STATUTORY RULES OF NORTHERN IRELAND

2016 No. 54

FOOD

The Animals and Animal Products (Examination for Residues and Maximum Residue Limits) Regulations (Northern Ireland) 2016

Made - - - - 17th February 2016

Coming into operation 31st March 2016

The Department of Agriculture and Rural Development [F1] and the Department of Health, Social Services and Public Safety [F2], are Departments designated [F3] for the purposes of section 2(2) of the European Communities Act 1972 [F4] in relation to the common agricultural policy of the European Community and in relation to measures in the veterinary and phytosanitary fields for the protection of public health.

Acting jointly [F5], the Department of Agriculture and Rural Development and the Department of Health, Social Services and Public Safety 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 and Articles 15(1)(a),(b) and (f), 15(3), 16(1) and (2), 25(1), 25(2)(a) and (b) and (3), 26(3), 30(9), 31(3), 32(1) and (2)(c), (d), (e), (f) and (h), 44(1) and (2) and 47(2) of, and paragraphs 3(1)(b) and 7 of Schedule 1 to, the Food Safety (Northern Ireland) Order 1991 [F6].

The aforementioned Departments have consulted in accordance with 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 [F7].

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Department of Agriculture and Rural Development and the Department of Health, Social Services and Public Safety that it is expedient for any reference in these Regulations to the Annexes to Council Directive 96/22/EC concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and of beta-agonists [F8], to Council Directive 96/23/EC on measures to monitor certain substances and residues thereof in live animals and animal products [F9] and to Commission Regulation (EU) No. 37/2010 on pharmacologically active substances and their classification regarding maximum residue limits in foodstuffs of animal origin [F10] to be construed as a reference to those Annexes as amended from time to time.

F1 Formerly the Department of Agriculture for Northern Ireland: see S.I. 1999/283 (N.I.1), Article 3(4).

F2 Formerly the Department of Health and Social Services: see S.I. 1999/283 (N.I.1), Article 3(6).
F3 S.I. 1972/1811 and S.I. 1999/2027.
F4 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).
F5 S.R. 2000 No.78: see **regulation 13(1)(d)(i)** which allows the Department of Agriculture and Rural Development to join with the Department of Health, Social Services and Public Safety in making Regulations under the Food Safety (Northern Ireland) Order 1991 in relation to residues of veterinary products in food or food sources.
F6 S.I. 1991/762 (N.I.7) as amended by S.I. 1996/1633 (N.I.12), **paragraphs 26 to 42** of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c.28, S.R. 2004 No. 482, S.R. 2004 No. 505, **S.I**.2006/3336 (N.I. 21) and 2009 c. 1 (N.I.).
F7 O.J. No. L31, 1.2.2002, p.1.
F8 O.J. No. L125, 23.5.1996, p. 3, as last amended by Directive 2008/97/EC (O.J. No. L318, 28.11.2008, p. 9).
F9 O.J. No. L215, 23.5.1996, p. 10, as last amended by Regulation (EC) 596/2009 (O.J. No. L188, 18.7.2009, p. 14).
F10 O.J. No. L15, 20.1.2010, p. 1, as last amended by Commission Implementing Regulation (EU) No. 222/2012 (O.J. No. L75, 15.3.2012, p. 10).

PART 1

Introductory

Citation and commencement

1. These Regulations may be cited as the Animals and Animal Products (Examination for Residues and Maximum Residue Limits) Regulations (Northern Ireland) 2016 and shall come into operation on 31st March 2016.

Interpretation

2.—(1) In these Regulations—

"analysis" includes any technique for establishing the composition of an official sample;

"analyst" means the person having the management or control of an approved laboratory;

"animal" includes aquaculture animals;

"animal product" includes meat, meat products, processed products derived from animals, milk, honey and eggs;

"approved laboratory" means—

(a) a laboratory approved by the Department for the purposes of Council Directive 96/23; or

(b) any laboratory under the direction or control of a public analyst appointed in accordance with Article 27 of the Order;

"authorised officer" means—

(a) except in regulations 12, 20, 21, 22 and 23(1)(b), any person (whether or not an officer of an enforcement authority) who is authorised in writing by that authority, either generally or specially, to act in matters arising under these Regulations; or

(b) in regulations 12, 20, 21, 22 and 23(1)(b) any person who is authorised in writing by the Department, either generally or specially, to act in matters arising under those regulations;

"carcase" means—

(a) the whole body of a slaughtered animal (other than an uneviscerated bird) after bleeding and dressing; or

(b) the whole body of a slaughtered uneviscerated bird after bleeding;

"commercial operation", in relation to an animal or batch of animals, means any of the following, namely—

(a) selling, possessing for sale and offering, exposing or advertising for sale;

(b) consigning or delivering by way of sale;

(c) storing or transporting for the purpose of sale;

(d) slaughtering or deriving food from it for the purpose of sale or for purposes connected with sale; and

(e) importing and exporting;

"Council Directive 96/22" means Council Directive 96/22/EC concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and of beta-agonists, and repealing Directives 81/602/EEC, 88/146/EEC and 88/299/EEC;

"Council Directive 96/23" means Council Directive 96/23/EC on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives 85/358/EEC and 86/469/EEC and Decisions 89/187/EEC and 91/664/EEC;

"the Department" means the Department of Agriculture and Rural Development;

"enforcement authority", means the Department or a district council within its district, or both;

"examination" includes a physical examination of an animal or animal product or other article or substance and the taking, and any analysis of, an official sample;

"farm of origin", in relation to an official sample taken from any animal or animal product means—

(a) where the official sample was taken at a farm, that farm;

(b) where the official sample was taken at any other place, the last farm on which the animal from which the sample was taken or derived was kept before being taken to that place;

"hormonal substance" means any substance within either of the following categories—

(a) stilbenes and thyrostatic substances; or

(b) substances with oestrogenic, androgenic or gestagenic action;

"list A substance" means a substance named in List A of Annex II to Council Directive 96/22;

"list B substance" means a substance named in List B of Annex II to Council Directive 96/22;

"marketing authorisation" has the same meaning as it bears in Article 5 of Directive 2001/82/EC[F11] of the European Parliament and of the Council on the Community code relating to veterinary medicinal products **[**[F12]as last amended by Directive 2004/28/EC of the European Parliament and of the Council**]** ;

"maximum residue limit" means, in relation to a concentration of a substance specified in the first column of Table 1 in the tissues or body fluids of an animal or in an animal product, the limit (if any) specified in the fourth column opposite the reference to that substance and the applicable animal species specified in the third column, where the substance is contained in the part of the animal specified opposite it in the fifth column or in an animal product derived from that part of the animal;

"offal" means meat other than that of the carcase whether or not naturally connected to the carcase;

"official sample" means a sample taken by an authorised officer for analysis for the purpose of these Regulations which bears a reference to the type, the amount or quantity concerned and the method of collection and, in the case of an animal or animal product, the species and, where appropriate, particulars identifying the sex and origin of the animal;

"the Order" means the Food Safety (Northern Ireland) Order 1991;

"owner" includes, in relation to any animal, batch of animals or premises, the person in charge of such animal, batch of animals or premises, and in relation to any animal product the person in possession of such product;

"possession" in relation to any farm animal or aquaculture animal does not include possession under official control;

"primary analysis" means an analysis of an official sample carried out by an approved laboratory;

"primary analysis certificate" means an analyst's certificate specifying the finding of a primary analysis;

"prohibited substance" means any beta-agonist or hormonal substance administered to an animal contrary to the prohibition in regulation 5;

"reference analysis" means an analysis carried out by an approved laboratory to check the finding of a primary analysis;

"reference analysis certificate" means an analyst's certificate specifying the finding of a reference analysis;

"Regulation 470/2009" means Regulation (EC) No. 470/2009 of the European Parliament and of the Council laying down Community procedures for the establishment of residue limits of pharmacologically active substances in foodstuffs of animal origin, repealing Council Regulation (EEC) No. 2377/90 and amending Directive 2001/82/EC of the European Parliament and of the Council and Regulation (EC) No. 726/2004 of the European Parliament and of the Council [F13];

"Regulation 37/2010" means Commission Regulation (EU) No. 37/2010 on pharmacologically active substances and their classification regarding maximum residue limits in foodstuffs of animal origin;

"sale" includes possess for sale, and offer, expose or advertise for sale, and "sale" and "sold" shall be construed accordingly;

"Table 1" means Table 1 of the Annex to Regulation 37/2010, and "Table 1 substance" means a substance specified in the first column of Table 1;

"Table 2 substance" means a substance specified in Table 2 of the Annex to Regulation 37/2010;

"unauthorised substance" means a Table 2 substance, a prohibited substance and any other substance or product the administration of which to animals is prohibited by or under European Union legislation;

"unlicensed substance" means a substance, other than a hormonal substance, beta-agonist or Table 2 substance which, if transmitted to an animal product, would be likely to be harmful to human health and which has been administered or is intended for administration in the United Kingdom to an animal or batch of animals or, which has been administered to an animal in a member State of the European Union [F14]... and at the time of administration neither that substance, nor any product containing it, was authorised for use in that animal in that State;

"veterinary surgeon" means a person registered in the register of veterinary surgeons or in the supplementary veterinary register; and

"withdrawal period", in relation to an a veterinary medicinal product administered to an animal or batch of animals, means the period, specified in a current veterinary medicinal product licence or marketing authorisation relating to the product or (in the absence of any such specification) specified in a prescription given by a veterinary surgeon in respect of the administration of the product, which is required to elapse from the cessation of the medication of the animal or batch of animals with the product to the slaughter of the animal or batch of animals for human consumption or to the taking of animal products derived from the animal or batch of animals for human consumption.

(2) For the purpose of ascertaining whether the maximum residue limit has been exceeded for the purposes of these Regulations –

(a) the presence of the drug or drug metabolite (or combination thereof) specified in the second column (marker residue) of Table 1 opposite the corresponding entry in the first column (pharmacologically active substance) of that Table shall be taken to indicate the presence of that substance in that part of an animal or batch of animals, or in any animal product derived from that part of an animal or batch of animals, specified in the corresponding entry in the fifth column (target tissues) of that table; and

(b) the maximum residue limit (if any) specified in the fourth column of that Table in the entry corresponding to that substance shall apply in respect of the presence in such part of an animal or batch of animals, or in any animal product derived from such part of an animal or batch of animals, of any such drug or drug metabolite (or combination thereof) as if it were that substance;

(3) Other expressions used in these Regulations and in Council Directive 96/22, Council Directive 96/23 or Regulation 470/2009 have, in so far as the context admits, the same meaning as they bear in those Directives or that Regulation, as appropriate.

(4) Any reference in these Regulations to an Annex to Council Directive 96/22, Council Directive 96/23 or Regulation 37/2010 is a reference to that Annex, as amended from time to time.

(5) The Interpretation Act (Northern Ireland) 1954 [F15] shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

F11 O.J. No. L311, 28.11.2001, p. 1. Article 5 was replaced by Directive 2004/28/EC (O.J. No. L136, 30.4.2004, p. 58).

F12 Words in reg. 2(1) added (15.3.2019) by The Residues (Charges and Examination) (Amendment) Regulations (Northern Ireland) 2019 (S.R. 2019/16), regs. 1(1), **3(2)**

F13 O.J. No. L152, 16.6.2009, p. 1.

F14 Words in reg. 2(1) omitted (31.12.2020) by virtue of The Agriculture, Animals and Aquaculture (Health, Identification, Welfare, Trade etc.) (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/324), regs. 1(3), **3**

F15 1954 c. 33 (N.I.).

PART 2

Prohibitions and Exceptions

Prohibition on the sale of list A and list B substances

3.—(1) Subject to paragraph (2), a person shall not sell, for administration to any animal, any product which is, or which contains, a list A substance or a list B substance, if the animal or any product of that animal is intended for human consumption.