STATUTORY RULES OF NORTHERN IRELAND

2001 No. 428

AGRICULTURE

Feeding Stuffs (Amendment) Regulations (Northern Ireland) 2001

Made - - - - 13th December 2001

Coming into operation 1st February 2002

The Department of Health, Social Services and Public Safety acting in exercise of the powers conferred by sections 66(1), 68(1), (1A) and (3), 69(1), (3), (6) and (7), 70(1), 73(3), 74(1), 74A, 77(4), 78(6), 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**)) and of all other powers enabling it in that behalf, after consultation with such persons or ogranisations as appear to it to represent the interests concerned, and being a Department designated(**3**) 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 and measures in the veterinary and phytosanitary fields for the protection of public health, in exercise of the powers conferred on it by the said section 2(2)(**5**) (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 (Amendment) Regulations (Northern Ireland) 2001 and shall come into operation on 1st February 2002.

(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; as amended by S.I. 1982/980
(**2**) S.R. 2000 No. 78
(**3**) S.I. 1972/1811
(**4**) 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)
(**5**) As read with section 2(5) of the European Economic Area Act 1993
(**6**) 1954 c. 33 (N.I.)

Amendment of the Feeding Stuffs Regulations (Northern Ireland) 2001

2. The Feeding Stuffs Regulations (Northern Ireland) 2001(**7**) shall be amended in accordance with regulations 3 to 18.

3. In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) after the definition of "EEA Agreement" there shall be inserted the following definitions—

""EEA approved Article 2.2(*d*) establishment" means an establishment listed on a register of approved establishments, maintained by a competent authority in an EEA State which is neither the United Kingdom nor a member State, in implementation of Article 5 of the Establishments Directive, as an establishment on which a compound feeding stuff of any kind, the manufacture of which is regulated by Article 2.2(*d*) of that Directive, may be manufactured with a view to putting it into circulation;

"EEA approved Article 2.2(*f*) establishment" means an establishment listed on a register of approved establishments, maintained by a competent authority in an EEA State which is neither the United Kingdom nor a member State, in implementation of Article 5 of the Establishments Directive, as an establishment on which a compound feeding stuff of any kind, the production of which is regulated by Article 2.2(*f*) of that Directive, may be produced for the exclusive requirements of the producer's holding;

"EEA permitted Article 2.2(*d*) establishment" means an establishment located in an EEA State which is neither the United Kingdom nor a member State (other than an EEA approved Article 2.2(*d*) establishment or an establishment which a competent authority in that EEA State has declined to approve as such an establishment)—

(a) on which a compound feeding stuff of any kind, the manufacture of which is regulated by Article 2.2(*d*) of the Establishments Directive, was being manufactured, with a view to putting it into circulation, on 10th March 2000, and

(b) in respect of which, before 10th August 2000, an application (which is pending) was made to a competent authority in the EEA State concerned, in accordance with any requirements in that State for the making of such applications, to approve the establishment, pursuant to the Establishments Directive, as an establishment on which a compound feeding stuff of any such kind may be manufactured with a view to putting it into circulation;

"EEA permitted Article 2.2(*f*) establishment" means an establishment located in an EEA State which is neither the United Kingdom nor a member State (other than an EEA approved Article 2.2(*f*) establishment or an establishment which a competent authority in that EEA State has declined to approve as such an establishment)—

(a) on which a compound feeding stuff of any kind, the production of which is regulated by Article 2.2(*f*) of the Establishments Directive, was being produced, for the exclusive requirements of the producer's holding, on 10th March 2000, and

(7) S.R. 2001 No. 47

(b) in respect of which, before 10th August 2000, an application (which is pending) was made to a competent authority in the EEA State concerned, in accordance with any requirements in that State for the making of such applications, to approve the establishment, pursuant to the Establishments Directive, as an establishment on which a compound feeding stuff of any such kind may be produced for the exclusive requirements of the producer's holding;";

(ii) for the definition of "put into circulation", there shall be substituted the following definition—

""put into circulation" means sell or otherwise transfer, have in possession with a view to selling or otherwise transferring, or offer for sale, to a third party, but, in regulation 12(3), (4) and (7), also means import into Northern Ireland from a country which is neither an EEA State nor part of an EEA State;"; and

(iii) for the definition of "third country" there shall be substituted the following definition —

""third country" means a country other than an EEA State;";

(b) paragraph (2) shall be omitted; and

(c) for paragraph (8) there shall be substituted the following paragraph—

"(8) Any reference in these Regulations to a European Community Directive, Regulation or Decision shall be construed as a reference to that Directive or, as the case may be, Regulation or Decision, as amended as at the date the Feeding Stuffs (Amendment) Regulations (Northern Ireland) 2001 are made.".

4. In paragraph (1) of regulation 5 (forms of statutory statement), for ", Article 5.2 of the Compound Feeding Stuffs Directive and paragraph (2)" there shall be substituted "and in Article 5.2 of the Compound Feeding Stuffs Directive, (which shall be observed where applicable), and to paragraph (2),".

5. In regulation 7 (limits of variation), for paragraph (3)(*a*) and (*b*) there shall be substituted the following paragraphs—

"(a) the material was first sold, or otherwise put into circulation, in a member State or in an EEA State (other than the United Kingdom) which is not a member State,

(b) the mis-statement did not, at the time of putting into circulation, exceed any limits of variation prescribed in relation thereto in the State concerned, and".

6. In regulation 9 (manner of packaging and sealing compound feeding stuffs, additives and premixtures)—

(a) in paragraph (1), for "a person shall not sell a compound feeding stuff, or any additive or premixture" that shall be substituted "a person shall not put into circulation a compound feeding stuff, or sell any additive or premixture";

(b) in each of paragraphs (2) and (3), for "sold" there shall be substituted "put into circulation"; and

(c) in paragraph (2)(*a*), for "or sellers of compound feeding stuffs" there shall be substituted "of compound feeding stuffs or those putting them into circulation".

7.—(1) In each of the provisions specified in paragraph (2), for "sell, or have in possession with a view to sale" there shall be substituted "put into circulation".

(2) The provisions referred to in paragraph (1) are regulations 10(3)(*b*) and (4), 13(1), 15, 16(1) and 17(1).

8. In regulation 10 (control of feed materials) for paragraph (6) there shall be substituted the following paragraphs—

"(6) Without prejudice to sections 73 and 73A, a person shall not import into Northern Ireland from any country which is neither a member State nor an EEA state which is not a member State, nor another part of the United Kingdom, supply (otherwise than on sale) or have in possession with a view to so supplying, any feed material, or use any feed material, which is deleterious or dangerous to farmed creatures, to pet animals or, through consumption of the products of any animal fed with the feed material, to human beings.

(6A) A person shall not import into Northern Ireland from any country which is neither a member State, nor an EEA State which is not a member State, nor another part of the United Kingdom, sell or have in possession with a view to sale, supply (otherwise than on sale) or have in posession with a view to so supplying, any feed material, or use any feed material, which is deleterious to the environment(**8**)."

9. In regulation 11(5) (control of additives in feeding stuffs) for "added substance" there shall be substituted "additive".

10. In regulation 12 (control of feeding stuffs and feed materials containing undesirable substances)—

(a) in paragraph (4)—

(i) in sub-paragraph (*a*)(iii), "or", where it appears for the second time, shall be omitted; and

(ii) after sub-paragraph (*a*)(iv) there shall be added the following provisions—

"(v) an EEA approved or permitted Article 2.2(*d*) establishment; or

(vi) an EEA approved or permitted Article 2.2(*f*) establishment;"; and

(b) in paragraph (5)—

(i) for "no UK or EC establishment" there shall be substituteed "no UK, EC or EEA establishment"; and

(ii) for sub-paragraph (*b*) there shall be substituted the following sub-paragraph—

"(b) in the case of an EC or an EEA establishment, it is included in the most recently published list (if any) equivalent to the national list in the member State concerned or, as the case may be, in the EEA State concerned.".

11. In regulation 13 (control of compound feeding stuffs containing prohibited materials)—

(a) in paragraph (1), for sub-paragraph (*e*) there shall be substituted the following sub-paragraph—

"(e) subject to paragraph (3),waste (whether or not subjected, or to be subjected, to further processing) obtained from the treatment of "urban waste water", "domestic waste water" or "industrial waste water" (as those terms are defined in Article 2 of Council Directive 91/271/EEC concerning urban waste water treatment), whatever the origin of the waste water concerned(**9**);"; and

(b) after paragraph (2) there shall be added the following paragraph—

"(3) For the purposes of paragraphs 1(*e*) the term "waste water" shall be construed in accordance with the second paragraph of point 5 of the Annex to Commission Decision

(**8**) Sections 73 and 73A of the Agriculture Act 1970 were modified by S.R. 2001/47
(**9**) O.J. No. L135, 30.5.1991, p. 40