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WELSH STATUTORY INSTRUMENTS

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**2016 No. 387**

**The Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations 2016**

**PART 5**

Enforcement powers and related provisions

**Powers of entry and inspection**

**30.**—(1) For the purposes of—

- (a) executing and enforcing specified feed law; or
- (b) carrying out investigations, in accordance with [F1regulation 15(9) of the Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016] to determine the source of specified undesirable substances,

an authorised officer may, subject to paragraph (2) and on producing, if requested to do so, some duly authenticated documentation showing the officer's identity and authority, enter premises mentioned in paragraph (3).

(2) The entry of premises under this regulation and otherwise than by warrant signed by a justice must take place—

- (a) at reasonable times; and
- (b) in the case of audits where prior notification of the occupier is necessary, on prior notice of not less than forty eight hours being given to the occupier.

(3) The premises (not being premises used wholly or mainly as a dwelling) are—

- (a) any premises on which the officer has reasonable cause to believe that feed has been, or is being, manufactured or produced, or is being kept for the purpose of being placed on the market, incorporated in another product or used; or
- (b) any premises on which the officer has reasonable cause to believe that there is any feed of which the occupier of the premises has possession or control.

(4) If a justice of the peace, on sworn information in writing, is satisfied that there is reasonable ground for entry into any such premises as are mentioned in paragraph (3), 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 signed warrant authorise the authorised officer to enter the premises, if need be by reasonable force.

(5) Every warrant granted under this regulation shall continue in force for a period of one month.

(6) An authorised officer entering premises by virtue of this regulation, or of a warrant issued under it, may be accompanied by such other persons and take such equipment as may appear to the officer to be necessary and, on leaving the premises, must ensure that the premises are in as close a condition as practicable to that in which the officer found them.

(7) An authorised officer entering premises by virtue of this regulation, or of a warrant issued under it, has the right to inspect—

- (a) any material appearing to be feed;
- (b) any article appearing to be a container or package used or intended to be used to store, wrap or package any feed, or to be a label or advertisement used or intended to be used in connection with feed; or
- (c) any vehicle, plant or equipment appearing to be used, or intended to be used, in connection with the manufacture, production, storage, transport or use of feed, and any process of manufacture, production, storage, transport or use of feed.

(8) Subject to paragraph (10), an authorised officer entering premises by virtue of this regulation, or of a warrant issued under it, has the right to take on those premises, in the prescribed manner, a sample of any material appearing to be a feed manufactured, produced, placed on the market or intended to be placed on the market or to be material used, or intended to be used, as feed.

(9) Without prejudice to the authorised officer's powers and duties as to the taking of samples in the prescribed manner, an authorised officer may take a sample in a manner other than that prescribed of any material which has been sold for use as feed or which the officer has reasonable cause to believe to be intended for sale as such.

(10) Where, for the purpose of taking a sample pursuant to paragraph (8) or (9), an authorised officer takes some of it from each of one or more containers, which are exposed for sale by retail, and none of which weighs more than six kilograms, the owner of the container or containers may require the officer to purchase the container or containers on behalf of the authority for which the officer acts.

(11) An authorised officer entering premises by virtue of this regulation, or of a warrant issued under it, has the right—

- (a) to require any person carrying on, or appearing to be carrying on, a feed business, or any person employed in connection with such a business, to produce any record (in whatever form it is held) relating to or arising out of the exercise in the course of that business of any such activity, and of which that person has possession or control; and
- (b) to inspect and take copies of any record, or of any entry in any record produced in pursuance of sub-paragraph (a).

(12) An authorised officer exercising the power conferred by paragraph (11) in respect of a record held by means of a computer—

- (a) is entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and associated apparatus or material which is or has been, or which it appears is or has been, in use in connection with the record in question;
- (b) may require—
  - (i) the person by whom or on whose behalf the computer is or has been so used, or
  - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,

to afford the authorised officer such reasonable assistance as the officer may require for that purpose; and

- (c) may require the record, or an extract from the record, to be produced in a form in which it may be taken away.

(13) Where, in the case of a person carrying on, or appearing to carry on, a business which consists of or includes the manufacture of a compound feed—

- (a) a requirement is made under paragraph (11)(a) in relation to any feed which is, or appears to be, intended for a particular nutritional purpose; and
- (b) at the time the requirement is made, the record in respect of which it is made has been published and is available in accessible form for public use,

the person of whom the requirement is made will be deemed to comply with it if, at the time it is made, that person supplies the authorised officer making it with correct and adequate details of the publication concerned, and of where a copy of it may be obtained.

(14) An authorised officer entering premises by virtue of this regulation, or of a warrant issued under it, has the right to seize and detain any record which the officer has reasonable cause to believe to be a record which may be required as evidence in proceedings under specified feed law.

(15) On seizing and detaining any record mentioned in paragraph (14), the authorised officer must provide to the occupier a notice containing—

- (a) a description of the record; and
- (b) a statement that the record will be detained until it is no longer required as evidence in proceedings under specified feed law.

(16) In this regulation—

“compound feed” (*“bwyd anifeiliaid cyfansawdd”*) has the meaning given in Article 3(2)(h) of Regulation 767/2009; and

“feed which is, or appears to be, intended for a particular nutritional purpose” (*“bwyd anifeiliaid a fwriedir, neu sy'n ymddangos fel pe bai wedi ei fwriadu, ar gyfer dibenion maethol penodol”*) is to be construed in accordance with the definitions of “feed intended for particular nutritional purposes” in Article 3(2)(o) of that Regulation.

(17) Nothing in this regulation authorises any person, except with the permission of the local authority under the Animal Health Act 1981<sup>M1</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.

#### Textual Amendments

- F1** Words in [reg. 30\(1\)\(b\)](#) substituted (31.12.2022) by [The Food and Feed \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2022 \(S.I. 2022/1362\)](#), regs. 1, **5(4)**

#### Marginal Citations

- M1** 1981 c. 22.

**Changes to legislation:**

There are currently no known outstanding effects for the The Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations 2016, Section 30.