WELSH STATUTORY INSTRUMENTS

2010 No. 2287

The Feed (Sampling and Analysis and Specified Undesirable Substances) (Wales) Regulations 2010

PART 3

Amendment and modification of other legislation with regard to sampling and analysis

Amendment or modification of the Act

8. The Act is amended or as the case may be modified in accordance with regulations 9 to 20.

9. In section 66(1) (interpretation of Part IV) insert at the appropriate place the following definitions—

""final sample" has the meaning that it bears in Annex I to Regulation 152/2009;";

""Regulation 152/2009" means Commission Regulation (EC) No. 152/2009 laying down the methods of sampling and analysis for the official control of feed;".

10. Section 68 (duty of seller to give statutory statement) in so far as it applies in relation to feeding stuffs will apply as if—

(a) in subsection (4)(b) "final sample" were substituted for "sampled portion"; and

(b) in subsection (5)—

(i) "final sample" were substituted for "sample taken from the portion in question", and

(ii) "in accordance with Regulation 152/2009" were substituted for "in the prescribed manner".

11. Section 69 (marking of material prepared for sale) in so far as it applies in relation to feeding stuffs will apply as if—

(a) in subsection (4)(c) "final sample" were substituted for "sampled portion"; and

(b) in subsection (5) "final sample in question" were substituted for "sample taken from the portion in question".

12. Section 70 (use of names or expressions with prescribed meanings) in so far as it applies in relation to feeding stuffs will apply as if–

(a) in subsection (2) "final sample" were substituted for "sampled portion"; and

(b) in subsection (4)—

(i) "final sample" were substituted for "sampled portion", and

(ii) "that sample" were substituted for "the sample taken from that portion".

13. Section 71 (particulars to be given of certain attributes if claimed to be present) in so far as it applies in relation to feeding stuffs will apply as if—

(a) in subsection (2)(b) "final sample" were substituted for "sampled portion"; and

(b) in subsection (3)—

(i) "final sample" were substituted for "sampled portion", and

(ii) "that sample" were substituted for "the sample taken from that portion".

14. In section 73 (deleterious ingredients in feeding stuff)—

(a) in subsection (1)—

(i) for "sampled portion" substitute "final sample", and

(ii) omit "the sample taken from"; and

(b) in subsections (2)(a) and (b), (2A) and (3)(b) in each case for "sampled portion" substitute "final sample".

15. In section 73A—

(a) in subsection (1)—

(i) for "sampled portion" substitute "final sample", and

(ii) omit "the sample taken from"; and

(b) in subsections (2)(a) and (b) and (3) in each case for "sampled portion" substitute "final sample".

16. Section 75 (purchaser's right to have sample taken and analysed) in so far as it applies in relation to feeding stuffs will apply as if in subsection (1) "in accordance with Regulation 152/2009" were substituted for "in the prescribed manner".

17. Section 76 (inspector's power to enter premises and take samples) in so far as it applies in relation to feeding stuffs will apply as if—

(a) in subsection (1) "in accordance with Regulation 152/2009" were substituted for "in the prescribed manner"; and

(b) for subsection (4) the following were substituted—

"(4) Without prejudice to any other power or duty as to the taking of samples, an inspector may for the purposes of this Part of this Act take a sample 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.".

18. Section 77 (division of samples and analysis by agricultural analyst) in so far as it applies in relation to feeding stuffs will apply as if—

(a) for subsection (1) the following were substituted—

"(1) Where an inspector has taken a sample and prepared and packaged final samples in accordance with Regulation 152/2009 the inspector, in addition to sending a final sample to the agricultural analyst for the inspector's area in accordance with the requirements of paragraph 8 of Annex I to that Regulation—

(a) shall send one final sample—

(i) where the sample was taken pursuant to the request of a purchaser under section 75 of this Act, to the seller or his agent;

(ii) in any other case, to the person on whose premises the sample was taken, or, if the person on whose premises the sample was taken purchased the material in question for use and not for resale, to the seller or his agent; and

(b) subject to section 78 of this Act, shall retain at least one final sample for nine months.";

(b) for subsection (2) the following were substituted—

"(2) If the person who manufactured any material of which an inspector has taken a sample as mentioned in subsection (1) is not a person to whom a final sample is required to be sent under that subsection, the inspector shall send a final sample to the manufacturer unless he does not know and is unable after making reasonable inquiries to ascertain before the expiration of fourteen days from the date when the sample was taken—

(a) the manufacturer's name; or

(b) any address of the manufacturer in the United Kingdom.";

(c) in subsection (3)—

(i) "final sample" were substituted for "part of a sample", and

(ii) "in accordance with Regulation 152/2009" were substituted for "in the prescribed manner"; and

(d) in subsection (4)—

(i) "final sample" were substituted in each case for "part of a sample" or "part of the sample" as the case may be,

(ii) "in such manner, if any, as may be prescribed" were omitted,

(iii) "subsection (1)" were substituted for "subsection (1)(a)", and

(iv) in paragraph (b) "subsection (1)(a)(ii)" were substituted for "subsection (1)(b)(ii)".

19. Section 78 (further analysis by Government Chemist) in so far as it applies in relation to feeding stuffs will apply as if—

(a) in subsection (1)—

(i) for paragraph (a) the following were substituted—

"(a) to send the final sample retained by the inspector under section 77(1)(b) of this Act (as that section is modified by regulation 18(a) of the Feed (Sampling and Analysis and Specified Undesirable Substances) (Wales) Regulations 2010) ("the retained sample") to the Government Chemist for analysis;", and

(ii) in paragraph (b) "retained sample" were substituted for "remaining part" and "that sample" were substituted for "that part";

(b) in subsection (2)—

(i) "in accordance with Regulation 152/2009" were substituted for "in the prescribed manner",

(ii) in paragraph (a)(i) "retained sample" were substituted for "remaining part of the sample",

(iii) in paragraph (a)(ii) "retained sample, whether that sample" were substituted for "remaining part, whether that part", and

(iv) in paragraph (b) "the retained sample" were substituted for "that remaining part";

(c) in subsection (4)—

(i) "in accordance with Regulation 152/2009" were substituted for "in the prescribed manner", and

(ii) "retained sample" were substituted for "remaining part of the sample";

(d) in subsection (5)—

(i) "part of a" were omitted,

(ii) in paragraph (a) "part of the" were omitted, and

(iii) in paragraph (b) "the retained sample" were substituted for "the part"; and

(e) in subsection (6)—

(i) "in such manner, if any, as may be prescribed any part of" were omitted, and

(ii) "the sample" were substituted for "the part".

20. Section 79 (supplementary provisions relating to samples and analysis) in so far as it applies in relation to feeding stuffs will apply as if in subsection (3)–

(a) "is specified by Regulation 152/2009 or" were inserted after "quality of any material"; and

(b) "the method so specified or prescribed" were substituted for "the method prescribed".

Amendment of the Feed Hygiene Regulations

21.—(1) The Feed Hygiene Regulations are amended in accordance with paragraphs (2) to (6).

(2) In paragraph (1) of regulation 2 (interpretation)—

(a) omit the definition of "point 4 compliant laboratory" ("*labordy sy'n cydymffurfio â phwynt 4*");

(b) for the definition of "prescribed manner" ("*modd rhagnodedig*") substitute the following definition—

""prescribed manner" ("*modd rhagnodedig*") means the manner prescribed by Regulation (EC) No. 152/2009 of the European Parliament and of the Council laying down the methods of sampling and analysis for the official control of feed or otherwise in accordance with Article 11(1) of Regulation 882/2004;"; and

(c) omit the definition of "sampled portion" ("*cyfran a samplwyd*").

(3) For regulation 29 (application of various provisions of the Feeding Stuffs (Sampling and Analysis) Regulations) substitute the following—

"**Appointment of agricultural analysts**

29.—(1) Subject to paragraph (3), an enforcement authority must appoint one or more agricultural analysts in connection with the performance of its duty under regulation 16.

(2) An agricultural analyst appointed under paragraph (1) must have those qualifications prescribed in relation to the Act by regulation 5 of the Feed (Sampling and Analysis and Specified Undesirable Substances) (Wales) Regulations 2010.

(3) An agricultural analyst already appointed by an enforcement authority pursuant to section 67(3)(b) of the Act is to be deemed to be appointed for the purposes of paragraph (1).".

(4) In regulation 30 (procedure relating to samples for analysis)—

(a) for paragraph (1)(b) substitute the following—

"(b) send one part for analysis to the agricultural analyst for the area of the enforcement authority from which the authorised officer derives his authority;";

(b) for paragraph (3) substitute the following—

"(3) The part of the sample sent to the agricultural analyst must be accompanied by a statement signed by the authorised officer confirming that the sample was taken in the manner prescribed by law."; and

(c) in paragraph (4) omit the expression "or, as the case may be, the point 4 compliant laboratory".

(5) In regulation 31 (secondary sampling by the Government Chemist) for paragraph (3)(a) substitute the following—

"(a) completed in the form set out in Schedule 1 to the Feed (Sampling and Analysis and Specified Undesirable Substances) (Wales) Regulations 2010 and in accordance with the notes to that Schedule; and".

(6) In regulation 32 (additional provisions relating to sampling and analysis)—

(a) in paragraph (2) omit the expression "the analyst at the point 4 compliant laboratory"; and

(b) in paragraph (3) omit the expression "an analyst at a point 4 compliant laboratory".

Amendment of the Genetically Modified Animal Feed (Wales) Regulations 2004

22.—(1) The GM Feed Regulations are amended in accordance with paragraphs (2) and (3).

(2) In regulation 6(1) (application of various provisions of the Act), omit sub-paragraphs (c) and (d).

(3) Omit regulation 7 (application of various provisions of the Feeding Stuffs (Sampling and Analysis) Regulations 1999).

Amendment of the Official Feed and Food Controls (Wales) Regulations 2009

23.—(1) The Official Feed and Food Controls (Wales) Regulations 2009(**1**) are amended in accordance with paragraph (2).

(2) In Schedule 2 (definition of relevant feed law), in paragraph (b) for the expression "the Feeding Stuffs Sampling and Analysis) Regulations 1999" substitute "the Feed (Sampling and Analysis and Specified Undesirable Substances) (Wales) Regulations 2010".

Revocation

24. The Feeding Stuffs (Sampling and Analysis) Regulations 1999(**2**) are revoked.

(**1**) S.I. 2009/3376 (W.298).
(**2**) S.I. 1999/1663 amended by 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. 2004/2734 (W.241), S.I. 2006/116 (W.14) and S.I. 2006/617 (W.69).