
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and re-enact with changes the Official Feed and Food Controls Regulations (Northern Ireland) 2006 ([S.R. 2006 No.2](#)). The principal changes are that —

- (a) it is provided that the introduction into Northern Ireland of certain feed and food products is prohibited and that a person who contravenes such a prohibition is guilty of an offence;
- (b) it is provided that an authorised officer of an enforcement authority must serve a notice when he proposes to place a consignment of feed or food under official detention—
 - (i) in case of suspicion of non-compliance or because there is doubt as to the identity or the destination of the consignment, or
 - (ii) because the feed or food does not comply with feed or food law;
- (c) it is provided that a person who contravenes certain obligations relating to the checking of products that are introduced into Northern Ireland is guilty of an offence;
- (d) it is provided that expenses may be charged by competent authorities where they arise from additional official controls or arise in respect of co-ordinated assistance and follow-up by the European Commission; and
- (e) the definitions of “relevant feed law” and “relevant food law” in Schedules 2 and 3 respectively are revised.

These Regulations which, like [S.R. 2006 No.2](#), provide for the execution and enforcement of Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (OJNo. L165, 30.4.2004, p.1), as last amended by Council Regulation (EC) No. 1791/2006 (OJ No. L363, 20.12.2006, p.1) in relation to “relevant feed law” and “relevant food law”, which terms are defined in Schedules 2 and 3 respectively. The revised text of Regulation (EC) No. 882/2004 is now set out in a Corrigendum (OJ No. L191, 28.5.2004, p.1), which should be read with a further Corrigendum (OJ No. L204, 4.8.2007, p.29).

These Regulations also impose prohibitions on the introduction of certain feed and food into Northern Ireland in the light of Article 11 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 (OJ No. L31, 1.2.2002, p.1), as last amended by [Commission Regulation \(EC\) No. 575/2006](#) (OJ No. L100, 8.4.2006, p.3) and as read with Article 10 of Regulation (EC) No. 852/2004 of the European Parliament and of the Council on the hygiene of foodstuffs (OJ No. L139, 30.4.2004, p.1; the revised text of that Regulation is now set out in a Corrigendum, OJ No. L226, 25.6.2004, p.3, which should be read with a further Corrigendum, OJ No. L204, 4.8.2007, p.26).

These Regulations —

- (a) provide for the designation of specified bodies as competent authorities for the purposes of the provisions of Regulation (EC) No. 882/2004 (*regulation 3*);
- (b) provide for the exchange and provision of information by competent authorities (*regulation 4*);
- (c) enable a competent authority to require a control body to provide information and make records available and provide that a person who —

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- (i) fails to comply with a requirement to provide information or make records available, or
 - (ii) in purported compliance with such a requirement furnishes false or misleading information,
- is guilty of an offence (*regulation 5*);
- (d) enable the Department of Health, Social Services and Public Safety to issue codes of recommended practice to district councils (*regulation 6*);
 - (e) give the Food Standards Agency the function of monitoring the performance of enforcement authorities in enforcing certain legislation (*regulation 7*);
 - (f) give the Food Standards Agency the power, for the purpose of carrying out the function referred to in sub-paragraph (e) of this paragraph —
 - (i) to require information to be provided and records to be made available (*regulation 8*), and
 - (ii) to authorise individuals (who may thereby exercise certain powers, including a power of entry) (*regulation 9*);
 - (g) define certain terms used in regulations 7 to 9 (*regulation 10*);
 - (h) provide that a person who —
 - (i) obstructs a person exercising a power to enter premises, take samples or inspect and copy records,
 - (ii) fails to comply with a requirement to provide information, make records available or provide facilities, records, information or other assistance, or
 - (iii) in purported compliance with such a requirement furnishes false or misleading information,is guilty of an offence (*regulation 11*);
 - (i) provide a right of appeal in respect of a decision of the competent authority concerning the approval of certain establishments taken under Article 31 of Regulation (EC) No. 882/2004 (*regulations 12*);
 - (j) provide that an authorised officer of a competent authority may take with him a member of staff of the competent authority of another member State for the purpose of conducting an administrative enquiry under Article 36 of Regulation (EC) No. 882/2004 (*regulation 13*);
 - (k) provide that when an “enforcing officer”, defined in regulation 15(2), enters premises for the purpose of executing and enforcing official controls he may take with him a Commission expert to enable that expert to carry out functions under Article 45 of Regulation (EC) No. 882/2004 (*regulation 14*);
 - (l) provide that a person who enters premises under the powers referred to in sub-paragraph (j) or (k) of this paragraph and discloses any information obtained on the premises with regard to any trade secret is guilty of an offence unless he does so in the performance of his duty (*regulation 15*);
 - (m) specify the authorities that are responsible for executing and enforcing regulations 5(3), 9(8), 11, 16, 17(9) and 19 (*regulation 16*);
 - (n) give powers of entry to authorised officers of the authorities referred to in sub-paragraph (m) of this paragraph (*regulation 17*);
 - (o) create the offence of obstructing an officer acting in the execution of regulation 14, 15 or 18 (*regulation 18*);
 - (p) provide penalties for offences under Part 2 of these Regulations (*regulation 19*);

- (q) provide a time limit for bringing prosecutions for offences under regulation 18(8) (*regulation 20*);
- (r) make provision for the execution and enforcement of Part 3 of these Regulations and Articles 15 to 24 of Regulation (EC) No. 882/2004, together defined in regulation 2(1) as “the Import Provisions” (*regulations 22 and 23*);
- (s) provide that the Commissioners for Her Majesty’s Revenue and Customs are to carry out the functions given to customs services under Article 24 of Regulation (EC) No. 882/2004 (*regulation 24*).
- (t) make provision for the execution and enforcement of the Import Provisions to be deferred until a product reaches its destination (*regulation 25*);
- (u) in the light of Article 11 of Regulation (EC) No. 178/2002 as read with Article 10 of Regulation (EC) No. 852/2004 (as described in paragraph 3 above) prohibit the introduction into Northern Ireland of certain feed and food unless specified conditions are met (*regulation 26*);
- (v) provide for the checking of products that are introduced into Northern Ireland (*regulation 27*);
- (w) provide that an enforcement authority, first, has the power to do anything that a competent authority may do under Articles 18 to 21 and 24(3) of Regulation (EC) No. 882/2004 and, second, is the competent authority for the purposes of Article 22 of that Regulation (*regulation 28*);
- (x) provide for the service of notices by an authorised officer of an enforcement authority when he proposes to take certain measures or exercise certain powers under Articles 18 and 19 of Regulation (EC) No. 882/2004 (imports of feed and food from third countries) (*regulation 29*);
- (y) provide a right of appeal in respect of the service of notices under regulation 30 (*regulations 29*);
- (z) enable the Department of Agriculture and Rural Development or the Agency by written declaration to suspend, or impose conditions on, the introduction into Northern Ireland of any product from a third country where they learn or reasonably suspect that any food or feed that has been or may be introduced into Northern Ireland from that third country is likely to constitute a serious risk to animal or public health (*regulation 31*);
- (aa) provide that the costs incurred by the enforcement authority for which the feed or food business operator or its representative is liable under Article 22 of Regulation (EC) No. 882/2004 (costs incurred by competent authority for the activities referred to in Articles 18 to 21 of that Regulation) are payable by the feed or food business operator or its representative (*regulation 32*);
- (bb) provide for the procurement and analysis of samples of food for the purposes of the execution and enforcement of the Import Provisions (*regulations 33 and 34*);
- (cc) provide powers of entry for authorised officers of district councils in relation to the execution and enforcement of the Import Provisions (*regulation 35*);
- (dd) create the offence of obstructing an officer acting in the execution of the Import Provisions (*regulation 36*);
- (ee) create offences consisting of contravening specified regulations and failing to comply with a notice served under the Import Provisions and provide penalties for offences under Part 3 of these Regulations (*regulation 37*);
- (ff) provide a time limit for bringing prosecutions for certain offences under Part 3 of these Regulations (*regulation 38*);

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- (gg) provide that expenses charged by a competent authority pursuant to Article 28 of Regulation (EC) No. 882/2004 (expenses arising from additional official controls) are payable by the operator (*regulation 39*);
- (hh) provide that expenses charged by a competent authority pursuant to Article 40(4) of Regulation (EC) No. 882/2004 (expenses arising from co-ordinated assistance and follow-up by the Commission) are payable by the feed or food business (*regulation 40*);
- (ii) provide that where the commission of an offence under these Regulations is due to the act or default of some other person that other person is guilty of the offence (*regulation 41*);
- (jj) provide that in proceedings for an offence under these Regulations it is a defence for the accused to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence (*regulation 42*);
- (kk) provide for the protection of officers acting in good faith (*regulation 43*); and
- (ll) revoke the Official Feed and Food Controls Regulations (Northern Ireland) 2006 (S.R. 2006 No.2) (*regulation 44*).