
STATUTORY INSTRUMENTS

2019 No. 683

AGRICULTURE, ENGLAND

The Animal Feed (Basic Safety Standards) (England) Regulations 2019

<i>Made</i>	- - - -	<i>25th March 2019</i>
<i>Laid before Parliament</i>		<i>26th March 2019</i>
<i>Coming into force</i>	- -	<i>17th April 2019</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred on him by sections 66(1), 74A(1) and 84 of the Agriculture Act 1970⁽¹⁾, as read with regulation 14 of the Food Standards Act 1999 (Transitional and Consequential Provisions and Savings) (England and Wales) Regulations 2000⁽²⁾.

In so far as these Regulations cannot be made under the powers in the Agriculture Act 1970 specified above, the Secretary of State makes these Regulations in exercise of his powers as a Minister designated for the purposes of section 2(2) of the European Communities Act 1972⁽³⁾ in relation to the common agricultural policy of the European Union⁽⁴⁾, the control and regulation of genetically modified organisms⁽⁵⁾, measures in the veterinary and phytosanitary fields for the protection of public health⁽⁶⁾ and measures relating to feed produced for or fed to food-producing animals⁽⁷⁾.

There has been open and transparent public consultation during the preparation of these Regulations in accordance with the requirements of [Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food

(1) 1970 c.40. Section 66(1) contains definitions of the expressions “the Ministers”, “prescribed” and “regulations”. The definition of “the Ministers” was amended by the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I. 1978/272), Schedule 5, paragraph 1. Functions of “the Ministers”, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672 and subsequently transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (2006 c.32). Those functions, so far as exercisable in relation to Scotland, were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (1998 c. 46). By virtue of S.I. 1999/3141, functions of the Secretaries of State for Wales and Scotland previously exercisable in relation to England ceased to be so exercisable and were transferred to the Minister of Agriculture, Fisheries and Food. Functions of the Minister of Agriculture were transferred to the Secretary of State by the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794). Section 74A was inserted by the European Communities Act 1972 (1972 c. 68), Schedule 4, paragraph 6. Sections 66(1) and 84 were amended by S.I. 2004/3254. Section 66(1) was also amended by S.I. 2010/2280.

(2) S.I. 2000/656.

(3) 1972 c.68.

(4) S.I. 1972/1811, amended by S.I. 2002/794.

(5) S.I. 1991/755.

(6) S.I. 1999/2027.

(7) S.I. 2003/2901.

safety⁽⁸⁾ or, in the case of provisions relating to feed for food-producing animals, of] section 84 of the Agriculture Act 1970.

Title, application and commencement

1. These Regulations may be cited as the Animal Feed (Basic Safety Standards) (England) Regulations 2019, apply in relation to England only, and come into force on 17th April 2019.

Interpretation

2.—(1) In these Regulations—

“the Directive” means Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom⁽⁹⁾;

“feed authority” means an authority identified in section 67(1) of the Agriculture Act 1970 as having the duty to enforce Part IV of that Act within its area or district as the case may be;

“radioactive substance” means any substance that contains one or more radionuclides the activity or activity concentration of which cannot be disregarded from a radiation protection point of view;

“Regulation 178/ 2002” means Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety; and

“ Regulation 767/2009” means Regulation (EC) No 767/2009 of the European Parliament and of the Council on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC⁽¹⁰⁾.

(2) For the purpose of these Regulations, “importation” and “exportation” have the same meanings as they have for the purposes of the Customs and Excise Management Act 1979⁽¹¹⁾, and “import” and “export” shall be construed accordingly.

(3) Except to the extent that paragraph (1) and (2) provide otherwise, any expression used in these Regulations, Regulation 178/2002, Regulation 767/2009 and in the Directive has the meaning in these Regulations that it bears in Regulation 178/2002, Regulation 767/2009 and in the Directive, as the case may be.

Prohibition of practices

3. No person shall intentionally add a radioactive substance in the production of animal feed.

4. No person shall import or export any animal feed in respect of which a radioactive substance has been intentionally added in the production of that feed.

⁽⁸⁾ OJ No. L31, 1.2.2002, p.1, as last amended by Commission Regulation (EU) 2017/228 of 9 February 2017 (OJ No. L 35, 10.2.2017, p. 10).

⁽⁹⁾ OJ No. L13, 17.1.2014, p. 1.

⁽¹⁰⁾ OJ No. L229, 1.9.2009, p. 1. This Regulation was last amended by Commission Regulation (EU) 2018/1903 of 5 December 2018 (OJ No. L 310, 6.12.2018, p. 22).

⁽¹¹⁾ 1979 c. 2.

Offences and penalties

5. Any person who contravenes regulation 3 or regulation 4 is guilty of an offence and liable to the penalties referred to in section 74A(3) of the Agriculture Act 1970⁽¹²⁾.

Enforcement

6. It is the duty of a feed authority within its area to enforce these Regulations.

Amendment of the Animal Feed (Hygiene, Sampling etc. and Enforcement) (England) Regulations 2015

7.—(1) The Animal Feed (Hygiene, Sampling etc. and Enforcement) (England) Regulations 2015⁽¹³⁾ are amended in accordance with paragraph (2).

(2) In Schedule 1, in the table, after the entry for “The Animal Feed (Hygiene, Sampling etc. and Enforcement) (England) Regulations 2015”, insert—

“The Animal Feed (Basic Safety Standards) (England) Regulations 2019”.

Amendment of the Official Feed and Food Controls (England) Regulations 2009

8.—(1) The Official Feed and Food Controls (England) Regulations 2009⁽¹⁴⁾ are amended in accordance with paragraph (2).

(2) In Schedule 2, after paragraph (f), insert the following paragraph—

“(g) the Animal Feed (Basic Safety Standards) (England) Regulations 2019.”.

Review

9.—(1) The Food Standards Agency must from time to time —

- (a) carry out a review of the operation and effect of regulations 3 to 6 inclusive;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Food Standards Agency must, so far as is reasonable, have regard to how the EU instruments implemented or enforced and executed by these Regulations are implemented or enforced in other Member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if they do, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years beginning with the day on which these Regulations come into force.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

⁽¹²⁾ 1970 c. 40. Section 74A(3) was inserted by section 4 of, and paragraph 6 of Schedule 4 to, the European Communities Act 1972.

⁽¹³⁾ S.I. 2015/454

⁽¹⁴⁾ S.I. 2009/3255, amended by S.I. 2010/2280, S.I. 2010/2503, S.I. 2011/136, S.I. 2013/264, S.I. 2013/2996, S.I. 2014/2748 and S.I. 2015/454.

Signed by authority of the Secretary of State for Health and Social Care.

25th March 2019

Steve Brine
Parliamentary Under-Secretary of State,
Department of Health and Social Care

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the transposition in England of the requirements of Council Directive 2013/59/Euratom of 5th December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom (OJ L 13, 17.1.2014, p. 1).

In particular, the Regulations provide that a person commits an offence if they intentionally add any radioactive substance to animal feed during production of the feed.

The Regulations also provide that a person commits an offence if they import to, or export from, the United Kingdom and animal feed to which, during production, a radioactive substance has been intentionally added.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Animal Feed, Foodborne Disease Control, Allergy and Intolerance Branch of the Food Standards Agency, Clive House, 70 Petty France, London SW1H 9EX and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.