STATUTORY RULES OF NORTHERN IRELAND

2016 No. 5

AGRICULTURE

The Animal Feed (Hygiene, Sampling etc. and Enforcement) Regulations (Northern Ireland) 2016

Made - - - -	*11th January 2016*
Coming into operation-	*14th February 2016*

The Department of Health, Social Services and Public Safety [F1] makes the following Regulations in exercise of the powers conferred on it by sections 66(1), 74A(4), 79(9) and 84 of the Agriculture Act 1970 [F2], as read with regulation 14 of the Food Standards Act 1999 (Transitional and Consequential Provisions and Savings) Regulations (Northern Ireland) 2000 [F3].

In so far as these Regulations cannot be made under the Agriculture Act 1970, the Department of Health, Social Services and Public Safety makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 [F4] as read with paragraph 1A of Schedule 2 to that Act.

The Department of Health, Social Services and Public Safety has been designated for the purposes of section 2(2) of the European Communities Act 1972 (in relation to the common agricultural policy of the European Union [F5], the control and regulation of genetically modified organisms [F6], measures in the veterinary and phytosanitary fields for the protection of public health [F7] and measures relating to feed produced for or fed to food-producing animals [F8].

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 Health, Social Services and Public Safety that it is expedient for a reference to an EU instrument mentioned in regulation 2(5) to be construed as references to that instrument as any Annex to it may be amended from time to time.

There has been open and transparent public consultation during the preparation of these Regulations in accordance with the requirements of 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 [F9] or, in the case of provisions relating to feed for non food-producing animals, of section 84(1) of the Agriculture Act 1970.

F1 Formerly the Department of Health and Social Services; see S.I. 1999/283 (N.I.1) Article 3(6)

F2 1970 c.40; sections 66(1) and 84 are modified in their application to Northern Ireland by section 86 of the Act and were amended by S.R. 2004 No. 506; section 66(1) was also amended by S.R. 2010

No. 323; section 74A was inserted by paragraph 6 of Schedule 4 to the European Communities Act 1972 (c. 68)

F3 S.R. 2000 No.78

F4 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (2006 c.51) and amended by Part 1 of Schedule 1 to the European Union (Amendment) Act 2008 (2008 c.7)

F5 S.I. 2000/2812

F6 S.I. 1991/755

F7 S.I. 1999/2027

F8 S.I. 2003/2901

F9 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 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

Introductory

Citation and commencement

1. These Regulations may be cited as the Animal Feed (Hygiene, Sampling etc. and Enforcement) Regulations (Northern Ireland) 2016 and come into operation on 14th February 2016.

Interpretation

2.—(1) In these Regulations—

"the Act" means the Agriculture Act 1970;

F10[F11...

"Regulation 183/2005" means subject to regulation 2(5) Regulation (EC) No. 183/2005 of the European Parliament and of the Council laying down requirements for feed hygiene as last amended by Commission Regulation (EU) 2015/1905;

"Regulation 152/2009" means subject to regulation 2(5) Regulation (EC) No. 152/2009 laying down the methods of sampling and analysis for the official control of feed as last amended by Commission Regulation (EU) 2017/771;

"Regulation 767/2009" means Regulation (EC) 767/2009 of the European Parliament and of the Council on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC as last amended by Commission Regulation (EU) 2017/2279;]

[F12"Regulation 2017/625" means Regulation (EU) 2017/625 of 15 March 2017 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC,

1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC;

"Regulation 2020/354" means Commission Regulation (EU) 2020/354 of 4 March 2020 establishing a list of intended uses of feed intended for particular nutritional purposes and repealing Directive 2008/38/EC;**]**

"the Agency" means the Food Standards Agency;

"agricultural analyst" means an agricultural analyst appointed under section 67 of the Act [F13] ;

"authorised officer" means a person (whether or not a DARD officer) who is authorised by DARD, either generally or specially, to act in relation to matters arising under these Regulations;

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

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

"prescribed manner" means the manner prescribed by Regulation 152/2009;

"specified feed law" means the instruments specified in Schedule 1.

(2) Subject to paragraph (3), any other expression used in these Regulations and in **[**[F14]Regulation 183/2005, Regulation 152/2009, Regulation 2017/625 or Regulation 2020/354**]** has the same meaning in these Regulations as it does in the EU Regulation.

(3) Where, apart from this paragraph, any period of less than seven days which is specified in these Regulations would include any day which is —

(a) a Saturday, a Sunday, Christmas Day or Good Friday; or

(b) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 [F15],

that shall be excluded from the period.

(4) In these Regulations "feed" or "feeding stuff" does not include any of the following feed additives or premixtures consisting solely of such additives —

(a) coccidiostats;

(b) histomonostats; and

(c) all other zootechnical additives except —

(i) digestibility enhancers,

(ii) gut flora stabilisers, and

(iii) substances incorporated into feed with the intention of favourably affecting the environment.

(5) Any reference in these Regulations to **[**[F16]Regulation 183/2005, Regulation 152/2009 or Regulation 2020/354**]** is a reference to that Regulation as any Annex to it may be amended from time to time.

(6) The Interpretation Act (Northern Ireland) 1954 [F17] shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

F10 Words in reg. 2(1) omitted (25.12.2020) by virtue of The Food and Feed Hygiene and Safety (Miscellaneous Amendments) Regulations (Northern Ireland) 2020 (S.R. 2020/291), regs. 1, **5(2)(a)(i)**

F11 Words in reg. 2(1) substituted (11.2.2019) by The Food (Miscellaneous Amendments and Revocations) Regulations (Northern Ireland) 2019 (S.R. 2019/5), regs. 1(1), **36(2)**

F12 Words in reg. 2(1) inserted (25.12.2020) by The Food and Feed Hygiene and Safety (Miscellaneous Amendments) Regulations (Northern Ireland) 2020 (S.R. 2020/291), regs. 1, **5(2)(a)(ii)**
F13 Section 67 is modified in its application to Northern Ireland by section 86(3) of the Act
F14 Words in reg. 2(2) substituted (25.12.2020) by The Food and Feed Hygiene and Safety (Miscellaneous Amendments) Regulations (Northern Ireland) 2020 (S.R. 2020/291), regs. 1, **5(2)(b)**
F15 1971 c.80
F16 Words in reg. 2(5) substituted (25.12.2020) by The Food and Feed Hygiene and Safety (Miscellaneous Amendments) Regulations (Northern Ireland) 2020 (S.R. 2020/291), regs. 1, **5(2)(c)**
F17 1954 c.33 (N.I.)

PART 2

Requirements for Feed Hygiene, Registration and Approval

Interpretation of Part 2

3.—(1) This Part does not apply to the activities mentioned in Article 2(2) of Regulation 183/2005.

(2) Any reference in this Part or in Schedule 2 to a numbered Article or Annex is a reference to the Article or Annex so numbered in Regulation 183/2005.

Competent authorities

4.—(1) The competent authorities for the purposes of specified Articles are—

(a) in respect of Articles 9(1) and (3), 18(3), 20(2), 21(1) and 22(2)(b), the Agency and DARD;

(b) in respect of Articles 7, 9(2), 10, 13, 14, 15, 16, 17, 18(1), (2) and (4) and 19(2), DARD; and

(c) in respect of Article 19(1), the Agency.

(2) The competent authorities for the purposes of the section headed "Dioxin Monitoring" in Annex II are —

(a) in respect of paragraph **[**F18**]**2(f)**]**, DARD; and

(b) in respect of paragraph 7, DARD and the Agency.

F18 Word in reg. 4(2)(a) substituted (11.2.2019) by The Food (Miscellaneous Amendments and Revocations) Regulations (Northern Ireland) 2019 (S.R. 2019/5), regs. 1(1), **36(3)**

Enforcement of specified provisions of Regulation 183/2005

5. Any person who contravenes any of the provisions of Regulation 183/2005 specified in the first column of Table 1 or Table 2 of Schedule 2 commits an offence.

Form of notification with a view to registration

6. Any person who is required under Article 9 (official controls, notification and registration) to notify DARD of the information mentioned in paragraph (2)(a) or (b) of that Article must ensure that any such notification—

(a) is in writing and signed by that person or on their behalf;

(b) contains the person's name and, if different, business name;

(c) contains the person's address and, if different, the address of any establishment to which the notification relates;

(d) identifies the feed business activities in such form as may be required by DARD; and

(e) is properly addressed to DARD.

Form of application for approval

7. Where approval of a feed business establishment is required pursuant to Article 10, an application to DARD must be made which —

(a) is in writing and signed by or on behalf of the applicant;

(b) contains the name or business name and the address of the applicant and, if different, the address of the establishment;

(c) identifies which of the feed business activities specified in Article 10(1) or as may be specified pursuant to Article 10(3) the applicant is exercising or intends to exercise and for which approval is sought;

(d) in the case of any person to whom Article 17(2) (exemption from on-site visits) applies, includes a statement to the effect that the establishment is one to which Article 17(1) applies and a declaration of compliance as required by paragraph (2) of that Article; and

(e) is properly directed to DARD.

Procedure for suspension of registration or approval

8.—(1) Where DARD proposes to take action pursuant to Article 14 (temporary suspension of registration or approval) it must serve on the feed business operator a notice in accordance with paragraph (2).

(2) The notice served by DARD must—

(a) specify the operative date of the notice ("the operative date");

(b) state that on the operative date DARD intends to suspend the registration or approval of the establishment pursuant to Article 14 and these Regulations;

(c) specify the feed business activity or activities to which the notice relates;

(d) identify the remedial action required;

(e) state that unless remedial action has been carried out to its' satisfaction within one year of the operative date, the registration or approval will be revoked without further notice on the first anniversary of the operative date; and

(f) provide information on the time limit for appealing under regulation 12.

Procedure for lifting of suspension

9. Where DARD having served notice on a feed business operator under regulation 8 is satisfied that—

(a) the remedial action required under paragraph (2)(e) of that regulation has been carried out; and

(b) the period for action specified in that sub-paragraph has not expired,

it must immediately lift the suspension and notify the feed business operator to that effect.