

Statutory Instrument 1999 No. 2325

The Feeding Stuffs (Enforcement) Regulations 1999

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STATUTORY INSTRUMENTS

1999 No. 2325

AGRICULTURE

The Feeding Stuffs (Enforcement) Regulations 1999

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| <i>Made</i> | <i>17th August 1999</i> |
| <i>Laid before Parliament</i> | <i>17th August 1999</i> |
| <i>Coming into force</i> | <i>8th September 1999</i> |

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated^[1] for the purposes of section 2(2) of the European Communities Act 1972^[2] in relation to the common agricultural policy of the European Community, acting jointly, in exercise of the powers conferred on them by the said section 2(2), hereby make the following Regulations:

Title and commencement

1. These Regulations may be cited as the Feeding Stuffs (Enforcement) Regulations 1999 and shall come into force on 8th September 1999.

General interpretation

2. - (1) In these Regulations, unless the context otherwise requires -

"the Act" means the Agriculture Act 1970^[3];

"authorised person" means a person (whether or not an officer of the competent authority) who is authorised by the competent authority, either generally or specially, to act in relation to matters arising under these Regulations;

"commercial document" has the same meaning as in article 9 of Directive 95/53;

"the Commissioners" means the Commissioners of Customs and Excise;

"the competent authority" means -

(a) in Great Britain -

(i) in relation to the checking of products for compliance with any Community provision covered by the first indent of Article 2.1(a) of Directive 95/53, insofar as that provision is implemented in the Feedingstuffs (Zootechnical Products) Regulations 1999[4], the Royal Pharmaceutical Society of Great Britain,

(ii) for all other purposes, the authority which, by virtue of section 67(1), (1A) or (2) of the Act, has the duty to enforce Part IV of the Act; and

(b) in Northern Ireland, the Department of Agriculture for Northern Ireland;

"controlled place", in relation to any product, means any place at which, with the permission of the Commissioners, it may be released for free circulation;

"the customs territory of the Community" has the same meaning as in Article 5 of Directive 95/53;

"description of goods" has the same meaning as in box 8 of the document at Annex A to Directive 98/68;

"Directive 95/53" means Council Directive 95/53/EC fixing the principles governing the organisation of official inspections in the field of animal nutrition[5] (with effect from 1st October 1999 as amended by Council Directive 1999/20/EC[6];

"Directive 98/68" means Commission Directive 98/68/EC[7] laying down the standard document referred to in Article 9(1) of Council Directive 95/53/EC and certain rules for checks at the introduction into the Community of feeding stuffs from third countries;

"documentary check" has the meaning given in Article 2.1(b) of Directive 95/53;

"free circulation" shall be construed in accordance with Article 24 of the Treaty establishing the European Community;

"identity check" has the meaning given in Article 2.1(c) of Directive 95/53;

"importer" means, in relation to a product, any person who introduces it into the customs territory of the Community as described in Article 5 of Directive 95/53 and, insofar as, under that Directive, any other person might be a recipient in relation to the product of -

(a) a prohibition and order in accordance with Article 8 thereof, or

(b) a document indicating the type of check carried out and its outcome, in accordance with Article 9 thereof,

also includes any such person.

"inspection" has the meaning given in Article 2.1(a) of Directive 95/53;

"member State" means a member State other than the United Kingdom;

"the Minister" means the Minister of Agriculture, Fisheries and Food;

"model document" means a document comprising a single sheet of paper, based on the model contained in Annex A to Directive 98/68, and completed as specified in Annex B to, and not invalidated as specified in Article 1.4 of, that Directive;

"physical check" has the meaning given in Article 2.1(d) of Directive 95/53 and, to the extent that such a check consists in sampling and analysis, means -

(a) in relation to the checking of products for compliance with any Community provision covered and implemented as described in sub-paragraph (a)(i) of the definition in this paragraph of "competent authority", sampling and analysis carried out in accordance with the requirements of the Feedingstuffs (Zootechnical Products) Regulations 1999,

(b) in relation to the checking of products for compliance with any Community provision covered by Article 2.1(a) of Directive 95/53, insofar as that provision is implemented in the Feeding Stuffs (Establishments and Intermediaries) Regulations 1999[8], sampling and analysis carried out in accordance with the requirements of those Regulations, and

(c) in any other case, sampling and analysis carried out in accordance with the requirements set out in Part IV of the Act as modified in and for the purposes of these Regulations, and as read with regulation 8.

"product" has the meaning given in Article 2.1(e) of Directive 95/53;

"the Scottish Ministers" has the meaning given in section 44(2) of the Scotland Act 1998; and

"third country" means a country other than a member State or the United Kingdom.

(2) In these Regulations -

(a) any reference to a numbered regulation is a reference to the regulation so numbered in these Regulations, and

(b) any reference within a regulation to a numbered paragraph is a reference to the paragraph so numbered in that regulation.

Enforcement

3. - (1) It shall be the duty of the competent authority to enforce regulation 4(3)(a)(ii), (4)(f), and (8) and requirements made under regulations 4(5)(a) and 6(1)(b)(i).

(2) It shall be the duty of the Commissioners and of the competent authority to enforce regulation 4(3)(a)(i) and (4)(i).

Control of products brought into the United Kingdom from third countries

4. - (1) This regulation applies where an importer brings a product into the United Kingdom from a third country in either Case A or Case B, and references in this regulation to the carrying out of any check by a competent authority shall be taken to include its being carried out by an authorised person on behalf of the authority.

(2) In this regulation -

(a) Case A applies where the product is brought into the United Kingdom directly from the third country;

(b) Case B applies where the product has not yet been put into free circulation in the Community, and is brought into the United Kingdom via a member State and sent to a controlled place.

(3) In Case A, in relation to the product -

(a) the importer shall comply with any directions reasonably given to him, whether orally or in writing, by -

(i) the Commissioners for the purpose of enabling any check under sub-paragraph (b) of this paragraph to be carried out, or facilitating the carrying out of any such check, or

(ii) the competent authority for the like purpose in relation to checks under sub-paragraph (d) of this paragraph;

(b) the Commissioners shall carry out the documentary check called for by Article 5 of Directive 95/53;

(c) the Commissioners and the competent authority may enter into arrangements for the provision by one to the other, on such terms as they may arrange, of facilities to carry out any check which it falls to the other to carry out under this paragraph;

(d) the competent authority may carry out a physical check and an identity check;

(e) the competent authority shall provide the Commissioners with such information as to the result of any such check as they may reasonably require in order to determine the applicable customs procedure called for by Article 5 of Directive 95/53; and

(f) where it is intended for transmission to another member State before it is put into free circulation in the Community, and a model document is accordingly required to be delivered to the importer pursuant to Article 2.1 of Directive 98/68 -

(i) the Commissioners shall provide the competent authority with such information as will enable the latter to complete the model document at the appropriate point (that is to say once the importer has notified the competent authority of the description of goods applicable to the product and the competent authority has either decided not to carry out any physical or identity check or has carried out such of those checks as it has decided to carry out), and

(ii) the competent authority shall at that point complete the model document and deliver it to the importer.

(4) In Case B, in relation to the product -

(a) the importer shall present the competent authority with the model document, and with any available results of laboratory analysis as referred to in Article 2.3 of Directive 98/68, and the authority shall retain that document, and any such results, for a period of at least 18 months;

(b) on receipt of the model document, the competent authority may call for the importer to provide a translation as specified in Article 1(3) of Directive 98/68;

(c) the competent authority shall, on receipt of the model document and any translation so called for, notify the Commissioners -

(i) of that receipt;

(ii) as to whether the competent authority is yet satisfied that it would be appropriate for the Commissioners to permit the product to be removed from the controlled place for the purpose of its being put into free circulation in the Community; and

(iii) if the competent authority is not yet so satisfied, as to whether it wishes to carry out any physical or identity check for the purpose of determining whether it is so satisfied;

(d) the Commissioners and the competent authority may enter into arrangements for the provision by the former to the latter, on such terms as they may arrange, of facilities to carry out any check which the latter may wish to carry out under this paragraph;

(e) the competent authority may carry out any such check;

(f) the importer shall comply with any directions reasonably given to him by the competent authority for the purpose of enabling any such check to be carried out or facilitating the carrying out of any such check;

(g) the competent authority shall, following the carrying out of any such check, notify the Commissioners as to whether it is satisfied that it would be appropriate for the Commissioners to permit the product to be removed from the controlled place for the purpose of its being put into free circulation in the Community;

(h) following an affirmative notification as to satisfaction under sub-paragraph (c)(ii) or (g) of this paragraph, the Commissioners may notify the importer that they permit the product to be removed from the controlled place for that purpose; and

(i) no person may remove the product from the controlled place for that purpose without that permission having been so notified.

(5) Where the competent authority has carried out a physical check pursuant to paragraph (3) or (4), and it is established thereby that the product does not comply with a Community provision covered by article 2(1)(a) of Directive 95/53, the competent authority shall, by notice in writing to the importer -

(a) require him (subject to paragraph (6)) to despatch the product out of the Community, within such reasonable period as shall be specified in the notice, and

(b) in relation to him, comply with the requirements of the second and third paragraphs of Article 20 of Directive 95/53.

(6) Notwithstanding paragraph (5)(a), a requirement made by the competent authority under that paragraph shall be deemed to be complied with if, with the prior written consent of the competent authority, the importer deals with the product in one of the ways specified in the indents of Article 8.2 of Directive 95/53, to the satisfaction of the competent authority, and in accordance with any condition imposed by it.

(7) For the purposes of paragraph (6), it shall be for the competent authority to determine in which one, if any, of the ways specified as aforesaid the importer may deal with the product concerned.

(8) Where the importer has been issued with a model document in relation to the product, he shall include reference to the model document in any commercial document he presents to any other person in relation to the product.

(9) If any person, without reasonable excuse -

(a) fails to comply with any directions reasonably given to him under paragraph (3)(a) or (4)(f),

(b) removes a product from a controlled place in contravention of paragraph (4)(i),

(c) fails to comply with a requirement made of him under paragraph (5)(a), or

(d) fails to comply with paragraph (8);

he shall be guilty of an offence.

(10) Where a person is guilty of an offence under paragraph (9) he shall be liable -

(a) in the case of an offence under paragraph (9)(b), (c) or (d) -

(i) on summary conviction, to a fine not exceeding the statutory maximum,

(ii) on conviction on indictment, to a fine, and

(b) in the case of an offence under paragraph (9)(a), on summary conviction to a fine not exceeding level 3 on the standard scale.

(11) Where a person is guilty as aforesaid, the competent authority (save in the case of failure to comply with paragraph (8)) or, in the case of failure to comply with directions given under paragraph (3)(a)(i), or contravention of paragraph (4)(i), the Commissioners or the competent authority, may seize the product, and return it to the country of despatch.

(12) Where the competent authority acts or, as the case may be, the Commissioners act, in accordance with paragraph (11), it or, as the case may be, they, shall be entitled to recover its or, as the case may be, their, expenses so incurred on demand from the person who has failed to comply with the directions in question or requirement

under paragraph (5)(a), or has contravened paragraph (4)(i).

(13) Every competent authority shall provide to the Minister, in writing, such information as is available to it and will assist the Minister to comply with the requirement specified in Article 8.1 of Directive 95/53 as regards notification of rejected products.

Control of products traded within the European Community

5. Where -

(a) pursuant to Article 10 or, as the case may be, 11, of Directive 95/53, an authorised person subjects a product to an inspection, and

(b) it is established thereby that the product does not comply with a Community provision covered by Article 2.1(a) of that Directive,

the competent authority by which that person is authorised to act shall comply with the requirements of the second and third paragraphs of Article 20 of that Directive in relation to the product.

6. - (1) Where -

(a) pursuant to Article 12 of Directive 95/53, an authorised person subjects a product to an inspection, and

(b) it is established thereby that the product does not comply with a Community provision covered by Article 2.1(a) of that Directive,

the competent authority by which that person is authorised to act shall -

(i) by notice in writing given to any person of a kind referred to in Article 13.1 of that Directive, require him to deal with the product, within such reasonable period as shall be specified in the notice, in one of the ways specified in the indents of that Article, and in accordance with any reasonable condition imposed by the competent authority, and

(ii) in relation to the person of that kind, comply with the requirements of the second and third paragraphs of Article 20 of that Directive.

(2) For the purposes of paragraph (1), it shall be for the competent authority to determine in which one of the ways specified as aforesaid the person to whom the notice specified therein is given shall deal with the product concerned.

(3) Any person failing to comply, without reasonable excuse, with a requirement made by the competent authority pursuant to paragraph (1), shall be guilty of an offence and shall be liable -

(a) on summary conviction, to a fine not exceeding the statutory maximum,

(b) on conviction on indictment, to a fine.

(4) Where any person fails to comply with a requirement made by the competent authority pursuant to paragraph (1), the competent authority may seize the product concerned, and itself deal with it in accordance with that requirement.

(5) Any competent authority acting in accordance with paragraph (4) shall be entitled to recover its expenses so incurred on demand from the person who has failed to comply with the requirement in question.

(6) Every competent authority shall provide to the Minister, in writing, such information as is available to it and will assist the Minister to comply with the requirements specified in the first and third paragraphs, or make use of the right specified in the first paragraph, of Article 14 of Directive 95/53, as regards notification of the matters required to be notified, or, as the case may be, which may be notified, under that Article.

Modification of the Agriculture Act 1970 for certain purposes

7. - (1) For the purpose specified in paragraph (2), the Act shall have effect subject to the modifications set out in regulations 8 and 10 to 13.

(2) The purpose referred to in paragraph (1) is the enforcement and administration of -

(a) the Feeding Stuffs Regulations 1995[9] and the Feeding Stuffs Regulations (Northern Ireland) 1995[10], as read with Part IV of the Act, and

(b) sections 73 and 73A of the Act.

(3) For the purpose specified in paragraph (4), section 67(8) of the Act shall have effect subject to the modification set out in regulation 9.

(4) The purpose referred to in paragraph (3) is the enforcement and administration in Great Britain of -

(a) the Feeding Stuffs Regulations 1995, as read with Part IV of the Act, and

(b) sections 73 and 73A of the Act.

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, as modified for the purposes of these Regulations, to samples taken "in the prescribed manner" shall (as specified in regulation 7) be taken, in the case of feeding stuffs, to refer to samples taken in the manner prescribed -

(a) in the case of Great Britain, in Part II of Schedule 1 to the Feeding Stuffs (Sampling and Analysis) Regulations 1999[11], or

(b) in the case of Northern Ireland, in Part II of Schedule 1 to the Feeding Stuffs (Sampling and Analysis) Regulations (Northern Ireland) 1999[12],

and, in the case of products other than feeding stuffs, to refer to samples taken in the manner prescribed in section 76(8) of the Act.

Modification of section 67(8) of the Agriculture Act 1970

9. In Great Britain, section 67(8) of the Act shall (as specified in regulation 7) have effect as if, for the provisions of that subsection, there were substituted the following provisions:

" (8) If the Minister is of opinion or, in the case of any area in Scotland, the Scottish Ministers are of opinion, that in any area covered by an enforcement authority, the Feeding Stuffs Regulations 1995 or section 73 or 73A of the Act have been -

(a) insufficiently enforced or administered by the authority concerned, or

(b) enforced or administered by it without sufficient regard to the requirements of Council Directive 95/53/EC fixing the principles governing the organisation of official inspections in the field of animal nutrition;

he or, as the case may be, they may appoint one or more inspectors to exercise the powers exercisable by inspectors appointed by the authority in question, and any expenses certified by him or, as the case may be, them, as having been incurred by him or, as the case may be, them under this subsection shall be repaid to him or, as the case may be, them on demand by that authority.

(8A) In subsection (8) of this section "the Scottish Ministers" has the meaning given in section 44(2) of the Scotland Act 1998.."

Modification of section 76 of the Agriculture Act 1970

10. Section 76 of the Act (inspector's power to enter premises and take samples) shall (as specified in regulation 7) have effect as if, for the provisions of that section, there were substituted the following provisions:

" **76. Powers of inspectors**

(1) An inspector may at all reasonable times, and on producing, if requested to do so, some duly authenticated document showing his authority, enter -

(a) any premises on which he has reasonable cause to believe that a controlled product has been, or is being, manufactured or produced, or is being kept for the purpose of being put into circulation, incorporated in another product or used, or

(b) any premises (not being premises used only as a dwelling) on which he has reasonable cause to believe that there is any controlled product which the occupier of the premises has in his possession or under his control.

(2) 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 subsection (1) of this section, 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 temporarily absent,

the justice may by warrant signed by him authorise the inspector to enter the premises, if need be by reasonable force.

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

(4) In the application of subsection (2) of this section to -

(a) Scotland, any reference to a justice of the peace includes a reference to the sheriff and to a magistrate, and

(b) Northern Ireland, the reference to a sworn information in writing includes reference to a sworn complaint in writing.

(5) An inspector entering premises by virtue of this section, or of a warrant issued under it, may take with him such other persons and such equipment as may appear to him to be necessary, and on leaving any unoccupied premises which he has entered by virtue of such a warrant, shall leave them as effectively secured against unauthorised entry as he found them.

(6) An inspector entering premises by virtue of this section, or of a warrant issued under it, shall have the right to inspect -

(a) any material appearing to him to be a controlled product,

(b) any article appearing to him to be a container or package used or intended to be used to wrap or package any such product, or to be a label used or intended to be used in connection with any such product, or

(c) any plant or equipment appearing to him to be used, or intended to be used, in connection with the manufacture or production of a controlled product, and any process of manufacture or production of such a product.

(7) Subject to subsection (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, in the prescribed manner, a sample of any relevant material (that is to say material appearing to him to be a feeding stuff manufactured, produced, put into circulation or intended to be put into circulation, or to be material used, or intended to be used, as a feeding stuff).

(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 -

(a) in the case of Great Britain, in Part II of Schedule 1 to the Feeding Stuffs (Sampling and Analysis) Regulations 1999, or

(b) in the case of Northern Ireland, in Part II of Schedule 1 to the Feeding Stuffs (Sampling and Analysis) Regulations (Northern Ireland) 1999.

(9) For the purposes of subsection (8) of this section, the provisions of Schedule 1 to the Feeding Stuffs (Sampling and Analysis) Regulations 1999 or, as the case may be, Schedule 1 to the Feeding Stuffs (Sampling and Analysis) Regulations (Northern Ireland) 1999, shall have effect as if, for all references in those provisions to "feeding stuff" or to "feeding stuffs", there were substituted references to "controlled product other than a feeding stuff" or "controlled products other than feeding stuffs" respectively.

(10) The requirements specified in Part II (as regards preparation of samples) and in Part III, of Schedule 1 to the Feeding Stuffs (Sampling and Analysis) Regulations 1999 or, as the case may be, specified in the corresponding provisions in the Feeding Stuffs (Sampling and Analysis) Regulations (Northern Ireland) 1999, shall apply in relation to samples taken pursuant to subsection (8) of this section.

(11) Without prejudice to his powers and duties as to the taking of samples in the prescribed manner, an inspector may for the purposes of this Part of this Act take a sample in a manner other than that prescribed, of any material which has been sold for use as a feeding stuff or which he has reasonable cause to believe to be intended for sale as such.

(12) Where, for the purpose of taking a sample pursuant to subsection (7), (8) or (11) of this section, an inspector 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 inspector to purchase the container or containers on behalf of -

(a) in Great Britain, the authority for whom he acts, and

(b) in Northern Ireland, the Department of Agriculture for Northern Ireland.

(13) An inspector entering premises by virtue of this section, or of a warrant issued under it, shall have the right -

(a) to require any person carrying on, or appearing to be carrying on, a business which consists of or includes the manufacture, production, putting into circulation, or use of a controlled product, 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 which is in his possession or under his control, and

(b) to inspect and take copies of any record, or of any entry in any record, produced in pursuance of the preceding paragraph.

(14) An inspector exercising the power conferred by subsection (13) of this section in respect of a record held by means of a computer -

(a) shall be 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 person such reasonable assistance as he 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.

(15) 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 feeding stuff) -

(a) a requirement is made under subsection (13)(a) of this section in relation to any feeding stuff 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 shall be deemed to comply with it if, at the time it is made, he supplies the inspector making it with correct and adequate details of the publication concerned, and of where a copy of it may be obtained.

(16) An inspector entering premises by virtue of this section, or of a warrant issued under it, shall have the right to seize and detain any product which he has reasonable cause to believe to be a controlled product in relation to which, or by means of which, it appears that an offence under this Part of this Act is being or has been committed, and any record which he has reasonable cause to believe to be a record which may be required as evidence in proceedings under this Part of this Act.

(17) In this section -

"compound feeding stuff" has the meaning given in regulation 2(1) of the Feeding Stuffs Regulations 1995 or, as the case may be, in regulation 2(1) of the Feeding Stuffs Regulations (Northern Ireland) 1995;

"controlled product" means any feeding stuff, substance or product which is subject to any of the controls contained in the Feeding Stuffs Regulations 1995 or the Feeding Stuffs Regulations (Northern Ireland) 1995, as read with this Part of this Act, or in sections 73 or 73A of this Act;

"feeding stuff which is intended for a particular nutritional purpose" shall be construed in accordance with the definitions of "feeding stuff intended for a particular nutritional purpose" and "particular nutritional purpose" in regulation 2(1) of the Feeding Stuffs Regulations 1995 or, as the case may be, in regulation 2(1) of the Feeding Stuffs Regulations (Northern Ireland) 1995;

"premises" include any land, vehicle, vessel, aircraft or hovercraft; and

"put into circulation" means sell or otherwise supply, or have in possession with a view to selling or otherwise supplying.."

Modification of sections 77(4) and 78(6) of the Agriculture Act 1970

11. For the purpose of sections 77(4) and 78(6) of the Act, analysis shall (as specified in regulation 7) be treated as carried out in the prescribed manner, in relation to a sample of a product which falls to be inspected pursuant to Directive 95/53 but is not a feeding stuff, if -

(a) 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

(b) 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.

Modification of section 83 of the Agriculture Act 1970

12. Section 83 of the Act (exercise of powers by inspectors) shall (as specified in regulation 7) have effect as if -

- (a) in subsection (2), after the words "this Part of this Act", there were added the words ", or fails to comply with any requirement lawfully made by him in the exercise of such powers," , and
- (b) for subsection (5) there were substituted the following subsection:

" (5) Subsection (4) of this section shall not prevent an inspector who has taken a sample of any material in the prescribed manner from disclosing, to the manufacturer, or to the last seller or last supplier of the material, information as to the place where, and the person from whom, the sample was taken, or from disclosing to that manufacturer, last seller or last supplier, or to any person who had the material on his premises for the purpose of sale or supply, information as to the results of any analysis of that sample.."

Modification of section 86 of the Agriculture Act 1970

13. Section 86 of the Act (modifications of Part IV in application to Northern Ireland) shall (as specified in regulation 7) have effect as if subsection (4) thereof were omitted.

Obligation on competent authority to provide certain information to the Minister of Agriculture, Fisheries and Food or the Scottish Ministers

14. Every competent authority shall provide to the Minister, in writing, or, in the case of Scotland, to the Scottish Ministers in writing, such information as is available to it and will assist him or, as the case may be, them to comply with the requirements of Article 22 of Directive 95/53.

Amendment of the Feeding Stuffs Regulations 1995 and the Feeding Stuffs Regulations (Northern Ireland) 1995

15. Regulation 22 of the Feeding Stuffs Regulations 1995 and regulation 22 of the Feeding Stuffs Regulations (Northern Ireland) 1995 (Inspector's power to enter premises and inspect records) shall be deleted.

Joyce Quin
Minister of StateMinistry of Agriculture, Fisheries and Food

17th August 1999

John Reid
Secretary of State for Scotland

17th August 1999

EXPLANATORY NOTE

(This note is not part of the Regulations)

- 1. These Regulations, which come into force on 8th September 1999, implement Council Directive 95/53/EC fixing the principles governing the organization of official inspections in the field of animal nutrition (OJ No. L265, 8.11.95, p.17) insofar as it is not already implemented in the Feeding Stuffs (Sampling and Analysis) Regulations 1999 (S.I. 1999/1663), the Feeding Stuffs (Sampling and Analysis) Regulations (Northern Ireland) 1999 (S.R. 1999 No.296), the Feeding Stuffs (Zootechnical Products) Regulations 1999 (S.I. 1999/1871) and the Feeding Stuffs (Establishments and Intermediaries) Regulations 1999 (S.I. 1999/1872).
- 2. The Regulations also implement -

(a) Commission Directive 98/68/EC laying down the standard document referred to in Article 9(1) of Council Directive 95/53/EC and certain rules for checks at the introduction into the Community of feeding stuffs from third countries (OJ No. L261, 24.9.98, p.32); and

(b) in part, Council Directive 1999/20/EC amending Directive 70/524/EEC concerning additives in feeding stuffs, 82/471/EEC concerning certain products used in animal nutrition, 95/53/EC fixing the principles governing the organisation of official inspections in the field of animal nutrition and 95/69/EC laying down the conditions and arrangements for approving and registering certain establishments and intermediaries operating in the animal feed sector (OJ No. L80, 25.3.1999, p.20).

3. In implementation of Directive 95/53/EC, as read with the subordinate Directive 98/68/EC, the Regulations lay down detailed new rules applying to the enforcement of the principal EC Directives relating to feed products - namely those listed in Article 2.1(a) of Directive 95/53/EC.

4. In particular the Regulations -

(a) provide for the "competent authority" - i.e. local authorities or (in the case of enforcement of EC rules relating to zootechnical products) the Royal Pharmaceutical Society of Great Britain - to have the duty to enforce specified provisions in the Regulations relating to feed products imported from third countries and to inter-Community trade in such products (regulation 3(1));

(b) provide for the competent authority and the Commissioners of Customs and Excise to have the duty to enforce other specified provisions relating to feed products imported from third countries (regulation 3(2));

(c) specify the procedures relating to the checks to be carried out by the competent authority and the Commissioners on feed products imported from third countries, (including measures to be taken where such products are found not to comply with the EC rules specified in Article 2.1(a) of Directive 95/53/EC) and provide for offences and penalties where a person fails to co-operate in the carrying out of the procedures or unlawfully removes products under the Commissioners' control (regulation 4);

(d) require the competent authority to provide those found to be infringing the rules specified in Article 2.1(a) of Directive 95/53/EC in relation to products intended to be marketed within the Community with a notice complying with Article 20 of that Directive (regulation 5);

(e) specify the measures to be taken where checks carried out by the competent authority on feed products intended to be marketed within the Community, and in transit in the United Kingdom, or in the United Kingdom as the member State of destination, show that the rules specified in Article 2.1(a) of Directive 95/53/EC have not been complied with, and provide for offences and penalties where a person fails to co-operate in the taking of those measures (regulation 6);

(f) for the purpose of facilitating enforcement in the United Kingdom of the EC rules specified in Article 2.1(a) of Directive 95/53/EC (save insofar as they relate to zootechnical products) as implemented in the legislation referred to in regulation 7(2), apply with modifications certain provisions in Part IV of the Agriculture Act 1970 as regards powers to enter premises to carry out inspections of feed products, manufacturing equipment and records, to take samples of such products and have them analysed, requirements as to confidentiality, and other related matters (regulations 7(1) and (2), 8, 10, 11 and 12);

(g) for the purpose of ensuring effective enforcement in Great Britain of the provisions referred to in regulation 7(4), as required by Directive 95/53/EC apply with modifications section 67(8) of the Agriculture Act 1970, so as to enable the Minister of Agriculture, Fisheries and Food or the Scottish Ministers to appoint new enforcement officers, if those currently appointed have insufficient regard to the requirements of the Directive (regulations 7(3) and (4) and 9);

(h) in connection with the purpose specified in (f) above, make a minor consequential adjustment to section 86 of the Agriculture Act 1970 in relation to Northern Ireland (regulation 13);

(i) impose on the competent authority the duty to provide the Minister of Agriculture, Fisheries and Food and the Scottish Ministers with information to facilitate compliance with obligations on member States in Article

22 of Directive 95/53/EC as regards the establishment pursuant to that Directive of national programmes of inspections (regulation 14); and

(j) amend the Feeding Stuffs Regulations 1995 and the Feeding Stuffs Regulations (Northern Ireland) 1995 by deleting provisions equivalent to those included in regulation 10 (regulation 15).

Notes:

[1] S.I. 1972/1811.

[2] 1972 c. 68. See also section 57(1) of the Scotland Act 1998 (c.46) and paragraph 5 of Schedule 3 to the Government of Wales Act 1998 (c.38).

[3] 1970 c.40.

[4] S.I. 1999/1871.

[5] OJ No. L265, 8.11.95, p.17.

[6] OJ No. L80, 25.3.99, p.20.

[7] OJ No. L261, 24.9.98, p.32.

[8] S.I. 1999/1872. [9] S.I. 1995/1412, amended by S.I. 1996/1260, S.I. 1998/104, S.I. 1998/2072 and S.I. 1999/1528.

[10] S.R. 1995 No. 451, amended by S.R. 1996 No. 259, S.R. 1998 No. 124, S.R. 1998 No. 373 and S.R. 1999 No. 287.

[11] S.I. 1999/1663, amended by S.I. 1999/1871.

[12] S.R. 1999 No. 296.

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