STATUTORY RULES OF NORTHERN IRELAND

2010 No. 355

AGRICULTURE

The Animal Feed Regulations (Northern Ireland) 2010

Made - - - -	*26th October 2010*
Coming into operation	*23rd November 2010*

The Department of Health, Social Services and Public Safety(**1**) makes the following Regulations in exercise of the powers conferred on it by sections 66(1), 68(1), 74A(1), (2) and (4) and 84 of the Agriculture Act 1970(**2**), as read with regulation 14 of the Food Standards Act 1999 (Transitional and Consequential Provisions and Savings) Regulations (Northern Ireland) 2000(**3**).

In so far as these Regulations cannot be made under the powers in the Agriculture Act 1970 specified above, the Department of Health, Social Services and Public Safety makes these Regulations in exercise of its powers as a department designated for the purposes of section 2(2) of the European Communities Act 1972(**4**) in relation to the common agricultural policy of the European Community(**5**), measures in the veterinary and phytosanitary fields for the protection of public health(**6**) and measures relating to feed produced for or fed to food-producing animals(**7**), as read with paragraph 1A of Schedule 2 to that Act.

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 references to the Annexes to the EU instruments mentioned in regulation 2(3) to be construed as references to those Annexes as they 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(**8**) or, in the case of provisions relating to feed for non food-producing animals, of section 84(1) of the Agriculture Act 1970.

(**1**) Formerly the Department of Health and Social Services; See S.I. 1999/283 (N.I. 1), Article 3
(**2**) 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)
(**3**) S.R. 2000 No.78
(**4**) 1972 c.68
(**5**) S.I. 2000/2812
(**6**) S.I. 1999/2027
(**7**) S.I. 2003/2901
(**8**) 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 and general

Citation and commencement

1. These Regulations may be cited as the Animal Feed Regulations (Northern Ireland) 2010 and come into operation on 23rd November 2010.

Interpretation

2.—(1) In these Regulations —

"the Act" means the Agriculture Act 1970;

"Directive 82/475" means Commission Directive 82/475/EEC laying down the categories of feed materials which may be used for the purposes of labelling compound feedingstuffs for pet animals(**9**);

"Directive 2002/32" means Directive 2002/32/EC of the European Parliament and of the Council on undesirable substances in animal feed(**10**);

"Regulation 1831/2003" means Regulation (EC) No. 1831/2003 of the European Parliament and of the Council on additives for use in animal nutrition(**11**);

"Directive 2008/38" means Commission Directive 2008/38/EC establishing a list of intended uses of animal feedingstuffs for particular nutritional purposes(**12**);

"Regulation 767/2009" means Regulation (EC) No. 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(**13**);

"Regulation 242/2010" means Commission Regulation (EU) No. 242/2010 creating the Catalogue of feed materials(**14**).

(2) Any expression used in these Regulations and in Regulation 1831/2003 or Regulation 767/2009 has the meaning in these Regulations that it bears in the Regulation concerned.

(3) Any reference to an Annex to Directive 82/475, Directive 2002/32, Directive 2008/38, Regulation 767/2009 or Regulation 242/2010 is a reference to that Annex as it may be amended from time to time.

(4) These Regulations do not apply to any feed additive in category (d) or (e) of Article 6(1) of Regulation 1831/2003, with the exception of those in the functional groups listed in paragraph 4(a), (b) and (c) of Annex 1 to that Regulation(**15**).

(**9**) OJ No. L213, 21.7.1982, p.27. This Directive was last amended by Commission Directive 98/67/EC (OJ No. L261, 24.9.1998, p.10)
(**10**) OJ No. L140, 30.5.2002, p.10. This Directive was last amended by Commission Directive 2010/6/EU (OJ No. L37, 10.2.2010, p.29)
(**11**) OJ No. L268, 18.10.2003, p. 29. This Regulation was last amended by Regulation (EC) No. 767/2009
(**12**) OJ No. L62, 6.3.2008, p.9. This Directive was last amended by Commission Directive 2008/82 (OJ No. L202, 31.07.2008,p.48)
(**13**) OJ No. L229, 1.9.2009, p.1. This Regulation was last amended by Regulation (EU) No.568/2010 (OJ No. L163, 30.6.2010, p. 30.)
(**14**) OJ No. L77, 24.3.2010, p.17
(**15**) Categories (d) and (e) of Article 6(1) comprise respectively zootechnical additives and coccidiostats and histomonostats. Functional groups listed in paragraphs 4(a), (b) and (c) of Annex I comprise preservatives, antioxidants and emulsifiers

(5) The Interpretation Act (Northern Ireland) 1954(**16**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

PART 2

Marketing and use of feed

Interpretation of this Part and Schedule 1

3. In this Part and in Schedule 1 any reference to a numbered Article or Annex is a reference to the Article or Annex so numbered in Regulation 767/2009.

Enforcement of requirements of Regulation 767/2009

4.—(1) Subject to the transitional provisions contained in Article 32, any person who contravenes or fails to comply with any provision of Regulation 767/2009 specified in Schedule 1 is guilty of an offence.

(2) Where, pursuant to Article 17(2)(c), the name of a specific feed material may be replaced by the name of the category to which the feed material belongs, only the categories listed in the Annex to Directive 82/475 may be indicated.

Competent authorities for the purposes of Regulation 767/2009

5.—(1) The Department of Agriculture and Rural Development is the competent authority for the purposes of —

(a) Articles 5(2), 5(3), 13(1)(a) and 17(3) and Annex VII, Chapter 1, paragraph 8; and

(b) Article 13(1)(b) as the competent authority that may request scientific substantiation of a claim and to whose attention purchasers have the right to bring doubts regarding the truthfulness of a claim.

(2) The Food Standards Agency is the competent authority for the purposes of —

(a) Article 13(1)(b) as the competent authority that may submit to the Commission doubts concerning the scientific substantiation of a claim; and

(b) Article 26(1)(b).

PART 3

Feed additives

Interpretation of this Part

6. In this Part any reference to a numbered Article is a reference to the Article so numbered in Regulation 1831/2003.

Enforcement of requirements of Regulation 1831/2003

7.—(1) Any person who contravenes or fails to comply with any provision specified in paragraph (2) is guilty of an offence.

(**16**) 1954 c.33 (N.I.)

(2) The provisions are —

(a) Article 3, paragraphs (1) to (4), (placing on the market, processing and use of feed additives), as read with Article 10 (status of existing products);

(b) Article 12 (post authorisation monitoring); and

(c) Article 16, paragraphs (1) to (5), (labelling and packaging of additives and premixtures).

PART 4

Undesirable substances in feed

Interpretation of this Part

8. In this Part —

(a) any reference to a numbered Article or Annex is a reference to the Article or Annex so numbered in Directive 2002/32; and

(b) "undesirable substance" means any substance or product, not being a pathogenic agent, which is present in or on a feed and —

(i) constitutes a potential danger to human or animal health or to the environment, or

(ii) could adversely affect livestock production.

Control of animal feeds containing undesirable substances

9.—(1) Any person who —

(a) places on the market any feed that is specified in column 2 of Annex I; or

(b) uses any such feed,

is guilty of an offence if it contains any undesirable substance listed in column 1 of that Annex in excess of the relevant maximum content specified in column 3.

(2) Any person who places on the market or uses any complementary feed is guilty of an offence if —

(a) having regard to the quantity of it recommended for use in a daily ration, it contains any undesirable substance listed in column 1 of Annex I in excess of the maximum content specified for it in column 3 in relation to complete feed; and

(b) there is no provision relating to any complementary feed in the corresponding entry in column 2 of that Annex.

(3) Any person who for the purpose of dilution mixes any feed with a feed that is specified in column 2 of Annex I and which contains any undesirable substance listed in column 1 of that Annex in excess of the maximum content specified for it in column 3 is guilty of an offence.

(4) Any person who places on the market or uses any feed which is not sound and genuine and of merchantable quality is guilty of an offence.

(5) For the purposes of paragraph (4) a feed listed in column 2 of Annex I is not sound, genuine and of merchantable quality if it contains any undesirable substance specified in column 1 of that Annex in excess of the maximum content specified in relation to it in column 3.

(6) Any person who has, for the purpose of a trade or business, possession or control of any of the feeds specified in paragraph (7) shall, if required by an inspector, procure and produce to the inspector an analysis in order to demonstrate that the content of inorganic arsenic in the feed specified in that paragraph is less than 2 parts per million.

(7) The feeds are —

(a) palm kernel expeller;

(b) feeds obtained from the processing of fish and other marine animals;

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

(d) complete feeds for fish or for fur-producing animals.

(8) Any person who, without reasonable excuse, fails to comply with a requirement made under paragraph (6) is guilty of an offence.

PART 5

Feeds for particular nutritional purposes

Interpretation of this Part

10. In this Part, "the Annex" means Part B of Annex I to Directive 2008/38, as read with paragraphs 1 and 7 of Part A of that Annex.

Control of feed intended for particular nutritional purposes

11.—(1) Any person who places on the market a feed intended for a particular nutritional purpose is guilty of an offence if the relevant requirements of paragraphs (2) to (9) are not met.

(2) In relation to any particular nutritional purpose specified in column 1 of the Annex —

(a) the feed must be intended for the animals specified opposite that particular nutritional purpose in column 3 of the Annex; and

(b) it must be recommended that the feed be used for a period of time falling within the range specified opposite that particular nutritional purpose in column 5 of the Annex.

(3) Where a group of additives is specified in column 2 or 4 of the Annex, the additive(s) used must be authorised as corresponding to the specified essential characteristic.

(4) Where the source of ingredients or analytical constituents is required in column 4 of the Annex, the manufacturer must make a precise declaration (for example the specific name of the ingredient, the animal species or the part of the animal) allowing the evaluation of conformity of the feed with the corresponding essential nutritional characteristics.

(5) Where the declaration of a substance that is also authorised as an additive is required in column 4 of the Annex and is accompanied by the expression "total", the declared content must refer to the quantity naturally present where none is added or, as appropriate, the total quantity of the substance naturally present and the amount added as an additive.

(6) The declarations specified in column 4 of the Annex with the reference "if added" must be provided where the ingredient or the additive has been incorporated or increased specifically to enable the achievement of the particular nutritional purpose.

(7) The declarations to be given in accordance with column 4 of the Annex concerning analytical constituents and additives must be quantitative.

(8) Where a feed is intended to meet more than one particular nutritional purpose, it must comply with the corresponding entries in the Annex.

(9) In the case of a complementary feed intended for a particular nutritional purpose, guidance on the balance of the daily ration must be provided in the instructions for use on the label.