

2001 No. 334

AGRICULTURE

The Feeding Stuffs and the Feeding Stuffs (Enforcement) Amendment (Scotland) Regulations 2001

Made *1st October 2001*

Laid before the Scottish Parliament *1st October 2001*

Coming into force *3rd November 2001*

The Scottish Ministers, in exercise of the powers conferred by sections 66(1), 68(1) and (1A), 69(1), 74A and 84 of the Agriculture Act 1970(a) and, after consultation as required by section 84(1) of that Act with the persons or organisations appearing to represent the interests concerned, and in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(b) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Feeding Stuffs and the Feeding Stuffs (Enforcement) Amendment (Scotland) Regulations 2001 and shall come into force on 3rd November 2001.

(2) These Regulations extend to Scotland only.

Amendment of the Feeding Stuffs (Scotland) Regulations 2000

2. The Feeding Stuffs (Scotland) Regulations 2000(c) shall be amended in accordance with regulations 3 to 21 below.

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;

(a) 1970 c.40; section 66(1) was amended by the Agriculture Act 1970 Amendment Regulations 1982 (S.I. 1982/980) (“the 1982 Regulations”), the Feeding Stuffs Regulations 1995 (S.I. 1995/1412), the Fertilisers (Sampling and Analysis) Regulations 1996 (S.I. 1996/1342) and the Feeding Stuffs (Sampling and Analysis) Regulations 1999 (S.I. 1999/1663); section 68(1A) was inserted by the 1982 Regulations; section 69(1) was amended by the Feeding Stuffs Regulation 1995 (S.I. 1995/1412) and section 74A was inserted by the European Communities Act 1972, (c.68), Schedule 4, paragraph 6. Section 66(1) contains definitions of the expressions “prescribed” and “regulations”. The functions of the Secretary of State in so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) 1972 c.68; section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3). The function conferred upon Ministers of the Crown under section 2(2), in so far as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(c) S.S.I. 2000/453.

“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
- (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 14(3), (4) and (7), also means import into Scotland from a country which is neither an EEA State nor part of an EEA State;”;

- (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 (7) there shall be substituted the following paragraph–

“(7) 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 and the Feeding Stuffs (Enforcement) Amendment (Scotland) Regulations 2001 were made.”.

- 4. In regulation 7 (limits of variation), for paragraph (2)(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 (other than the United Kingdom) or in an EEA State 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”.

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

- (a) in paragraph (1), for the words “no person shall sell a compound feeding stuff, or any additive or premixture” there shall be substituted the words “no person shall put into circulation a compound feeding stuff, or sell any additive or premixture”;
- (b) in each of paragraphs (2) and (3), for the word “sold” there shall be substituted the words “put into circulation”; and
- (c) in paragraph (2)(a), for the words “or sellers of compound feeding stuffs” there shall be substituted the words “of compound feeding stuffs or those putting them into circulation”.

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

(2) The provisions referred to in paragraph (1) above are regulations 10(3)(b) and (4), 15(1), 17, 18(1) and 19(1).

7. 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), no person shall import into Scotland 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) No person shall import into Scotland 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 possession with a view to so supplying, any feed material, or use any feed material, which is deleterious to the environment.”.

8. In regulation 11 (applications for Community authorisation of additives and of new uses for additives) in each of paragraphs (2) and (5), after the words “each member State” there shall be added the words “and each EEA State (other than the United Kingdom) which is not a member State”.

9. In regulation 13(5) (control of additives in feeding stuffs) for the words “added substance” there shall be substituted the word “additive”.

10. In regulation 14 (control of feeding stuffs and feed materials containing undesirable substances)–

- (a) in paragraph (4)–
 - (i) in subparagraph (a)(i)(cc) the word “or” where it appears at the end shall be omitted;
 - (ii) in subparagraph (a)(i)(dd) the word “and” where it appears at the end shall be omitted; and
 - (iii) after subparagraph (a)(i)(dd) there shall be added the following provisions:–
 - “(ee) an EEA approved or permitted Article 2.2(d) establishment; or
 - (ff) an EEA approved or permitted Article 2.2(f) establishment; and”;
- (b) in paragraph (5)–
 - (i) for the words “no UK or EC establishment” there shall be substituted the words “no UK, EC or EEA establishment”; and
 - (ii) for subparagraph (b) there shall be substituted the following subparagraph–
 - “(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 15 (control of compound feeding stuffs containing prohibited materials)–

(a) Sections 73 and 73A of the Agriculture Act 1970 were modified by S.S.I. 2000/453.

- (a) in paragraph (1), for subparagraph (e) there shall be substituted the following subparagraph–
- “(e) subject to paragraph (3) below, 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(a);” and
- (b) after paragraph (2) there shall be added the following paragraph–
- “(3) For the purposes of paragraph 1(e) above, the term “waste water” shall be construed in accordance with second paragraph of point 5 of the Annex to Commission Decision 91/516/EEC establishing a list of ingredients whose use is prohibited in compound feeding stuffs(b).”.
- 12.** In regulation 18(2) (control of ash insoluble in hydrochloric acid in compound feeding stuffs) for the word “sale” there shall be substituted the words “putting into circulation”.
- 13.** In regulation 25(2), for the word “regulations” to the end there shall be substituted the following provisions–
- “regulations 9(1) (in relation to putting into circulation), (2) and (3), 10(1) to (4), (6), (6A) and (7), 13(3)(a), (c) and (d), (4), (6) and (7), 14(3), (4), (6), (7) and (9), 15(1), 17, 18(1) and 19(1).”.
- 14.** Regulation 29 (modification of the feeding stuffs (enforcement) regulations 1999) shall be omitted.
- 15.** In Schedule 1 (method of calculating the energy value of compound feeds) in paragraph 2, in paragraph (a) of the provisions having the heading “*Feeding stuffs intended for particular nutritional purposes for cats and dogs*”, for the expression “0.1464 x protein” there shall be substituted the expression “0.1464 x % protein”.
- 16.** In Schedule 3 (permitted additives and provisions relating to their use)–
- (a) for the entries in columns 1 to 7 of Part V of the Table (trace elements) relating to the element “Copper-Cu”, there shall be substituted the provisions set out in Schedule 1 to these Regulations; and
- (b) for the provisions in Part IX of the Table (European Community Regulations by which additives are controlled) there shall be substituted the provisions set out in Schedule 2 to these Regulations.
- 17.** In Schedule 4 (contents of the statutory statement or other declaration (except for additives and premixtures not contained in feeding stuffs)):-
- (a) for paragraph 1 there shall be substituted the following paragraph:-
- “**1.** The expression “in the case of any compound feeding stuff”, wherever it appears in this Schedule, shall be construed as referring to any compound feeding stuff which is sold or otherwise put into circulation.”;
- (b) in paragraph 2, in subparagraph (a)(iii)(bb), for the words “the words “contains EEC permitted antioxidant(s)”” to the end of that paragraph there shall be substituted the words “the words “EC additives””;
- (c) in paragraph 7, for subparagraph (c)(ix) there shall be substituted the following provisions–
- “(ix) the name or business name, and the address or registered business address, of the person within the European Economic Area responsible for the particulars specified in this subparagraph, if the establishment referred to in paragraph (x) below is not responsible for them;
- (x) where the establishment producing the feed material must be approved in accordance with Council Directive 90/667/EEC(c), (which was last amended by the Act of Accession 1994(d)), laying down the veterinary rules for the disposal and processing of animal waste, for its placing on the market and for

(a) O.J. No. L 135, 30.5.91, p.40.

(b) O.J. No. L 281, 9.10.91, p.23. Last amended by Commission Decision 2000/285/EC amending Decision 91/516/EEC establishing a list of ingredients whose use is prohibited in compound feeding stuffs (O.J. No. L 94, 14.4.00, p.43).

(c) O.J. No. L 363, 27.12.90, p.51.

(d) O.J. No. C 41, 29.8.94, p.155.

the prevention of pathogens in feedstuffs of animal or fish origin, and amending Directive 90/425/EC(a); the name or business name, and the address or registered business address, of the establishment, the approval number, the batch reference number or any other particulars which ensure that the material can be traced.”;

- (d) in paragraph 9, for subparagraph (1)(a) there shall be substituted the following paragraph:–
 - “(a) originated in a third country; and”;
- (e) in paragraph 14 for sub-paragraph (1)(c) there shall be substituted the following paragraphs:–
 - “(c) the approval or registration number allocated, in accordance with Article 5 or, as the case may be, 10, of the Establishments Directive, to the establishment which manufactured the compound feeding stuff; and”;
 - “(d) the name or trade name and address or registered office of the person responsible for the accuracy of the particulars which, in accordance with this Schedule, are required in the case of compound feeding stuffs to be contained in the statutory statement or otherwise declared.”;
- (f) in paragraph 16(2), after the words “whole grain mix” there shall be added the words “which is sold or otherwise put into circulation”;
- (g) in paragraph 17(2), after the words “sub-paragraph (1) above,” there shall be added the words “which is sold or otherwise put into circulation,”;
- (h) in paragraph 22 there shall be added at the end the following sub-paragraphs:–
 - “(d) the identification mark or trade mark of the person responsible for the particulars which, in accordance with this Schedule, are required or permitted in the case of compound feeding stuffs to be contained in the statutory statement or otherwise declared;
 - (e) the description or trade name of the feeding stuff;
 - (f) the price of the feeding stuff; and
 - (g) the country or origin or manufacture of the feeding stuff”;
- (i) in paragraph 23(1), after the words “complementary feeding stuff which” there shall be added the words “is sold or otherwise put into circulation and”;
- (j) in paragraph 25(1), after the words “other than pet animals,” there shall be added the words “which is sold or otherwise put into circulation,”; and
- (k) in each of paragraphs 26(1) and 27(1), after the words “feeding stuff intended for a particular nutritional purpose,” there shall be added the words “which is sold or otherwise put into circulation,”.

18.—(1) In Schedule 5 (contents of the statutory statement (for additives and premixtures not contained in feeding stuffs)) in each of the provisions specified in paragraph (2) below, for the word “Community” there shall be substituted the words “Economic Area”.

(2) The provisions referred to in paragraph (1) above are paragraphs 1(a)(iii), (e)(iv) and (f)(v) in Part I of Schedule 5 and paragraph 2(a)(iv) in Part II of Schedule 5.

19. In Schedule 6 (limits of variation)–

- (a) in Part A (compound feeding stuffs except those for pets)–
 - (i) in the entry relating to magnesium, in the second column, for the expression “1.5% for declarations of 15% or more” there shall be substituted the expression “1.5 for declarations of 15% or more”;
 - (ii) in the entry relating to phosphorus, in the second column, for the expression “1.2% for declarations of 16% or more” there shall be substituted the expression “1.2 for declarations of 16% or more”; and
- (b) in Part B (compound pet foods)–
 - (i) in the entry relating to calcium, in the second column, for the expression “1.2% for declarations of 16% or more” there shall be substituted the expression “1.2 for declarations of 16% or more”;
 - (ii) in the entry relating to magnesium, in the second column, for the expression “1.5% for declarations of 15% or more”, there shall be substituted the expression “1.5 for declarations of 15% or more”; and

(iii) in the entry relating to phosphorus, in the second column, for the expression “1.2% for declarations of 16% or more” there shall be substituted the expression “1.2 for declarations of 16% or more”.

20. In Schedule 8 (control of certain protein sources)–

(a) in item 3.2.7, for the provisions contained in columns 2 and 3 there shall be substituted the following provisions–

“3.2.7. Mixtures of:

(a) L-Lysine – mono-hydrochloride technically pure $\text{NH}_2 - (\text{CH}_2)_4 - \text{CH}(\text{NH}_2) - \text{COOH}$
and $- \text{HCL}$

(b) DL – methionine technically pure protected with copolymer vinyl-pyridine/styrene $\text{CH}_3\text{S} (\text{CH}_2)_2 - \text{CH}(\text{NH}_2) - \text{COOH}$ ”;

(b) in item 4.1.2, for the provisions contained in column 3 there shall be substituted the following provisions–

“ $[\text{CH}_3 - \text{S} - (\text{CH}_2) - \text{CH}(\text{OH}) - \text{COO}]_2\text{Ca}$ ”.

Amendment of the Feeding Stuffs (Enforcement) Regulations 1999

21. Section 67 of the Agricultural Act 1970 shall have effect for the purpose specified in regulation 7(2) of the Feeding Stuffs (Enforcement) Regulations 1999(a) as if for subsection 8 of the said section there were substituted the following subsection (instead of the subsection substituted by regulation 29(c) of the Feeding Stuffs (Scotland) Regulations 2000)(b):

“(8) If the Scottish Ministers are of the opinion that, in the area of an enforcement authority, the Feeding Stuffs (Scotland) Regulations 2000, (as amended by the Feeding Stuffs and the Feeding Stuffs (Enforcement) Amendment (Scotland) Regulations 2001), or section 73 or 73A of this Act, have been–

- (a) insufficiently enforced or administered by the authority concerned; or
- (b) enforced or administered by it without sufficient regard to the requirements of Council Directive 95/53/EC(c) fixing the principles governing the organisation of official inspections in the field of animal nutrition, as amended by Council Directive 1999/20/EC(d),

(a) S.I. 1999/2325.

(b) S.S.I. 2000/453.

(c) The reference for Council Directive 95/53/EC is O.J. No. L 265, 8.11.95, p.17.

(d) The reference for Council Directive 1999/20/EC is O.J. No. L 80, 25.3.99, p.20.

they may appoint one or more inspectors to exercise the powers exercisable by inspectors appointed by the authority, and any expenses certified by an inspector appointed by the Scottish Ministers as having been reasonably incurred by that inspector under this subsection shall be repaid on demand by that authority.”.

St Andrew’s House,
Edinburgh
1st October 2001

MALCOLM CHISHOLM
Authorised to sign by the Scottish Ministers

SCHEDULE 2

PROVISIONS SUBSTITUTED FOR PART IX OF THE TABLE TO SCHEDULE 3 TO
THE FEEDING STUFFS (SCOTLAND) REGULATIONS 2000

“PART IX

EUROPEAN COMMUNITY REGULATIONS BY WHICH ADDITIVES ARE
CONTROLLED(a)

Commission Regulation (EC) No. 2316/98 concerning authorisation of new additives and amending the conditions for authorisation of a number of additives already authorised in feeding stuffs(b).

Commission Regulation (EC) No. 1594/1999 amending the conditions for the authorisation of an additive in feeding stuffs(c).

Commission Regulation (EC) No. 1353/2000 concerning the permanent authorisation of an additive and the provisional authorisation of new additives, new additive uses and new preparations in feeding stuffs(d).

Commission Regulation (EC) No.2439/1999 on the conditions for authorisation of additives belonging to the group “binders, anti-calling agents and coagulants” in feeding stuffs(e)

Commission Regulation (EC) No. 2437/2000 concerning the permanent authorisation of an additive and the provisional authorisation of new additives in feeding stuffs(f).

Commission Regulations (EC) No. 418/2001 concerning the authorisations of new additives and uses of additives in feeding stuffs(g).

Commission Regulation (EC) No 937/2001 concerning the provisional authorisations of additives in feeding stuffs(h).

-
- (a) Certain of the listed Regulations relate to categories of additive which also include additives controlled by the Council Directive EC 701524 (O.J. No. L 270, 14.12.70, p.1) concerning additives in feeding stuffs and which are thus listed in the relevant Part of Parts I to VIII of the Table to this Schedule (eg the preservative formic acid is covered by Regulation (EC) No. 1594/1999 (above), whereas certain other preservatives are covered by Part VII of the Table).
- (b) O.J. No. L 289, 28.10.98, p.4.
- (c) O.J. No. L 188, 21.7.99, p.35.
- (d) O.J. No. L 155, 28.6.00, p.15. As regards the additives specified in Annexes III and IV of this Regulation, see now the corresponding entries in Regulation (EC) No. 937/2001 (O.J. No. L 130, 12.5.01, p.25).
- (e) O.J. No. L 297 18.11.99, p8. The Annex to this Regulation is now replaced by the Annex to Regulation (EC) No. 739/2000 (O.J. No. L 87 8.4.00, p.14.)
- (f) O.J. No. L 280, 4.11.00, p.28.
- (g) O.J. No. L 62, 2.3.01, p.3.
- (h) O.J. No. L 130, 12.5.01, p.25.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to Scotland only, amend the Feeding Stuffs (Scotland) Regulations 2000 and the Feeding Stuffs (Enforcement) Regulations 1999.

The Regulations implement–

Commission Decision 2000/285/EC amending Decision 91/516/EEC establishing a list of ingredients whose use is prohibited in compound feeding stuffs (O.J. No. L 94, 14.4.00, p.43).

The Regulations provide enforcement of the following European Community Regulations–

- (a) Commission Regulation (EC) 418/2001 concerning the authorisation of new additives and uses of additives in feeding stuffs (O.J. No. L 62, 2.3.2001, p.3); and
- (b) Commission Regulation (EC) 937/2001 concerning authorisation of new additive uses, new additive preparation, the prolongation of provisional authorisations, and the ten year authorisation of an additive in feeding stuffs (O.J. No. L 130, 12.5.01, p.25).

In particular the Regulations–

- (a) extend the controls on sale and possession with a view to sale of compound feeding stuffs to cover supply other than sale, and possession with a view to such supply by replacing the references to “marketing” and “sold” with “put into circulation” (regulations 4, 5, 6, 12, 13, 17(a), (f), (g), (i), (j) and (k);
- (b) add prohibitions on the importation, supply, possession with a view to such supply and use of feed materials harmful to animals, to humans consuming products of such animals, or are deleterious to the environment (regulation 7);
- (c) amend the list of materials prohibited for use in compound materials, and widen the definition of “sludge from sewage plants treating waste waters” to include waste from various phases of urban, domestic and industrial waste water treatment processes (regulation 11);
- (d) require that compound foods be labelled to include the approval or registration number of the establishment manufacturing the food in the relevant statutory statement (regulation 17); and
- (e) include various labelling requirements for food materials derived from certain waste products (regulation 17).

The Regulations make some minor amendments to update definition of European Economic Community to European Community (“EC”) to extend the regulations to cover the definition of European Economic Area (EEA) establishments (regulations 3, 8, 10 and 18).

The Regulations make some further minor amendments to include references and terms such as “additives” (regulation 9); and other minor amendments and technical amendments in the Schedules of the Feeding Stuffs (Scotland) Regulations 2000 (regulations 14, 15, 16, 19 and 20).

There are also minor amendments to the Feeding Stuffs (Enforcement) Regulations 1999 (S.I. 1999/2325) (regulation 21).

A Regulatory Impact Assessment has been prepared in respect of the new regulations and a copy placed in the Scottish Parliament Information Centre. Further copies can be obtained on request from the Food Standards Agency Scotland, 6th Floor, St Magnus House, 25 Guild Street, Aberdeen, AB11 6NJ.

2001 No. 334

AGRICULTURE

**The Feeding Stuffs and the Feeding Stuffs (Enforcement)
Amendment (Scotland) Regulations 2001**

£2.00

© Crown Copyright 2001

Printed in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland
200 10/01 19593

