
WELSH STATUTORY INSTRUMENTS

2003 No. 1677

The Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (Wales) Regulations 2003

Title, commencement and application

1.—(1) These Regulations may be cited as the Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (Wales) Regulations 2003 and shall come into force on 14th July 2003.

(2) These Regulations shall apply to Wales only.

Amendment of the Feeding Stuffs (Sampling and Analysis) Regulations 1999

2. The Feeding Stuffs (Sampling and Analysis) Regulations 1999(1) shall be amended in relation to Wales in accordance with regulations 3 to 7.

3. In regulation 1 (title, commencement and interpretation) for paragraph (2) there shall be substituted the following paragraph —

“(2) In these Regulations —

“the Act” means the Agriculture Act 1970;

“the sampling Directive” means First Commission Directive [76/371/EEC](#) establishing the methods of sampling for the official control of feeding stuffs(2); and

“Directive [2002/70/EC](#)” means Commission Directive [2002/70/EC](#) establishing requirements for the determination of levels of dioxins and dioxin-like PCBs in feeding stuffs(3).”.

4. For regulation 3 (manner of taking, preparing, marking, sealing and fastening of samples) there shall be substituted the following regulation —

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

3. The manner in which samples of —

(a) feeding stuffs; and

(b) feed materials to be sampled pursuant to Directive [2002/70/EC](#),

are to be taken, prepared, marked, sealed and fastened shall be as prescribed in Schedule 1.”.

5. In regulation 6 (application of methods of analysis) —

(a) for paragraph (1) there shall be substituted the following paragraph —

(1) [S.I. 1999/1663](#), amended by [S.I. 1999/1871](#), [S.I. 2001/343 \(W 15\)](#), [S.I. 2001/2253 \(W 163\)](#) and [S.I. 2002/1797 \(W 172\)](#).

(2) OJ No. L162, 15.4.76, p.1.

(3) OJ No. L209, 6.8.2002, p.15.

“(1) Subject to paragraphs (1A) and (2) below, to determine whether a substance of a kind listed in column 1 of Annex I to Part II of Schedule 2, or to which the method of analysis specified in Annex II or as the case may be Annex III to that Part relates, is present or active in a sample of —

- (a) a feeding stuff to be analysed pursuant to the Act;
- (b) (in the case of the substances vitamin A and vitamin E) a premixture to be analysed pursuant to Commission Directive [2000/45/EC](#) establishing Community methods of analysis for the determination of vitamin A, vitamin E and tryptophan in feeding stuffs⁽⁴⁾; or
- (c) (in the case of dioxins and dioxin-like PCBs) a feed material to be analysed pursuant to Directive [2002/70/EC](#),

and if it is what quantity or proportion of such substance is present or active in such a sample —

- (d) the provisions specified in Part I of Schedule 2 under the heading “GENERAL PROVISIONS” shall apply;
- (e) 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 Community provision listed in the corresponding entry in column 2 of that Annex shall be used; and
- (f) in relation to a substance to which the method of analysis specified in Annex II or as the case may be Annex III to Part II of that Schedule relates, that method shall be used.”;

and

- (b) immediately after paragraph (1) there shall be inserted the following paragraph —

“(1A) Where more than one method of analysis is provided for in any of the Community provisions listed in column 2 of Annex I to Part II of Schedule 2 in relation to the same substance, the notes to that Annex shall have effect to specify which is the relevant method.”.

- 6. Immediately after regulation 6 there shall be inserted the following regulation —

“Modification of the Agriculture Act 1970 and of these Regulations as regards analysis of samples of feeding stuffs and feed materials to determine levels of dioxins and dioxin-like PCBs

6A. For the purpose of determining whether dioxins or dioxin-like PCBs are present or active in a sample of a feeding stuff to be analysed pursuant to the Act or of a feed material to be analysed pursuant to Directive [2002/70/EC](#) and if they are what quantity or proportion of dioxins or dioxin-like PCBs are present or active in such a sample —

- (a) Part IV of the Act shall have effect as if —
 - (i) in section 66(1), immediately after the definition of “pet animal” there were inserted the following definition —

“point 4 compliant laboratory” means a laboratory which complies with point 4 of Annex II to Commission Directive [2002/70/EC](#) establishing requirements for the determination of levels of dioxins and dioxin-like PCBs in feeding stuffs;”

- (ii) in section 77(1)(a), for the words “the agricultural analyst for the inspector’s area” there were substituted the words “a point 4 compliant laboratory”,
- (iii) in each of sections 77(3) and 78(5), for the words “the agricultural analyst” there were substituted the words “a point 4 compliant laboratory”,
- (iv) in section 77(4), for the words “The agricultural analyst shall analyse the part of a sample which is sent to him” there were substituted the words “A point 4 complaint laboratory shall analyse the part of a sample which is sent to it”,
- (v) section 77(5) were omitted,
- (vi) in section 78(3), for the words “agricultural analyst's”, in both places where they appear, there were substituted the words “point 4 compliant laboratory's”,
- (vii) for section 79(4) and (5) there were substituted the following subsections -
 - “(4) Any analysis required to be made by a point 4 compliant laboratory or the Government Chemist may be made by any person acting under the directions of an analyst at that laboratory or, as the case may be, of the Government Chemist.
 - (5) A certificate of analysis by an analyst at a point 4 compliant laboratory shall be signed by that analyst and a certificate of analysis by the Government Chemist shall be signed by him or a person authorised by him to sign the certificate.”, and
- (viii) in section 79(6), for the words “an agricultural analyst” there were substituted the words “an analyst at a point 4 compliant laboratory”;
- (b) Part I of Schedule 3 shall have effect as if in the certificate set out there for the words “agricultural analyst for” there were substituted the words “analyst at the”; and
- (c) Part II of Schedule 3 shall have effect as if in note (2) for the words “local authority” there were substituted the word “laboratory”.

7. In Schedule 2 (methods of analysis), in Annex I to Part II, immediately after the entries for “Carbonates” there shall be inserted in columns 1 to 3 respectively the following entries —

“Dioxins and dioxin-like PCBs	Point 2 of Annex I to Directive 2002/70/EC and points 1 and 2, the second paragraph of point 3, the first three indents of point 4 and points 5 to 8 of Annex II to that Directive.	OJNo. L209, 6.8.2002, p.15”.
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Amendment of the Feeding Stuffs (Enforcement) Regulations 1999

8. The Feeding Stuffs (Enforcement) Regulations 1999(5) shall be amended in relation to Wales in accordance with regulations 9 to 13 —

9. For paragraph (1) of regulation 7 (modification of the Agriculture Act 1970 for certain purposes) there shall be substituted the following paragraph —

(5) S.I. 1999/2325. Modified by S.I. 2000/656 and amended by S.I. 2001/2253 (W 163), S.I. 2001/3461 (W 280), S.I. 2002/1797 (W 172) and 2003/ .

“(1) For the purpose specified in paragraph (2), the Act shall have effect subject to the modifications set out in regulations 8, 10, and 12.”.

10. For regulation 8 (modification of references in Part IV of the Agriculture Act 1970 to samples taken in the prescribed manner) there shall be substituted the following regulation —

“Modification of references in Part IV of the Agriculture Act 1970 to samples taken in the prescribed manner

8. References in Part IV of the Act to samples taken in the prescribed manner shall be taken to refer —

- (a) in the case of feeding stuffs, to samples taken in the manner prescribed in Part II of Schedule 1 to the Feeding Stuffs (Sampling and Analysis) Regulations 1999 as amended by the Feedingstuffs (Zootechnical Products) Regulations 1999⁽⁶⁾, the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs (Amendment) (Wales) Regulations 2002 and the Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (Wales) Regulations 2003 and as modified by the Feeding Stuffs (Wales) Regulations 2001; and
- (b) in the case of products other than feeding stuffs, to samples taken in the manner prescribed in section 76(8) of the Act.”.

11. In regulation 10 (modification of section 76 of the Agriculture Act 1970) —

- (a) the words “(as specified in regulation 7)” shall be omitted;
- (b) for the modified version of subsection (8) of section 76 of the Agriculture Act 1970 which is set out in that regulation there shall be substituted the following subsection —

“(8) Subject to subsections (9), (10) and (12) of this section, an inspector entering premises by virtue of this section, or of a warrant issued under it, shall have the right to take on those premises a sample of any material appearing to him to be a controlled product other than relevant material as described in subsection (7) of this section, in the like manner as that prescribed in Part II of Schedule 1 to the Feeding Stuffs (Sampling and Analysis) Regulations 1999 as amended by the Feedingstuffs (Zootechnical Products) Regulations 1999, the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs (Amendment) (Wales) Regulations 2002 and the Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (Wales) Regulations 2003.”;

- (c) in each of the modified versions of subsections (9) and (10) of section 76 of that Act as so set out after the words “the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001” there shall be inserted the words “; the Feeding Stuffs (Amendment) (Wales) Regulations 2002 and the Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (Wales) Regulations 2003 and as modified by the Feeding Stuffs (Wales) Regulations 2001”;
- (d) immediately after the modified version of section (8) of section 76 of that Act as so set out there shall be inserted the following subsection —

“(8A) For the purposes of this Part of this Act a sample taken in accordance with subsection (8) of this section shall be deemed to be taken in the prescribed manner.”; and

(6) S.I. 1999/1871 (to which there are amendments not relevant to these Regulations).

- (e) in the modified version of subsection (9) of section 76 of that Act as so set out for the expression “subsection (8)” there shall be inserted the expression “subsections (8) and (10)”.

12. For regulations 11 and 11A (modification of sections 77(4) and 78(6) of the Agriculture Act 1970) there shall be substituted the following regulations —

“Analysis for the purposes of sections 77(4) and 78(6) of the Agriculture Act 1970

11. For the purpose of the enforcement and administration of the Feeding Stuffs (Wales) Regulations 2001 as amended by the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs (Amendment) (Wales) Regulations 2002 and the Feeding Stuffs (Amendment) (Wales) Regulations 2003 analysis in relation to a sample of a product which falls to be inspected pursuant to Directive 95/53 but is not —

- (a) a feeding stuff;
- (b) a premixture to which Part A or Part B of Commission Directive [2002/45/EC](#) establishing Community methods of analysis for the determination of vitamin A, vitamin E and tryptophan in feeding stuffs applies; or
- (c) a feed material to which Annex II to Commission Directive [2002/70/EC](#) establishing requirements for the determination of levels of dioxins and dioxin-like PCBs in feeding stuffs applies,

shall be treated as carried out in the prescribed manner for the purposes of sections 77(4) and 78(6) of the Act if —

- (d) where there is an applicable standard of the kind referred to in the first indent of Article 18.3 of Directive 95/53, analysis is carried out in accordance with that standard; and
- (e) where there is no such standard, analysis is 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.”.

11A. For the purpose of the enforcement and administration of the Feeding Stuffs (Wales) Regulations 2001 as amended by the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs (Amendment) (Wales) Regulations 2002 and the Feeding Stuffs (Amendment) (Wales) Regulations 2003 analysis in relation to a sample of a premixture to which Part A or Part B of Commission Directive [2000/45/EC](#) establishing Community methods of analysis for the determination of vitamin A, vitamin E and tryptophan in feeding stuffs applies shall be treated as carried out in the prescribed manner for the purposes of sections 77(4) and 78(6) of the Act if it is carried out in accordance with whichever of those Parts is applicable in the case concerned.

11B. For the purpose of the enforcement and administration of the Feeding Stuffs (Wales) Regulations 2001 as amended by the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs (Amendment) (Wales) Regulations 2002 and the Feeding Stuffs (Amendment) (Wales) Regulations 2003 analysis in relation to a sample of a feed material to which Annex II to Directive [2002/70/EC](#) establishing requirements for the determination of levels of dioxins and dioxin-like PCBs in feeding stuffs applies shall be treated as carried out in the prescribed manner for the

purposes of sections 77(4) and 78(6) of the Act if it is carried out in accordance with the requirements specified in that Annex.”.

13. In regulation 12 (modification of section 83 of the Agriculture Act 1970) the words “(as specified in regulation 7)” shall be omitted.

Amendment of the Feeding Stuffs (Establishments and Intermediaries) Regulations 1999

14. The Feeding Stuffs (Establishments and Intermediaries) Regulations 1999(7) shall be amended in relation to Wales in accordance with regulations 15 to 17.

15. For paragraphs (8) and (9) of regulation 98 (powers of authorised persons) there shall be substituted the following paragraphs —

“(8) Subject to paragraph (9), an authorised person entering premises by virtue of this regulation, or of a warrant issued under it, shall have the right to take on those premises, and prepare, a sample of —

- (a) any material appearing to him to be a controlled product manufactured, produced, wrapped, packaged, stored or put into circulation, or intended to be put into circulation; or
- (b) any material appearing to him to be a controlled product used, or intended to be used, for the purpose of animal feeding,

in the like manner as that prescribed in Part II of Schedule 1 to the Feeding Stuffs (Sampling and Analysis) Regulations 1999 as amended by the Feedingstuffs (Zootechnical Products) Regulations 1999, the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs (Amendment) (Wales) Regulations 2002 and the Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (Wales) Regulations 2003 and as modified by the Feeding Stuffs (Wales) Regulations 2001; and paragraph 10 of Part II of Schedule 1 to those Regulations as so amended and modified shall have effect for the purposes of the certificate referred to in regulations 102 and 104(2).

(9) For the purposes of this Part of these Regulations, the provisions of regulation 3 and Schedule 1 to the Feeding Stuffs (Sampling and Analysis) Regulations 1999 as so amended and modified shall have effect as if —

- (a) for all references to “feeding stuff” and to “feeding stuffs” there were substituted references to “controlled product” and “controlled products” respectively; and
- (b) in paragraph 1 of Part II of Schedule 1 the expression “, except where section 68(2) (b) of the Act applies” were omitted.”.

16. For paragraphs (a) and (b) of regulation 99 (division of samples) there shall be substituted the following paragraphs —

- “(a) cause each part to be marked, sealed and fastened in the like manner as that prescribed in Part III of Schedule 1 to the Feeding Stuffs (Sampling and Analysis) Regulations 1999 as amended by the Feedingstuffs (Zootechnical Products) Regulations 1999, the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs (Amendment) (Wales) Regulations 2002 and the Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (Wales) Regulations 2003 and as modified by the Feeding Stuffs (Wales) Regulations 2001; and

- (b) send one part for analysis to the agricultural analyst for the area of the competent body which authorised the authorised person to carry out the official check in the course of which the sample was taken.”.

17. For paragraph (1) of regulation 106 (methods of analysis) there shall be substituted the following paragraph —

“(1) Subject to paragraph (2) below, for the purpose of determining, by means of analysis of a part of a sample taken in the course of the carrying out of official checks, whether a substance —

- (a) of a class or description listed in column 1 of Annex I to Part II of Schedule 2 to the Feeding Stuffs (Sampling and Analysis) Regulations 1999 as amended by the Feedingstuffs (Zootechnical Products) Regulations 1999, the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs (Amendment) (Wales) Regulations 2002 and the Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (Wales) Regulations 2003 and as modified by the Feeding Stuffs (Wales) Regulations 2001; or
- (b) to which the method of analysis specified in Annex II or as the case may be III to Part II of Schedule 2 to the Feeding Stuffs (Sampling and Analysis) Regulations 1999 as so amended and modified relates,

is present or active in it, or what quantity or proportion of such a substance is present or active in it, the provisions specified in Part I of Schedule 2 to those Regulations as so amended and modified, under the heading “GENERAL PROVISIONS” shall have effect, in the like manner as they have effect under those Regulations as so amended and modified in relation to feeding stuffs, and —

- (c) 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 Schedule 2 to those Regulations as so amended and modified, the relevant method of analysis set out in the Community provision specified in the corresponding entry in column 2 of that Annex shall be used; and
- (d) in relation to a substance to which the method of analysis specified in Annex II or as the case may be III to Part II of Schedule 2 to those Regulations as so amended and modified relates, the method of analysis applicable to that substance shall be used,

and where more than one Community provision is specified in column 2 of Annex I to Part II of Schedule 2 to those Regulations as so amended and modified in relation to the same substance, the notes to that Annex shall have effect to specify which is the relevant method.”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(8).

2nd July 2003

D. Elis-Thomas
The Presiding Officer of the National Assembly