed in column 2 of Annex I to Part II of Schedule 2 in relation to the same substance, the notes to that Annex shall have effect to specify which is the relevant method.".

F7 OJ No. L174, 13.7.2000, p.32.

6. Immediately after regulation 6 there shall be inserted the following regulation —

"**Modification of the Agriculture Act 1970 and of these Regulations as regards analysis of samples of feeding stuffs and feed materials to determine levels of dioxins and dioxin-like PCBs**

6A. For the purpose of determining whether dioxins or dioxin-like PCBs are present or active in a sample of a feeding stuff to be analysed pursuant to the Act or of a feed material to be analysed pursuant to Directive 2002/70/EC and if they are what quantity or proportion of dioxins or dioxin-like PCBs are present or active in such a sample —

(a) Part IV of the Act shall have effect as if —

(i) in section 66(1), immediately after the definition of "pet animal" there were inserted the following definition —

"point 4 compliant laboratory" means a laboratory which complies with point 4 of Annex II to Commission Directive 2002/70/EC establishing requirements for the determination of levels of dioxins and dioxin-like PCBs in feeding stuffs;",

(ii) in section 77(1)(a), for the words "the agricultural analyst for the inspector's area" there were substituted the words " a point 4 compliant laboratory ",

(iii) in each of sections 77(3) and 78(5), for the words "the agricultural analyst" there were substituted the words " a point 4 compliant laboratory ",

(iv) in section 77(4), for the words "The agricultural analyst shall analyse the part of a sample which is sent to him" there were substituted the words " A point 4 complaint laboratory shall analyse the part of a sample which is sent to it ",

(v) section 77(5) were omitted,

(vi) in section 78(3), for the words "agricultural analyst's", in both places where they appear, there were substituted the words " point 4 compliant laboratory's ",

(vii) for section 79(4) and (5) there were substituted the following subsections -

"(4) Any analysis required to be made by a point 4 compliant laboratory or the Government Chemist may be made by any person acting under the directions of an analyst at that laboratory or, as the case may be, of the Government Chemist.

(5) A certificate of analysis by an analyst at a point 4 compliant laboratory shall be signed by that analyst and a certificate of analysis by the Government Chemist shall be signed by him or a person authorised by him to sign the certificate.", and

(viii) in section 79(6), for the words "an agricultural analyst" there were substituted the words " an analyst at a point 4 compliant laboratory ";

(b) Part I of Schedule 3 shall have effect as if in the certificate set out there for the words "agricultural analyst for" there were substituted the words " analyst at the "; and

(c) Part II of Schedule 3 shall have effect as if in note (2) for the words "local authority" there were substituted the word " laboratory "."

7. In Schedule 2 (methods of analysis), in Annex I to Part II, immediately after the entries for "Carbonates" there shall be inserted in columns 1 to 3 respectively the following entries —

"Dioxins and dioxin-like PCBs	Point 2 of Annex I to Directive 2002/70/EC and points 1 and 2, the second paragraph of point 3, the first three indents of point 4 and points 5 to 8 of Annex II to that Directive.	OJ No. L209, 6.8.2002, p.15".

Amendment of the Feeding Stuffs (Enforcement) Regulations 1999

F8 8. . . . . . .

F8 Regs. 8-10 revoked (1.1.2006) by The Feed (Hygiene and Enforcement) (Wales) Regulations 2005 (S.I. 2005/3368), reg. 1, **Sch. 2**

F8 9. . . . . . .

F8 Regs. 8-10 revoked (1.1.2006) by The Feed (Hygiene and Enforcement) (Wales) Regulations 2005 (S.I. 2005/3368), reg. 1, **Sch. 2**

F8 10. . . . . . .

F8 Regs. 8-10 revoked (1.1.2006) by The Feed (Hygiene and Enforcement) (Wales) Regulations 2005 (S.I. 2005/3368), reg. 1, **Sch. 2**

11. In regulation 10 (modification of section 76 of the Agriculture Act 1970) —

(a) the words "(as specified in regulation 7)" shall be omitted;

(b) for the modified version of subsection (8) of section 76 of the Agriculture Act 1970 which is set out in that regulation there shall be substituted the following subsection —

"(8) Subject to subsections (9), (10) and (12) of this section, an inspector entering premises by virtue of this section, or of a warrant issued under it, shall have the right to take on those premises a sample of any material appearing to him to be a controlled product other than relevant material as described in subsection (7) of this section, in the like manner as that prescribed in Part II of Schedule 1 to the Feeding Stuffs (Sampling and Analysis) Regulations 1999 as amended by the Feedingstuffs (Zootechnical Products) Regulations 1999, the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs (Amendment) (Wales) Regulations 2002 and the Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (Wales) Regulations 2003.";

(c) in each of the modified versions of subsections (9) and (10) of section 76 of that Act as so set out after the words "the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001" there shall be inserted the words " , the Feeding Stuffs (Amendment) (Wales) Regulations 2002 and the Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (Wales) Regulations 2003 and as modified by the Feeding Stuffs (Wales) Regulations 2001 ";

(d) immediately after the modified version of section (8) of section 76 of that Act as so set out there shall be inserted the following subsection —

"(8A) For the purposes of this Part of this Act a sample taken in accordance with subsection (8) of this section shall be deemed to be taken in the prescribed manner."; and

(e) in the modified version of subsection (9) of section 76 of that Act as so set out for the expression "subsection (8)" there shall be inserted the expression " subsections (8) and (10) ".

12. For regulations 11 and 11A (modification of sections 77(4) and 78(6) of the Agriculture Act 1970) there shall be substituted the following regulations —

"**11. Analysis for the purposes of sections 77(4) and 78(6) of the Agriculture Act 1970**

11. For the purpose of the enforcement and administration of the Feeding Stuffs (Wales) Regulations 2001 as amended by the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs (Amendment) (Wales) Regulations 2002 and the Feeding Stuffs (Amendment) (Wales) Regulations 2003 analysis in relation to a sample of a product which falls to be inspected pursuant to Directive 95/53 but is not —

(a) a feeding stuff;