STATUTORY RULES OF NORTHERN IRELAND

1999 No. 296

AGRICULTURE

Feeding Stuffs (Sampling and Analysis) Regulations (Northern Ireland) 1999

Made - - - -	*28th June 1999*
Coming into operation	*2nd August 1999*

The Department of Agriculture, in exercise of the powers conferred by sections 66(1), 74A, 75(1), 76(1), 77(4), 78(6), 79(1), (2) and (9), 84 and 86 of the Agriculture Act 1970(**1**) and of every other power enabling it in that behalf, after consultation, in accordance with section 84(1) of that Act, with such persons or organisations as appear to it to represent the interests concerned, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Feeding Stuffs (Sampling and Analysis) Regulations (Northern Ireland) 1999, and shall come into operation on 2nd August 1999.

(2) In these Regulations "the Act" means the Agriculture Act 1970, and "the sampling Directive" means First Commission Directive 76/371/EEC establishing the methods of sampling for the official control of feeding stuffs(**2**).

(3) The Interpretation Act (Northern Ireland) 1954(**3**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

Prescribed amount for the purposes of the definition of sampled portion

2.—(1) The prescribed amount of material for the purposes of the definition of sampled portion in section 66(1) of the Act, so far as it relates to feeding stuffs, shall be determined in accordance with the provisions of this regulation.

(2) In relation to a solid feeding stuff in packages the prescribed amount shall be the quantity of material present or 5 tonnes, whichever is the less.

(3) In relation to a solid feeding stuff in bulk containers, the prescribed amount shall be—

(**1**) 1970 c. 40; section 74A was inserted by the European Communities Act 1972 (c. 68), section 4(1) and Schedule 4, paragraph 6, and the Act was amended by the Agriculture Act 1970 Amendment Regulations 1982 (S.I.1982/980)
(**2**) O.J. No. L102, 15.4.76, p. 1
(**3**) 1954 c. 33 (N.I.)

(a) the contents of the lowest number of containers which together hold not less than 5 tonnes; or

(b) if all the containers together hold less than 5 tonnes, or if all the feeding stuff is in one container, the quantity of material present; or

(c) if any container holds not less than 5 tonnes, the content of any such container.

(4) In relation to a solid feeding stuff which is loose in heaps or bays, the prescribed amount shall be—

(a) the contents of the lowest number of heaps or bays which together contain not less than 5 tonnes; or

(b) if all the heaps or bays together contain less than 5 tonnes, or if all the feeding stuff is in one heap or bay, the quantity of material present; or

(c) if any heap or bay contains not less than 5 tonnes, the content of any such heap or bay.

(5) In relation to a liquid or semi-liquid feeding stuff in containers, the prescribed amount shall be—

(a) the contents of the lowest number of containers which together hold not less than 5,000 litres; or

(b) if all the containers together hold less than 5,000 litres, or if all the feeding stuff is in one container, the quantity of material present; or

(c) if any container holds not less than 5,000 litres, the content of any such container.

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

3. The manner in which samples of feeding stuffs are to be taken, prepared, marked, sealed and fastened, shall be as prescribed in Schedule 1 and paragraph 10 of Part II of that Schedule shall have effect for the purposes of the certificate referred to in regulation 6.

Methods of sending part of a sample

4. Any part of a sample of a feeding stuff required to be sent to any person in pursuance of subsection (1)(b) or (2) of section 77 of the Act shall be sent by registered post or by recorded delivery, or delivered or given by hand.

Application of methods of analysis

5.—(1) Subject to paragraph (2) for the purpose of determining whether a substance of a class or description—

(a) listed in column 1 of Annex I to Part II to Schedule 2, or

(b) to which the method of analysis specified in Annex II or the method specified in Annex III, to that Part relates,

is present or active in a sample of a feeding stuff to be analysed pursuant to the Act, or what quantity or proportion of such a substance is present or active as aforesaid, the provisions specified in Part I of that Schedule under the heading "GENERAL PROVISIONS" shall apply, and—

(i) 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, the relevant method of analysis set out in the European Community provision in force specified in the corresponding entry in columns 2 and 3 of that Annex shall be used, and

(ii) in relation to a substance to which the method of analysis specified in Annex II, or the method specified in Annex III, to Part II of that Schedule relates, the method applicable to that

substance shall be used, and, where more than one method is set out in columns 2 and 3 of Annex I to Part II of that Schedule in relation to the same substance, the notes to that Annex shall have effect to specify which is the relevant method.

(2) After 31st October 1999, paragraph (1) shall cease to apply to the following substances listed in column 1 of Annex I to Part II of Schedule 2—

(a) menadione (vitamin K3);

(b) theobromine;

(c) vitamin A; and

(d) volatile mustard oil,

and shall cease to apply to starch insofar as it falls to be analysed by the pancreatic method as mentioned in the notes to that Annex.

(3) Where microscopic examination is carried out in order to—

(a) determine whether any constituent of animal origin is present in a sample of a feeding stuff to be analysed pursuant to the Act; or

(b) estimate the quantity of any such constituent present in any such sample,

then—

(i) the general provisions specified in Part I of Schedule 2 shall apply, and

(ii) the procedure set out in Commission Directive 98/88/EC establishing guidelines for the microscopic identification and estimation of constituents of animal origin for the official control of feeding stuffs(**4**) shall be used.

(4) Where a sample of a feeding stuff is to be analysed pursuant to the Act and neither paragraph (1) nor paragraph (3) applies—

(a) if there is an applicable standard of the kind referred to in the first indent of Article 18.3 of Council Directive 95/53/EC fixing the principles governing the organisation of official inspections in the field of animal nutrition(**5**) (as amended), analysis shall be carried out in accordance with that standard,

(b) if there is no such standard, it shall be carried out in accordance with any scientifically valid method the application of which does not contravene any general principle of the Treaty establishing the European Community.

Form of certificate of analysis

6. The certificate of analysis of any feeding stuff to be sent pursuant to section 77(4) of the Act shall be in the form set out in Part I of Schedule 3, and shall be completed in accordance with the notes set out in Part II of that Schedule.

Period within which analysis of the oil content of a feeding stuff must be carried out

7. Where a sample of a feeding stuff has been taken by an inspector in the prescribed manner and sent to an agricultural analyst for analysis, any analysis of the oil content of that feeding stuff shall be disregarded unless it is carried out before the expiry of the period of three weeks commencing with the date of sampling.

(**4**) O.J. No. L318, 27.11.98, p. 45
(**5**) O.J. No. L265, 8.11.95, p. 17 amended by Council Directive 1999/20/EC (O.J. No. L80, 25.3.99, p. 20)

Modification of the Agriculture Act 1970 as respects metrication

8. For the purposes of its application to feeding stuffs, the Act shall continue to be modified as follows—

(a) in the definition of sampled portion in section 66(1), the words "five tonnes or 5,000 litres" shall be substituted for the words "five tons or 1,000 gallons or the prescribed metric substitution";

(b) in section 68(2)(b), the words "to sales in quantities of not more than 25 kilograms" shall be substituted for the words "to sales of small quantities (that is to say, sales in quantities of not more than fifty-six pounds or the prescribed metric substitution)"; and

(c) in section 76(5), the words "six kilograms" shall be substituted for the words "fourteen pounds or the prescribed metric substitution".

Revocation

9. The Feeding Stuffs (Sampling and Analysis) Regulations (Northern Ireland) 1982(**6**), the Feeding Stuffs (Sampling and Analysis) (Amendment) Regulations (Northern Ireland) 1984(**7**), the Feeding Stuffs (Sampling and Analysis) (Amendment) Regulations (Northern Ireland) 1985(**8**) and the Feeding Stuffs (Sampling and Analysis) (Amendment) Regulations (Northern Ireland) 1994(**9**) are hereby revoked.

Sealed with the Official Seal of the Department of Agriculture for Northern Ireland on

28th June 1999.

Liam McKibben
Assistant Secretary

(**6**) S.R. 1982 No. 338
(**7**) S.R. 1984 No. 26
(**8**) S.R. 1985 No. 194
(**9**) S.R. 1994 No. 309

SCHEDULE 1 Regulation 3

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

PART I

Definitions

In this Schedule—

"sampled portion" means a quantity of a material constituting a unit and having characteristics presumed to be uniform;

"incremental sample" means a quantity taken from one point in the sampled portion;

"aggregate sample" means an aggregate of incremental samples taken from the same sampled portion;

"reduced sample" means a representative part of the aggregate sample obtained from the latter by a process of reduction;

"final sample" means a representative part of the reduced sample or, where no intermediate reduction is required, of the aggregate sample; and

"unit" has the same meaning as in the sampling Directive.

PART II

Instructions for the taking and preparation of Samples

1. In the case of feeding stuffs in packages or containers, except where section 68(2)(b) of the Act applies, only unopened packages or containers, which appear to the inspector proposing to take the sample to be the original packages or containers of the feeding stuff, shall be selected for the purpose of the sample.

2. The sample shall be taken and prepared as quickly as possible, having regard to the precautions necessary to ensure that it remains representative of the sampled portion. Instruments, surfaces and containers used in sampling shall be clean and dry.

3. No sample shall be drawn from any part of the sampled portion which appears to be damaged.

4. Where any appreciable portion of the feeding stuff appears to be mouldy, or is otherwise apparently unsuitable for feeding purposes, separate samples shall be drawn of the unsuitable portion and of the residue of the feeding stuff respectively. These shall be treated as separate sampled portions.

5.—(1) An inspector who intends to take a sample in accordance with the provisions of section 76(1)(b) of the Act, shall satisfy himself that the conditions in which the material concerned is stored are not such as might have caused undue deterioration thereof, and that it appears not to have been contaminated by any other material.

(2) The provisions of sub-paragraph (1) shall not apply as respects any feeding stuff purchased for the purpose of resale in the course of trade.

6. The sampling apparatus shall consist of materials which cannot contaminate the feeding stuff to be sampled.

7. Subject to paragraph 8, in the absence of good reason to the contrary, the sampling apparatus for solid feeding stuffs shall be taken from among the following—