
WELSH STATUTORY INSTRUMENTS

2005 No. 3368

The Feed (Hygiene and Enforcement) (Wales) Regulations 2005

PART 4

Administration and Enforcement Generally

Inspection, seizure and detention of suspect feed

25.—(1) Where an authorised officer has inspected or sampled any material under regulation 24, paragraphs (2) to (7) will apply where, on such an inspection, or upon analysis of samples taken, it appears to the officer that the material fails to comply with the requirements of specified feed law.

(2) The authorised officer may either—

(a) give notice to the person in charge of the material that, until the notice is withdrawn, the material or any specified portion of it—

(i) is not to be used as feed; and

(ii) either is not to be removed or is not to be removed except to some place specified in the notice; or

(b) seize the material in order to have it dealt with by a justice of the peace,

and any person who knowingly contravenes the requirements of a notice under sub-paragraph (a) above is guilty of an offence.

(3) Where the authorised officer exercises the powers conferred by paragraph 2(a), the officer must, as soon as is reasonably practicable and in any event within 21 days, determine whether or not he or she is satisfied that the material complies with the requirements mentioned in paragraph (1) and—

(a) if he or she is so satisfied, forthwith withdraw the notice;

(b) if he or she is not so satisfied, proceed to have the matter dealt with by a justice of the peace under paragraph (5).

(4) Where the authorised officer exercises the powers conferred by paragraph 2(b) or takes action under paragraph 3(b), the officer must inform the person in charge of the material of the officer's intention to have it dealt with by a justice of the peace and—

(a) any person who might be liable under the provisions of specified feed law to a prosecution in respect of the material will, if that person attends before the justice of the peace by whom the material falls to be dealt with, be entitled to be heard and to call witnesses; and

(b) that justice of the peace may, but need not, be a member of the court before which any person is charged with an offence under those provisions in relation to that material.

(5) If it appears to a justice of the peace, on the basis of such evidence as he or she considers appropriate in the circumstances, that any material falling to be dealt with by him or her under this regulation fails to comply with the requirements of specified feed law then he or she must condemn the material and order—

- (a) the material to be destroyed or to be so disposed of as to prevent it from being used as food for human consumption, or for feed; and
- (b) any expenses reasonably incurred in connection with the destruction or disposal to be defrayed by the feed business operator.

(6) If a notice under paragraph 2(a) is withdrawn, or the justice of the peace by whom any material falls to be dealt with under this regulation refuses to condemn it, the enforcement authority must compensate the owner of the material for any depreciation in its value resulting from the action taken by the authorised officer.

(7) Any disputed question as to the right or the amount of any compensation payable under paragraph (6) is determinable by arbitration.

(8) Anyone found guilty of an offence under paragraph (2) is liable—

- (a) on summary conviction to a term of imprisonment not exceeding three months or a fine not exceeding the statutory maximum or both; or
- (b) on conviction on indictment to a term of imprisonment not exceeding two years or a fine or both.