

# Statutory Instrument 2004 No. 1301

## **The Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2004**

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### STATUTORY INSTRUMENTS

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**2004 No. 1301**

### **AGRICULTURE, ENGLAND**

#### **The Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2004**

<i>Made</i>	<i>6th May 2004</i>
<i>Laid before Parliament</i>	<i>11th May 2004</i>
<i>Coming into force</i>	<i>1st June 2004</i>

The Secretary of State for Health, in exercise of the powers conferred on him by sections 66(1), 74A and 84 of the Agriculture Act 1970<sup>[1]</sup> (as read with regulation 14 of the Food Standards Act 1999 (Transitional and Consequential Provisions and Savings) (England and Wales) Regulations

2000[2] and articles 2 and 6 of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002[3]), and being a Minister designated[4] for the purposes of section 2(2) of the European Communities Act 1972[5] in relation to the Common Agricultural Policy of the European Community, in exercise of the powers conferred on him by that last mentioned section (in so far as these Regulations cannot be made under the powers of the Agriculture Act 1970 specified above), after consultation as required by section 84(1) of the Agriculture Act 1970 and by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety[6], makes the following Regulations:

### **Title, application and commencement**

1. These Regulations may be cited as the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2004, shall apply in relation to England only and shall come into force on 1st June 2004.

### **Amendments to the Feeding Stuffs Regulations 2000**

2. - (1) The Feeding Stuffs Regulations 2000[7] shall be amended, in so far as they apply in relation to England, in accordance with paragraphs (2) to (5).

(2) In Part V (trace elements) of Schedule 3 (permitted additives and provisions relating to their use), the entries relating to Iron-Fe, Cobalt-Co, Copper-Cu, Manganese-Mn and Zinc-Zn shall be omitted.

(3) In Part IX (European Community Regulations by which additives are controlled) of Schedule 3 -

(a) the following text shall be inserted immediately after the reference to Commission Regulation (EC) No. 877/2003 -

" Commission Regulation (EC) No. 1334/2003 amending the conditions for authorisation of a number of additives in feedingstuffs belonging to the group of trace elements<sup>(19)</sup>.

Commission Regulation (EC) No. 1801/2003 provisionally authorising the new use of a certain micro-organism in feedingstuffs<sup>(20)</sup>.

Commission Regulation (EC) No. 1847/2003 concerning the provisional authorisation of a new use of an additive and the permanent authorisation of an additive already authorised in feedingstuffs<sup>(21)</sup>.

Commission Regulation (EC) No. 2112/2003 correcting Regulation (EC) No. 1334/2003 amending the conditions for authorisation of a number of additives in feedingstuffs belonging to the group trace elements<sup>(22)</sup>.

Commission Regulation (EC) No. 2154/2003 provisionally authorising certain micro-organisms in feeding stuffs<sup>(23)</sup>.

Commission Regulation (EC) No. 277/2004 concerning the authorisation without time limit of an additive in feeding stuffs (3-phytase for turkeys for fattening)<sup>(24)</sup>.

Commission Regulation (EC) No. 278/2004 provisionally authorising a new use of an additive already authorised in feeding stuffs (preparation of endo-1, 4-beta-xylanase and subtilisin for laying hens)<sup>(25)</sup>.

Commission Regulation (EC) No. 490/2004 provisionally authorising the new use of

an additive already authorised in feeding stuffs (*saccharomyces cerevisiae*)<sup>(26)</sup>."

(b) the following text shall be inserted at the end -

" (19) OJ No. L187, 26.7.2003, p.11.

(20) OJ No. L264, 15.10.2003, p.16.

(21) OJ No. L269, 21.10.2003, p.3.

(22) OJ No. L317, 2.12.2003, p.22.

(23) OJ No. L324, 11.12.2003, p.11.

(24) OJ No. L047, 18.2.2004, p.20.

(25) OJ No. L047, 18.2.2004, p.22.

(26) OJ No. L079, 17.3.2004, p.23."

(4) For the entries relating to dioxin (sum of polychlorinated dibenzo-para-dioxins (PCDDs) and polychlorinated dibenzofurans (PCDFs) expressed in World Health Organisation (WHO) toxic equivalents, using the WHO-TEFs (toxic equivalency factors, 1997)) PCDD/F which are set out in columns 1 to 3 respectively of Part I (feeding stuffs) of Schedule 7 (prescribed limits for undesirable substances) there shall be substituted the entries set out in columns 1 to 3 respectively of Schedule 1 to these Regulations.

(5) For the entries relating to analogues of methionine which are set out in columns 1 to 7 respectively of Schedule 8 (control of certain protein sources) there shall be substituted the entries set out in columns 1 to 7 respectively of Schedule 2 to these Regulations.

### **Consequential amendments to the Feeding Stuffs Regulations 2000**

**3.** - (1) The Feeding Stuffs Regulations 2000 shall be amended, insofar as they apply in relation to England, in accordance with paragraphs (2) and (3).

(2) For paragraph (1) of regulation 7 (limits of variation) there shall be substituted the following paragraph -

" (1) Section 74(2) shall have effect as if after the words "this Part of this Act" there were inserted the words "or the Feeding Stuffs Regulations 2000 as amended by Regulations up to and including the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2004."

(3) For paragraph (1) of regulation 25 (modification of section 74A(3) of the Agriculture Act 1970) there shall be substituted the following paragraph -

" (1) For the purposes of the enforcement and administration of the provisions specified in paragraph (2) below section 74A(3) shall have effect as if for the words "regulations under subsection (1) above, or fails to comply with any other provision of the regulations," there were substituted the words "any provision specified in regulation 25(2) of the Feeding Stuffs Regulations 2000 as amended by Regulations up to and including the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs

(Enforcement) (Amendment) (England) Regulations 2004."

**Consequential amendments to the Feeding Stuffs (Sampling and Analysis) Regulations 1999**

4. The Feeding Stuffs (Sampling and Analysis) Regulations 1999[8] shall be amended in so far as they apply in relation to England in accordance with regulations 5 and 6.

5. In paragraph 3(e)(ii) of Part I of Schedule 2 (methods of analysis) after the words "Feeding Stuffs Regulations 2000" for the remainder of the paragraph there shall be substituted the words "as amended by Regulations up to and including the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2004".

6. For paragraph (11)(a) of Part II (notes for completion of certificate) of Schedule 3 (form of certificate of analysis) there shall be substituted the following paragraph -

" (a) whether or not the material was named in accordance with the requirements of the Feeding Stuffs Regulations 2000 as amended by Regulations up to and including the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2004 and, if it was not named in accordance with those requirements, in what respect it was not;"

**Consequential amendments to the Feeding Stuffs (Enforcement) Regulations 1999**

7. The Feeding Stuffs (Enforcement) Regulations 1999[9] shall be amended in so far as they apply in relation to England in accordance with regulations 8 to 11.

8. In regulation 7 (modification of the Agriculture Act 1970 for certain purposes) -

(a) for paragraph (2) there shall be substituted the following paragraph -

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

(a) the Feeding Stuffs Regulations 2000 as amended by Regulations up to and including the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2004 as read with Part IV of the Act; and

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

(b) for paragraph (4) there shall be substituted the following paragraph -

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

(a) the Feeding Stuffs Regulations 2000 as amended by Regulations up to and including the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2004, as read with Part IV of the Act; and

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

9. In each of regulations 11, 11A and 11B for the expression "the Feeding Stuffs (Sampling

and Analysis) (Amendment) (England) Regulations 2001, the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2001, the Feeding Stuffs (Amendment) Regulations 2002, the Feeding Stuffs (Amendment) Regulations 2003, the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2003 and the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) (No. 2) Regulations 2003" there shall be substituted the expression ", Regulations up to and including the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2004".

**10.** In the modified version of subsection (8) of section 67 of the Agriculture Act 1970 which is set out in regulation 9 for the expression "the Feeding Stuffs (Sampling and Analysis) (Amendment) (England) Regulations 2001, the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2001, the Feeding Stuffs (Amendment) Regulations 2002, the Feeding Stuffs (Amendment) Regulations 2003, the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2003 and the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) (No. 2) Regulations 2003" there shall be substituted the expression ", Regulations up to and including the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2004".

**11.** In regulation 10 (modification of section 76 of the Agriculture Act 1970) for the modified version of subsection (17) of section 76 of the Agriculture Act 1970 which is set out in that regulation there shall be substituted the following subsection -

" (17) In this section -

"compound feeding stuff" has the meaning given in regulation 2(1) of the Feeding Stuffs Regulations 2000 as amended by Regulations up to and including the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2004;

"controlled product" means any feeding stuff, substance or product which is subject to any of the controls contained in the Feeding Stuffs Regulations 2000 as amended by Regulations up to and including the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2004, as read with this Part of this Act, or in section 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 2000 as amended by Regulations up to and including the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2004;

"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."

Signed by authority of the Secretary of State for Health

*Melanie Johnson*

Parliamentary Under Secretary of State, Department of Health

6th May 2004

## SCHEDULE 1

Regulation 2(4)

## ENTRIES TO BE SUBSTITUTED IN PART I OF SCHEDULE 7 TO THE FEEDING STUFFS REGULATIONS 2000

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
"Dioxin (sum of polychlorinated dibenzo-para-dioxins (PCDDs) and polychlorinated dibenzo-furans (PCDFs) expressed in World Health Organisation (WHO) toxic equivalents, using the WHO-TEFs (toxic equivalency factors, 1997))	All feed materials of plant origin including vegetable oils and by-products	0.75 ng WHO-PCDD/F-TEQ/kg
	Minerals as listed in Section 11 of Part II of Schedule 2	1.0 ng WHO-PCDD/F-TEQ/kg
	Kaolinitic clay, calcium sulphate dihydrate, vermiculite, natrolite-phonolite, synthetic calcium aluminates and clinoptilolite of sedimentary origin belonging to the group "binders, anti-caking agents and coagulants" authorised under Council Directive 70/524/EEC concerning additives in feedingstuffs (OJ No. L270, 14.12.70, p.1)	0.75 ng WHO-PCDD/F-TEQ/kg
	Animal fat, including milk fat and egg fat	2.0 ng WHO-PCDD/F-TEQ/kg
	Other land animal products including milk and milk products and eggs and egg products	0.75 ng WHO-PCDD/F-TEQ/kg
	Fish oil	6 ng WHO-PCDD/F-

		TEQ/kg
	Fish, other aquatic animals, their products and by-products with the exception of fish oil and fish protein hydrolysates containing more than 20% fat	1.25 ng WHO-PCDD/F-TEQ/kg
	Compound feedingstuffs, with the exception of feedingstuffs for fur animals, pet foods and feedingstuffs for fish	0.75 ng WHO-PCDD/F-TEQ/kg
	Feedingstuffs for fish Pet foods	2.25 ng WHO-PCDD/F-TEQ/kg
	Fish protein hydrolysates containing more than 20% fat	2.25 ng WHO-PCDD/F-TEQ/kg
	<p><b>Note in respect of the entry in Column 2 relating to fish, other aquatic animals, their products and by-products with the exception of fish oil and fish protein hydrolysates containing more than 20% fat</b></p> <p>Fresh fish directly delivered and used without intermediate processing for the production of feedingstuffs for fur animals is exempted from the maximum limit and a maximum level of 4.0 ng WHO-PCDD/F-TEQ/kg product is applicable to fresh fish used for the direct feeding of pet animals, zoo and circus animals. The products, processed animal proteins produced from these animals (fur animals, pet animals, zoo and circus animals) cannot enter the food chain and the feeding thereof is prohibited to farmed animals which are kept, fattened or bred for the production of food</p>	<p><b>Note in respect of all the entries in Column 3</b></p> <p>Upper-bound concentrations; upper-bound concentrations are calculated assuming that all values of the different congeners less than the limit of quantification are equal to the limit of quantification."</p>

## SCHEDULE 2

Regulation 2(5)

## ENTRIES TO BE SUBSTITUTED IN SCHEDULE 8

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>	<i>Column 6</i>	<i>Column 7</i>
"4.1 Analogues of methionine	4.1.1. Hydroxy analogue of methionine	CH <sub>3</sub> S(CH <sub>2</sub> ) <sub>2</sub> -CH(OH)-COOH	-	Total of acids: minimum 85% Monomer acid:		Declarations to be made on the label or packaging of the product:

				minimum 65% Monomer acid: minimum 83%		
	4.1.2. Calcium salt of hydroxy analogue of methionine	$[\text{CH}_3\text{-S-}(\text{CH}_2)\text{-CH(OH)-COO}]_2\text{Ca}$	-	Monomer acid: minimum 65% minimum 83% Calcium: minimum 12%	All animal species	<ul style="list-style-type: none"> <li>- if appropriate, the name (column 2);</li> <li>- monomer acid and total acids contents in the case of product 4.1.1. and monomer acid content in the case of product 4.1.2.</li> <li>- moisture content;</li> <li>- animal species;</li> <li>- approval number;</li> </ul> <p>Declarations to be made on the label or packaging of compound feeding stuffs:</p> <ul style="list-style-type: none"> <li>- if appropriate, the name (column 2);</li> <li>- monomer acid and total acids contents in the case of product 4.1.1. and monomer acid content in the case of product 4.1.2.</li> <li>- amount of the product contained in the feeding stuff.</li> </ul>
	4.1.3. Isopropyl ester of the hydroxylated analogue of methionine	$\text{CH}_3\text{-S-}(\text{CH}_2)_2\text{-CH(OH)-COO-CH-}(\text{CH}_3)_2$	-	- Monomer esters: 90% minimum  -	Dairy cows	<p>Declarations to be made on the label or packaging of the product:</p> <ul style="list-style-type: none"> <li>- Isopropyl ester of 2-hydroxy-</li> </ul>

				Humidity: maximum 1%	4- methylthiobutanoic acid
					Declarations to be made on the label or packaging of compound feeding stuffs:
					- analogue of methionine: Isopropyl ester of 2-hydroxy-4- methylthiobutanoic acid
					- percentage of incorporation of analogue of methionine in the feed."

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

**1.** These Regulations, which apply in relation to England only, further amend the Feeding Stuffs Regulations 2000 (S.I. 2000/2481, as already amended). The Feeding Stuffs Regulations 2000 largely apply in relation to England only.

**2.** These Regulations provide for the enforcement of Commission Regulation (EC) No. 1334/2003 amending the conditions for authorisation of a number of additives in feedingstuffs belonging to the group of trace elements (OJ No. L187, 26.7.2003, p.11), Commission Regulation (EC) No. 1801/2003 provisionally authorising the new use of a certain micro-organism in feedingstuffs (OJ No. L264, 15.10.2003, p.16), Commission Regulation (EC) No. 1847/2003 concerning the provisional authorisation of a new use of an additive and the permanent authorisation of an additive already authorised in feedingstuffs (OJ No. L269, 21.10.2003, p.3), Commission Regulation (EC) No. 2112/2003 correcting Regulation (EC) No. 1334/2003 amending the conditions for authorisation of a number of additives in feedingstuffs belonging to the group trace elements (OJ No. L317, 2.12.2003, p.22), Commission Regulation (EC) No. 2154/2003 provisionally authorising certain micro-organisms in feeding stuffs (OJ No. L324, 11.12.2003, p.11), Commission Regulation (EC) No. 277/2004 concerning the authorisation of an additive in feeding stuffs for fattening turkeys (OJ No. L047, 18.2.2004, p.20), Commission Regulation (EC) No. 278/2004 provisionally authorising the new use of an additive in feeding stuffs for laying hens (OJ No. L047, 18.2.2004, p.22) and Commission Regulation (EC) No. 490/2004 provisionally authorising the new use of an additive in feeding stuffs (OJ No. L079, 17.3.2004, p.23), (*regulation 2(2) and (3)*).

**3.** These Regulations also implement Commission Directive 2003/57/EC amending Directive 2002/32 of the European Parliament and of the Council on undesirable substances in animal feed (OJ No. L151, 19.6.2003, p.38) by amending Schedule 7 to the Feeding Stuffs Regulations 2000 so as to specify new maximum levels for Dioxin in feeding stuffs (*regulation 2(4) and Schedule*

I).

4. These Regulations also implement Commission Directive 2003/104/EC authorising isopropyl ester of the hydroxylated analogue of methionine (OJ No. L295, 13.11.2003, p.83) by amending Schedule 8 to the Feeding Stuffs Regulations 2000 so as to revise the conditions for the sale or possession for sale of analogues of methionine for use as a feeding stuff or as a protein source in a feeding stuff (*regulation 2(5) and Schedule 2*).

5. These Regulations also make consequential amendments to regulations 7(1) and 25(1) of the Feeding Stuffs Regulations 2000 (*regulation 3*) and consequential amendments to the Feeding Stuffs (Sampling and Analysis) Regulations 1999 and the Feeding Stuffs (Enforcement) Regulations 1999 (*regulations 4 to 11*).

6. A full regulatory impact assessment of the effect that this instrument will have on the costs of business has been prepared and placed in the Library of each House of Parliament together with a Transposition Note setting out how the main elements of Commission Directive 2003/57/EC and Commission Directive 2003/104/EC are transposed into domestic law by these Regulations. Copies may be obtained from the Chemical Contaminants and Animal Feed Division of the Food Standards Agency, Aviation House, 125 Kingsway London, WC2B 6NH.

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Notes:

[1] 1970 c. 40. 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. Functions of "the Ministers", so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672. Those functions, so far as exercisable in relation to Scotland, were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (1998 c. 46). By virtue of S.I. 1999/3141, functions of the Secretaries of State for Wales and Scotland previously exercisable in relation to England ceased to be so exercisable and were transferred to the Minister of Agriculture, Fisheries and Food. Section 74A was inserted by the European Communities Act 1972 (1972 c. 68), Schedule 4, paragraph 6.[back](#)

[2] S.I. 2000/656.[back](#)

[3] S.I. 2002/794.[back](#)

[4] S.I. 1972/1811, amended by S.I. 2002/794.[back](#)

[5] 1972 c. 68.[back](#)

[6] OJ No. L31, 1.2.2002, p.1. Under Article 3 of the EC Regulation "food law" extends to feed produced for, or fed to, food producing animals.[back](#)

[7] S.I. 2002/2481, amended by S.I. 2001/541, S.I. 2001/3389, S.I. 2002/892, S.I. 2003/1026, S.I. 2003/1503 and S.I. 2003/2912.[back](#)

[8] S.I. 1999/1663, amended by S.I. 1999/1871, S.I. 2001/541, S.I. 2002/892, S.I. 2003/1296, S.I. 2003/1503 and S.I. 2003/2912.[back](#)

[9] S.I. 1999/2325, amended by S.I. 2000/656, S.I. 2000/2481, S.I. 2001/541, S.I. 2001/3389, S.I. 2002/892, S.I. 2003/1026, S.I. 2003/1296 and S.I. 2003/1503.[back](#)

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