STATUTORY RULES OF NORTHERN IRELAND

2005 No. 545

AGRICULTURE

The Feeding Stuffs 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 sections 66(1), 68(1) and (1A), 69(1) and (3), 70(1), 71(1), 74(1), 74A, 77(4), 78(6) and (10), 79(1), (2) and (9), 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(**4**) for the purposes of section 2(2) of the European Communities Act 1972(**5**) in relation to the common agricultural policy of the European Community and measures in the veterinary and phytosanitary fields for the protection of public health.

There has been consultation in accordance with the requirements of section 84(1) of the Agriculture Act 1970 or as appropriate 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(**6**).

(**1**) Formerly the Department of Health and Social Services; *see*S.I.1999/283 (N.I. 1), Article 3
(**2**) 1970 c. 40; sections 68(1A) and 74A were inserted by the Agriculture Act 1970 (Amendment) Regulations 1982 (S.I. 1982/980) and the European Communities Act 1972 (1972 c. 68), Schedule 4, paragraph 6 respectively. Sections 78(6) and 86 were modified by S.I. 1999/2325
(**3**) S.R. 2000 No. 78
(**4**) S.I. 2000/2812 in relation to the common agricultural policy and S.I. 1999/2027 in relation to measures in the veterinary and phytosanitary fields for the protection of public health
(**5**) 1972 C. 68
(**6**) O.J. No. L31, 1.2.2002, p. 1, as 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)

PART 1

INTRODUCTORY AND GENERAL

Citation and commencement

1. These Regulations may be cited as the Feeding Stuffs Regulations (Northern Ireland) 2005, and shall come into operation on 1st January 2006.

Interpretation

2.—(1) In these Regulations—

"the Act" means the Agriculture Act 1970;

"additive" means a feed additive to which the Additives Regulation applies, with the exception of any additive in categories (d) or (e) of Article 6(1) of that Regulation other than those in the functional groups listed in paragraph 4(a), (b) and (c) of Annex 1 to that Regulation;

"the Additives Directive" means Council Directive 70/524/EEC concerning additives in feeding stuffs(**7**);

"the Additives Regulation" means Regulation (EC) No. 1831/2003 of the European Parliament and of the Council on additives for use in animal nutrition(**8**);

"ash" means the matter which results from the treatment of a feeding stuff in accordance with the appropriate procedure set out in the method of analysis for ash specified in Point 5 of the Annex to Directive 71/250/EEC(**9**);

"the Certain Products Directive" means Council Directive 82/471/EEC concerning certain products used in animal nutrition(**10**);

"complementary feeding stuff" means a compound feeding stuff which has a high content of certain substances and which, by reason of its composition, is sufficient for a daily ration only if it is used in combination with other feeding stuffs;

"complete feeding stuff" means a compound feeding stuff which, by reason of its composition, is sufficient for a daily ration;

"compound feeding stuff", subject to regulation 14(6), means a mixture of feed materials, whether or not containing any additive, for oral feeding to pet animals or farmed creatures in the form of complementary feeding stuffs or complete feeding stuffs;

"the Compound Feedingstuffs Directive" means Council Directive 79/373/EEC on the circulation of compound feedingstuffs(**11**);

"daily ration" means the average total quantity of feeding stuff, expressed on a 12% moisture basis, required daily by an animal of a given kind, age group and level of production in order to satisfy all its nutritional needs;

"EEA State" means a Member State, Norway, Iceland or Liechtenstein;

"energy value" means the energy value of a compound feeding stuff calculated in accordance with the relevant method specified in Schedule 1;

(**7**) O.J. No. L270, 14.12.70, p. 1 (O.J./SE Vol. 18, p. 4) last amended by Council Directive 1999/20/EC (O.J. No. L80, 25.3.1999, p. 20)
(**8**) O.J. No. L268, 18.10.2003, p. 29. Last amended by Commission Regulation (EC) No. 378/2005 (O.J. No. L59, 5.3.2005, p. 8)
(**9**) O.J. No. L155, 12.7.71, p. 13 (O.J./SE 1971(II), p. 480)
(**10**) O.J. No. L213, 21.7.82, p. 8. Last amended by Commission Directive 2004/116/EC (O.J. No. L379, 24.12.2004, p. 81)
(**11**) O.J. No. L86, 6.4.79, p. 30. Last amended by Council Regulation (EC) No. 807/2003 (O.J. No. L122, 16.5.2003, p. 36)

"establishment" has the meaning given by Article 3(d) of Regulation (EC) No. 183/2005 of the European Parliament and of the Council laying down requirements for feed hygiene(**12**);

"fat" means the extract obtained following the treatment of a feeding stuff in accordance with the appropriate procedure set out in the method of analysis for oils and fats specified in Part IV of the Annex to Directive 71/393/EEC(**13**);

"feeding stuff intended for a particular nutritional purpose" means a compound feeding stuff, the composition or method of manufacture of which distinguishes it from other feeding stuffs and from the type of products covered by Council Directive 90/167/EEC laying down the conditions governing the preparation, placing on the market and use of medicated feeding stuffs in the Community(**14**), and in respect of which any indication is given that it is intended for a particular nutritional purpose;

"feed material" means—

(a) any product of vegetable or animal origin, in its natural state, fresh or preserved;

(b) any product derived from such a product by industrial processing; or

(c) any organic or inorganic substance,

(whether or not containing any additive) and for use in oral feeding to pet animals or farmed creatures, directly as such, or after processing, in the preparation of a compound feeding stuff or as a carrier of a premixture;

"the Feed Materials Directive" means Council Directive 96/25/EC on the circulation of feed materials(**15**);

"fibre" means the organic matter calculated following the treatment of a feeding stuff in accordance with the procedure set out in the method of analysis for fibre specified in Point 3 of Annex 1 to Directive 73/46/EEC(**16**);

"mammalian meat and bone meal" has the meaning given in regulation 3(1) of the Transmissible Spongiform Encephalopathy Regulations (Northern Ireland) 2002(**17**);

"Member State" means a Member State other than the United Kingdom;

"micro-organism" has the meaning given by Article 2(2)(m) of the Additives Regulation;

"milk replacer feed" means a compound feeding stuff administered in dry form, or after reconstitution with a given quantity of liquid, for feeding young animals as a supplement to, or substitute for, post-colostral milk or for feeding calves intended for slaughter;

"mineral feeding stuff" means a complementary feeding stuff which is composed mainly of minerals and which contains at least 40% by weight of ash;

"minimum storage life" means, in relation to a compound feeding stuff, the date until which, under proper storage conditions, that feeding stuff retains its specific properties;

"molassed feeding stuff" means a complementary feeding stuff prepared from molasses and which contains at least 14% by weight of total sugar expressed as sucrose;

(**12**) O.J. No. L35, 8.2.2005, p. 1

(**13**) O.J. No. L279, 20.12.71, p. 7 (O.J./SE 1971(III), p. 987). (Part IV was replaced entirely by Annex 1 to Directive 84/4/EEC (O.J. No. L15. 18.1.84, p. 28. That Annex was in turn replaced entirely by Part B of the Annex to Directive 98/64/EC (O.J. No. L257, 19.9.98, p. 14))

(**14**) O.J. No. L92, 7.4.90, p. 42

(**15**) O.J. No. L125, 23.5.96, p. 35. Last amended by Council Regulation (EC) No. 806/2003 (O.J. No. L122, 16.5.2003, p. 1)

(**16**) O.J. No. L83, 30.3.73, p. 21. (Point 3 of Annex 1 was replaced entirely by the Annex to Directive 92/89/EEC) (O.J. No. L344, 26.11.92, p. 35))

(**17**) S.R. 2002 No. 225, as amended by S.R. 2003 No. 495, S.R. 2003 No. 509, S.R. 2004 No. 388, S.R. 2005 No. 25, S.R. 2005 No. 200 and S.R. 2005 No. 436

"moisture" means water and other volatile material determined in accordance with the procedure set out in the method of analysis for moisture specified in Part I of the Annex to Directive 71/393/EEC(**18**);

"oil" means the extract obtained following the treatment of a feeding stuff in accordance with the appropriate procedure set out in the method of analysis for oils and fats specified in Part IV of the Annex to Directive 71/393/EEC(**19**);

"particular nutritional purpose" means the purpose of satisfying any nutritional requirement of pet animals or productive livestock, the process of assimilation or absorption of which, or the metabolism of which, may be temporarily impaired, or is temporarily or permanently impaired, and which may therefore benefit from ingestion of a feeding stuff capable of achieving that purpose;

"pet food" means a feeding stuff for pet animals and "compound pet food" shall be construed accordingly;

"premixture" has the meaning given by Article 2(2)(e) of the Additives Regulation, excluding any premixture consisting solely of feed additives in categories (d) or (e) of Article 6(1) of that Regulation, other than those in the functional groups listed in paragraph 4(a), (b) and (c) of Annex 1 to that Regulation;

"prescribed material" means material described in regulation 5(1);

"product intended for animal feed" means any product used or intended for use in feed for pet animals, farmed creatures or animals living freely in the wild;

"protein", except in paragraphs 7(2), 8, 9 and 10 of Part I of Schedule 3 where it has the meaning given to it by regulation 3(1) of the Transmissible Spongiform Encephalopathy Regulations (Northern Ireland) 2002, means the matter obtained as a result of treatment of a feeding stuff in accordance with the procedure set out in the method of analysis for protein specified in Point 2 of Annex 1 to Directive 72/199/EEC(**20**);

"put into circulation" means sell or otherwise transfer, have in possession with a view to selling or otherwise transferring, or offer for sale, in each case to a third party, and in regulations 13(8) and 14 also means import into Northern Ireland from a state other than an EEA State;

"starch" means the matter obtained as the result of treatment of a feeding stuff in accordance with the procedure set out in the method of analysis for starch specified in Point 1 of Annex 1 to Directive 72/199/EEC(**21**);

"2001 Regulations" means the Feeding Stuffs Regulations (Northern Ireland) 2001(**22**);

"undesirable substance" means any substance or product, not being a pathogenic agent, which is present in or on a product intended for animal feed and—

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

(b) could adversely affect livestock production.

(2) Where, in any tabular or other entry in a Schedule, a numbered reference to a footnote appears, the footnote so numbered shall be treated as included in or amplifying the text to which it relates.

(**18**) O.J. No. L279, 20.12.71, p. 7 (O.J./SE 1971(III), p. 987), amended by Article 1 of Directive 73/47/EEC (O.J. No. L83, 30.3.73, p. 35)

(**19**) O.J. No. L279, 20.12.71, p. 7 (O.J./SE 1971(III), p. 987). (Part IV was replaced entirely by Annex 1 to Directive 84/4/EEC (O.J. No. L15. 18.1.84, p. 28). That Annex was in turn replaced entirely by Part B of the Annex to Directive 98/64/EC (O.J. No. L257, 19.9.98, p. 14)

(**20**) O.J. No. L123, 29.5.72, p. 6 (O.J./SE 1966-1972 supplement, p. 74), (Point 2 of Annex 1 has been replaced by the Annex to Directive 93/28/EEC (O.J. No. L179, 22.7.93, p. 8))

(**21**) O.J. No. L123, 29.5.72, p. 6 (O.J./SE 1966-1972 supplement, p. 74), (Point 1 of Annex 1 has been replaced entirely by the Annex to Directive 1999/79/EC (O.J. No. L209, 7.8.1999, p. 23))

(**22**) S.R. 2001 No. 47, as last amended by S.R. 2004 No. 443

(3) Any reference in these Regulations to a numbered section shall, unless otherwise indicated, be construed as a reference to the section bearing that number in the Act.

(4) Any reference in these Regulations to a Community instrument shall be construed as a reference to that instrument as amended on the date that these Regulations are made.

(5) The Interpretation Act (Northern Ireland) 1954(**23**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Modification of the Agriculture Act 1970 in relation to all feeding stuffs

3.—(1) Subsection (1) of section 66 shall have effect as if—

(a) for the definition of "feeding stuff" there were substituted the following definition—

> ""feeding stuff" means—
>
> (a) a product of vegetable or animal origin in its natural state (whether fresh or preserved);
>
> (b) a product derived from the industrial processing of such a product; or
>
> (c) an organic or inorganic substance, used singly or in a mixture,
>
> whether or not containing additives, for oral feeding to pet animals or farmed creatures;";

(b) for the definition of "pet animal" there were substituted the following definition—

> ""pet animal" means an animal belonging to a species normally nourished and kept, but not consumed, by man, other than an animal bred for fur;".

(2) Subsection (2) of section 66 shall have effect as if the following were substituted for paragraph (b) of that subsection—

"(b) material shall be treated—

(i) as imported or sold for use as a feeding stuff whether it is imported or, as the case may be, sold, to be used by itself, or as an ingredient in something which is to be so used, and

(ii) as used as a feeding stuff whether it is so used by itself, or as an ingredient in something which is to be so used.

(c) paragraph (b) shall not apply in any circumstances in which Article 16 (labelling and packaging of feed additives and premixtures) of Regulation (EC) No. 1831/2003 of the European Parliament and of the Council on additives for use in animal nutrition applies.(**24**)

(3) Sections 73 and 73A shall have effect as if, for "animals of any description prescribed for the purpose of the definition of "feeding stuff" in section 66(1) of this Act" there were substituted "any farmed creatures".

(4) Section 85 shall have effect as if—

(a) in so far as it relates to delivery outside the United Kingdom, paragraph (a) were omitted; and

(b) paragraph (b) were omitted.

(**23**) 1954 c. 33 (N.I.)
(**24**) O.J. No. L268, 18.10.2003, p. 29