

Welsh Statutory Instrument 2004 No. 3091 (W.265)

The Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) (No. 2) Regulations 2004

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STATUTORY INSTRUMENTS

2004 No. 3091 (W.265)

AGRICULTURE, WALES

The Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) (No. 2) Regulations 2004

Made

23 November 2004

Coming into force

24 November 2004

The National Assembly for Wales, in exercise of the powers conferred by sections 66(1), 74A, 77(4), 79(2) and 84 of the Agriculture Act 1970^[1], and being designated^[2] for the purposes of section 2(2) of the European Communities Act 1972^[3] in relation to measures relating to feed produced for or fed to food-producing animals, in exercise of the powers conferred 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 that Act 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^[4], 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) (Wales) (No. 2) Regulations 2004, apply in relation to Wales only and come into force on 24 November 2004.

Amendments to the Feeding Stuffs (Wales) Regulations 2001

2. - (1) The Feeding Stuffs (Wales) Regulations 2001^[5] are amended in accordance with paragraphs (2) to (4).

(2) In regulation 12 (control of products intended for animal feed containing undesirable substances) after paragraph (6) add the following -

" (7) Paragraphs (8) and (9) apply to any person who has in his or her possession or control for the purposes of a trade or business any of the following products intended for animal feed -

- (a) palm kernel expeller;
- (b) feeding stuffs obtained from the processing of fish or other marine animals;
- (c) seaweed meal and feed materials derived from seaweed; or
- (d) complete feeding stuffs for fish or for fur producing animals.

(8) Any person referred to in paragraph (7) must, if requested by an inspector, procure and produce to the inspector an analysis in order to demonstrate that the content of inorganic arsenic in a product intended for animal feed listed in paragraph (7) is within the limit specified in the relevant entry in column 3 of Part I of Schedule 7.

(9) Any person who fails to comply with a request made under paragraph (8) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale."

(3) For regulation 13 (control of compound feeding stuffs containing prohibited materials) substitute the following -

" Control of feeding stuffs containing prohibited materials

13. - (1) No person shall put into circulation for use as a feeding stuff, or use as a feeding stuff, any material which contains -

(a) faeces, urine or separated digestive tract contents resulting from the emptying or removal of the digestive tract, irrespective of any form of treatment or admixture;

(b) hide treated with tanning substances, including its waste;

(c) seeds or other plant propagating materials which, after harvest, have undergone specific treatment with plant protection products for their intended use in propagation, or derived by-products;

(d) wood, including sawdust or other materials derived from wood, which has been treated with wood preservatives as defined in Annex V of Directive 98/8/EC of the European Parliament and of the Council concerning the placing of biocidal products on the market^[6];

(e) subject to paragraph (3), 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 waste water treatment), whatever the origin of the waste water concerned^[7];

(f) solid urban waste, such as household waste, but excluding catering waste as defined by Regulation (EC) 1774/2002 laying down health rules concerning animal by-products not intended for human consumption ^[8];

(g) packaging and parts of packaging from products used in agriculture or the food industry.

(2) For the purposes of paragraph (1) "waste" has the meaning given in Article 1 of Council Directive 75/442/EEC ^[9].

(3) For the purposes of paragraph (1)(e), the term "waste water" shall be construed in accordance with the footnote to point 5 of the Annex to Commission Decision 2004/217/EC adopting a list of materials whose circulation or use for animal nutrition purposes is prohibited^[10]."

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

(a) after the reference to Commission Regulation (EC) No. 490/2004 insert the following -

" Commission Regulation (EC) No. 879/2004 concerning the provisional authorisation of a new use of an additive already authorised in feeding stuffs (*Saccharomyces cerevisiae*) (27).

Commission Regulation (EC) No. 880/2004 authorising without

time limit the use of beta-carotene and canthaxanthin as additives in feeding stuffs belonging to the group of colouring matters including pigments (28).

Commission Regulation (EC) No. 1259/2004 concerning the permanent authorisation of certain additives already authorised in feeding stuffs (29).

Commission Regulation (EC) No. 1288/2004 concerning the permanent authorisation of certain additives and the provisional authorisation of a new use of an additive already authorised in feeding stuffs (30).

Commission Regulation (EC) No. 1332/2004 concerning the permanent authorisation of certain additives in feeding stuffs (31).

Commission Regulation 1333/2004 concerning the permanent authorisation of a certain additive in feeding stuffs (32).

Commission Regulation (EC) No. 1453/2004 concerning the permanent authorisation of certain additives in feeding stuffs (33).

Commission Regulation (EC) No. 1465/2004 concerning the permanent authorisation of an additive in feeding stuffs (34).".

(b) at the end add the following -

" (27) OJ No. L162, 30.4.2004, p.65.

(28) OJ No. L162, 30.4.2004, p.68.

(29) OJ No. L239, 9.7.2004, p.8.

(30) OJ No. L243, 15.7.2004, p.10.

(31) OJ No. L247, 21.7.2004, p.8.

(32) OJ No. L247, 21.7.2004, p.11.

(33) OJ No. L269, 17.8.2004, p.3.

(34) OJ No. L270, 18.8.2004, p.11.".

(5) For the entries relating to arsenic, fluorine, lead, aflatoxin B1 free gossypol and endosulphan which are set out in columns 1 to 3 of Part I (feeding stuffs) of Schedule 7 (prescribed limits for undesirable substances) substitute the entries set out in columns 1 to 3 respectively of the Schedule to these Regulations.

Consequential amendments to the Feeding Stuffs (Wales) Regulations 2001

3. - (1) The Feeding Stuffs (Wales) Regulations 2001 are further amended in accordance with paragraphs (2) and (3).

(2) In paragraph (1) of regulation 7 (limits of variation) after the second appearance of "(Wales)" insert "(No. 2)".

(3) In paragraph (1) of regulation 24 (modification of section 74A(3) of the Agriculture Act 1970) after the second appearance of "(Wales)" insert "(No. 2)".

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

4. - (1) The Feeding Stuffs (Sampling and Analysis) Regulations 1999[[11](#)] are amended in so far as they apply in relation to Wales in accordance with paragraphs (2) and (3).

(2) In paragraph 3(e)(ii) of Part I of Schedule 2 (methods of analysis) after the second appearance of "(Wales)" insert "(No. 2)".

(3) In paragraph (11)(a) of Part II (notes for completion of certificate) of Schedule 3 (form of certificate of analysis) after the second appearance of "(Wales)" insert "(No. 2)".

Consequential amendments to the Feeding Stuffs (Enforcement) Regulations 1999

5. - (1) The Feeding Stuffs (Enforcement) Regulations 1999[[12](#)] are amended in so far as they apply in relation to Wales in accordance with paragraphs (2) to (5).

(2) In paragraph (2)(a) and in paragraph (4) of regulation 7 (modification of the Agriculture Act 1970 for certain purposes) after the second appearance of "(Wales)" in both paragraphs insert "(No. 2)".

(3) In the modified version of subsection (8) of section 67 of the Agriculture Act 1970 which is set out in regulation 9, substitute the words "(Wales) (No. 2) Regulations 2004" for the words "(Wales) Regulations 2004".

(4) In the modified version of subsection (17) of section 76 of the Agriculture Act 1970 which is set out in regulation 10, substitute the words "(Wales) (No. 2) Regulations 2004" for the words "(Wales) Regulations 2004" wherever they appear.

(5) In each of regulations 11, 11A and 11B, substitute the words "(Wales) (No. 2) Regulations 2004" for the words "(Wales) Regulations 2004".

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998[[13](#)]

D. Elis-Thomas

The Presiding Officer of the National Assembly

23 November 2004

SCHEDULE

Regulation 2(4)

**ENTRIES TO BE SUBSTITUTED IN PART I OF SCHEDULE 7 TO THE
FEEDING STUFFS (WALES) REGULATIONS 2001**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Arsenic	Feed materials except:	2
	- meal made from grass, from dried lucerne and from dried clover and dried sugar beet pulp and dried molasses sugar beet pulp	4
	- palm kernel expeller	4 (of which the content of inorganic arsenic must be less than 2)
	- phosphates and calcareous marine algae	10
	- calcium carbonate	15
	- magnesium oxide	20
	- feedingstuffs obtained from the processing of fish or other marine animals	15 (of which the content of inorganic arsenic must be less than 2)
	- seaweed meal and feed materials derived from seaweed	40 (of which the content of inorganic arsenic must be less than 2)
	Complete feeding stuffs except:	2
	- complete feeding stuffs for fish and fur-producing animals	6 (of which the content of inorganic arsenic must be less than 2)
	Complementary feeding stuffs except:	4
	- mineral feeding stuffs	12
		Note in respect of all entries in column 3
		The maximum levels refer to total arsenic

Fluorine	Feed materials except:	150
	- feedingstuffs of animal origin with the exception of marine crustaceans such as marine krill	500
	- phosphates and marine crustaceans such as marine krill	2000
	- calcium carbonate	350
	- magnesium oxide	600
	- calcareous marine algae	1000
	Complete feeding stuffs except:	150
	- complete feeding stuffs for cattle, sheep and goats	
	- in milk	30
	- other	50
	- complete feeding stuffs for pigs	100
	- complete feeding stuffs for poultry	350
	- complete feeding stuffs for chicks	250
	Mineral mixtures for cattle, sheep and goats	2000
	Other complementary feeding stuffs	125 (fluorine content per percentage point phosphorous in the feeding stuff)
Lead	Feed materials except:	10
	- grass meal, lucerne meal or clover meal	40
	- calcium carbonate	20
	- phosphates and calcareous marine algae	15
	- yeast	5
	Complete feeding stuffs	5
	Complementary feeding stuffs except:	10
	- mineral feeding stuffs	15

Aflatoxin B ₁	All feed materials	0.02
	Complete feeding stuffs for cattle, sheep and goats except:	0.02
	- dairy animals	0.005
	- calves and lambs	0.01
	Complete feeding stuffs for pigs and poultry (except piglets and chicks)	0.02
	Other complete feeding stuffs	0.01
	Complementary feeding stuffs for cattle, sheep and goats (except complementary feeding stuffs for dairy animals, calves and lambs)	0.02
	Complementary feeding stuffs for pigs and poultry (except piglets and chicks)	0.02
	Other complementary feeding stuffs	0.005
Free Gossypol	Feed materials except:	20
	- cotton-seed	5000
	- cotton-seed cakes and cotton-seed meal	1200
	Complete feeding stuffs except:	20
	- complete feeding stuffs for cattle, sheep and goats	500
	- complete feeding stuffs for poultry (except laying hens) and calves	100
	- complete feeding stuffs for rabbits and pigs (except piglets)	60
Endosulphan (sum of alpha- and beta-isomers and of endosulphan sulphate, expressed as endosulphan)	All feeding stuffs except:	0.1
	- maize and products derived from the processing thereof	0.2

	- oilseeds and products derived from the processing thereof	0.5
	- complete feeding stuffs for fish	0.005

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations, which apply in relation to Wales only, further amend the Feeding Stuffs (Wales) Regulations 2001 (SI 2001/343 (W.15), as already amended), "the 2001 Regulations", which apply in relation to Wales only.

2. These Regulations implement Commission Directive 2003/100/EC (OJ No. L285, 01.11.2003, p.33) amending Directive 2002/32/EC of the European Parliament and of the Council (OJ No. L140, 30.05.2002, p.15) on undesirable substances in animal feed, and also implement Commission Decision 2004/217/EC (OJ No. L067, 05.03.2004, p.31) adopting a list of materials whose circulation or use for animal nutrition purposes is prohibited.

3. Regulation 2 of these Regulations amends the 2001 Regulations by -

(a) requiring that analysis indicating the level of inorganic arsenic in certain feeding stuffs or feed materials must be provided on request to the competent authority, (paragraph (2));

(b) making detailed amendments to the list of prohibited materials set out in regulation 13 of the 2001 Regulations, and extending to the circulation or use as feed materials the existing prohibition on the circulation or use in connection with compound feeding stuffs (paragraph (3));

(c) adding to Part IX of Schedule 3 eight new European Commission Regulations authorising new additives or new uses of certain additives in feeding stuffs, or as the case may be making permanent the existing provisional authorisation of an additive (paragraph (4));

(d) amending the prescribed limits for undesirable substances set out in Schedule 7 to the 2001 Regulations in respect of arsenic, fluorine, lead, aflatoxin B1, free gossypol and endosulphan (paragraph (5)).

4. Regulations 3 to 5 also make consequential amendments to references to the Feeding Stuffs Regulations as they appear in various Regulations and in the Agriculture Act 1970.

5. A Regulatory Appraisal of the effect these Regulations have on business costs has been prepared pursuant to section 65 of the Government of Wales Act 1998 and placed in the Library of National Assembly for Wales, 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 Food Standards Agency, 11th Floor, Southgate House, Cardiff, CF10 1EW.

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 Secretary of State", so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672. Section 74A was inserted by the European Communities Act 1972 (1972 c. 68), Schedule 4, paragraph 6.[back](#)

[2] S.I. 2003/2901.[back](#)

[3] 1972 c. 68.[back](#)

[4] 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](#)

[5] S.I. 2001/343 (W.15), amended by S.I. 2001/2253 (W.163), S.I. 2001/3461 (W.280), S.I. 2002/1797 (W.172), S.I. 2003/1677 (W.180), S.I. 2003/1850 (W.200), S.I. 2003/3119 (W.297) and SI 2004/1749 (W.186).[back](#)

[6] OJ No. L123, 24.04.1998, p.1.[back](#)

[7] OJ No. L135, 30.05.1991, p.40, as amended by Commission Directive 98/15/EC, OJ No. L67, 07.03.1998, p.29.[back](#)

[8] OJ No. L273, 10.10.2002, p.1.[back](#)

[9] OJ No. L194, 25.07.1975, p.39, as last amended by Regulation (EC) 1882/2003, OJ No. L284, 31.10.2003, p.1.[back](#)

[10] OJ No. L67, 05.03.2004, p.31.[back](#)

[11] S.I. 1999/1663, amended by S.I. 1999/1871, S.I. 2001/2253 (W.163), S.I. 2002/1797 (W.172), S.I. 2003/1677 (W.180), S.I. 2003/1850 (W.200), S.I. 2003/3119 (W.297) and S.I. 2004/1749 (W.186).[back](#)

[12] S.I. 1999/2325, amended by S.I. 2000/656, S.I. 2000/2481, S.I. 2001/2253 (W.163), S.I. 2001/3461 (W.280), S.I. 2002/1797 (W.172), S.I. 2003/989 (W.138), S.I. 2003/1677 (W.180), S.I. 2003/1850 (W.200), S.I. 2003/3119 (W.297) and S.I. 2004/1749 (W.186).[back](#)

[13] 1998 c.38.[back](#)

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