

2003 No. 312

AGRICULTURE

The Feeding Stuffs (Scotland) Amendment (No. 2)
Regulations 2003

Made 11th June 2003

Laid before the Scottish Parliament 13th June 2003

Coming into force

regulations 1 to 4, 6, 7 and 9 1st August 2003

regulations 5, 8 and 10 6th November 2003

The Scottish Ministers, in exercise of the powers conferred by sections 66(1), 68(1) and (1A), 69(1), (3), (6) and (7), 74A, 75(1), 76(1) and 84 of the Agriculture Act 1970(a), after consultation as required by section 84(1) of that Act with such 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) (in so far as these Regulations cannot be made under the powers of the Agriculture Act 1970 specified above) 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 (Scotland) Amendment (No. 2) Regulations 2003.

(2) Regulations 1 to 4, 6, 7 and 9 shall come into force on 1st August 2003 and regulations 5, 8 and 10 shall come into force on 6th November 2003.

(3) These Regulations shall extend to Scotland only.

Amendments to the Feeding Stuffs (Scotland) Regulations 2000

2. The Feeding Stuffs (Scotland) Regulations 2000(c) shall be amended in accordance with regulations 3 to 10.

3. In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) the following definitions shall be omitted—

(aa) any commencing with the expression “EC approved”, “EC permitted”, “EEA approved”, “EEA permitted” “UK approved” or “UK permitted”;

(a) 1970 c.40; section 66(1) was amended by S.I. 1982/980, 1995/1412, 1996/1342 and 1999/1663. Section 66(1) contains definitions of “Ministers”, “prescribed” and “regulations”. The functions of the Secretary of State 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 by 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, amended by S.S.I. 2001/334, 2002/285 and 2003/101.

- (bb) “national list”; and
 - (cc) “third country”;
 - (ii) in each of the definitions of “complementary feeding stuff”, “complete feeding stuff” and “feeding stuff”, for “regulation 14(10)(a)” there shall be substituted “regulation 14(6)”;
 - (iii) for the definition of “compound feeding stuff” there shall be substituted–
 ““compound feeding stuff” means mixtures of feed materials, whether or not containing additives, for oral animal feeding in the form of complete or complementary feedingstuffs;”;
 - (iv) in the definition of “feed material”, “, subject to regulation 14(10)(b),” shall be omitted;
 - (v) after the definition of “premixture” there shall be inserted–
 ““product intended for animal feed” means feed materials, premixtures, additives, feeding stuffs and all other products used or intended for use in feed for pet animals, farmed creatures or animals living freely in the wild;”;
 - (vi) for the definition of “put into circulation” there shall be substituted–
 ““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, but in regulation 14 also means import into Scotland from a country which is neither an EEA State nor part of an EEA State;”;
 - (vii) after the definition of “third country” there shall be inserted–
 ““undesirable substance” means any substance or product, not being a pathogenic agent, which is contained in or is on a product intended for animal feed and which–
 (a) constitutes a potential danger to animal or human health or the environment;
 or
 (b) could adversely affect livestock production;”;
- (b) for paragraph (7) there shall be substituted–
 “(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 on the date the Feeding Stuffs (Scotland) Amendment (No. 2) Regulations 2003 were made.”.

4. For regulation 14 (control of feeding stuffs and feed materials containing undesirable substances) there shall be substituted–

“Control of products intended for animal feed containing undesirable substances

- 14.—(1)** No person shall–
- (a) put into circulation any product intended for animal feed which is specified in column 2 of Part I of Schedule 7; or
 - (b) use any such product for animal feed,
 if it contains any undesirable substance specified in column 1 of that Part in excess of the level specified for it in column 3 of that Part.
- (2) No person shall put into circulation, or use as a feeding stuff, any complementary feeding stuff if–
- (a) having regard to the quantity of it recommended for use in a daily ration, it contains any undesirable substance specified in column 1 of Part I of Schedule 7 in excess of the level specified for it in column 3 of that Part in relation to complete feeding stuffs; and
 - (b) there is no provision relating to any complementary feeding stuff in the corresponding entry in column 2 of that Part.
- (3) No person shall mix any product intended for animal feed which is specified in column 2 of Part I of Schedule 7 and which contains any undesirable substance specified in column 1 of that Part in excess of the level specified for it in column 3 of that Part for the purpose of dilution with any product intended for animal feed.

(4) No person shall put into circulation any product intended for animal feed or use any such product for animal feed unless it is—

- (a) sound and genuine; and
- (b) of merchantable quality.

(5) For the purposes of paragraph (4) above, a product intended for animal feed which is specified in column 2 of Part I of Schedule 7 is not sound, genuine and of merchantable quality if it contains any undesirable substance specified in column 1 of that Part in excess of the level specified in relation to it in column 3 of that Part.

(6) For the purposes of paragraph (2) above “feeding stuff” means—

- (a) a product of vegetable 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, to farmed creatures or to animals living freely in the wild, and “complementary feeding stuff” and “complete feeding stuff” shall be construed accordingly.”.

5. After regulation 19 (control of feeding stuffs intended for particular nutritional purposes and supplementary provisions relating to statutory statement), there shall be inserted—

“Provision of information in relation to compound feeding stuffs for animals other than pet animals

19A. Where a person to whom a compound feeding stuff for animals other than pet animals is supplied so requests, the supplier of that compound feeding stuff shall provide the person making that request with details of the exact percentages by weight of feed materials used in that compound feeding stuff.”.

6. In regulation 25(2) (modification of section 74A(3) of the Agriculture Act 1970), for “14(3), (4), (6), (7) and (9), 15(1), 17, 18(1) and 19(1)” there shall be substituted “14(1) to (4), 15(1), 17, 18(1), 19(1) and 19A”.

7. In Schedule 3 (permitted additives and provisions relating to their use) for the provisions specified in Part IX of the Table (European Community Regulations by which additives are controlled) there shall be substituted the provisions set out in the Schedule to these Regulations.

8. In Schedule 4 (contents of the statutory statement or other declaration (except for additives and premixtures not contained in feeding stuffs))—

- (a) paragraph 14(1)(c) shall be omitted;
- (b) in paragraph 15—
 - (i) the word “and”, where it appears at the end of sub-paragraph (b), shall be omitted;
 - (ii) for sub-paragraph (c) there shall be substituted—
“(c) the batch reference number; and”; and
 - (iii) after sub-paragraph (c) there shall be inserted—
“(d) the approval or registration number allocated, in accordance with Article 5 or as the case may be Article 10 of the Establishments Directive to the establishment which manufactured the compound feeding stuff;”; and
- (c) for paragraph 19 there shall be substituted—

“19. In the case of any compound feeding stuff for animals other than pet animals—

- (a) all the feed materials shall be declared in the statutory statement—
 - (i) by their specific names; and
 - (ii) with an indication, in descending order, of the percentage by weight of each feed material contained in the compound feeding stuff, subject to a limit of variation of $\pm 15\%$ in relation to each declared percentage; and
- (b) the statutory statement shall contain the following declaration—

“The exact percentage by weight of feed materials used in this feeding stuff may be obtained from ... (name or trade name, address or registered office, telephone number and email address of the supplier of the compound feeding stuff).”.

9. In Schedule 7 (prescribed limits for undesirable substances)–
- (a) in Part I (feeding stuffs), for the headings to columns 1 and 2 there shall be substituted the headings “*Undesirable Substances*” and “*Products intended for animal feed*” respectively; and
 - (b) Part II (feed materials) shall be omitted.

10. Part II of Schedule 10 (categories of feed materials for use in relation to compound feeding stuffs for animals other than pets) shall be omitted.

St Andrew’s House,
Edinburgh
11th June 2003

TOM McCABE
Authorised to sign by the Scottish Ministers

SCHEDULE

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 feedingstuffs(b).

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

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

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 feedingstuffs(e).

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

Commission Regulation (EC) No. 2013/2001 concerning the provisional authorisation of a new additive use and the permanent authorisation of an additive in feedingstuffs(g).

Commission Regulation (EC) No. 2200/2001 concerning provisional authorisation of additives in feedingstuffs(h).

Commission Regulation (EC) No. 256/2002 concerning the provisional authorisation of new additives, the prolongation of provisional authorisation of an additive and the permanent authorisation of an additive in feedingstuffs(i).

Commission Regulation (EC) No. 1252/2002 concerning the provisional authorisation of a new additive in feedingstuffs(j).

Commission Regulation (EC) No. 1876/2002 concerning the provisional authorisation of a new use of an additive in feedingstuffs(k).

Commission Regulation (EC) No. 2188/2002 concerning the provisional authorisation of new uses of additives in feedingstuffs(l).

Commission Regulation (EC) No. 261/2003 concerning the provisional authorisation of new uses of additives in feedingstuffs(m).

(a) Certain of the above Regulations relate to additive categories which include additives controlled by the Additives Directive, and which are listed in the relevant Part(s) of Parts I to VIII of the Table to this Schedule (e.g. the preservative formic acid is covered by Regulation (EC) No. 1594/1999, but 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 297, 18.11.99, p.8. 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).

(e) O.J. No. L 155, 28.6.00, p.15.

(f) O.J. No. L 280, 4.11.00, p.28.

(g) O.J. No. L 272, 13.10.01, p.24.

(h) O.J. No. L 299, 15.11.01, p.1.

(i) O.J. No. L 41, 13.2.02, p.6.

(j) O.J. No. L 183, 12.7.02, p.10.

(k) O.J. No. L 284, 22.10.02, p.7.

(l) O.J. No. L 333, 10.12.02, p.5.

(m) O.J. No. L 37, 13.2.03, p.12.

Commission Regulation (EC) No. 316/2003 concerning the permanent authorisation of an additive in feedingstuffs and the provisional authorisation of an additive already authorised in feedingstuffs(**a**).

Commission Regulation (EC) No. 666/2003 provisionally authorising the use of certain micro-organisms in feedingstuffs(**b**).

Commission Regulation (EC) No. 668/2003 concerning the permanent authorisation of an additive in feedingstuffs(**c**).

(a) O.J. No. L 46, 20.2.03, p.15.

(b) O.J. No. L 96, 12.4.03, p.11.

(c) O.J. No. L 96, 12.4.03, p.14.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to Scotland only, amend the Feeding Stuffs (Scotland) Regulations 2000 (S.S.I. 2000/453, as already amended).

These Regulations implement–

- (a) Directive 2002/2/EC of the European Parliament and of the Council amending Council Directive 79/373/EEC on the circulation of compound feedingstuffs and repealing Commission Directive 91/357/EEC (O.J. No. L 63, 6.3.02, p.,23); and
- (b) Directive 2002/32/EC of the European Parliament and of the Council on undesirable substances in animal feed (O.J. No. L 140, 30.5.02, p.10).

These Regulations also provide for the enforcement of the following Community Regulations–

- (a) Commission Regulation (EC) No. 261/2003 concerning the provisional authorisation of new uses of additives in feedingstuffs (O.J. No. L 37, 13.2.03, p.12);
- (b) Commission Regulation (EC) No. 316/2003 concerning the permanent authorisation of an additive in feedingstuffs and the provisional authorisation of an additive already authorised in feedingstuffs (O.J. No. L 46, 20.2.03, p.15);
- (c) Commission Regulation (EC) No. 666/2003 provisionally authorising the use of certain micro-organisms in feedingstuffs (O.J. No. L 96, 12.4.03, p.11); and
- (d) Commission Regulation (EC) No. 668/2003 concerning the permanent authorisation of an additive in feedingstuffs (O.J. No. L 96, 12.4.2003, p.14).

These Regulations amend the Feeding Stuffs (Scotland) Regulations 2000 (“the 2000 Regulations”) by–

- (a) in regulation 2(1) (interpretation), deleting the definitions of the terms “national list” and “third country” and any definitions commencing with specified expressions, modifying the definitions of the terms “complementary feeding stuff”, “complete feeding stuff”, “feeding stuff”, “feed material” and “put into circulation”, substituting a new definition of the term “compound feeding stuff” and adding new definitions for the terms “product intended for animal feed” and “undesirable substance” (regulation 3(a));
- (b) substituting a revised version of regulation 2(7) (which prescribes how references in the 2000 Regulations to Community instruments are to be construed) (regulation 3(b));
- (c) substituting for regulation 14 (control of feeding stuffs and feed materials containing undesirable substances), a new and re-titled regulation, which–
 - (i) omits the provisions contained in the previous regulation which regulated the putting into circulation of feed materials containing undesirable substances above prescribed levels, required those possessing non-compliant products in the course of a business to notify the Food Standards Agency and the enforcement authorities of that fact and defined feed material for the purposes of regulation 14; and
 - (ii) re-enacts the remaining provisions of the previous regulation 14 with modifications, in particular by replacing the references to the terms “feeding stuff” and “feed material” with reference to the term “product intended for animal feed” (regulation 4);
- (d) inserting a new regulation, regulation 19A (provision of information in relation to compound feeding stuffs for animals other than pet animals), which requires suppliers of compound feeding stuffs to provide specified information relating to the feeding stuffs if requested to do so by those to whom they are supplied (regulation 5);
- (e) making a consequential amendment to regulation 25(2) (regulation 6);
- (f) adding four new Commission Regulations to the list of Commission Regulations under which authorisation for the marketing of feed additives has been granted which is contained in Part IX of the Table to Schedule 3 (regulation 7 and the Schedule);
- (g) in Schedule 4 (contents of the statutory statement or other declaration (except for additives and premixtures not contained in feeding stuffs)) modifying the matters relating to compound feeding stuffs which are required to be contained in the statutory statement prescribed by regulation 5 or otherwise declared (regulation 8);

- (h) in Schedule 7 (prescribed limits for undesirable substances), modifying the headings to columns 1 and 2 of Part I (feeding stuffs) and deleting Part II (feed materials) (regulation 9); and
- (i) deleting Part II of Schedule 10 (containing the names of the categories of feed materials for use in relation to compound feeding stuffs for animals other than pets by which, prior to the coming into force of these Regulations, it was permissible to declare those compound feeding stuffs in the statement prescribed by regulation 5 (regulation 10)).

A Regulatory Impact Assessment, which includes a compliance cost assessment of the effect which these Regulations would have on business costs, has been prepared for these Regulations and has been placed in the Scottish Parliament Information Centre. Copies may be obtained from the 6th Floor, St Magnus House, 25 Guild Street, Aberdeen AB11 6NJ.

£2.00

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under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland
150 06/03 19593

