

2018 No. 16

AGRICULTURE

**The Animal Feed (Basic Safety Standards) Regulations
(Northern Ireland) 2018**

Made - - - - - *15th January 2018*

Coming into operation - *6th February 2018*

The Department of Health(a) being a department designated for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Union(c), measures in the veterinary and phytosanitary fields for the protection of public health(d) and measures relating to feed produced for or fed to food-producing animals(e) makes the following Regulations in exercise of the powers conferred by sections 66(1), 74A(1) and 84 of the Agriculture Act 1970(f), as read with regulation 14 of the Food Standards Act 1999 (Transitional and Consequential Provisions and Savings) Regulations (Northern Ireland) 2000(g), and section 2(2) of the European Communities Act 1972.

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(h) or, in the case of provisions relating to feed for food-producing animals, of section 84 of the Agriculture Act 1970.

Citation and commencement

1. These Regulations may be cited as the Animal Feed (Basic Safety Standards) Regulations (Northern Ireland) 2018 and come into operation on 6th February 2018.

Interpretation

2.—(1) In these Regulations—

“DAERA” means the Department of Agriculture, Environment and Rural Affairs(i);

(a) Formerly the Department of Health, Social Services and Public Safety; see 2016 c.5 (N.I.), section 1

(b) 1972 c.68

(c) S.I.2000/2812

(d) S.I.1999/2027

(e) S.I.2003/2901

(f) 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)

(g) S.R. 2000 No. 78

(h) OJ No. L31, 1.2.2002, p.1, as last amended by Regulation (EC) No. 652/2014 of the European Parliament and of the Council (OJ No. L189, 27.6.2014, p.1)

(i) Formerly the Department of Agriculture and Rural Development see 2016 c. 5 (N.I.), section 1

“feed” has the same meaning given in Article 3 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;

“radioactive substance” means any substance that contains one or more radionuclides the activity or activity concentration of which cannot be disregarded from a radiation protection point of view.

For the purpose of these Regulations, “import” and “export” are to be construed in accordance with the meanings that “importation” and “exportation” bear for the purposes of the Customs and Excise Management Act 1979(a).

(2) The Interpretation Act (Northern Ireland) 1954(b) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Prohibition of practices

3. A person must not intentionally add a radioactive substance in the production of animal feed.

4. A person must not import or export any animal feed in respect of which a radioactive substance has been intentionally added in the production of that feed.

Offences and penalties

5. Any person who contravenes regulation 3 or 4 is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding three months, or both.

Enforcement

6. It is the duty of DAERA to enforce these Regulations.

Amendment of the Animal Feed (Hygiene, Sampling etc. and Enforcement) Regulations (Northern Ireland) 2016

7.—(1) The Animal Feed (Hygiene, Sampling etc. and Enforcement) Regulations (Northern Ireland) 2016(c) are amended in accordance with paragraph (2).

(2) In Schedule 1 (specified feed law), after the entry for “The Animal Feed (Hygiene, Sampling etc. and Enforcement) Regulations (Northern Ireland) 2016”, insert—

“The Animal Feed (Basic Safety Standards) Regulations (Northern Ireland) 2018”.

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

8.—(1) The Official Feed and Food Controls Regulations (Northern Ireland) 2009(d) are amended in accordance with paragraph (2).

(2) In Schedule 2 (definition of relevant feed law), after paragraph (f), insert the following paragraph—

“(g) the Animal Feed (Basic Safety Standards) Regulations (Northern Ireland) 2018.”.

(a) 1979 c. 2

(b) 1954 c.33 (NI)

(c) S.R. 2016 No. 5

(d) S.R. 2009 No. 427, amended by S.R. 2011 No. 48 and S.R 2014 No. 286

Sealed with the official seal of the Department of Health on 15th January 2018.



Elizabeth Redmond
A senior officer of the Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations transpose in Northern Ireland, in relation to animal feed, Article 21 of Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom (OJ No L 13, 17.1.14, p. 1).

Regulation 3 sets out a person must not intentionally add a radioactive substance in the production of animal feed.

Regulation 4 sets out that a person must not import or export any animal feed to which a radioactive substance has been intentionally added during production.

Regulation 5 provides that it is an offence to fail to comply with regulation 3 or 4, punishable on conviction in the magistrates' court by a fine or imprisonment for a term not exceeding 3 months, or both.

Regulation 6 sets out that it is the duty of DAERA to enforce these Regulations.

Regulation 7 amends Schedule 1 to the Animal Feed (Hygiene, Sampling etc. and Enforcement) Regulations 2016 ("the 2016 Regulations") (S.R. 2016 No. 5). The amendment designates these Regulations as "specified feed law" for the purposes of the 2016 Regulations so that, among other things, authorised officers may serve improvement notices for failure to comply with regulation 3 or 4 of these Regulations and a person aggrieved by a decision to serve an improvement notice may appeal to the magistrates' court. The amendment also allows, if particular requirements are complied with, a court to impose a prohibition order/emergency prohibition order on a feed business operator for failure to comply with regulation 3 or 4, and allows authorised officers to enter non-dwellings to investigate non-compliance with regulation 3 or 4 and to inspect, take samples, and detain or seize products. The amendment also allows a person accused of failing to comply with regulation 3 or 4 to rely on a due diligence defence in specific circumstances.

Regulation 8 amends Schedule 2 to the Official Feed and Food Controls Regulations (Northern Ireland) 2009 ("the 2009 Regulations") (S.R. 2009 No. 427). The amendment designates these Regulations as "relevant feed law" for the purposes of the 2009 Regulations.

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