STATUTORY RULES OF NORTHERN IRELAND

2003 No. 287

AGRICULTURE

Feeding Stuffs (Sampling and Analysis) and Feeding Stuffs (Enforcement) (Amendment) Regulations (Northern Ireland) 2003

Made - - - -	*3rd June 2003*
Coming into operation	*14th July 2003*

The Department of Health, Social Services and Public Safety in exercise of the powers conferred by sections 66(1), 75(1), 76(1), 77(4), 78(6), 79(1) and (2), 84 and 86 of the Agriculture Act 1970(**1**) (as read with regulation 14 of the Food Standards Act 1999 (Transitional and Consequential Provisions and Savings) Regulations (Northern Ireland) 2000(**2**)), after consultation as required by section 84(1) of that Act and by 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(**3**), and being 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, in exercise of the powers conferred on it by the said section 2(2) (in so far as these Regulations cannot be made under the powers in the Agriculture Act 1970 specified above), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Feeding Stuffs (Sampling and Analysis) and Feeding Stuffs (Enforcement) (Amendment) Regulations (Northern Ireland) 2003 and shall come into operation on 14th July 2003.

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

(**1**) 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
(**2**) S.R. 2000 No. 78
(**3**) O.J. No. L31, 1.2.2002, p. 1. Under Article 3 of the EC Regulation "food law" extends to feed produced for, or fed to, food producing animals
(**4**) S.I. 2000/2812
(**5**) 1972 c. 68. The enabling powers conferred by section 2(2) were extended by virtue of section 1 of the European Economic Area Act 1993 (c. 51)
(**6**) 1954 c. 33 (N.I.)

Amendment of the Feeding Stuffs (Sampling and Analysis) Regulations (Northern Ireland) 1999

2. The Feeding Stuffs (Sampling and Analysis) Regulations (Northern Ireland) 1999(**7**) shall be amended in accordance with regulations 3 to 7.

3. In regulation 1 (citation, commencement and interpretation), for paragraph (2) there shall be substituted the following paragraph –

"(2) In these Regulations –

"the Act" means the Agriculture Act 1970;

"the sampling Directive" means First Commission Directive 76/371/EEC establishing the methods of sampling for the official control of feeding stuffs(**8**); and

"Directive 2002/70/EC" means Commission Directive 2002/70/EC establishing requirements for the determination of levels of dioxins and dioxin–like PCBs in feeding stuffs(**9**).".

4. For regulation 3 (manner of taking, preparing, marking, sealing and fastening of samples) there shall be substituted the following regulation –

"**Manner of taking, preparing, marking, sealing and fastening samples**

3. The manner in which samples of –

(a) feeding stuffs; and

(b) feed materials to be sampled pursuant to Directive 2002/70/EC,

are to be taken, prepared, marked, sealed and fastened shall be as prescribed in Schedule 1.".

5. In regulation 5 (application of methods of analysis) –

(a) for paragraph (1) there shall be substituted the following paragraph –

"(1) Subject to paragraphs (1A) and (2), to determine whether a substance of a kind listed in column 1 of Annex I to Part II of Schedule 2, or to which the method of analysis specified in Annex II or, as the case may be, III to that Part relates, is present or active in a sample of –

(a) a feeding stuff to be analysed pursuant to the Act;

(b) (in the case of the substances vitamin A and vitamin E) a premixture to be analysed pursuant to Commission Directive 2000/45/EC establishing Community methods of analysis for the determination of vitamin A, vitamin E and tryphophan in feeding stuffs(**10**); or

(c) (in the case of dioxins and dioxin–like PCBs) a feed material to be analysed pursuant to Directive 2002/70/EC,

and, if it is, what quantity or preparation of such substance is present or active in such a sample –

(d) the provisions specified in Part I of Schedule 2 under the heading "GENERAL PROVISIONS" shall apply;

(e) in relation to a substance of a class or description listed (whether by itself or by reference to its activity) in column 1 of Annex I to Part II of that Schedule,

(**7**) S.R. 1999 No. 296, as amended by S.R. 2001 No. 209, S.R. 2002 No. 263 and modified by S.R. 2001 No. 47
(**8**) O.J. No. L162, 15.4.76, p. 1
(**9**) O.J. No. L209, 6.8.2002, p. 15
(**10**) O.J. No. L174, 13.7.2000, p. 32

the relevant method of analysis set out in the Community provision listed in the corresponding entry in column 2 of that Annex shall be used; and

(f) in relation to a substance to which the method of analysis specified in Annex II or as the case may be III to Part II of that Schedule relates, that method shall be used.”; and

(b) immediately after paragraph (1) there shall be inserted the following paragraph –

“(1A) Where more than one method of analysis is provided for in any of the Community provisions listed in column 2 of Annex I to Part II of Schedule 2 in relation to the same substance, the notes to that Annex shall have effect to specify which is the relevant method.”.

6. Immediately after regulation 5 there shall be inserted the following regulation –

“**Modification of the Agriculture Act 1970 and of these Regulations as regards analysis of samples of feeding stuffs and feed materials to determine levels of dioxins and dioxin–like PCBs**

5A. For the purpose of determining whether dioxins or dioxin–like PCBs are present or active in a sample of a feeding stuff to be analysed pursuant to the Act or of a feed material to be analysed pursuant to Directive 2002/70/EC and, if they are, what quantity or proportion of dioxins or dioxin-like PCBs are present or active in such a sample –

(a) Part IV of the Act shall have effect as if –

(i) in section 66(1), immediately after the definition of “pet animal” there were inserted the following definition –

““point 4 compliant laboratory” means a laboratory which complies with the fourth and fifth indents of point 4 of Annex II to Commission Directive 2002/70/EC establishing requirements for the determination of levels of dioxins and dioxin–like PCBs in feeding stuffs;”,

(ii) in section 77(1)(a), for “the agricultural analyst for the inspector’s area” there were substituted “a point 4 compliant laboratory”,

(iii) in each of sections 77(3) and 78(5), for “the agricultural analyst” there were substituted “a point 4 compliant laboratory”,

(iv) in section 77(4), for “The agricultural analyst shall analyse the part of a sample which is sent to him” there were substituted “A point 4 compliant laboratory shall analyse the part of a sample which is sent to it”,

(v) section 77(5) were omitted,

(vi) in section 78(3), for “agricultural analyst's”, in both places where it appears, there were substituted “point 4 compliant laboratory's”,

(vii) for section 79(4) and (5) there were substituted the following subsections –

“(4) Any analysis required to be made by a point 4 compliant laboratory or the chief agricultural analyst may be made by any person acting under the directions of an analyst at that laboratory or, as the case may be, of the chief agricultural analyst.

(5) A certificate of analysis by an analyst at a point 4 compliant laboratory shall be signed by that analyst and a certificate of analysis by the chief agricultural analyst shall be signed by him or a person authorised by him to sign the certificate.”, and

(viii) in section 79(6), for "an agricultural analyst" there were substituted "an analyst at a point 4 compliant laboratory";

(b) Part I of Schedule 3 shall have effect as if in the certificate set out there, for "agricultural analyst in Northern Ireland" there were substituted "analyst at the [(1A)]"; and

(c) Part II of Schedule 3 shall have effect as if there were inserted between note (1) and note (2) the following note –

"(1A) Insert the name of the laboratory."."

7. In Schedule 2 (methods of analysis), in Annex I to Part II, immediately after the entries for "Carbonates" there shall be inserted in columns 1 to 3 respectively the following entries –

"Dioxins and dioxin–like PCBs	Point 2 of Annex I to Directive 2002/70/EC and points 1 and 2, the second paragraph of point 3, the first three indents of point 4 and points 5 to 8 of Annex II to that Directive.	O.J. No. L209, 6.8.2002, p. 15".

Amendment of the Feeding Stuffs (Enforcement) Regulations 1999

8. The Feeding Stuffs (Enforcement) Regulations 1999(**11**) shall be amended in accordance with regulations 9 to 13.

9. For paragraph (1) of regulation 7 (modification of the Agriculture Act 1970 for certain purposes) there shall be substituted the following paragraph –

"(1) For the purpose specified in paragraph (2), the Act shall have effect subject to the modifications set out in regulations 8, 10, 12 and 13.".

10. For regulation 8 (modification of references in Part IV of the Agriculture Act 1970 to samples taken in the prescribed manner) there shall be substituted the following regulation –

"**Modification of references in Part IV of the Agriculture Act 1970 to samples taken in the prescribed manner**

8. References in Part IV of the Act to samples taken in the prescribed manner shall be taken to refer –

(a) in the case of feeding stuffs, to samples taken in the manner prescribed in Part II of Schedule 1 to the Feeding Stuffs (Sampling and Analysis) Regulations (Northern Ireland) 1999; and

(b) in the case of products other than feeding stuffs, to samples taken in the manner prescribed in section 76(8) of the Act.".

11. In regulation 10 (modification of section 76 of the Agriculture Act 1970) –

(a) "(as specified in regulation 7)" shall be omitted;

(b) for the modified version of subsection (8) of section 76 of the Agriculture Act 1970 which is set out in that regulation there shall be substituted the following subsection —

(**11**) S.I. 1999/2325, as amended by S.I. 2001/541, S.I. 2001/3389, S.R. 2001 No. 209 and S.R. 2003 No. 219