

2004 No. 458

AGRICULTURE

**The Feeding Stuffs (Scotland) Amendment (No. 2)
Regulations 2004**

Made - - - - - *27th October 2004*
Laid before the Scottish Parliament *27th October 2004*
Coming into force - - - *18th November 2004*

The Scottish Ministers, in exercise of the powers conferred by sections 66(1), 74A 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) (insofar 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:

Title, commencement and extent

1.—(1) These Regulations may be cited as the Feeding Stuffs (Scotland) Amendment (No. 2) Regulations 2004 and come into force on 18th November 2004.

(2) These Regulations extend to Scotland only.

Amendments to the Feeding Stuffs (Scotland) Regulations 2000

2.—(1) The Feeding Stuffs (Scotland) Regulations 2000(c) are amended in accordance with paragraphs (2) to (5).

(2) After regulation 14(6) (control of feeding stuffs and feed materials containing undesirable substances), insert—

“(7) Paragraphs (8) and (9) shall apply to any person in possession or control for the purposes of a trade or business of any of the following products intended for animal feed—

- (a) palm kernel expeller;
- (b) feeding stuffs obtained from the processing of fish or other marine animals;
- (c) seaweed meal and feed materials derived from seaweed; or
- (d) complete feeding stuffs for fish or for fur producing animals.

(a) 1970 c. 40; section 66(1) was amended by S.I. 1982/980, 1995/1412, 1996/1342, 1999/1663 and 2000/453. Section 74A was inserted by the European Communities Act 1972, (c.68), section 4 and Schedule 4, paragraph 6. Section 66(1) contains definitions of “the Ministers”, “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 the Minister 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 as amended by S.S.I. 2001/334, 2002/285, 2003/101, 312 and 474 and 2004/208.

(8) Any person referred to in paragraph (7) shall, if requested by an inspector, procure and produce to the inspector an analysis in order to demonstrate that the content of inorganic arsenic in any product intended for animal feed listed in paragraph (7) is within the limit specified in the relevant entry in column 3 of Part I of Schedule 7.

(9) Any person who without reasonable cause fails to comply with a request made under paragraph (8) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.”.

(3) For regulation 15 (Control of compound feeding stuffs containing prohibited materials) substitute—

“Control of feeding stuffs containing prohibited materials

15.—(1) No person shall put into circulation for use as a feeding stuff, or use as a feeding stuff, any material which contains —

- (a) faeces, urine or separated digestive tract contents resulting from the emptying or removal of the digestive tract, irrespective of any form of treatment or admixture;
- (b) hide treated with tanning substances, including its waste;
- (c) seeds or other plant propagating materials which, after harvest, have undergone specific treatment with plant protection products for their intended use in propagation, or derived by-products;
- (d) wood, including sawdust or other materials derived from wood, which has been treated with wood preservatives as defined in Annex V of Directive 98/8/EC of the European Parliament and of the Council concerning the placing of biocidal products on the market^(a);
- (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^(b)), whatever the origin of the waste water concerned;
- (f) solid urban waste, such as household waste, but excluding catering waste as defined by Regulation (EC) 1774/2002 laying down health rules concerning animal by-products not intended for human consumption^(c);
- (g) packaging and parts of packaging from products used in agriculture or the food industry.

(2) For the purposes of paragraph (1) “waste” shall have the meaning given in Article 1 of Council Directive 75/442/EEC^(d).

(3) For the purposes of paragraph (1)(e), the term “waste water” shall be construed in accordance with the footnote to point 5 of the Annex to Commission Decision 2004/217/EC adopting a list of materials whose circulation or use for animal nutrition purposes is prohibited^(e).”.

(4) In Part IX of Schedule 3 (European Community Regulations by which additives are controlled) after the reference to Commission Regulation (EC) No. 490/2004 insert—

“Commission Regulation (EC) No. 879/2004 concerning the provisional authorisation of a new use of an additive already authorised in feeding stuffs (*Saccharomyces cerevisiae*)^(f).

^(a) O.J. No. L 123, 24.4.98, p.1.

^(b) O.J. No. L 135, 30.5.91, p.40, as amended by Commission Directive 98/15/EC, O.J. No. L 67, 7.3.98, p.29 as corrected by corrigendum, O.J. No. L 139, 2.6.99, p.34.

^(c) O.J. No. L 273, 10.10.02, p.1.

^(d) O.J. No. L 194, 25.7.75, p.39, as last amended by Regulation (EC) 1882/2003, O.J. No. L 284, 31.10.03, p.1.

^(e) O.J. No. L67, 5.3.04, p.31.

^(f) O.J. No. L 162, 30.4.04, p.65.

Commission Regulation (EC) No. 880/2004 authorising without time limit the use of beta-carotene and canthaxanthin as additives in feeding stuffs belonging to the group of colouring matters including pigments(a).

Commission Regulation (EC) No. 1259/2004 concerning the permanent authorisation of certain additives already authorised in feeding stuffs(b).

Commission Regulation (EC) No. 1288/2004 concerning the permanent authorisation of certain additives and the provisional authorisation of a new use of an additive already authorised in feeding stuffs(c).

Commission Regulation (EC) No. 1332/2004 concerning the permanent authorisation of certain additives in feeding stuffs(d).

Commission Regulation 1333/2004 concerning the permanent authorisation of a certain additive in feeding stuffs(e).

Commission Regulation (EC) No. 1453/2004 concerning the permanent authorisation of certain additives in feeding stuffs(f).

Commission Regulation (EC) No. 1465/2004 concerning the permanent authorisation of an additive in feeding stuffs(g).”.

(5) In Part I (Feeding stuffs) of Schedule 7 (Prescribed limits for undesirable substances) for the entries in columns 1 to 3 relating to arsenic, fluorine, lead, aflatoxin B₁ free gossypol and endosulphan, substitute the respective entries for these substances set out in columns 1 to 3 of the Schedule to these Regulations.

RHONA BRANKIN

Authorised to sign on behalf of the Scottish Ministers

St Andrew's House,
Edinburgh
27th October 2004

(a) O.J. No. L 162, 30.4.2004, p.68.
(b) O.J. No. L 239, 9.7.2004, p.8.
(c) O.J. No. L 243, 15.7.2004, p.10.
(d) O.J. No. L 247, 21.7.2004, p.8.
(e) O.J. No. L 247, 21.7.2004, p.11.
(f) O.J. No. L 269, 17.8.2004, p.3.
(g) O.J. No. L 270, 18.8.2004, p.11.

SCHEDULE

Regulation 2(5)

ENTRIES TO BE SUBSTITUTED IN PART I OF SCHEDULE 7 TO THE FEEDING STUFFS (SCOTLAND) REGULATIONS 2000

| <i>Column 1</i> | <i>Column 2</i> | <i>Column 3</i> |
|-----------------|---|--|
| Arsenic | Feed materials except: | 2 |
| | – meal made from grass, from dried lucerne and from dried clover and dried sugar beet pulp and dried molasses sugar beet pulp | 4 |
| | – palm kernel expeller | 4 (of which the content of inorganic arsenic must be less than 2) |
| | – phosphates and calcareous marine algae | 10 |
| | – calcium carbonate | 15 |
| | – magnesium oxide | 20 |
| | – feeding stuffs obtained from the processing of fish or other marine animals | 15 (of which the content of inorganic arsenic must be less than 2) |
| | – seaweed meal and feed materials derived from seaweed | 40 (of which the content of inorganic arsenic must be less than 2) |
| | Complete feeding stuffs except: | 2 |
| | – complete feeding stuffs for fish and fur-producing animals | 6 (of which the content of inorganic arsenic must be less than 2) |
| | Complementary feeding stuffs except: | 4 |
| | – mineral feeding stuffs | 12 |
| | | Note in respect of all entries in column 3 |
| | | The maximum levels refer to total arsenic |

| <i>Column 1</i> | <i>Column 2</i> | <i>Column 3</i> |
|------------------------------------|---|-----------------|
| Fluorine | Feed materials except: | 150 |
| | – feeding stuffs of animal origin with the exception of marine crustaceans such as marine krill | 500 |
| | – phosphates and marine crustaceans such as marine krill | 2000 |
| | – calcium carbonate | 350 |
| | – magnesium oxide | 600 |
| | – calcareous marine algae | 1000 |
| | Complete feeding stuffs except: | 150 |
| | – complete feeding stuffs for cattle, sheep and goats | |
| | – in milk | 30 |
| | – other | 50 |
| | – complete feeding stuffs for pigs | 100 |
| | – complete feeding stuffs for poultry | 350 |
| | – complete feeding stuffs for chicks | 250 |
| | Mineral mixtures for cattle, sheep and goats | 2000 |
| Other complementary feeding stuffs | 125 | |
| | (fluorine content per 1% phosphorus) | |
| Lead | Feed materials except: | 10 |
| | – grass meal, lucerne meal or clover meal | 40 |
| | – calcium carbonate | 20 |
| | – phosphates and calcareous marine algae | 15 |

| <i>Column 1</i> | <i>Column 2</i> | <i>Column 3</i> |
|--------------------------|---|-----------------|
| | – yeasts | 5 |
| | Complete feeding stuffs | 5 |
| | Complementary feeding stuffs except: | 10 |
| | – mineral feeding stuffs | 15 |
| Aflatoxin B ₁ | All feed materials | 0.02 |
| | Complete feeding stuffs for cattle, sheep and goats except: | 0.02 |
| | – dairy animals | 0.005 |
| | – calves and lambs | 0.01 |
| | Complete feeding stuffs for pigs and poultry (except piglets and chicks) | 0.02 |
| | Other complete feeding stuffs | 0.01 |
| | Complementary feeding stuffs for cattle, sheep and goats (except complementary feeding stuffs for dairy animals, calves and lambs) | 0.02 |
| | Complementary feeding stuffs for pigs and poultry (except piglets and chicks) | 0.02 |
| | Other complementary feeding stuffs | 0.005 |
| Free gossypol | Feed materials except: | 20 |
| | – cotton–seed | 5000 |
| | – cotton–seed cakes and cotton–seed meal | 1200 |
| | Complete feeding stuffs except: | 20 |
| | – complete feeding stuffs for cattle, sheep and goats | 500 |
| | – complete feeding stuffs for poultry (except laying hens) and calves | 100 |

| <i>Column 1</i> | <i>Column 2</i> | <i>Column 3</i> |
|--|---|-----------------|
| Endosulphan (sum of alpha- and beta-isomers and of endosulphan sulphate, expressed as endosulphan) | – complete feeding stuffs for rabbits and pigs (except piglets) | 60 |
| | All feeding stuffs except: | 0.1 |
| | – maize and products derived from the processing thereof | 0.2 |
| | – oilseeds and products derived from the processing thereof | 0.5 |
| | – complete feeding stuffs for fish | 0.005 |

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

These Regulations implement Commission Directive 2003/100/EC (O.J. No. L 285, 1.11.03, p.33) amending Annex 1 to Directive 2002/32/EC of the European Parliament and of the Council (O.J. No. L 140, 30.5.02, p.10) on undesirable substances in animal feed. They also implement Commission Decision 2004/217/EC, adopting a list of materials whose circulation or use for animal nutrition purposes is prohibited (O.J. No. L 67, 5.3.04, p.31).

Regulation 2 of these Regulations amends the 2000 Regulations by–

- (a) requiring that analysis indicating the level of inorganic arsenic in certain feeding stuffs or feed materials must be provided on request to the competent authority (paragraph (2));
- (b) making detailed amendments to the list of prohibited materials set out in regulation 15 of the 2000 Regulations, and extending to the circulation or use as materials the existing prohibition on the circulation or use in connection with compound feeding stuffs (paragraph (3));
- (c) providing for the enforcement of eight new Commission Regulations authorising new additives or new uses of certain additives in feeding stuffs, or as the case may be making permanent the existing provisional authorisation of an additive (paragraph (4)); and
- (d) amending the prescribed limits for undesirable substances set out in Schedule 7 of the 2000 Regulations in respect of arsenic, fluorine, lead, aflatoxin B₁, free gossypol and endosulphan (paragraph (5) and Schedule).

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

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