STATUTORY RULES OF NORTHERN IRELAND

2005 No. 546

AGRICULTURE

The Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005

Made - - - -	*5th December 2005*
Coming into operation	*1st January 2006*

The Department of Health, Social Services and Public Safety(**1**) makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**2**) and of all other powers enabling it in that behalf.

The Department of Health, Social Services and Public Safety has been designated for the purposes of section 2(2) in relation to measures in the veterinary and phytosanitary fields for the protection of public health(**3**), the common agricultural policy of the European Community(**4**) and measures relating to feed produced for or fed to food-producing animals(**5**).

There has been open and transparent consultation during the preparation of these Regulations as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council(**6**) 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.

PART 1

Preliminary

Citation and commencement

1. These Regulations may be cited as the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 and shall come into operation on 1st January 2006.

(**1**) Formerly the Department of Health and Social Services; *see* S.I. 1999/283 (N.I. 1), Article 3(6)
(**2**) 1972 c. 68
(**3**) S.I. 1999/2027
(**4**) S.I. 1972/1811, amended by S.I. 2002/794
(**5**) S.I. 2003/2901
(**6**) O.J. No. L31, 1.2.2002, p. 1. That Regulation was last amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (O.J. No. L245, 29.9.2003, p. 4)

Interpretation

2.—(1) In these Regulations—

"the Act" means the Agriculture Act 1970(**7**);

"the Agency" means the Food Standards Agency;

"agricultural analyst" means an agricultural analyst appointed under section 67 of the Act(**8**);

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

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

"the Department" means the Department of Health, Social Services and Public Safety;

"enforcement authority" means the body identified as having the duty to enforce under regulation 16;

"point 4 compliant laboratory" means a laboratory which complies with the fourth and fifth indents of Annex II to Commission Directive 2002/70/EC establishing requirements for the determination of levels of dioxins and dioxin-like PCBs in feedingstuffs(**9**);

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

"prescribed manner" means the manner prescribed by the Feeding Stuffs (Sampling and Analysis) Regulations (Northern Ireland) 1999(**10**) or otherwise in accordance with Article 11(1) of Regulation 882/2004;

"Regulation 178/2002" means Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general requirements and principles of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety;

"Regulation 882/2004" means Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules(**11**);

"Regulation 183/2005" means Regulation (EC) No. 183/2005 of the European Parliament and of the Council laying down requirements for feed hygiene(**12**);

"sampled portion" has the meaning given in Part I of Schedule 1 to the Feeding Stuffs (Sampling and Analysis) Regulations (Northern Ireland) 1999;

"specified feed law" means the provisions listed in Schedule 1.

(2) Subject to paragraph (3), other expressions used in these Regulations and in Regulation 178/2002, Regulation 882/2004 or Regulation 183/2005 have the same meaning in these Regulations as in that Regulation.

(3) 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—

(**7**) 1970 c. 40
(**8**) Section 67 in its application to Northern Ireland is substituted by section 86(3) of the Act
(**9**) O.J. No. L209, 6.8.2002, p. 15
(**10**) S.R. 1999 No. 296 as amended by S.R. 2001 No. 209, S.R. 2002 No. 263, S.R. 2003 No. 287, S.R. 2004 No. 345 and S.R. 2005 No. 545 (Feeding Stuffs Regs)
(**11**) O.J. No. L191, 28.5.2004, p. 1
(**12**) O.J. No. L35, 8.2.2005, p. 1

(i) digestibility enhancers,

(ii) gut flora stabilisers, and

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

(4) 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(**13**),

that shall be excluded from the period.

(5) The Interpretation Act (Northern Ireland) 1954(**14**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

PART 2

Enforcement of Regulation 183/2005

Scope and 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 to a numbered Article is a reference to the Article so numbered in Regulation 183/2005.

Competent authorities

4. The competent authorities for the purposes of Regulation 183/2005 are—

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

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

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

Offences and penalties

5.—(1) Any person who contravenes any of the specified provisions of Regulation 183/2005 set out in paragraph (2) is guilty of an offence and liable—

(a) in the case of sub-paragraphs (d), (e), (g), (h), (i) and (j) of paragraph (2)—

(i) on summary conviction to a term of imprisonment not exceeding three months or to a fine not exceeding the statutory maximum, or both, or

(ii) on conviction on indictment to a term of imprisonment not exceeding two years or to a fine, or both;

(b) in the case of sub-paragraphs (a), (b), (c), and (f) of paragraph (2), on summary conviction to a term of imprisonment not exceeding three months or to a fine not exceeding level 5 on the standard scale, or both.

(2) The specified provisions referred to in paragraph (1) are—

(**13**) 1971 c. 80
(**14**) 1954 c. 33 (N.I.)

(a) Article 5(1), (2), (3), (5) and (6) (specific obligations);

(b) Article 6(1), as read with (2) and (3) (HACCP system);

(c) Article 7(1) (documents concerning the HACCP system);

(d) Article 9(2) (official controls, notification and registration);

(e) Article 11 (prohibition on operating without approval or registration);

(f) Article 17(2) (exemption from on-site visits);

(g) Article 18(3) (declaration of compliance);

(h) Article 23(1) (conditions relating to imports);

(i) Article 24 (interim measures regarding third country establishments);

(j) Article 25 (feed produced for export to third countries).

Form of notification with a view to registration

6. Any person who is required under Article 9 (officials controls, notification and registration) to notify the enforcement authority 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 him or on his behalf;

(b) contains his name and, if different, his business name;

(c) contains his 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 the enforcement authority; and

(e) is properly addressed to the enforcement authority.

Form of declaration in relation to transitional measures

7. Any person to whom Article 18(3) (transitional measures) applies must ensure that a declaration submitted in accordance with that provision—

(a) is in writing and signed by him or on his behalf;

(b) contains his registration or approval number, his name and, if different, his business name;

(c) contains his address, and if different, the address of any establishment to which the declaration relates;

(d) contains a statement to the effect that the feed business is one to which Article 18(2) applies; and

(e) is properly addressed to the enforcement authority.

Form of application for approval

8. Where approval of a feed business establishment is required pursuant to Article 10, an application to the enforcement authority 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 addressed to the enforcement authority.

Procedure for suspension of registration or approval

9.—(1) Where the enforcement authority 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 the enforcement authority under paragraph (1) must—

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

(b) state that it intends to suspend on the operative date approval or as the case may be registration 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 the satisfaction of the enforcement authority within 1 year of the operative date, the registration or approval will be revoked without further notice on the first anniversary of the operative date;

(f) provide information on the time limits for appealing under regulation 13.

Procedure for lifting of suspension

10. Where the enforcement authority which has served notice on a feed business operator under regulation 9 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 paragraph has not expired,

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

Procedure for the revocation of registration or approval

11.—(1) Where the enforcement authority proposes to take action in the circumstances set out in Article 15 (revocation of registration or approval) it must serve on the feed business operator a notice in accordance with paragraph (2).

(2) The notice served by the enforcement authority under paragraph (1) must—

(a) specify the operative date of the notice;

(b) state that registration or approval as the case may be has been revoked;

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

(d) identify which of the conditions of revocation set out in Article 15 is applicable;

(e) provide information on the time limits for appealing under regulation 13.

(3) Where the enforcement authority has revoked a registration or approval pursuant to this regulation it shall—

(a) make the appropriate amendments to its own register of feed business establishments; and

(b) promptly transmit to the Agency the necessary information to ensure compliance with Article 19(3) (updating of national lists).