
STATUTORY RULES OF NORTHERN IRELAND

2016 No. 5

The Animal Feed (Hygiene, Sampling etc. and Enforcement) Regulations (Northern Ireland) 2016

PART 5

Enforcement powers and related provisions

Powers of detention and seizure

28.—(1) Where an authorised officer has inspected or sampled any material under these Regulations, paragraphs (2) to (8) apply where, on such an inspection, or upon analysis of samples taken, it appears to the officer that the material fails to comply with the requirements of specified feed law.

(2) The authorised officer may either —

- (a) give notice to the person in charge of the material that, until the notice is withdrawn, the material or any specified portion of it —
 - (i) is not to be used as feed; and
 - (ii) either is not to be removed or is not to be removed except to some place specified in the notice; or

(b) seize the material in order to have it dealt with by a lay magistrate,

and any person who knowingly contravenes the requirements of a notice under sub-paragraph (a) commits an offence.

(3) An authorised officer who exercises the powers conferred by paragraph (2)(a) must, as soon as is reasonably practicable and in any event within 21 days, determine whether or not the officer is satisfied that the material complies with the requirements mentioned in paragraph (1) and —

- (a) if so satisfied, forthwith withdraw the notice;
- (b) if not so satisfied, proceed to have the matter dealt with by a lay magistrate under paragraph (5).

(4) Where the authorised officer exercises the powers conferred by paragraph (2)(b) or takes action under paragraph (3)(b), the officer must inform the person in charge of the material of the intention to have it dealt with by a lay magistrate and —

- (a) any person who might be liable under the provisions of specified feed law to a prosecution in respect of the material shall, if that person attends before the lay magistrate by whom the material falls to be dealt with, be entitled to be heard and to call witnesses; and
- (b) that lay magistrate may, but need not, be a member of the court before which any person is charged with an offence under those provisions in relation to that material.

(5) Subject to paragraph (8), if it appears to a lay magistrate, on the basis of such evidence as the lay magistrate considers appropriate in the circumstances, that any material falling to be dealt with

by a lay magistrate under this regulation fails to comply with the requirements of specified feed law then the lay magistrate must condemn the material and order —

- (a) the material to be destroyed or to be so disposed of as to prevent it from being used as food for human consumption or for feed; and
- (b) any expenses reasonably incurred in connection with the destruction or disposal to be defrayed by the feed business operator.

(6) If a notice under paragraph (2)(a) is withdrawn, or the lay magistrate by whom any material falls to be dealt with under this regulation refuses to condemn it, DARD must compensate the owner of the material for any depreciation in its value resulting from the action taken by the authorised officer.

(7) Any disputed question as to the right or the amount of any compensation payable under paragraph (6) is to be determined by a single arbitrator appointed, failing agreement between the parties, by the Department of Health, Social Services and Public Safety and the provisions of the Arbitration Act 1996 apply.

(8) In the case of material referred to in Article 15.1 of Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed^{M1} which is the subject of an authorisation granted under that Regulation and has been produced in accordance with any conditions relating to that authorisation but does not bear the appropriate labelling as required by Article 25, the lay magistrate may order —

- (a) that the material be labelled properly as soon as reasonably practicable and at the expense of the feed business operator; and
- (b) the release of the material into the custody of the operator.

Marginal Citations

M1 OJ No.L268, 18.10.2003, p.1

Changes to legislation:

There are currently no known outstanding effects for the The Animal Feed (Hygiene, Sampling etc. and Enforcement) Regulations (Northern Ireland) 2016, Section 28.