

Welsh Statutory Instrument 2004 No. 1749 (W.186)

The Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2004

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STATUTORY INSTRUMENTS

2004 No. 1749 (W.186)

AGRICULTURE, WALES

The Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2004

<i>Made</i>	<i>6 July 2004</i>
<i>Coming into force</i>	<i>9 July 2004</i>

The National Assembly for Wales, in exercise of the powers conferred by sections 66(1), 74A, 77(4) and 84 of the Agriculture Act 1970^[1], 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^[2], and

being designated^[3] for the purposes of section 2(2) of the European Communities Act 1972^[4] 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), 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) Regulations 2004, apply in relation to Wales only and come into force on 9 July 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 (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 are deleted.

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

(a) the following text is 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⁽¹⁹⁾.

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

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⁽²¹⁾.

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⁽²²⁾.

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

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

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)⁽²⁵⁾.

Commission Regulation (EC) No. 490/2004 provisionally authorising the new use of an additive already authorised in feeding stuffs (*saccharomyces cerevisiae*)⁽²⁶⁾." and

(b) the following text is 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 are 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 are substituted the entries set out in columns 1 to 7 respectively of Schedule 2 to these Regulations.

Consequential amendments to the Feeding Stuffs (Wales) Regulations 2001

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

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

" (1) Section 74(2) has effect as if after the words "this Part of this Act" there were inserted the words "or the Feeding Stuffs (Wales) Regulations 2001 as amended by Regulations up to and including the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2004."

(3) For paragraph (1) of regulation 24 (modification of section 74A(3) of the Agriculture Act 1970) there is substituted the following paragraph -

" (1) For the purposes of the enforcement and administration of the provisions specified in paragraph (2) below section 74A(3) has 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 24(2) of the Feeding Stuffs (Wales) Regulations 2001 as amended by Regulations up to and including the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2004."

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

4. The Feeding Stuffs (Sampling and Analysis) Regulations 1999^[6] are amended in so far as they apply in relation to Wales 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 (Wales) Regulations 2001" for the remainder of the paragraph there are 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) (Wales) Regulations 2004".

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

" (a) whether or not the material was named in accordance with the requirements of the Feeding Stuffs (Wales) Regulations 2001 as amended by Regulations up to and including the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) 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^[7] are amended in so far as they apply in relation to Wales 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 is substituted the following paragraph -

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

(a) the Feeding Stuffs (Wales) Regulations 2001 as amended by Regulations up to and including the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) 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 is substituted the following paragraph -

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

(a) the Feeding Stuffs (Wales) Regulations 2001 as amended by Regulations up to and including the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) 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) (Wales) Regulations 2001, the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs (Amendment) (Wales) Regulations 2002, the Feeding Stuffs (Amendment) (Wales) Regulations 2003, the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2003 and the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) (No. 2) Regulations 2003" there is substituted the expression ", Regulations up to and including the Feeding Stuffs, the Feeding

Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) 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) (Wales) Regulations 2001, the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2001, the Feeding Stuffs (Amendment) (Wales) Regulations 2002, the Feeding Stuffs (Amendment) (Wales) Regulations 2003, the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2003 and the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) (No. 2) Regulations 2003" there is substituted the expression ", Regulations up to and including the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) 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 is substituted the following subsection -

" (17) In this section -

"compound feeding stuff" has the meaning given in regulation 2(1) of the Feeding Stuffs (Wales) Regulations 2001 as amended by Regulations up to and including the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2004;

"controlled product" means any feeding stuff, substance or product which is subject to any of the controls contained in the Feeding Stuffs (Wales) Regulations 2001 as amended by Regulations up to and including the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) 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 (Wales) Regulations 2001 as amended by Regulations up to and including the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) 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 on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998[8]

D. Elis-Thomas

The Presiding Officer of the National Assembly

6 July 2004

SCHEDULE 1

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>
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	0.75 ng WHO-

	feedingstuffs for fur animals, pet foods and feedingstuffs for fish	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>" 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</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>Note in respect of all the entries in Column 3</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> <p>".</p>

SCHEDULE 2

Regulation 2(5)

ENTRIES TO BE SUBSTITUTED IN SCHEDULE 8

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
" 4.1 Analogues of methionine	<p>4.1.1. Hydroxy analogue of methionine</p> <p>4.1.2 Calcium salt of hydroxy analogue of methionine</p>	<p>CH₃S(CH₂)₂-CH(OH)-COOH</p> <p>[CH₃-S-(CH₂)-CH(OH)-COO]₂Ca</p>	- -	<p>Total of acids: minimum 85%</p> <p>Monomer acid: minimum 65%</p>	} } All animal species }	<p>Declarations to be made on the label or packaging of the product:</p> <p>- if appropriate, the name (column 2);</p> <p>- monomer acid</p>

				<p>Monomer acid: minimum 83%</p> <p>Calcium: minimum 12%</p>		<p>and total acids contents in the case of product 4.1.1. and monomer acid content in the case of product 4.1.2.</p> <ul style="list-style-type: none"> - moisture content; - animal species; - approval number; <p>Declarations to be made on the label or packaging of compound feeding stuffs:</p> <ul style="list-style-type: none"> - if appropriate, the name (column2); - monomer acid and total acids contents in the case of of product 4.1.1. and monomer acid content in the case of product 4.1.2. - amount of the product contained in the feeding stuff.
	<p>4.1.3. Isopropyl ester of the hydroxylated analogue of methionine</p>	<p>CH₃-S-(CH₂)₂-CH-(OH)-COO-CH-(CH₃)₂</p>	-	<ul style="list-style-type: none"> - Monomer esters: 90% minimum - Humidity: maximum 1% 	Dairy cows	<p>Declarations to be made on the label or packaging of the product:</p> <ul style="list-style-type: none"> - Isopropyl ester of 2 - hydroxy-4-methylthiobutanoic acid <p>Declarations to be made on the label or packaging of compound feeding stuffs:</p> <ul style="list-style-type: none"> - analogue of

						<p>methionine: Isopropyl ester of 2-hydroxy-4- methylthiobutanoic aci</p> <p>- percentage of incorporation of analogue of methionine in the feed.</p> <p>".</p>
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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 (S.I. 2001/343 (W. 15), as already amended). The Feeding Stuffs (Wales) Regulations 2001 apply in relation to Wales 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) and Commission Regulation (EC) No. 2112/2003 correcting Regulations (EC) No. 1334/2003 amending the conditions for authorisation of a number of additives in feedingstuffs belonging to the group trace elements (OJ No. L417, 2.12.2003, p.22) (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 (Wales) Regulations 2001 so as to specify new maximum levels for dioxin in feedingstuffs (regulation 2(4) and Schedule 1).

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 (Wales) Regulations 2001 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 24(1) of the Feeding Stuffs (Wales) Regulations 2001 (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 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] 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](#)

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

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

[5] S.I. 2001/343 (W. 15), amended by S.I. 2001/3461 (W.280), S.I. 2002/1797 (W.172), S.I. 2003/989 (W. 138), S.I. 2003/1677 (W. 180) and S.I. 2003/1850 (W. 200).[back](#)

[6] 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) and S.I. 2003/3119 (W.297).[back](#)

[7] S.I. 1999/2325, amended by S.I. 2000/656, 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) and S.I. 2003/3119 (W.297).[back](#)

[8] 1998 c.38.[back](#)

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ISBN 0 11090972 0

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