

---

WELSH STATUTORY INSTRUMENTS

---

**2009 No. 3376**

**The Official Feed and Food Controls (Wales) Regulations 2009**

**PART 1** **E+W**

PRELIMINARY

**Title, commencement and application** **E+W**

1. The title of these Regulations is The Official Feed and Food Controls (Wales) Regulations 2009, they come into force on 25 January 2010 and apply in relation to Wales.

**Interpretation** **E+W**

2.—(1) In these Regulations—

<sup>M1</sup>“the Act” (“*y Ddeddf*”) means the Food Safety Act 1990 ;

“the Agency” (“*yr Asiantaeth*”) means the Food Standards Agency;

“authorised officer” (“*swyddog awdurdodedig*”)—

(a) in relation to a competent authority, means any person (whether or not an officer of the authority) who is authorised by the authority in writing for the purposes of regulation 14; and

(b) in relation to a relevant enforcement authority, means any person (whether or not an officer of the authority) who is authorised by the authority in writing, either generally or specially, to act in matters arising under Part 2 of these Regulations in relation to its enforcement responsibilities under regulation 17;

“competent authority” (“*awdurdod cymwys*”) means, other than in regulations 23 and 24, an authority which, by virtue of regulation 3, is designated for the purposes of any of the provisions of [<sup>F1</sup>Regulation 2017/625];

<sup>F2</sup>  
...

<sup>M2</sup>“feed authority” (“*awdurdod bwyd anifeiliaid*”) means the authority required by section 67(1A) of the Agriculture Act 1970 to enforce that Act within its area or district as the case may be;

“food authority” (“*awdurdod bwyd*”) has the meaning it bears by virtue of section 5(1A) of the Act;

[<sup>F3</sup>“the Import Provisions” (“*y Darpariaethau Mewnforio*”) means Part 3 of these Regulations, Chapter 5 of Title 2 of Regulation 2017/625 and the Regulation 2017/625 package insofar as it and they apply to product as defined in regulation 22;]

“the Official Control Regulations” (“*y Rheoliadau Rheolaethau Swyddogol*”) means these Regulations and [<sup>F4</sup>the Regulation 2017/625 package] ;

“premises” (“*mangre*”) includes any establishment, any place, vehicle, stall or moveable structure and any ship or aircraft;

“primary production” (“*cynhyrchu sylfaenol*”) has the meaning it bears in Regulation 852/2004;

[<sup>F5</sup>“the Regulation 2017/625 package” (“*pecyn Rheoliad 2017/625*”) means Regulation 2017/625 and the other Regulations listed in Schedule 1 below the heading “The Regulation 2017/265 package”];

“relevant enforcement authority” (“*awdurdod gorfodi perthnasol*”) means a body which, by virtue of regulation 17, is made responsible for executing and enforcing any provision of Part 2 of these Regulations;

“relevant feed law” (“*cyfraith bwyd anifeiliaid berthnasol*”) has the meaning given to it in Schedule 2; <sup>F6</sup> ...

“relevant food law” (“*cyfraith bwyd berthnasol*”) has the meaning given to it in Schedule 3.

[<sup>F7</sup>“third country” (“*trydedd wlad*”) means any country or territory other than the British Islands.]

[<sup>F8</sup>(1A) Any reference in these Regulations to Regulation 2017/625 or any other Directive or Regulation referred to in Schedule 1 have the meanings respectively given to them in that Schedule.]

(2) Subject to paragraph (3), any expression other than one defined in paragraph (1) that is used both in these Regulations and in the Act has the meaning it bears in the Act.

[<sup>F9</sup>(3) Unless the contrary intention appears, any expression used both in these Regulations and in Regulation 178/2002 or in the Regulation 2017/625 package has the meaning it bears in Regulation 178/2002 or in the Regulation 2017/625 package as the case may be.]

(4) Where any functions under the Act are assigned—

- (a) by an order under section 2 <sup>F10</sup>... of the Public Health (Control of Disease) Act 1984 <sup>M3</sup>, to a port health authority; or
- (b) by an order under section 6 of the Public Health Act 1936 <sup>M4</sup>, to a joint board for a united district,

any reference in these Regulations to a food authority is construed, so far as relating to those functions, as a reference to the authority to whom they are so assigned.

(5) In these Regulations, any reference to an EU instrument defined in Schedule 1 is a reference to that instrument as amended from time to time.

#### Textual Amendments

- F1** Words in reg. 2(1) substituted (14.12.2019) by The Official Feed and Food Controls (Wales) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/1482), regs. 1(1), **9(a)(i)**
- F2** Words in reg. 2(1) omitted (31.12.2020) by virtue of The Official Feed and Food Controls (Miscellaneous Amendments) (Wales) Regulations 2020 (S.I. 2020/1487), regs. 1(2), **3(2)(a)(i)**
- F3** Words in reg. 2(1) substituted (14.12.2019) by The Official Feed and Food Controls (Wales) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/1482), regs. 1(1), **9(a)(iii)**
- F4** Words in reg. 2(1) substituted (31.12.2020) by The Official Feed and Food Controls (Miscellaneous Amendments) (Wales) Regulations 2020 (S.I. 2020/1487), regs. 1(2), **3(2)(a)(ii)**
- F5** Words in reg. 2(1) substituted (31.12.2020) by The Official Feed and Food Controls (Miscellaneous Amendments) (Wales) Regulations 2020 (S.I. 2020/1487), regs. 1(2), **3(2)(a)(iii)**
- F6** Word in reg. 2(1) omitted (31.12.2020) by virtue of The Food and Feed Hygiene and Safety (Miscellaneous Amendments and Saving Provision) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1581), regs. 1(3), **10(2)(a)**

- F7** Words in reg. 2(1) inserted (31.12.2020) by The Food and Feed Hygiene and Safety (Miscellaneous Amendments and Saving Provision) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1581), regs. 1(3), **10(2)(b)**
- F8** Reg. 2(1A) inserted (31.12.2020) by The Official Feed and Food Controls (Miscellaneous Amendments) (Wales) Regulations 2020 (S.I. 2020/1487), regs. 1(2), **3(2)(b)**
- F9** Reg. 2(3) substituted (31.12.2020) by The Official Feed and Food Controls (Miscellaneous Amendments) (Wales) Regulations 2020 (S.I. 2020/1487), regs. 1(2), **3(2)(c)**
- F10** Words in reg. 2(4)(a) omitted (23.11.2010) by virtue of The Animal Feed (Wales) Regulations 2010 (S.I. 2010/2652), regs. 1, **16(2)**

#### Marginal Citations

- M1** 1990 c. 16.
- M2** 1970 c. 40.
- M3** 1984 c. 22.
- M4** 1936 c. 49; section 6 is to be read with paragraph 1 of Schedule 3 to the Food Safety Act 1990.

## PART 2 **E+W**

### MAIN PROVISIONS

#### Competent authorities **E+W**

3.—(1) Subject to paragraphs (2) and (5), any body specified in Column 1 of Schedule 4 is designated as a competent authority for the purposes of the provisions of [<sup>F11</sup>Regulation 2017/625] indicated in the corresponding entry in Column 2 of that Schedule in so far as those provisions apply in relation to relevant feed law.

(2) Where the feed authority is designated as a competent authority pursuant to paragraph (1) the designation extends to its area or district only, as the case may be.

(3) Subject to paragraphs (4) to (6), any body specified in Column 1 of Schedule 5 is designated as a competent authority for the purposes of the provisions of [<sup>F12</sup>Regulation 2017/625] indicated in the corresponding entry in Column 2 of that Schedule in so far as those provisions apply in relation to relevant food law.

(4) Where the food authority is designated as a competent authority pursuant to paragraph (3) the designation extends to its area only.

<sup>F13</sup>(5) .....

(6) Where the Agency is designated as a competent authority pursuant to paragraph (3) for the purposes of [<sup>F14</sup>Article 148 of Regulation 2017/625, the designation extends] only to those operations in respect of which the Agency executes and enforces the Food Hygiene (Wales) Regulations 2006 by virtue of regulation 5(2) of those Regulations.

#### Textual Amendments

- F11** Words in reg. 3(1) substituted (14.12.2019) by The Official Feed and Food Controls (Wales) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/1482), regs. 1(1), **10(a)**
- F12** Words in reg. 3(3) substituted (14.12.2019) by The Official Feed and Food Controls (Wales) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/1482), regs. 1(1), **10(b)**
- F13** Reg. 3(5) omitted (14.12.2019) by virtue of The Official Feed and Food Controls (Wales) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/1482), regs. 1(1), **10(c)**

**F14** Words in reg. 3(6) substituted (14.12.2019) by [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **10(d)**

### Exchanging and providing information **E+W**

4.—(1) For the purposes of enabling competent authorities, other OFFC authorities and [<sup>F15</sup>the Welsh Ministers] to fulfil the obligations placed upon them by [<sup>F16</sup>Regulation 2017/625] competent authorities may exchange among themselves or provide to other OFFC authorities any information received by them in the execution and enforcement of relevant feed law or relevant food law.

(2) For the purpose of executing and enforcing relevant feed law or relevant food law, competent authorities may exchange among themselves any information received by them in the execution and enforcement of relevant feed law or relevant food law.

(3) Competent authorities may share information received by them in the execution and enforcement of relevant feed law or relevant food law with the bodies that execute and enforce relevant feed law or relevant food law in England, Northern Ireland and Scotland for the purposes of facilitating the execution and enforcement of relevant feed law or relevant food law in those countries.

(4) Paragraphs (1), (2) and (3) are without prejudice to any other power of competent authorities to disclose information by or under [<sup>F17</sup>any other applicable legislation].

(5) For the purposes of this regulation, “other OFFC authorities” means authorities designated in the United Kingdom as competent authorities for the purposes of [<sup>F18</sup>Regulation 2017/625] other than the competent authorities designated under these Regulations.

#### Textual Amendments

**F15** Words in reg. 4(1) substituted (31.12.2020) by [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments and Saving Provision\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1581\)](#), regs. 1(3), **10(3)(a)**

**F16** Words in reg. 4(1) substituted (14.12.2019) by [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **11(a)**

**F17** Words in reg. 4(4) substituted (31.12.2020) by [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments and Saving Provision\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1581\)](#), regs. 1(3), **10(3)(b)**

**F18** Words in reg. 4(5) substituted (14.12.2019) by [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **11(b)**

### Obtaining information **E+W**

5.—(1) For the purpose of enabling competent authorities and [<sup>F19</sup>the Welsh Ministers] to fulfil the obligations placed on them by [<sup>F20</sup>Regulation 2017/625] and for the purpose of executing and enforcing relevant feed law or relevant food law, a competent authority may require a [<sup>F21</sup>delegated body]—

- (a) to provide the competent authority with any information which it has reasonable cause to believe the [<sup>F21</sup>delegated body] is able to give; and
- (b) to make available to the competent authority for inspection by it any records which it has reasonable cause to believe are held by the [<sup>F21</sup>delegated body] or are otherwise within its control (and, if they are kept in computerised form, to make them available in a legible form).

(2) The competent authority may copy any records made available to it under paragraph (1)(b).

(3) A person who—

- (a) fails without reasonable excuse to comply with any requirement imposed under paragraph (1); or
- (b) in purported compliance with such a requirement furnishes information which he or she knows to be false or misleading in any material particular or recklessly furnishes information which is false or misleading in any material particular,

is guilty of an offence.

(4) For the purposes of paragraph (1), the term “[<sup>F22</sup>delegated body]” includes any member, officer or employee of a [<sup>F22</sup>delegated body].

#### Textual Amendments

- F19** Words in reg. 5(1) substituted (31.12.2020) by [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments and Saving Provision\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1581\)](#), regs. 1(3), **10(4)**
- F20** Words in reg. 5(1) substituted (14.12.2019) by [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **12(a)(ii)**
- F21** Words in reg. 5(1) substituted (14.12.2019) by [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **12(a)(i)**
- F22** Words in reg. 5(4) substituted (14.12.2019) by [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **12(b)**

#### Power to issue codes of recommended practice **E+W**

6.—(1) For the guidance of feed authorities and food authorities the Welsh Ministers may issue codes of recommended practice as regards—

- (a) functions conferred upon those authorities in their capacity as competent authorities by or under [<sup>F23</sup>Regulation 2017/625]; or
- (b) the execution and enforcement of the Import Provisions;

and any such code must be laid before the National Assembly for Wales after being issued.

(2) The Agency may, after consulting the Welsh Ministers, give a feed authority or food authority a direction requiring them to take any specified steps in order to comply with a code issued under this regulation.

(3) In exercise of the functions conferred on them as competent authorities by or under [<sup>F24</sup>Regulation 2017/625] and in their execution and enforcement of the Import Provisions, every feed authority and food authority—

- (a) must have regard to any relevant provision of any such code; and
- (b) must comply with any direction which is given under this regulation and requires them to take any specified steps in order to comply with such a code.

(4) Any direction under paragraph (2) is, on the application of the Agency, enforceable by mandatory order.

(5) The Agency must consult the Welsh Ministers before making an application under paragraph (4).

(6) Before issuing any code under this regulation, the Welsh Ministers will have regard to any relevant advice given by the Agency.

### Textual Amendments

- F23** Words in reg. 6(1)(a) substituted (14.12.2019) by [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **13(a)**
- F24** Words in reg. 6(3) substituted (14.12.2019) by [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **13(b)**

### Monitoring of enforcement action **E+W**

7.—(1) The Agency has the function of monitoring the performance of enforcement authorities in enforcing relevant audit legislation.

(2) That function includes, in particular, setting standards of performance (whether for enforcement authorities generally or for particular authorities) in relation to the enforcement of any relevant audit legislation.

(3) Each annual report of the Agency must contain a report on its activities during the year in enforcing any relevant audit legislation for which it is the enforcement authority and its performance in respect of—

- (a) any standards under paragraph (2) that apply to those activities; and
- (b) any objectives relating to those activities that are specified in the statement of objectives and practices under section 22 of the Food Standards Act 1999 <sup>M5</sup>.

(4) The Agency may make a report to any other enforcement authority on their performance in enforcing any relevant audit legislation and such a report may include guidance as to action which the Agency considers would improve that performance.

(5) The Agency may direct an authority to which such a report has been made—

- (a) to arrange for the publication in such manner as may be specified in the direction of, or of specified information relating to, the report; and
- (b) within such period as may be so specified to notify the Agency of what action they have taken or propose to take in response to the report.

(6) Section 19 of the Food Standards Act 1999 applies in relation to information obtained through monitoring under this regulation as if it were information obtained through monitoring under section 12 of that Act.

### Marginal Citations

- M5** 1999 c. 28.

### Power to request information relating to enforcement action **E+W**

8.—(1) For the purpose of carrying out its function under regulation 7 in relation to any enforcement authority the Agency may require a person mentioned in paragraph (2)—

- (a) to provide the Agency with any information which it has reasonable cause to believe that person is able to give; or
- (b) to make available to the Agency for inspection any records which it has reasonable cause to believe are held by that person or otherwise within that person's control (and, if they are kept in computerised form, to make them available in a legible form).

(2) A requirement under paragraph (1) may be imposed on—

- (a) the enforcement authority or any member, officer or employee of the authority; or

- (b) a person subject to any duty under relevant audit legislation (being a duty enforceable by an enforcement authority) or any officer or employee of such a person.
- (3) The Agency may copy any records made available to it in pursuance of a requirement under paragraph (1)(b).

**Modifications etc. (not altering text)**

- C1 Reg. 8 applied (31.1.2020) by [The Official Controls \(Animals, Feed and Food, Plant Health Fees etc.\) \(Wales\) Regulations 2020 \(S.I. 2020/44\)](#), regs. 1(2), 7(1)(2)(a)

**Power of entry for persons monitoring enforcement action** **E+W**

9.—(1) The Agency may authorise any individual (whether a member of its staff or otherwise) to exercise the powers specified in paragraph (4) for the purpose of carrying out its function under regulation 7 in relation to any enforcement authority.

(2) No authorisation under this regulation may be issued except in pursuance of a decision taken by the Agency itself or by a committee, sub-committee or member of the Agency acting on behalf of the Agency.

(3) An authorisation under this regulation must be in writing and may be given subject to any limitations or conditions specified in the authorisation (including conditions relating to hygienic precautions to be taken while exercising powers in pursuance of the authorisation).

(4) An authorised person may—

- (a) enter any premises mentioned in paragraph (5) at any reasonable hour in order to inspect the premises or anything which may be found on them;
- (b) take samples of any articles or substances found on such premises;
- (c) inspect and copy any records found on such premises (and, if they are kept in computerised form, require them to be made available in a legible form);
- (d) require any person present on such premises to provide him or her with such facilities, such records or information and such other assistance as he or she may reasonably request.

(5) The premises which may be entered by an authorised person are—

- (a) any premises occupied by the enforcement authority;
- (b) any laboratory or similar premises at which work related to the enforcement of any relevant legislation has been carried out for the enforcement authority; and
- (c) any other premises (not being a private dwelling-house) which the authorised person has reasonable cause to believe are premises in respect of which the enforcement powers of the enforcement authority are (or have been) exercisable.

(6) The power to enter premises conferred on an authorised person includes power to take with him or her any other person that he or she may consider appropriate.

(7) An authorised person must on request—

- (a) produce his or her authorisation before exercising any powers under paragraph (4); and
- (b) provide a document identifying any sample taken, or documents copied, under those powers.

(8) If a person who enters any premises by virtue of this regulation discloses to any person any information obtained on the premises with regard to any trade secret that person is, unless the disclosure is made in the performance of his or her duty, guilty of an offence.

(9) Where the Agency is the enforcement authority in relation to relevant audit legislation this regulation applies in relation to the Agency in respect of its performance in enforcing those provisions, with the omission of paragraph (5)(a).

(10) In this regulation “authorised person” means a person authorised under this regulation.

**Modifications etc. (not altering text)**

**C2** Reg. 9(1)-(8)(10) applied (31.1.2020) by [The Official Controls \(Animals, Feed and Food, Plant Health Fees etc.\) \(Wales\) Regulations 2020 \(S.I. 2020/44\)](#), regs. 1(2), **7(1)(2)(a)**

**Meaning of “enforcement authority” and related expressions** **E+W**

**10.**—(1) In regulations 7 to 9 “relevant audit legislation” means relevant feed law and relevant food law in respect of which the Agency is designated as a competent authority pursuant to paragraphs (1) and (3) respectively of regulation 3 but does not include “relevant legislation” as defined in section 15 of the Food Standards Act 1999.

(2) In regulations 7 to 9 “enforcement authority” means the authority by whom relevant audit legislation is to be enforced and includes the Agency itself if by virtue of that legislation it is the enforcement authority in relation to it but does not include the European Commission; and “enforcement” in relation to relevant audit legislation includes the execution of any provisions of that legislation.

(3) Any reference in regulations 7 to 9 (however expressed) to the performance of an enforcement authority in enforcing any relevant audit legislation includes a reference to the capacity of that authority to enforce it.

**Offences relating to regulations 8 and 9** **E+W**

**11.** A person who—

- (a) intentionally obstructs a person exercising powers under paragraph (4)(a), (b) or (c) of regulation 9;
- (b) fails without reasonable excuse to comply with any requirement imposed under paragraph (1) of regulation 8 or paragraph (4)(d) of regulation 9; or
- (c) in purported compliance with such a requirement furnishes information which that person knows to be false or misleading in any material particular or recklessly furnishes information which is false or misleading in any material particular,

is guilty of an offence.

**Modifications etc. (not altering text)**

**C3** Reg. 11 applied (31.1.2020) by [The Official Controls \(Animals, Feed and Food, Plant Health Fees etc.\) \(Wales\) Regulations 2020 \(S.I. 2020/44\)](#), regs. 1(2), **7(1)(2)(b)**

**Right of appeal** **E+W**

**12.**—(1) Any person who is aggrieved by a decision of the competent authority taken in respect of an establishment subject to approval under Article 4(2) of Regulation 853/2004 pursuant to—

- (a) [<sup>F25</sup>Article 148(3) of Regulation 2017/625 (approval)];
- (b) [<sup>F26</sup>Article 148(4) of Regulation 2017/625 (conditional approval and full approval)]; or



(c) [<sup>F27</sup>Article 138(2)(j) of Regulation 2017/625 (suspension or withdrawal of approval)], may appeal to a magistrates' court.

(2) The procedure on an appeal to a magistrates' court under paragraph (1) is by way of complaint for an order, and the magistrates' Courts Act 1980 <sup>M6</sup> applies to the proceedings.

(3) The period within which an appeal under paragraph (1) may be brought is one month from the date on which notice of the decision was served on the person desiring to appeal and the making of a complaint for an order will be deemed for the purposes of this paragraph to be the bringing of the appeal.

(4) Where on an appeal under paragraph (1) a magistrates' court determines that the decision of the competent authority is incorrect, the authority must give effect to the determination of the court.

- <sup>F28</sup>(5) .....
- <sup>F28</sup>(6) .....
- <sup>F28</sup>(7) .....

**Textual Amendments**

**F25** Words in reg. 12(1)(a) substituted (14.12.2019) by [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **14(a)**

**F26** Words in reg. 12(1)(b) substituted (14.12.2019) by [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **14(b)**

**F27** Words in reg. 12(1)(c) substituted (14.12.2019) by [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **14(c)**

**F28** Reg. 12(5)-(7) omitted (1.4.2011) by virtue of [The Official Feed and Food Controls \(Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/626\)](#), regs. 1, **2(2)**

---

**Marginal Citations**

**M6** 1980 c. 43.

**Appeal to Crown Court against dismissal of appeal under regulation 12(1) E+W**

**13.** A person who is aggrieved by the dismissal by a magistrates' court of an appeal to it under regulation 12(1) may appeal to the Crown Court.

**Staff of competent authority of another member State E+W**

- <sup>F29</sup>**14.** .....

**Textual Amendments**

**F29** Reg. 14 omitted (31.12.2020) by virtue of [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments and Saving Provision\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1581\)](#), regs. 1(3), **10(5)**

**Commission experts E+W**

- <sup>F30</sup>**15.** .....

**Textual Amendments**

**F30** Reg. 15 omitted (31.12.2020) by virtue of [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments and Saving Provision\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1581\)](#), regs. 1(3), **10(5)**

**Prohibition on disclosure of trade secrets** **E+W**

<sup>F31</sup>**16.** . . . . .

**Textual Amendments**

**F31** Reg. 16 omitted (31.12.2020) by virtue of [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments and Saving Provision\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1581\)](#), regs. 1(3), **10(5)**

**Execution and enforcement** **E+W**

**17.**—(1) The authority responsible for executing and enforcing paragraph (3) of regulation 5 is the competent authority who imposed the requirement on the [<sup>F32</sup>delegated body] concerned under paragraph (1) of that regulation.

(2) The authority responsible for executing and enforcing paragraph (8) of regulation 9 and regulation 11 is the Agency.

<sup>F33</sup>(3) . . . . .

(4) The authority responsible for executing and enforcing paragraph (8) of regulation 18 is the authority who authorised the person who entered the premises and disclosed the information.

(5) The authority responsible for executing and enforcing regulation 19 is—

<sup>F34</sup>(a) . . . . .

<sup>F35</sup>(b) . . . . .

(c) where the offence relates to the execution of regulation 18, the relevant enforcement authority whose authorised officer exercised powers under that regulation.

**Textual Amendments**

**F32** Words in reg. 17(1) substituted (14.12.2019) by [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **17(a)**

**F33** Reg. 17(3) omitted (31.12.2020) by virtue of [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments and Saving Provision\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1581\)](#), regs. 1(3), **10(6)(a)**

**F34** Reg. 17(5)(a) omitted (31.12.2020) by virtue of [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments and Saving Provision\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1581\)](#), regs. 1(3), **10(6)(b)**

**F35** Reg. 17(5)(b) omitted (31.12.2020) by virtue of [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments and Saving Provision\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1581\)](#), regs. 1(3), **10(6)(b)**

**Modifications etc. (not altering text)**

- C4 Reg. 17(2)(4)(5)(c) applied (31.1.2020) by [The Official Controls \(Animals, Feed and Food, Plant Health Fees etc.\) \(Wales\) Regulations 2020 \(S.I. 2020/44\)](#), regs. 1(2), 7(3)

**Powers of entry** **E+W**

**18.**—(1) An authorised officer of a relevant enforcement authority other than the Agency on producing, if so required, some duly authenticated document showing his or her authority, has a right at all reasonable hours—

- (a) to enter any premises within the authority's area or as the case may be district for the purpose of ascertaining whether there is or has been on the premises a contravention of any provision of this Part of these Regulations for which that authority has enforcement responsibility pursuant to regulation 17; and
- (b) to enter any premises, whether within or outside the authority's area or as the case may be district, for the purpose of ascertaining whether there is on the premises any evidence of such a contravention within that area or district,

but admission to any premises used only as a private dwelling-house may not be demanded as of right unless 24 hours' notice of the intended entry has been given to the occupier.

(2) An authorised officer of the Agency on producing if so required some duly authenticated document showing his or her authority, has a right at all reasonable hours to enter any premises for the purpose of—

- (a) ascertaining whether there is or has been on the premises a contravention of any provision of this Part of these Regulations for which the Agency has enforcement responsibility pursuant to regulation 17; and
- (b) ascertaining whether there is on the premises any evidence of such a contravention,

but admission to any premises used only as a private dwelling-house may not be demanded as of right unless 24 hours' notice of the intended entry has been given to the occupier.

(3) If a justice of the peace, on sworn information in writing, is satisfied that there is reasonable ground for entry onto any premises for any such purpose as is mentioned in paragraph (1) or (2) and either—

- (a) that admission to the premises has been refused, or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier; or
- (b) that an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier is temporarily absent,

the justice may by warrant signed by him or her authorise the authorised officer to enter the premises, if need be by reasonable force.

(4) Every warrant granted under this regulation continues in force for a period of one month.

(5) An authorised officer entering any premises by virtue of this regulation, or of a warrant issued under it, may take with him or her such other persons as he or she considers necessary, and on leaving any unoccupied premises which he or she has entered by virtue of such a warrant must leave them as effectively secured against unauthorised entry as that in which they were found.

(6) An authorised officer entering premises by virtue of this regulation, or of a warrant issued under it, may inspect any records (in whatever form they are held) and, where any such records are stored in any electronic form—

- (a) may have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records; and
  - (b) may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford that officer such assistance as he or she may reasonably require.
- (7) Any officer exercising any power conferred by paragraph (6) may—
- (a) seize and detain any records which the officer has reason to believe may be required as evidence in proceedings under any of the provisions of this Part of these Regulations; and
  - (b) where the records are stored in any electronic form, require the records to be produced in a form in which they may be taken away.
- (8) If any person who enters any premises by virtue of this regulation, or of a warrant issued under it, discloses to any person any information obtained by him or her on the premises with regard to any trade secret, he or she is, unless the disclosure was made in the performance of his or her duty, guilty of an offence.
- (9) Nothing in this regulation authorises any person, except with the permission of the local authority under the Animal Health Act 1981 <sup>M7</sup>, to enter any premises—
- (a) on which an animal or bird affected with any disease to which that Act applies is kept; and
  - (b) which is situated in a place declared under that Act to be infected with such a disease.

---

**Modifications etc. (not altering text)**

**C5** Reg. 18(2)-(9) applied (31.1.2020) by [The Official Controls \(Animals, Feed and Food, Plant Health Fees etc.\) \(Wales\) Regulations 2020 \(S.I. 2020/44\)](#), regs. 1(2), 7(3)

---

**Marginal Citations**

**M7** 1981 c. 22.

**Obstruction etc. of officers** E+W

- 19.**—(1) Any person who—
- (a) intentionally obstructs any person acting in the execution of regulation <sup>F36</sup>... 18; or
  - (b) without reasonable cause, fails to give to any person acting in the execution of regulation <sup>F37</sup>... 18 any assistance or information which that person may reasonably require of him or her for the performance of his or her functions under [<sup>F38</sup>that regulation],
- is guilty of an offence.
- (2) Any person who, in purported compliance with any such requirement as is mentioned in paragraph (1)(b)—
- (a) furnishes information which that person knows to be false or misleading in a material particular; or
  - (b) recklessly furnishes information which is false or misleading in a material particular,
- is guilty of an offence.
- (3) Nothing in paragraph (1)(b) is construed as requiring any person to answer any question or give any information if to do so might incriminate him or her.

#### Textual Amendments

- F36** Words in [reg. 19\(1\)\(a\)](#) omitted (31.12.2020) by virtue of [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments and Saving Provision\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1581\)](#), regs. 1(3), **10(7)(a)**
- F37** Words in [reg. 19\(1\)\(b\)](#) omitted (31.12.2020) by virtue of [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments and Saving Provision\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1581\)](#), regs. 1(3), **10(7)(b)(i)**
- F38** Words in [reg. 19\(1\)\(b\)](#) substituted (31.12.2020) by [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments and Saving Provision\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1581\)](#), regs. 1(3), **10(7)(b)(ii)**

#### Modifications etc. (not altering text)

- C6** Regs. 19-21 applied (31.1.2020) by [The Official Controls \(Animals, Feed and Food, Plant Health Fees etc.\) \(Wales\) Regulations 2020 \(S.I. 2020/44\)](#), regs. 1(2), **7(3)**

#### Penalties **E+W**

- 20.**—(1) A person guilty of an offence under paragraph (8) of regulation 18 is liable—
- (a) on summary conviction to a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment to imprisonment for a term not exceeding two years, to a fine or to both.
- (2) A person guilty of an offence under paragraph (3) of regulation 5, paragraph (8) of regulation 9 [<sup>F39</sup>or regulation 11] is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) A person guilty of an offence under regulation 19 is liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding three months or to both.

#### Textual Amendments

- F39** Words in [reg. 20\(2\)](#) substituted (31.12.2020) by [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments and Saving Provision\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1581\)](#), regs. 1(3), **10(8)**

#### Modifications etc. (not altering text)

- C6** Regs. 19-21 applied (31.1.2020) by [The Official Controls \(Animals, Feed and Food, Plant Health Fees etc.\) \(Wales\) Regulations 2020 \(S.I. 2020/44\)](#), regs. 1(2), **7(3)**

#### Time limit for prosecutions **E+W**

- 21.** No prosecution for an offence under paragraph (8) of regulation 18 may be begun after the expiry of—
- (a) three years from the commission of the offence; or
  - (b) one year from its discovery by the prosecutor,
- whichever is the earlier.

#### Modifications etc. (not altering text)

- C6** Regs. 19-21 applied (31.1.2020) by [The Official Controls \(Animals, Feed and Food, Plant Health Fees etc.\) \(Wales\) Regulations 2020 \(S.I. 2020/44\)](#), regs. 1(2), **7(3)**

## PART 3 **E+W**

### OFFICIAL CONTROLS ON FEED AND FOOD OF NON-ANIMAL ORIGIN FROM THIRD COUNTRIES

#### Interpretation of this Part of these Regulations **E+W**

##### 22. In this Part of these Regulations—

“authorised officer” (“*swyddog awdurdodedig*”), in relation to an enforcement authority, means any person (whether or not an officer of the authority) who is authorised by them in writing, either generally or specially, to act in matters arising under the Import Provisions;

“the Commissioners” (“*y Comisiynwyr*”) means the Commissioners for Her Majesty's Revenue and Customs;

“enforcement authority” (“*awdurdod gorfodi*”) means the feed authority or the food authority;

“feed” (“*bwyd anifeiliaid*”) does not include additives of a type mentioned in Article 6(1)(e) of or paragraph 4(d) of Annex I to Regulation (EC) No.1831/2003 of the European Parliament and of the Council on additives for use in animal nutrition <sup>M8</sup> or any premixture consisting solely of a combination of such additives;

“outside Wales enforcement authority” (“*awdurdod gorfodi y tu allan i Gymru*”) means the body responsible for enforcing the legislation in force with respect to imported products in any part of the United Kingdom except Wales;

[<sup>F40</sup>“product” (“*cynnyrch*”) means feed and food of non-animal origin whose import is regulated by Article 44 or Article 47(1)(d), (e) or (f) of Regulation 2017/625 and includes composite products and foodstuffs which are not listed in Commission [Decision 2007/275/EC](#) concerning lists of composite products to be subject to controls at border control posts;]

<sup>F41</sup> ...

[<sup>F42</sup>“specified import provision” (“*darpariaeth fewnforio benodedig*”) means any provision of [<sup>F43</sup>the Regulation 2017/625 package] that is specified in Column 1 of Schedule 6 and whose subject-matter is described in Column 2 of that Schedule.]

#### Textual Amendments

- F40** Words in [reg. 22](#) substituted (31.12.2020) by [The Official Feed and Food Controls \(Miscellaneous Amendments\) \(Wales\) Regulations 2020 \(S.I. 2020/1487\)](#), regs. 1(2), **3(3)(a)**
- F41** Words in [reg. 22](#) omitted (31.12.2020) by virtue of [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments and Saving Provision\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1581\)](#), regs. 1(3), **10(9)**
- F42** Words in [reg. 22](#) substituted (14.12.2019) by [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **18(c)**
- F43** Words in [reg. 22](#) substituted (31.12.2020) by [The Official Feed and Food Controls \(Miscellaneous Amendments\) \(Wales\) Regulations 2020 \(S.I. 2020/1487\)](#), regs. 1(2), **3(3)(b)**

**Marginal Citations**

**M8** OJ No. L268, 18.10.2003, p.29, as last amended by Regulation (EC) No. 596/2009 of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny: Adaptation to the regulatory procedure with scrutiny — Part Four (OJ No. L188, 18.7.2009, p.14).

**Feed enforcement responsibilities and competent authority status** **E+W**

**23.**—(1) It is the responsibility of each feed authority to execute and enforce the Import Provisions in its area or district as the case may be in relation to feed.

(2) The feed authority is designated as the competent authority for the purposes of the provisions of [F44Regulation 2019/1793] in so far as those provisions apply in relation to relevant feed law.

(3) A feed authority's designation as a competent authority pursuant to paragraph (2) extends to its area or district only, as the case may be.

F45(4) .....

**Textual Amendments**

**F44** Words in reg. 23(2) substituted (14.12.2019) by [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **19(a)**

**F45** Reg. 23(4) omitted (14.12.2019) by virtue of [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **19(b)**

**Food enforcement responsibilities and competent authority status** **E+W**

**24.**—(1) It is the responsibility of each food authority to execute and enforce the Import Provisions in its area in relation to food.

(2) The food authority is designated as the competent authority for the purposes of the provisions of [F46Regulation 2019/1793] in so far as those provisions apply in relation to relevant food law.

(3) A food authority's designation as a competent authority pursuant to paragraph (2) extends to its area only.

F47(4) .....

**Textual Amendments**

**F46** Words in reg. 24(2) substituted (14.12.2019) by [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **20(a)**

**F47** Reg. 24(4) omitted (14.12.2019) by virtue of [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **20(b)**

**Functions of the Commissioners** **E+W**

**25.** The Commissioners will carry out the functions given to [F48customs authorities under Articles 46, 57, 75 and 76 of Regulation 2017/625 and Article 4 of Regulation 2019/1793], in each case in relation to feed and food.

### Textual Amendments

**F48** Words in reg. 25 substituted (14.12.2019) by [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **21**

### Exchange of information **E+W**

**26.**—(1) The Commissioners, the Agency and any enforcement authority may exchange information for the purposes of the Import Provisions, and may divulge information to the bodies defined as enforcement authorities in the provisions corresponding to Part 3 of these Regulations in England, Scotland and Northern Ireland for the purposes of the Import Provisions or the provisions corresponding to the Import Provisions in those jurisdictions.

(2) Paragraph (1) is without prejudice to any other power of the Commissioners, the Agency or any enforcement authority to disclose information.

(3) No person, including a servant of the Crown, may disclose any information received from the Commissioners under paragraph (1) if—

- (a) the information relates to a person whose identity—
  - (i) is specified in the disclosure; or
  - (ii) can be deduced from the disclosure;
- (b) the disclosure is for a purpose other than the purposes specified in paragraph (1); and
- (c) the Commissioners have not given their prior consent to the disclosure.

### Deferred execution and enforcement **E+W**

**27.**—(1) Subject to paragraph (6), where—

- (a) a product from a third country has entered Wales;
- (b) customs examination of that product has been completed or has been deferred until it reaches its place of destination elsewhere in the United Kingdom;
- (c) an authorised officer of the enforcement authority for the place of entry has on reasonable grounds issued an authorisation confirming that—
  - (i) examination of the product for the purposes of the Import Provisions should be deferred until the product arrives at its destination elsewhere in Wales, or
  - (ii) such examination should take place when the product arrives at its destination elsewhere in the United Kingdom under legislation with respect to imported products in force there; and
- (d) a person importing the product gives that authorised officer an undertaking in writing as to the matters specified in paragraph (2),

the enforcement authority for the place in which the destination is located, if in Wales, is responsible for enforcing and executing the Import Provisions with respect to that product once it arrives there.

(2) The undertaking must—

- (a) state the destination of the product; and
- (b) confirm that—
  - (i) the container containing the product has been sealed and will not be opened until it has reached that destination,



- (ii) the opening of the container has been authorised by the enforcement authority for the place in which the destination is located, if it is in Wales or the outside Wales enforcement authority if the destination is not in Wales, and
- (iii) the container will be available at that destination for examination under the Import Provisions or, as the case may be, legislation with respect to imported products in force elsewhere in the United Kingdom.

(3) Where an authorised officer of an enforcement authority issues an authorisation pursuant to paragraph (1)(c), he or she must—

- (a) (if the product's place of destination is within Wales) notify the enforcement authority for that place or (if the product's place of destination is in any other part of the United Kingdom) notify the outside Wales enforcement authority—
  - (i) that the product (so described as to enable it to be identified) has not been examined under the Import Provisions, and
  - (ii) if customs examination of the product has been deferred, of that fact; and
- (b) send the relevant authority a copy of any undertaking given pursuant to paragraph (1)(d).

(4) Where a product has been sent to a destination in Wales from another part of the British Islands and examination of that product has been deferred under legislation with respect to imported products in force there, the enforcement authority for the place of destination is responsible for enforcing and executing the Import Provisions with respect to that product once it arrives in Wales.

(5) No person may breach an undertaking given under paragraph (1)(d).

(6) The deferred execution and enforcement provisions set out in this regulation will be subject to any official controls that take place pursuant to <sup>F49</sup>Article 47(1)(d) and (2)(b) and Article 54(4) of Regulation 2017/625].

**Textual Amendments**

**F49** Words in reg. 27(6) substituted (14.12.2019) by [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **22**

**Prohibition on introduction of certain feed and food E+W**

**28.**—(1) The following are prohibited—

- (a) the introduction into Wales from a third country of specified feed that fails to comply with feed safety requirements;
- <sup>F50</sup>(b) .....
- (c) the introduction into Wales from a third country of specified food that fails to comply with—
  - (i) food safety requirements, or
  - (ii) the requirements of Articles 3 to 6 of Regulation 852/2004; and
- <sup>F51</sup>(d) .....

(2) In this regulation—

- (a) “specified feed” means feed that is a product; and
- (b) “specified food” means food that is a product.

### Textual Amendments

- F50** Reg. 28(1)(b) omitted (31.12.2020) by virtue of [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments and Saving Provision\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1581\)](#), regs. 1(3), **10(10)**
- F51** Reg. 28(1)(d) omitted (31.12.2020) by virtue of [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments and Saving Provision\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1581\)](#), regs. 1(3), **10(10)**

### Checks on products **E+W**

**29.**—(1) The person responsible for introducing any product into Wales must permit an authorised officer of an enforcement authority to carry out checks in relation to the product pursuant to [<sup>F52</sup>Articles 34(5) and (6), 44(2) [<sup>F53</sup>, 45(1), (2) and (4), and 49(1)] of Regulation 2017/625].

(2) When an authorised officer is carrying out checks in relation to a product pursuant to [<sup>F52</sup>Articles 34(5) and (6), 44(2) [<sup>F53</sup>, 45(1), (2) and (4), and 49(1)] of Regulation 2017/625], the person introducing the product must provide the facilities and assistance which the authorised officer reasonably requires to carry them out.

(3) When an authorised officer of an enforcement authority is carrying out an identity check or a physical check on a product in accordance with [<sup>F52</sup>Articles 34(5) and (6), 44(2) [<sup>F53</sup>, 45(1), (2) and (4), and 49(1)] of Regulation 2017/625] the officer is entitled to require that the check takes place at a specified place.

### Textual Amendments

- F52** Words in reg. 29 substituted (14.12.2019) by [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **23**
- F53** Words in reg. 29 substituted (31.12.2020) by [The Official Feed and Food Controls \(Miscellaneous Amendments\) \(Wales\) Regulations 2020 \(S.I. 2020/1487\)](#), regs. 1(2), **3(4)**

### [<sup>F54</sup>Withdrawal and suspension of border control posts **E+W**

**30.**—(1) Where the Agency is satisfied that a border control post has ceased to comply with the requirements referred to in Article 64 of Regulation 2017/625 and Regulation 2019/1014 it may withdraw the designation of the border control post for all or for certain categories of animals and goods for which the designation was made by service on the operator of the border control post of a written notice to that effect.

(2) Where the Agency is satisfied that the conditions referred to in Article 63(1) of Regulation 2017/625 apply it may suspend the designation of the border control post for all or for certain categories of animals and goods for which the designation was made by service on the operator of the border control post of a written notice to that effect and if there is a serious risk to human or animal health the suspension may be with immediate effect.

(3) Upon service of a notice under paragraph (2), the border control post ceases to be a designated border control post to the extent specified in that notice until the suspension is removed by service by the Agency on the operator of the border control post of a written notice to that effect.

(4) Where the Agency is satisfied that it is reasonable to withdraw or suspend the designation for reasons other than those referred to in paragraphs (1) and (2) it may do so for all or for certain categories of animals and goods for which the designation was made by service on the operator of the border control post of a written notice to that effect.]

#### Textual Amendments

- F54** Reg. 30 substituted (14.12.2019) by [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **24**

### **Detention, destruction, special treatment, re-dispatch and other appropriate measures and costs** **E+W**

**31.**—(1) An enforcement authority has the power to do anything that a competent authority may do under [<sup>F55</sup>Articles 46, 65 to 69, 71, and 72 of Regulation 2017/625] if the conditions set out in those Articles are fulfilled.

[<sup>F56</sup>(2) The measures taken by the enforcement authority under Articles 66, 67 and 69 of Regulation 2017/625 pursuant to paragraph (1) are to be taken at the expense of the operator responsible for the consignment.]

#### Textual Amendments

- F55** Words in reg. 31(1) substituted (14.12.2019) by [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **25(a)**
- F56** Reg. 31(2) substituted (14.12.2019) by [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **25(b)**

### **[<sup>F57</sup>Notices in relation to imports of feed and food from third countries** **E+W**

**32.**—(1) If an authorised officer of an enforcement authority proposes to place a consignment of feed or food under official detention under Article 65, 66 or 67 of Regulation 2017/625 the officer must serve a notice to that effect on the operator responsible for it.

(2) Before ordering the operator to take action in accordance with Article 66(3)(a), (b) or (c), the enforcement officer must hear that operator as provided in the fourth subparagraph of Article 66(3) of Regulation 2017/625 unless immediate action is necessary.

(3) If an authorised officer of an enforcement authority proposes to take any of the measures referred to in Article 66 or 67 of Regulation 2017/625 in respect of a consignment of feed or food, the officer must serve a notice to that effect on the operator responsible for it.]

#### Textual Amendments

- F57** Reg. 32 substituted (14.12.2019) by [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **26**

### **Right of appeal in respect of notices served under regulation 32** **E+W**

**33.**—(1) Any person who is aggrieved by a decision of an authorised officer of an enforcement authority to serve a notice under regulation 32 may appeal to a magistrates' court.

(2) The procedure on an appeal to a magistrates' court under paragraph (1) is by way of complaint for an order, and the magistrates' Courts Act 1980 applies to the proceedings.

(3) The period within which an appeal under paragraph (1) may be brought is one month from the date on which the notice was served on the person desiring to appeal and the making of a complaint for an order will be deemed for the purposes of this paragraph to be the bringing of the appeal.

(4) Where on an appeal under paragraph (1) a magistrates' court determines that the decision of the authorised officer of the enforcement authority is incorrect, the authority must give effect to the determination of the court.

### Appeal to Crown Court against dismissal of appeal under regulation 33 **E+W**

**34.** A person who is aggrieved by the dismissal by a magistrates' court of an appeal to it under regulation 33(1) may appeal to the Crown Court.

### Serious risk to animal or public health **E+W**

<sup>F58</sup>**35.** . . . . .

#### Textual Amendments

**F58** Reg. 35 omitted (31.12.2020) by virtue of [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments and Saving Provision\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1581\)](#), regs. 1(3), **10(11)** (with reg. 16)

### Costs and fees **E+W**

[<sup>F59</sup>**36.**—(1) The costs incurred by the enforcement authority in taking the measures for which the operator is liable under Articles 66, 67 and 69 of Regulation 2017/625 are payable by the operator on the written demand of the enforcement authority.

(2) The costs of official controls and other activities as referred to in [<sup>F60</sup>Article 79(2)(a) and] Article 80 of Regulation 2017/625 are payable by the operator on the written demand of the enforcement authority.]

#### Textual Amendments

**F59** Reg. 36 substituted (14.12.2019) by [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **27**

**F60** Words in reg. 36(2) inserted (31.12.2020) by [The Official Feed and Food Controls \(Miscellaneous Amendments\) \(Wales\) Regulations 2020 \(S.I. 2020/1487\)](#), regs. 1(2), **3(5)**

### Procurement by authorised officers of samples with regard to food **E+W**

**37.** An authorised officer of a food authority may, for the purposes of the execution and enforcement by that authority of the Import Provisions—

- (a) purchase a sample of any food, or any substance capable of being used in the preparation of food;
- (b) take a sample of any food, or any such substance, which—
  - (i) appears to the officer to be intended for placing on the market or to have been placed on the market, for human consumption, or
  - (ii) is found by the officer on or in any premises which he or she is authorised to enter by or under regulation 39;
- (c) take a sample from any food source, or a sample of any contact material, which is found by the officer on or in any such premises; and

- (d) take a sample of any article or substance which is found by the officer on or in any such premises and which he or she has reason to believe may be required as evidence in proceedings under any of the provisions of the Import Provisions.

#### **Analysis etc. of samples** **E+W**

**38.**—(1) An authorised officer of a food authority who has procured a sample under regulation 37 must—

- (a) if the officer considers that the sample should be analysed, submit it to be analysed by a public analyst;
- (b) if the officer considers that the sample should be examined, submit it to be examined by a food examiner.

(2) A person, other than such an officer, who has purchased any food, or any substance capable of being used in the preparation of food, may submit a sample of it—

- (a) to be analysed by the public analyst for the area in which the purchase was made; or
- (b) to be examined by a food examiner.

(3) If, in any case where a sample is proposed to be submitted for analysis under this regulation, the office of public analyst for the area in question is vacant, the sample must be submitted to the public analyst for some other area.

(4) If, in any case where a sample is proposed to be or is submitted for analysis or examination under this regulation, the food analyst or examiner determines that he or she is for any reason unable to perform the analysis or examination, the sample must be submitted or, as the case may be, sent by him or her to such other food analyst or examiner as he or she may determine.

(5) A food analyst or examiner must analyse or examine as soon as practicable any sample submitted or sent to him or her under this regulation, but may, except where—

- (a) he or she is the public analyst for the area in question; and
- (b) the sample is submitted to him or her for analysis by an authorised officer of a food authority,

demand in advance the payment of such reasonable fee as he or she may require.

(6) Any food analyst or examiner who has analysed or examined a sample must give to the person by whom it was submitted a certificate specifying the result of the analysis or examination.

(7) Any certificate given by a food analyst or examiner under paragraph (6) must be signed by him or her, but the analysis or examination may be made by any person acting under his or her direction.

(8) In any proceedings under the Import Provisions, the production by one of the parties—

- (a) of a document purporting to be a certificate given by a food analyst or examiner under paragraph (6); or
- (b) of a document supplied to him or her by the other party as being a copy of such a certificate,

is sufficient evidence of the facts stated in it unless, in a case falling within sub-paragraph (a), the other party requires that the food analyst or examiner is called as a witness.

(9) Any reference in this regulation to a public analyst for a given area is, where two or more public analysts have been appointed for that area, to be construed as a reference to either or any of them.

(10) [<sup>F61</sup>The Food Safety (Sampling and Qualifications) (Wales) Regulations 2013] apply in relation to a sample procured by an authorised officer of a food authority under regulation 37 as if it were a sample procured by an authorised officer under section 29 of the Act.

(11) The certificate given by a food analyst or examiner under paragraph (6) must be in the form set out in Schedule 3 to [F61the Food Safety (Sampling and Qualifications) (Wales) Regulations 2013].

#### Textual Amendments

**F61** Words in reg. 38(10)(11) substituted (6.4.2013) by [The Food Safety \(Sampling and Qualifications\) \(Wales\) Regulations 2013 \(S.I. 2013/479\)](#), regs. 1, **11(b)** (with art. 3, Sch. 1)

#### Powers of entry of authorised officers of a food authority **E+W**

**39.**—(1) An authorised officer of a food authority, on producing, if so required, some duly authenticated document showing his or her authority, has a right at all reasonable hours—

- (a) to enter any premises within the authority's area for the purpose of ascertaining whether there is or has been on the premises any contravention of the provisions of the Import Provisions in relation to food;
- (b) to enter any premises, whether within or outside the authority's area, for the purpose of ascertaining whether there is on the premises any evidence of any such contravention within that area; and
- (c) to enter any premises for the purpose of the performance by the authority of their functions under the Import Provisions,

but admission to any premises used only as a private dwelling-house may not be demanded as of right unless 24 hours' notice of the intended entry has been given to the occupier.

(2) If a justice of the peace, on sworn information in writing, is satisfied that there is reasonable ground for entry onto any premises for any such purpose as is mentioned in paragraph (1) and either—

- (a) that admission to the premises has been refused, or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier; or
- (b) that an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier is temporarily absent,

the justice may by warrant signed by him or her authorise the authorised officer to enter the premises, if need be by reasonable force.

(3) Every warrant granted under this regulation continues in force for a period of one month.

(4) An authorised officer entering any premises by virtue of this regulation, or of a warrant issued under it, may take with him or her such other persons as the officer considers necessary, and on leaving any unoccupied premises which the officer has entered by virtue of such a warrant must leave them as effectively secured against unauthorised entry as that in which they were found.

(5) An authorised officer entering premises by virtue of this regulation, or of a warrant issued under it, may inspect any records (in whatever form they are held) relating to a food business and, where any such records are stored in any electronic form—

- (a) may have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records; and
- (b) may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford him or her such assistance as he may reasonably require.

- (6) Any officer exercising any power conferred by paragraph (5) may—
- (a) seize and detain any records which he or she has reason to believe may be required as evidence in proceedings under any of the provisions of the Import Provisions; and
  - (b) where the records are stored in any electronic form, require the records to be produced in a form in which they may be taken away.

(7) If any person who enters any premises by virtue of this regulation, or of a warrant issued under it, discloses to any person any information obtained by him or her on the premises with regard to any trade secret, he or she is, unless the disclosure was made in the performance of his or her duty, guilty of an offence.

(8) Nothing in this regulation authorises any person, except with the permission of the local authority under the Animal Health Act 1981, to enter any premises—

- (a) on which an animal or bird affected with any disease to which that Act applies is kept; and
- (b) which is situated in a place declared under that Act to be infected with such a disease.

#### **Obstruction etc. of officers (imports) E+W**

**40.**—(1) Any person who—

- (a) intentionally obstructs any person acting in the execution of the Import Provisions; or
- (b) without reasonable cause, fails to give to any person acting in the execution of the Import Provisions any assistance or information which that person may reasonably require of him or her for the performance of his or her functions under the Import Provisions,

is guilty of an offence.

(2) Any person who, in purported compliance with any such requirement as is mentioned in paragraph (1)(b)—

- (a) furnishes information which that person knows to be false or misleading in a material particular; or
- (b) recklessly furnishes information which is false or misleading in a material particular,

is guilty of an offence.

(3) Nothing in paragraph (1)(b) is to be construed as requiring any person to answer any question or give any information if to do so might incriminate him or her.

#### **Offences and penalties E+W**

**41.**—(1) Any person who—

- (a) contravenes or fails to comply with any of the specified [<sup>F62</sup>import] provisions;
- (b) contravenes or fails to comply with paragraph (3) of regulation 26, paragraph (5) of regulation 27 <sup>F63</sup>...;
- (c) contravenes any of the prohibitions in paragraph (1) of regulation 28;
- (d) to the extent that contravention or failure to comply with regulation 29 does not constitute an offence under regulation 40, contravenes or fails to comply with regulation 29; or
- (e) fails to comply with a notice served upon him under the Import Provisions,
- <sup>F64</sup>(f) contravenes or fails to comply with the provisions of any instrument made under Article 53 of Regulation 178/2002.]

is guilty of an offence.

[<sup>F65</sup>(1A) Any person who imports into Wales or places on the market any sprouts or seeds intended for sprouting which do not comply with the certification requirements of [<sup>F66</sup>Article 13 of Regulation 2019/625, in so far as it applies to sprouts and seeds intended for the production of sprouts, as read with Article 27 of Regulation 2019/628] shall be guilty of an offence.]

(2) Subject to paragraph (3), a person guilty of an offence under this Part of these Regulations will be liable—

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

(3) A person guilty of an offence under regulation 40 will be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding three months or to both.

#### Textual Amendments

- F62** Word in reg. 41(1)(a) inserted (23.11.2010) by [The Animal Feed \(Wales\) Regulations 2010 \(S.I. 2010/2652\)](#), regs. 1, **16(4)**
- F63** Words in reg. 41(1)(b) omitted (31.12.2020) by virtue of [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments and Saving Provision\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1581\)](#), regs. 1(3), **10(12)(a)**
- F64** Reg. 41(1)(f) inserted (31.12.2020) by [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments and Saving Provision\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1581\)](#), regs. 1(3), **10(12)(b)**
- F65** Reg. 41(1A) inserted (31.12.2013) by [The Food Safety, Food Hygiene and Official Controls \(Sprouting Seeds\) \(Wales\) Regulations 2013 \(S.I. 2013/3007\)](#), regs. 1(2), **4(3)**
- F66** Words in reg. 41(1A) substituted (31.12.2020) by [The Official Feed and Food Controls \(Miscellaneous Amendments\) \(Wales\) Regulations 2020 \(S.I. 2020/1487\)](#), regs. 1(2), **3(6)**

#### Time limit for prosecutions (imports) **E+W**

**42.** No prosecution for an offence under this Part of these Regulations which is punishable under regulation 41(2) may be begun after the expiry of—

- (a) three years from the commission of the offence; or
- (b) one year from its discovery by the prosecutor,

whichever is the earlier.

## PART 4 **E+W**

### RECOVERY OF EXPENSES

#### [<sup>F67</sup>Fees or charges arising from unplanned official controls **E+W**

**42A.** Fees or charges imposed by a competent authority on an operator pursuant to article 79(2) (c) of Regulation 2017/625 must be paid by the operator on the written demand of the competent authority.]



**Textual Amendments**

**F67** Reg. 42A inserted (31.12.2020) by [The Official Feed and Food Controls \(Miscellaneous Amendments\) \(Wales\) Regulations 2020 \(S.I. 2020/1487\)](#), regs. 1(2), **3(7)**

**Expenses arising from additional official controls** **E+W**

<sup>F68</sup>**43.** . . . . .

**Textual Amendments**

**F68** Reg. 43 omitted (14.12.2019) by virtue of [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **28**

**Expenses arising in respect of co-ordinated assistance and follow-up by the Commission** **E+W**

<sup>F69</sup>**44.** . . . . .

**Textual Amendments**

**F69** Reg. 44 omitted (14.12.2019) by virtue of [The Official Feed and Food Controls \(Wales\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1482\)](#), regs. 1(1), **29**

**PART 5** **E+W**

**ENFORCEMENT AND SUPPLEMENTARY PROVISIONS**

**Offences due to fault of another person** **E+W**

**45.** Where the commission by any person of an offence under these Regulations is due to the act or default of some other person, that other person will be guilty of the offence; and a person may be convicted of the offence by virtue of this regulation whether or not proceedings are taken against the first-mentioned person.

**Modifications etc. (not altering text)**

**C7** Regs. 45-47 applied (31.1.2020) by [The Official Controls \(Animals, Feed and Food, Plant Health Fees etc.\) \(Wales\) Regulations 2020 \(S.I. 2020/44\)](#), regs. 1(2), **7(3)**

**Defence of due diligence** **E+W**

**46.**—(1) In any proceedings for an offence under these Regulations, it is, subject to paragraph (2), a defence for the accused to prove that he or she took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or herself or by a person under his or her control.

(2) If in any case the defence provided by paragraph (1) involves the allegation that the commission of the offence was due to an act or default of another person, or to reliance on

information supplied by another person, the accused will not, without leave of the court, be entitled to rely on that defence unless—

- (a) at least seven clear days before the hearing; and
- (b) where he or she has previously appeared before a court in connection with the alleged offence, within one month of his or her first such appearance,

the accused has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his or her possession.

**Modifications etc. (not altering text)**

C7 Regs. 45-47 applied (31.1.2020) by [The Official Controls \(Animals, Feed and Food, Plant Health Fees etc.\) \(Wales\) Regulations 2020 \(S.I. 2020/44\)](#), regs. 1(2), 7(3)

**Offences by bodies corporate** **E+W**

47.—(1) Where an offence under these Regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar officer of the body corporate; or
- (b) any person who was purporting to act in any such capacity,

he or she as well as the body corporate will be deemed to be guilty of that offence and liable to be proceeded against and punished accordingly.

(2) In paragraph (1)(a) “director”, in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

**Modifications etc. (not altering text)**

C7 Regs. 45-47 applied (31.1.2020) by [The Official Controls \(Animals, Feed and Food, Plant Health Fees etc.\) \(Wales\) Regulations 2020 \(S.I. 2020/44\)](#), regs. 1(2), 7(3)

**Offences by Scottish partnerships** **E+W**

48. Where an offence under these Regulations which has been committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he or she, as well as the partnership will be deemed to be guilty of that offence and liable to be proceeded against and punished accordingly.

**Protection of officers acting in good faith** **E+W**

49.—(1) An officer of a relevant body is not personally liable in respect of any act done by him or her—

- (a) in the execution or purported execution of the Official Control Regulations; and
- (b) within the scope of his or her employment,

if the officer did that act in the honest belief that his or her duty under the Official Control Regulations required or entitled him or her to do it.

(2) Nothing in paragraph (1) is to be construed as relieving any relevant body of any liability in respect of the acts of its officers.

(3) Where an action has been brought against an officer of a relevant body in respect of an act done by the officer—

- (a) in the execution or purported execution of the Official Control Regulations; but
- (b) outside the scope of his or her employment,

the body may indemnify the officer against the whole or a part of any damages which the officer has been ordered to pay or any costs which he or she may have incurred if it is satisfied that he or she honestly believed that the act complained of was within the scope of his or her employment.

(4) In so far as a food authority is a relevant body for the purposes of this regulation, a public analyst appointed by a food authority must be treated for the purposes of this regulation as being an officer of the authority, whether or not his or her appointment is a whole-time one.

(5) In this regulation “relevant body” means a body acting as—

- (a) a competent authority;
- (b) an enforcement authority as defined in regulation 22; or
- (c) a relevant enforcement authority.

**Modifications etc. (not altering text)**

**C8** Reg. 49 applied (31.1.2020) by [The Official Controls \(Animals, Feed and Food, Plant Health Fees etc.\) \(Wales\) Regulations 2020 \(S.I. 2020/44\)](#), regs. 1(2), 7(3)

**Service of documents** **E+W**

**50.**—(1) Any document which is required or authorised to be served on a person under these Regulations may be served on the person concerned—

- (a) by delivering it to that person;
- (b) in the case of a person that is a body corporate other than a limited liability partnership, by delivering it to their secretary at their registered or principal office, or by sending it in a prepaid letter addressed to the secretary at that office;
- (c) in the case of a person that is a limited liability partnership, by delivering it to a designated member of the partnership at their registered or principal office or by sending it in a prepaid letter addressed to a designated member of the partnership at that office;
- (d) in the case of a person that is a partnership other than a limited liability partnership, by delivering it to the partnership's principal place of business; or
- (e) in the case of any other person, by leaving it or sending it in a prepaid letter addressed to that person at their usual or last known residence.

(2) Where a document is to be served on the occupier of any premises under these Regulations and it is not reasonably practicable to ascertain the name and address of the person on whom it should be served, or the premises are unoccupied, the document may be served by addressing it to the person concerned in the capacity of “occupier” of the premises (naming them), and—

- (a) by delivering it to some other person at the premises; and
- (b) if there is no other person at the premises to whom it can be delivered, by affixing it or a copy of it to some conspicuous part of the premises.

**Changes to legislation:** There are currently no known outstanding effects for the *The Official Feed and Food Controls (Wales) Regulations 2009*. (See end of Document for details)

**Modifications etc. (not altering text)**

- C9** Reg. 50 applied (31.1.2020) by [The Official Controls \(Animals, Feed and Food, Plant Health Fees etc.\) \(Wales\) Regulations 2020 \(S.I. 2020/44\)](#), regs. 1(2), 7(3)

**Amendment to the Feed (Hygiene and Enforcement) (Wales) Regulations 2005** **E+W**

<sup>F70</sup>**51.** . . . . .

**Textual Amendments**

- F70** Reg. 51 revoked (12.5.2016) by [The Animal Feed \(Hygiene, Sampling etc. and Enforcement\) \(Wales\) Regulations 2016 \(S.I. 2016/387\)](#), reg. 1(2), **Sch. 5**

**Revocation** **E+W**

- 52.** The following Regulations are revoked—
- (a) the Food (Chilli, Chilli Products, Curcuma and Palm Oil) (Emergency Control) (Wales) Regulations 2005 <sup>M9</sup>;
  - (b) the Official Feed and Food Controls (Wales) Regulations 2007 <sup>M10</sup>.

**Marginal Citations**

- M9** [S.I. 2005/1540](#) (W.119).  
**M10** [S.I. 2007/3294](#) (W.290).

*Gwenda Thomas*  
Deputy Minister for Social Services under  
authority of the Minister for Health and Social  
Services, one of the Welsh Ministers

**Changes to legislation:**

There are currently no known outstanding effects for the The Official Feed and Food Controls (Wales) Regulations 2009.