STATUTORY RULES OF NORTHERN IRELAND

2016 No. 4

AGRICULTURE

The Animal Feed (Composition, Marketing and Use) Regulations (Northern Ireland) 2016

Made - - - -	*11th January 2016*
Coming into operation	*14th February 2016*

The Department of Health, Social Services and Public Safety [M1] makes the following Regulations in exercise of the powers conferred on it by sections 66(1), 68(1), 74A(1) and 84 of the Agriculture Act 1970 [M2], as read with regulation 14 of the Food Standards Act 1999 (Transitional and Consequential Provisions and Savings) Regulations (Northern Ireland) 2000 [M3].

In so far as these Regulations cannot be made under the 1970 Act, the Department of Health, Social Services and Public Safety has been designated for the purposes of section 2(2) of the European Communities Act 1972 [M4] in relation to the common agricultural policy of the European Union [M5], the control and regulation of genetically modified organisms [M6], measures in the veterinary and phytosanitary fields for the protection of public health [M7] and measures relating to feed produced for or fed to food-producing animals [M8], as read with paragraph 1A of Schedule 2 to that Act.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Department of Health, Social Services and Public Safety that it is expedient for references to the Annexes to the EU instruments mentioned in regulation 2(3) to be construed as references to those Annexes as they may be amended from time to time.

There has been open and transparent public consultation during the preparation of these Regulations in accordance with the requirements of 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 [M9] or, in the case of provisions relating to feed for non food-producing animals, of section 84(1) of the Agriculture Act 1970.

Marginal Citations

M1 Formerly the Department of Health and Social Services; see S.I. 1999/283 (N.I.1) Article 3(6)

M2 1970 c.40; sections 66(1) and 84 are modified in their application to Northern Ireland by section 86 of the Act and were amended by S.R. 2004 No. 506; section 66(1) was also amended by S.R. 2010 No.323; section 74A was inserted by paragraph 6 of Schedule 4 to the European Communities Act 1972 (c. 68)

M3 S.R. 2000 No.78

M4 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (2006 c.51) and amended by Part 1 of Schedule 1 to the European Union (Amendment) Act 2008 (2008 c.7)
M5 S.I. 2000/2812
M6 S.I. 1991/755
M7 S.I. 1999/2027
M8 S.I. 2003/2901
M9 OJ No. L31, 1.2.2002, p.1, as last amended by Regulation (EU) No. 652/2014 of the European Parliament and of the Council (OJ No. L189, 27.6.2014, p.1)

PART 1

Introductory and general

Citation and commencement

1. These Regulations may be cited as the Animal Feed (Composition, Marketing and Use) Regulations (Northern Ireland) 2016 and come into operation on 14th February 2016.

Interpretation

2.—(1) In these Regulations —

"DARD" means the Department of Agriculture and Rural Development;

[[F1]"Directive 82/475" means, subject to regulation 2(3), Commission Directive 82/475/EEC laying down the categories of feed materials which may be used for the purposes of labelling compound feeding stuffs for pet animals as last amended by Commission Directive 98/67/EEC;

"Directive 2002/32" means, subject to regulation 2(3), Directive 2002/32 of the European Parliament of the Council on undesirable substances in animal feed as last amended by Commission Regulation (EU) 2017/2229;

"Regulation 178/2002" means 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, as last amended by Regulation (EU) 2017/745 of the European Parliament and of the Council;

"Regulation 1829/2003" means Regulation (EC) No. 1829/2003 of the European Parliament and of the Council on genetically modified food and feed as last amended by Regulation (EC) No. 298/2008;

"Regulation 1831/2003" means, subject to regulation 3(1), Regulation (EC) No 1831/2003 of the European Parliament and of the Council on additives for use in animal nutrition as last amended by Commission Regulation (EU) No. 2015/2294;

"Directive 2008/38" means, subject to regulation 2(3), Commission Directive 2008/38/EC establishing a list of intended uses of animal feedingstuffs for particular nutritional purposes as last amended by Commission Regulation (EU) No 1123/2014;

"Regulation 767/2009" means, subject to regulation 2(3), Regulation (EC) No 767/2009 of the European Parliament and of the Council of 13 July 2009 on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC as last amended by Commission Regulation (EU) 2017/2279;**]**

"the Agency" means the Food Standards Agency.

(2) Any expression used in these Regulations and in Regulation 178/2002, Regulation 1831/2003 or Regulation 767/2009 has the meaning in these Regulations that it bears in the EU Regulation concerned.

(3) Any reference to an Annex to Directive 82/475, Directive 2002/32, Directive 2008/38, Regulation 1831/2003 or Regulation 767/2009 is a reference to that Annex as it may be amended from time to time.

(4) These Regulations do not apply to any feed additive in category (d) or (e) of Article 6(1) of Regulation 1831/2003, with the exception of those in the functional groups listed in paragraph 4(a), (b) and (c) of Annex 1 to that Regulation [M10].

(5) The Interpretation Act (Northern Ireland) 1954 [M11] shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Textual Amendments

F1 Words in reg. 2(1) substituted (11.2.2019) by The Food (Miscellaneous Amendments and Revocations) Regulations (Northern Ireland) 2019 (S.R. 2019/5), regs. 1(1), **35(2)**

Marginal Citations

M10 Categories (d) and (e) of Article 6(1) comprise respectively zootechnical additives, and coccidiostats and histomonostats. Functional groups listed in paragraphs 4(a), (b) and (c) of Annex I comprise digestibility enhancers, gut flora stabilisers and substances which favourably affect the environment

M11 1954 c.33 (N.I.)

PART 2

Enforcement of Regulation 178/2002

Interpretation of this Part

3. In this Part any reference to a numbered Article is a reference to the Article so numbered in Regulation 178/2002.

Offence of failing to comply with any specified provision of Regulation 178/2002

4.—(1) Any person who fails to comply with any provision specified in paragraph (2) commits an offence.

(2) The specified provisions are —

(a) Article 12, in so far as it relates to feed (conditions on export or re-export to third countries);

(b) Article 15(1) (prohibition on the placing on the market or feeding to any animal of unsafe feed);

(c) Article 16, in so far as it relates to feed (prohibition on misleading labelling, advertising or presentation);

(d) Article 18(2) and (3) (requirements that operators must have traceability information and make such information available to competent authorities) in so far as they relate to feed business operators; and

(e) Article 20 (responsibilities of feed business operators regarding feed that does not satisfy feed safety requirements).

Competent authorities for the purposes of Regulation 178/2002

5. The competent authority —

(a) for the purposes of Articles 15 and 18 is DARD; and

(b) for the purposes of Article 20 is DARD or the Agency.

PART 3

Enforcement of Regulation 1829/2003

Interpretation of this Part

6. In this Part any reference to a numbered Article is a reference to the Article so numbered in Regulation 1829/2003.

Offence of failing to comply with any specified provision of Regulation 1829/2003

7.—(1) Any person who fails to comply with any provision specified in paragraph (2) commits an offence.

(2) The specified provisions are —

(a) Article 16(2) (prohibition on placing on the market, using or processing a product referred to in Article 15(1) [M12] unless it is covered by an authorisation and satisfies relevant conditions), as read with Article 20(6) (requirement that products in relation to which the Commission has adopted a measure under this Article must be withdrawn from the market);

(b) Article 21(1) (requirement that the authorisation holder and the parties concerned must comply with conditions imposed in an authorisation for that product, and that the authorisation holder must comply with post-market monitoring requirements);

(c) Article 21(3) (requirement that an authorisation holder inform the Commission of any new scientific or technical information about a product which might affect the evaluation of the safety of its use in feed, or of any prohibition or restriction on the feed in a third country); and

(d) Article 25 (requirement for certain labelling indications).

Marginal Citations

M12 The products referred to in Article 15(1) are genetically modified organisms (GMOs) for feed use, feed containing or consisting of GMOs and feed produced from GMOs

Competent authority for the purposes of Regulation 1829/2003

8. The national competent authority for the purposes of Chapter III of Regulation 1829/2003 is the Agency.

PART 4

Enforcement of Regulation 1831/2003

Interpretation of this Part

9. In this Part any reference to a numbered Article is a reference to the Article so numbered in Regulation 1831/2003.

Offence of failing to comply with any specified provision of Regulation 1831/2003

10.—(1) Any person who fails to comply with any provision specified in paragraph (2) commits an offence.

(2) The specified provisions are —

(a) Article 3(1) (prohibition on placing on the market, processing or using a feed additive unless it is covered by an authorisation and satisfies relevant conditions), as read with paragraph (2) (national authorisation for scientific experimental purposes), paragraph (4) (conditions on mixing of additives) and Article 10 (status of existing products);

(b) Article 3(3) (restriction on the persons who may first place on the market certain additives);

(c) Article 12(1) (requirement that any person using or placing on the market an additive, or a feed into which it has been incorporated, or any other interested party, must ensure that any conditions which have been imposed are respected);

(d) Article 12(2) (requirement on the holder of an authorisation to observe monitoring obligations where they have been imposed, to inform the Commission of any new information about a product which might affect the evaluation of the safety of its use in feed, or of any prohibition or restriction on the feed imposed by the competent authority in a third country);

(e) Article 16(1), (3) and (4) (prohibition on the placing on the market of feed additives or premixtures unless labelled in the specified manner and with prescribed information), as read with paragraph (2) (derogation for certain flavouring compounds); and

(f) Article 16(5) (requirement that additives and premixtures must be marketed only in closed packages or containers which must be closed in such a way that the fastener is damaged on opening and cannot be re-used).

PART 5

Enforcement of Regulation 767/2009

Interpretation of this Part and Schedule 1

11. In this Part and in Schedule 1 any reference to a numbered Article or Annex is a reference to the Article or Annex so numbered in Regulation 767/2009.

Offence of failing to comply with any specified provision of Regulation 767/2009

12.—(1) **[**[F2]A**]** ny person who —

(a) fails to comply with the provisions of Regulation 767/2009 specified in Schedule 1; or

(b) places on the market or uses any feed that fails to comply with Article 6(1) or 8,

commits an offence.

(2) Where, pursuant to Article 17(2)(c), the name of a specific feed material may be replaced by the name of the category to which the feed material belongs, only the categories listed in the Annex to Directive 82/475 may be indicated.

Textual Amendments

F2 Word in reg. 12(1) substituted (11.2.2019) by The Food (Miscellaneous Amendments and Revocations) Regulations (Northern Ireland) 2019 (S.R. 2019/5), regs. 1(1), **35(3)**

Competent authorities for the purposes of Regulation 767/2009

13.—(1) DARD is the competent authority for the purposes of —

(a) Article 5(3), 13(1)(a) and 17(3) and Annex VII, Chapter 1, paragraph 8; and

(b) Article 13(1)(b) as the competent authority that may request scientific substantiation of the claim to whose attention purchasers have the right to bring doubts regarding the truthfulness of a claim.

(2) The Agency is the competent authority for the purposes of —

(a) Article 26(1)(b); and

(b) Article 13(1)(b) as the competent authority that may submit to the Commission doubts concerning the scientific substantiation of a claim.

(3) The Agency and DARD is a competent authority for the purposes of Article 5(2).

PART 6

Implementation of Directive 2002/32

Interpretation of this Part

14. In this Part —

(a) any reference to a numbered Article or Annex is a reference to the Article or Annex so numbered in Directive 2002/32; and

(b) "undesirable substance" means any substance or product, not being a pathogenic agent, which is present in or on a feed and —

(i) constitutes a potential danger to human or animal health or to the environment, or

(ii) could adversely affect livestock production.

Control of animal feeds containing undesirable substances

15.—(1) Any person who —

(a) places on the market any feed that is specified in column 2 of Annex I; or

(b) uses any such feed, commits an offence if it contains any undesirable substance listed in column 1 of that Annex in excess of the relevant maximum content specified in column 3.

(2) Any person who places on the market or uses any complementary feed commits an offence if —

(a) having regard to the quantity of it recommended for use in a daily ration, it contains any undesirable substance listed in column 1 of Annex I in excess of the maximum content specified for it in column 3 in relation to complete feeds; and

(b) there is no provision relating to any complementary feed in the corresponding entry in column 2 of that Annex.

(3) Any person who for the purpose of dilution mixes any feed with a feed that is specified in column 2 of Annex I and which contains any undesirable substance listed in column 1 of that Annex in excess of the maximum content specified for it in column 3 commits an offence.

(4) Any person who places on the market or uses any feed which is not sound and genuine and of merchantable quality commits an offence.

(5) For the purposes of paragraph (4) a feed listed in column 2 of Annex I shall be deemed not to be sound, genuine and of merchantable quality if it contains any undesirable substance specified in column 1 of that Annex in excess of the maximum content specified in relation to it in column 3.

(6) Any person who has, for the purpose of a trade or business, possession or control of any of the feeds specified in paragraph (7) must, if required by an inspector, procure and produce to the inspector an analysis in order to demonstrate that the content of inorganic arsenic in the feed specified in that paragraph is less than 2 parts per million.

(7) The feeds are —

(a) palm kernel expeller;

(b) feeds obtained from the processing of fish and other marine animals;

(c) seaweed meal and feed materials derived from seaweed; and

(d) complete feeds for fish or for fur-producing animals.

(8) Any person who, without reasonable excuse, fails to comply with a requirement made under paragraph (6) commits an offence.

PART 7

Implementation of Directive 2008/38

Interpretation of this Part

16. In this Part, "the Annex" means Part B of Annex I to Directive 2008/38, as read with paragraphs 1 and 7 of Part A of that Annex.

Control of feed intended for particular nutritional purposes

17.—(1) Any person who places on the market a feed intended for a particular nutritional purpose commits an offence if the relevant requirements of paragraphs (2) to (9) are not met.

(2) In relation to any particular nutritional purpose specified in column 1 of the Annex —

(a) the feed must be intended for the animals specified opposite that particular nutritional purpose in column 3 of the Annex; and

(b) it must be recommended that the feed be used for a period of time falling within the range specified opposite that particular nutritional purpose in column 5 of the Annex.

(3) Where a group of additives is specified in column 2 or 4 of the Annex, the additives used must be authorised as corresponding to the specified essential characteristic.

(4) Where the source of ingredients or analytical constituents is required in column 4 of the Annex, the manufacturer must make a precise declaration (for example the specific name of the ingredient, the animal species or the part of the animal) allowing the evaluation of conformity of the feed with the corresponding essential nutritional characteristics.

(5) Where the declaration of a substance that is also authorised as an additive is required in column 4 of the Annex and is accompanied by the expression "total", the declared content must refer to the quantity naturally present where none is added or, as appropriate, the total quantity of the substance naturally present and the amount added as an additive.

(6) The declarations specified in column 4 of the Annex with the reference "if added" must be provided where the ingredient or the additive has been incorporated or increased specifically to enable the achievement of the particular nutritional purpose.

(7) The declarations to be given in accordance with column 4 of the Annex concerning analytical constituents and additives must be quantitative.

(8) Where a feed is intended to meet more than one particular nutritional purpose, it must comply with the corresponding entries in the Annex.

(9) In the case of a complementary feed intended for a particular nutritional purpose, guidance on the balance of the daily ration must be provided in the instructions for use on the label.

PART 8

Administration and enforcement

Penalties for offences under these Regulations

18.—(1) Any person found guilty of an offence under regulation 4(1), 7(1), 10(1), 12(1), 15(1), (2), (3) or (4) or 17(1) is liable on summary conviction to a term of imprisonment not exceeding 3 months or to a fine not exceeding level 5 on the standard scale, or both.

(2) Any person found guilty of an offence under regulation 15(8) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Duties to enforce

19. It is the duty of DARD to execute and enforce Regulation 178/2002, Regulation 1829/2002, Regulation 1831/2003, Regulation 767/2009 and these Regulations.

PART 9

Amendment and revocation

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

20.—(1) The Official Feed and Food Controls Regulations (Northern Ireland) 2009 [M13] are amended in accordance with paragraph (2).

(2) In Schedule 2 (definition of relevant feed law) —

(a) omit paragraph (c); and

(b) in paragraph (f), for the expression "the Animal Feed Regulations (Northern Ireland) 2010" substitute " the Animal Feed (Composition, Marketing and Use) Regulations (Northern Ireland) 2016 ".

Marginal Citations

M13 S.R. 2009 No.427, amended by S.R. 2010 No.323, S.R. 2010 No. 355, S.R. 2011 No. No.48 and S.R. 2013 No. 291

Revocations

21. The Regulations listed in the first column of Schedule 2 are revoked to the extent specified in the second column.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 11th January 2016.

L.S.

Deborah McNeilly
A senior officer of the
Department of Health, Social Services and
Public Safety

SCHEDULE 1

Regulation 12

Specified Provisions of Regulation 767/2009

Specified provision	***Subject matter***
Article 4(1) and (2), as read with Article 4(3) and Annex I	General safety and other requirements to be met when feed is placed on the market or used
Article 5(1)	Extension of requirements in relation to feed for food-producing animals in other legislation to apply to feed for non food-producing animals
Article 5(2), as read with Article 12(1), (2) and (3)	Obligation on person responsible for labelling to make information available to competent authority
Article 6(1), as read with Annex III	Prohibition or restriction on the marketing or use of certain materials for animal nutritional purposes
Article 8	Controls on the levels of additives in feeds
Article 9	Controls on the marketing of feeds for particular nutritional purposes
Article 11, as read with Article 12(1),(2) and (3), Annexes II and IV and the Catalogue of feed materials	Rules and principles governing the labelling and presentation of feed
Article 12(4) and (5)	Designation of the person responsible for labelling and the obligations and responsibilities of that person
Article 13(1), as read with Article 12(1),(2) and (3)	General conditions on making a claim about the characteristics or functions of a feed on the labelling or presentation of it
Article 13(2) and (3), as read with Article 12(1),(2) and (3)	Special conditions applying to claims concerning optimisation of the nutrition and support or protection of the physiological conditions
Article 14(1) and (2), as read with Article 12(1), (2) and (3)	Requirements for the presentation of the mandatory labelling particulars
Article 15, as read with Articles 12(1), (2) and (3) and 21 and with Annex VI and VII	General mandatory labelling requirements for feed materials and compound feeds
Article 16, as read with Article 12(1), (2) and (3) and 21 and with Annex II and V and the Catalogue of feed materials	Specific labelling requirements for feed materials
Article 17(1) and (2) as read with Articles 12(1), (2) and (3) and 21 and with Annex II, VI & VII	Specific labelling requirements for compound feeds
Article 18, as read with Article 12(1), (2) and (3)	Additional labelling requirements for feed for particular nutritional purposes (dietetic feeds)
Article 19, as read with Article 12(1), (2) and (3)	Additional labelling requirements for pet food

Article 20(1) as read with Article 12(1), (2) and (3) and with Annex VIII	Additional requirements for labelling of non-compliant feed, such as that containing contaminated materials
Article 23	Requirements relating to the packaging and sealing of feed materials and compound feeds for placing on the market
Article 24(5)	Requirement that if the name of a feed material listed in the Catalogue of feed materials is used, all relevant provisions of the Catalogue must be complied with.
Article 24(6)	Obligation on a person who first places on the market a feed material not listed in the Catalogue to notify its use
Article 25(4)	Requirement that if use of the EU Codes of good labelling practice is indicated on labelling, all relevant provisions of the codes must be complied with

SCHEDULE 2 Regulation 21

Revocations

Regulations	***Extent***
The Genetically Modified Animal Feed Regulations 2004 (S.R. 2004 No. 386)	The whole Regulations
The Feed (Corn Gluten Feed and Brewers Grains) (Emergency Control) (Revocation) Regulations (Northern Ireland) 2007 (S.R. 2007 No. 451)	The whole Regulations
The Animal Feed Regulations (Northern Ireland) 2010 (S.R. 2010 No. 355)	The whole Regulations other than regulations 1, 2 and 14.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in relation to Northern Ireland only —

(a) provide for the continuing enforcement or implementation of EU Regulations and Directives on feed safety, genetically modified feed, feed additives, the marketing and use of feed, undesirable substances (contaminants) in feed and feed for particular nutritional purposes;

(b) provide for ambulatory references to the EU instruments specified in *regulation 2(3)*;

(c) prescribe offences and penalties for failure to comply with the Regulations;

(d) revoke or make consequential amendments to certain Regulations; and

(e) provide for periodic review of the operation and effect of these Regulations.

In Part 2, these Regulations provide for the enforcement of specified provisions 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. L131, 1.2.2002, p.1) by making it an offence to contravene those provisions (*regulation 4*) and by designating the competent authorities for the purposes of that EU instrument (*regulation 5*).
In Part 3 these Regulations provide for the enforcement of specified provisions of Regulation (EC) No. 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (OJ No. L268, 18.10.2003, p.1) (*regulations 7 and 8*).
In Part 4 these Regulations provide for the enforcement of specified provisions of Regulation (EC) No. 1831/2003 of the European Parliament and of the Council on additives for use in animal nutrition (OJ No. L268, 18.10.2003, p.29) (*regulation 10*).
In Part 5 these Regulations provide for the enforcement of Regulation (EC) No. 767/2009 of the European Parliament and of the Council on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No. 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC (OJ No. L229, 1.9.2009, p.1) (*regulations 12 and 13 and Schedule 1*).
In Part 6 these Regulations implement Directive 2002/32/EC of the European Parliament and of the Council on undesirable substances in animal feed (OJ No. L140, 30.5.2002, p.10) (*regulations 14 and 15*).
In Part 7 these Regulations implement Commission Directive 2008/38/EC establishing a list of intended uses of animal feedingstuffs for particular nutritional purposes (OJ No. L62, 6.3.2008, p.9), (*regulation 16 and 17*).
In Part 8 these Regulations prescribe the maximum penalties that a court may impose on conviction for an offence under these Regulations (*regulation 18*) and designate DARD as having the duty to enforce (*regulation 19*).
In Part 9 these Regulations make consequential amendments to the Official Feed and Food Controls Regulations (Northern Ireland) 2009 (*regulation 20*), revoke wholly or partially certain regulations (*regulation 21 and Schedule 2*).

Status:
Point in time view as at 11/02/2019.

Changes to legislation:
There are currently no known outstanding effects for the The Animal Feed (Composition, Marketing and Use) Regulations (Northern Ireland) 2016.