

Welsh Statutory Instrument 2001 No. 3461 (W.280)

The Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2001

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STATUTORY INSTRUMENTS

2001 No. 3461 (W.280)

AGRICULTURE, WALES

The Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2001

Made

16th October 2001

Coming into force

3rd November 2001

In exercise of the powers conferred on Ministers of the Crown by sections 66(1), 68(1) and (1A), 69(1), 74A and 84 of the Agriculture Act 1970^[1], which are now exercisable in Wales by the National Assembly for Wales^[2], and after consultation as required by section 84(1) of that Act with the persons or organisations appearing to represent the interests concerned, and being designated^[3] for the purposes of section 2(2) of the European Communities Act 1972^[4] in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on it by the said section 2(2)^[5] (in so far as these Regulations cannot be made under the powers in the Agriculture Act 1970 specified above), the National Assembly for Wales makes the following Regulations:

Title, application and commencement

1. These Regulations may be cited as the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2001, shall apply to Wales only and shall come into force on 3rd November 2001.

Amendment of the Feeding Stuffs (Wales) Regulations 2001

2. The Feeding Stuffs (Wales) Regulations 2001^[6] shall be amended in accordance with regulations 3 to 16 below.

3. In regulation 2 (interpretation) -

(a) in paragraph (1) -

(i) after the definition of "European Economic Area Agreement" there shall be inserted the following definitions -

"European Economic Area approved Article 2.2(d) establishment" (*"sefydliad a gymeradwywyd gan Ardal Economaidd Ewrop ar gyfer Erthyg 2.2(d)"*) means an establishment listed on a register of approved establishments, maintained by a competent authority in a European Economic Area state which is neither the United Kingdom nor a member State, in implementation of Article 5 of the Establishments Directive, as an establishment on which a compound feeding stuff, of any kind the manufacture of which is regulated by Article 2.2(d) of that Directive, may be manufactured with a view to putting it into circulation;

"European Economic Area approved Article 2.2(f) establishment" (*"sefydliad a gymeradwywyd gan Ardal Economaidd Ewrop ar gyfer Erthygl 2.2(f)"*) means an establishment listed on a register of approved establishments, maintained by a competent authority in a European Economic Area state which is neither the United Kingdom nor a member State, in implementation of Article 5 of the Establishments Directive, as an establishment on which a compound feeding stuff, of any kind the production of which is regulated by Article 2.2(f) of that Directive, may be produced for the exclusive requirements of the producer's holding;

"European Economic Area permitted Article 2.2(d) establishment" (*"sefydliad a ganiateir gan Ardal Economaidd Ewrop ar gyfer Erthygl 2.2(d)"*) means an establishment located in a European Economic Area state which is neither the United Kingdom nor a member State (other than an European Economic Area approved Article 2.2(d) establishment or an establishment which a competent authority in that European Economic Area state has declined to approve as such an establishment) -

(a) on which a compound feeding stuff, of any kind the manufacture of which is regulated by Article 2.2(d) of the Establishments Directive, was being manufactured, with a view to putting it into circulation, on 10th March 2000, and

(b) in respect of which, before 10th August 2000, an application (which is pending) was made to a competent authority in the European Economic Area state concerned, in accordance with any requirements in that State for the making of such applications, to approve the establishment, pursuant to the Establishments Directive, as an establishment on which a compound feeding stuff of any such kind may be manufactured with a view to putting it into circulation;

"European Economic Area permitted Article 2.2(f) establishment" (*"sefydliad a ganiateir gan Ardal Economaidd Ewrop ar gyfer Erthygl 2.2(f)"*) means an establishment located in a European Economic Area state which is neither the United Kingdom nor a member State (other than a European Economic Area

approved Article 2.2(f) establishment or an establishment which a competent authority in that European Economic Area state has declined to approve as such an establishment) -

(a) on which a compound feeding stuff, of any kind the production of which is regulated by Article 2.2(f) of the Establishments Directive, was being produced, for the exclusive requirements of the producer's holding, on 10th March 2000, and

(b) in respect of which before 10th August 2000, an application (which is pending) was made to a competent authority in the European Economic Area state concerned, in accordance with any requirements in that State for the making of such applications, to approve the establishment, pursuant to the Establishments Directive, as an establishment on which a compound feeding stuff of any such kind may be produced for the exclusive requirements of the producer's holding;"

(ii) for the definition of "put into circulation", there shall be substituted the following definition -

" "put into circulation" ("*rhoi mewn cylchrediad*") means sell or otherwise transfer, have in possession with a view to selling or otherwise transferring, or offer for sale, to a third party, but, in regulation 14(3), (4) and (7), also means import into Wales from a country which is neither an European Economic Area state nor part of an European Economic Area state;"

(iii) for the definition of "third country" there shall be substituted the following definition -

" "third country" ("*trydedd wlad*") means a country other than an European Economic Area state;"

(b) paragraph (2) shall be omitted; and

(c) in paragraph (8), for the words "these Regulations are made" there shall be substituted the words "the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2001 are made".

4. - (1) In each of the provisions specified in paragraph (2) below, after the words "the Feeding Stuffs (Wales) Regulations 2001" there shall be added the words "as amended by the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2001".

(2) The provisions referred to in paragraph (1) above are regulations 7(1), 24(1) and 25(b).

5. In regulation 7 (limits of variation), for paragraph (3)(a) and (b) there shall be substituted the following paragraphs -

" (a) the material was first sold, or otherwise put into circulation, in a member State or in a European Economic Area state (other than the United Kingdom) which is not a member State,

(b) the mis-statement did not, at the time of putting into circulation, exceed any limits of variation prescribed in relation thereto in the State concerned, and".

6. In regulation 9 (manner of packaging and sealing compound feeding stuffs, additives and premixtures) -

(a) in paragraph (1), for the words "no person shall sell a compound feeding stuff, or any additive or premixture" there shall be substituted the words "no person shall put into circulation a compound feeding stuff, or sell any additive or premixture";

(b) in each of paragraphs (2) and (3), for the word "sold" there shall be substituted the words "put into circulation"; and

(c) in paragraph 2(a), for the words "or sellers of compound feeding stuffs" there shall be substituted the words "of compound feeding stuffs or those putting them into circulation".

7. - (1) In each of the provisions specified in paragraph (2) below, for the words "sell, or have in possession with a view to sale" there shall be substituted the words "put into circulation".

(2) The provisions referred to in paragraph (1) above are regulations 10(3)(b) and (4), 13(1), 15, 16(1) and 17(1).

8. In regulation 10 (control of feed materials) for paragraph (6) there shall be substituted the following paragraphs -

" (6) Without prejudice to sections 73 and 73A, no person shall import into Wales from any country which is neither a member State, nor an European Economic Area state which is not a member State, nor another part of the United Kingdom, supply (otherwise than on sale) or have in possession with a view to so supplying, any feed material, or use any feed material, which is deleterious or dangerous to farmed creatures, to pet animals or, through consumption of the products of any animal fed with the feed material, to human beings.

(6A) No person shall import into Wales from any country which is neither a member State, nor an European Economic Area state which is not a member State, nor another part of the United Kingdom, sell or have in possession with a view to sale, supply (otherwise than on sale) or have in possession with a view to so supplying, any feed material, or use any feed material, which is deleterious to the environment."[\[7\]](#).

9. In regulation 12 (control of feeding stuffs and feed materials containing undesirable substances) -

(a) in paragraph (4) -

(i) in subparagraph (a)(iii) the word "or" shall be omitted; and

(ii) after subparagraph (a)(iv) there shall be added the following provisions -

" (v) a European Economic Area approved or permitted Article 2.2(d) establishment or;

(vi) a European Economic Area approved or permitted Article 2.2(f) establishment;"; and

(b) in paragraph (5) -

(i) for the words "no UK or EC establishment" there shall be substituted the words "no UK, EC or European Economic Area establishment"; and

(ii) for subparagraph (b) there shall be substituted the following subparagraph -

" (b) in the case of an EC or a European Economic Area establishment, it is included in the most recently published list (if any) equivalent to the national list in the member State concerned or, as the case may be, in the European Economic Area state concerned."

10. In regulation 13 (control of compound feeding stuffs containing prohibited materials)
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(a) in paragraph (1), for subparagraph (e) there shall be substituted the following subparagraph -

" (e) subject to paragraph (3) below, waste (whether or not subjected, or to be subjected, to further processing) obtained from the treatment of "urban waste water", "domestic waste water" or "industrial waste water" (as those terms are defined in Article 2 of Council Directive 91/271/EEC concerning urban waste water treatment), whatever the origin of the waste water concerned;";[\[8\]](#) and

(b) after paragraph (2) there shall be added the following paragraph -

" (3) For the purposes of paragraph 1(e) above, the term "waste water" shall be construed in accordance with the second paragraph of point 5 of the Annex to Commission Decision 91/516/EEC establishing a list of ingredients whose use is prohibited in compound feeding stuffs.".[\[9\]](#)

11. In regulation 16(2) (control of ash insoluble in hydrochloric acid in compound feeding stuffs) -

(a) for the word "sale" there shall be substituted the words "putting into circulation", and

(b) in subparagraph (a) there shall be added at the end the following words "or in Commission Regulation (EC) No. 2697/2000 concerning the provisional authorisations of additives in feedingstuffs".[\[10\]](#)

12. In regulation 24(2), for the word "regulations" to the end there shall be substituted the following provisions -

" regulations 9(1)(a) (in relation to putting into circulation), (2) and (3), 10(1) to (4), (6), (6A) and (7), 13(3)(a), (c) and (d), (4), (6) and (7), 14(3), (4), (6), (7) and (9), 15(1), 17, 18(1) and 19(1).".

13. Regulation 27(a), (c) and (d)(ii) shall be revoked.

14. In Schedule 3 (permitted additives and provisions relating to their use) -

(a) for paragraph 3 there shall be substituted the following paragraph -

" **3.** - (1) Subject to subparagraph (2) below, no material shall contain any added colourant named or described in columns 2 and 3 of Part II unless -

- (a) the material is intended for a species or category of animal listed opposite the colourant in question in column 4 of that Part,
- (b) taking into account any such colourant as is naturally present, the maximum content (if any) specified in relation thereto in column 5 of that Part is not exceeded; and
- (c) the material complies with the conditions (if any) specified in relation thereto in column 6 of that Part.

(2) Subparagraph (1) above shall not apply to any added colourant which is intended for use in accordance with Commission Regulation (EC) No. 2697/2000 concerning the provisional authorisations of additives in feedingstuffs.";

(b) for the footnote to Part II of the Table (permitted colourants) there shall be substituted the following footnote -

" (2) Note also that certain colourants are permitted by virtue of Commission Regulation (EC) No. 2697/2000 as referred to in Part IX of this Table.",

(c) for the entries in columns 1 to 7 of Part V of the Table (trace elements) relating to the element "Copper-Cu", there shall be substituted the provisions set out in Schedule 1 to these Regulations, and

(d) for the provisions in Part IX of the Table (European Community Regulations by which additives are controlled) there shall be substituted the provisions set out in Schedule 2 to these Regulations.

15. In Schedule 4 (contents of the statutory statement or other declaration (except for additives and premixtures not contained in feeding stuffs)) -

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

" **1.** The expression "in the case of any compound feeding stuff", wherever it appears in this Schedule, shall be construed as referring to any compound feeding stuff which is sold or otherwise put into circulation.";

(b) in paragraph 2, in subparagraph (a)(iii)(bb), for the words "(or by an appropriate extract from)" to the end there shall be substituted the words "the words "EC additives"";

(c) in paragraph 7, for subparagraph (c)(ix) there shall be substituted the following provisions -

" (ix) the name or business name, and the address or registered business address, of the person within the European Economic Area responsible for the particulars specified in this subparagraph, if the establishment referred to in paragraph (x) below is not responsible for them;

(x) where the establishment producing the feed material must be approved in accordance with Council Directive 90/667/EEC laying down the veterinary rules for the disposal and processing of animal waste, for its placing on the market and for the prevention of pathogens in feedstuffs of animal or fish origin, and amending Directive 90/425/EC; the name or business name, and the address or registered business address, of the establishment, the approval number, the batch reference number or any other particulars which ensure that the material can be traced."; [[11](#)]

(d) in paragraph 9, for subparagraph (1)(a) there shall be substituted the following paragraph -

" (a) originated in a third country, and";

(e) in paragraph 14 -

(i) for subparagraph (1)(c) there shall be substituted the following provision -

" (c) the approval or registration number allocated, in accordance with Article 5 or, as the case may be, 10, of the Establishments Directive, to the establishment which manufactured the compound feeding stuff; and";

(ii) after subparagraph (1)(c) there shall be added the following provision -

" (d) the name or trade name and address or registered office of the person responsible for the accuracy of the particulars which, in accordance with this Schedule, are required in the case of compound feeding stuffs to be contained in the statutory statement or otherwise declared.";

(f) in paragraph 16(2), after the words "whole grain mix" there shall be added the words "which is sold or otherwise put into circulation";

(g) in paragraph 17(2), after the words "subparagraph (1) above," there shall be added the words "which is sold or otherwise put into circulation,";

(h) in paragraph 22 there shall be added at the end the following subparagraphs -

- " (d) the identification mark or trade mark of the person responsible for the particulars which, in accordance with this Schedule, are required or permitted in the case of compound feeding stuffs to be contained in the statutory statement or otherwise declared;
- (e) the description or trade name of the feeding stuff;
- (f) the price of the feeding stuff; and
- (g) the country of origin or manufacture of the feeding stuff.";
- (i) in paragraph 23(1), after the words "complementary feeding stuff which" there shall be added the words "is sold or otherwise put into circulation, and";
- (j) in paragraph 25(1), after the words "other than pet animals," there shall be added the words "which is sold or otherwise put into circulation,"; and
- (k) in each of paragraphs 26(1) and 27(1), after the words "feeding stuff intended for a particular nutritional purpose," there shall be added the words "which is sold or otherwise put into circulation."

16. - (1) In Schedule 5, in each of the provisions specified in paragraph (2) below, for the word "Community" there shall be substituted the words "Economic Area".

(2) The provisions referred to in paragraph (1) above are subparagraph 1(a)(iii), (e)(iv) and (f)(v) in Part I of Schedule 5 and subparagraph 2(a)(iv) in Part II of that Schedule.

Amendment of the Feeding Stuffs (Enforcement) Regulations 1999

17. The Feeding Stuffs (Enforcement) Regulations 1999^[12] shall be amended as follows in relation to Wales -

- (a) in regulation 7(2) and (4), for the references to "the Feeding Stuffs Regulations 1995" there shall be substituted references to "the Feeding Stuffs (Wales) Regulations 2001 as amended by the Feeding Stuffs and Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2001";
- (b) for regulation 9, there shall be substituted the following provisions:

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

9. In relation to Wales, 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 National Assembly for Wales is of the opinion that, in any area covered by an enforcement authority, the Feeding Stuffs (Wales) Regulations 2001, (as amended by the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2001), or section 73 or 73A of this 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, as amended by Council Directive 1999/20/EC,

it may appoint one or more inspectors to exercise the powers exercisable by inspectors appointed by the authority in question, and any expenses certified by it as having been incurred by it under this subsection shall be repaid to it on demand by that authority."[\[13\]](#); and

(c) in regulation 10, in subsection (17) of section 76 of the Agriculture Act 1970 as modified by that regulation, for the references to "the Feeding Stuffs Regulations 1995" there shall be substituted references to "the Feeding Stuffs (Wales) Regulations 2001 as amended by the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2001".

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998[\[14\]](#)

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

16th October 2001

SCHEDULE 1

Regulation 14(c)

PROVISIONS SUBSTITUTED FOR THE PROVISIONS IN PART V OF SCHEDULE 3
TO THE FEEDING STUFFS (WALES) REGULATIONS 2001 RELATING TO THE
ELEMENT COPPER-Cu

"E4	Copper-Cu	Cupric acetate, monohydrate	$\text{Cu}(\text{CH}_3.\text{COO})_2.\text{H}_2\text{O}$ }	Pigs for fattening:		
			$\text{CuCO}_3.\text{Cu}(\text{OH})_2.\text{H}_2\text{O}$ }	- up to 16 weeks	175 (total)	-
		Basic cupric carbonate, monohydrate	$\text{CuCl}_2.2\text{H}_2\text{O}$ }	- from 17th week to six months	100 (total)	-
		Cupric chloride, dihydrate	$\text{Cu}(\text{C}_3\text{H}_{10}\text{NO}_2\text{S})_2$ }		35 (total)	-
		Cupric methionate	CuO }	- over six months	35 (total)	-
		Cupric oxide	$\text{CuSO}_4.5\text{H}_2\text{O}$ }			-

						skimmed milk powder. "
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SCHEDULE 2

Regulation 14(d)

PROVISIONS SUBSTITUTED FOR PART IX OF THE TABLE TO SCHEDULE 3
TO THE FEEDING STUFFS (WALES) REGULATIONS 2001

" PART IXEUROPEAN COMMUNITY REGULATIONS BY WHICH
ADDITIVES ARE CONTROLLED[15]

Commission Regulation (EC) No. 2316/98 concerning authorisation of new additives and amending the conditions for authorisation of a number of additives already authorised in feedingstuffs[16].

Commission Regulation (EC) No. 1594/1999 amending the conditions for the authorisation of an additive in feedingstuffs[17].

Commission Regulation (EC) No. 2439/1999 on the conditions for authorisation of additives belonging to the group "binders, anti-caking agents and coagulants" in feedingstuffs[18].

Commission Regulation (EC) No. 1353/2000 concerning the permanent authorisation of an additive and the provisional authorisation of new additives, new additive uses and new preparations in feedingstuffs[19].

Commission Regulation (EC) No. 2437/2000 concerning the permanent authorisation of an additive and the provisional authorisation of new additives in feedingstuffs[20].

Commission Regulation (EC) No. 2697/2000 concerning the provisional authorisations of additives in feedingstuffs[21].

Commission Regulation (EC) No. 418/2001 concerning the authorisations of new additives and uses of additives in feedingstuffs[22]."

EXPLANATORY NOTE

(This note does not form part of the Regulations)

1. These Regulations, which apply to Wales only and come into force on 3rd November 2001, amend the Feeding Stuffs (Wales) Regulations 2001 and the Feeding Stuffs (Enforcement) Regulations 1999 insofar as they apply to Wales.

2. The Regulations implement -

(a) Commission Decision 2000/285/EC amending Decision 91/516/EC which established a list of ingredients whose use is prohibited in feedingstuffs (OJ No. L94, 14.4.2000, p. 43), and

(b) Directive 2000/16/EC of the European Parliament and of the Council amending Directive 79/373/EC on the marketing of compound feedingstuffs (OJ No. L105, 3.5.2000, p. 36), and

(c) Council Directive 96/25/EC on the circulation of feed materials (OJ No. 125, 23.5.1996, p.35).

3. The Regulations -

(a) modify measures on the marketing of compound feed stuffs and the circulation of feed materials (regulation 6);

(b) modify measures on the control of compound feeding stuffs to prohibit the use of material from waste treatment processes (regulation 10);

(c) add the three new (directly applicable) Commission Regulations specified below to the list, in Part IX of Schedule 3 to the Feeding Stuffs (Wales) Regulations 2001 (regulation 14). The new Commission Regulations are -

Commission Regulation (EC) No. 2437/2000, (OJ No. L280, 4.11.2000, p.28).

Commission Regulation (EC) No. 2697/2000, (OJ No. L319, 16.12.2000, p.1).

Commission Regulation (EC) No. 418/2001, (OJ No. L62, 2.3.2001, p.3).

(d) make minor typographical and other miscellaneous amendments to existing legislation.

4. A regulatory appraisal for these Regulations has been prepared pursuant to section 65 of the Government of Wales Act 1998 and placed in the library of the National Assembly for Wales. Copies may be obtained from the Food Standards Agency, 1st Floor, Southgate House, Cardiff CF10 1EW.

Notes:

[1] 1970 c. 40; section 74A was inserted by the European Communities Act 1972, c. 68, Schedule 4, paragraph 6, and the Act was amended by the Agriculture Act 1970 Amendment Regulations 1982 (S.I. 1982/980). Section 66(1) contains definitions of the expressions "the Ministers", "prescribed" and "regulations"; the definition of "the Ministers" was amended by

the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I. 1978/272), Schedule 5, paragraph 1.[back](#)

[2] By virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).[back](#)

[3] By virtue of the European Communities (Designation)(No. 3) Order 1999 (S.I. 1999/2788).[back](#)

[4] 1972 c.68.[back](#)

[5] As read with section 2(5) of the European Economic Area Act 1993 (c.51).[back](#)

[6] S.I. 2001/343.[back](#)

[7] Sections 73 and 73A of the Agriculture Act 1970 were modified, in relation to Wales, by S.I. 2001/343.[back](#)

[8] OJ No.L135, 30.5.1991, p.40.[back](#)

[9] OJ No. L281, 9.10.91, p.23. Last amended by Commission Decision 2000/285/EC amending Decision 91/516/EEC establishing a list of ingredients whose use is prohibited in compound feeding stuffs (OJ No. L94, 14.4.2000, p.43).[back](#)

[10] OJ No. L319, 16.12.2000, p. 1.[back](#)

[11] OJ No. L363, 27.12.90, p.51. Last amended by the 1994 Act of Accession (OJ No. C41, 29.8.94, p.155).[back](#)

[12] S.I. 1999/2325. Modified (in relation to England and Wales) by S.I. 2000/656 and (in relation to Wales) by S.I. 2001/343.[back](#)

[13] The reference for Council Directive 95/53/EC is OJ No. L265, 8.11.95, p.17. The reference for Council Directive 1999/20/EC is OJ No. L80, 25.3.99, p.20.[back](#)

[14] 1998 c.38.[back](#)

[15] Certain of the listed Regulations relate to categories of additive which also include additives controlled by the Additives Directive, and which are thus listed in the relevant Part of Parts I to VIII of the Table to this Schedule (e.g. the preservative formic acid is covered by Regulation (EC) No. 1594/1999 (above), whereas certain other preservatives are covered by Part VII of the Table).[back](#)

[16] OJ No. L289, 28.10.98, p.4.[back](#)

[17] OJ No. L188, 21.7.1999, p.35.[back](#)

[18] OJ No. L297, 18.11.1999, p.8. The Annex to this Regulation is now replaced by the Annex to Regulation (EC) No. 739/2000 (OJ No. L87, 8.4.2000, p.14).[back](#)

[19] OJ No. L155, 28.6.2000, p.15. As regards the additives specified in Annexes III and IV of this Regulation, see now the corresponding entries in Regulation (EC) No. 2697/2000 above.[back](#)

[20] OJ No. L280, 4.11.2000, p.28.[back](#)

[21] OJ No. L319, 16.12.2000, p.1.[back](#)

[22] OJ No. L62, 2.3. 2001, p.3.[back](#)

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