
STATUTORY INSTRUMENTS

2004 No. 2334

**The Genetically Modified Animal
Feed (England) Regulations 2004**

Inspection, seizure and detention of suspected animal feed

8.—(1) An inspector may at all reasonable times inspect any material intended for use as feed which —

- (a) has been placed on the market;
- (b) is in the possession of, or has been deposited with or consigned to, any person for the purpose of placing on the market or of preparation for placing on the market,

and paragraphs (2) to (9) below shall apply where, taking account of all the information available to him, it appears to the inspector that the material may fail to comply with a specified Community provision.

(2) The inspector 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- (a) give notice to the person in charge of the material that, until the notice is withdrawn, the material or any specified portion of it —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 and remove it in order to have it dealt with by a justice of the peace;

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

(3) Where the inspector exercises the powers conferred by paragraph 2(a) above, he shall, as soon as is reasonably practicable and in any event within 21 days, determine whether or not he is satisfied that the material complies with the specified Community provisions and —

- (a) if he is so satisfied, shall forthwith withdraw the notice;
- (b) if he is not so satisfied shall seize the material and remove it in order to have it dealt with by a justice of the peace.

(4) Where the inspector exercises the powers conferred by paragraphs 2(b) or 3(b) above, he shall inform the person in charge of the material of his intention to have it dealt with by a justice of the peace and —

- (a) any person who under regulation 5 might be liable to a prosecution in respect of the material shall, if he attends before the justice of the peace by whom the material falls to be dealt with, be entitled to be heard and to call witnesses; and
- (b) that justice of the peace may, but need not, be a member of the court before which any person is charged with an offence in relation to that material.

(5) If it appears to a justice of the peace, on the basis of such evidence as he considers appropriate in the circumstances, that any material falling to be dealt with by him under this regulation fails to comply with a specified Community provision then subject to paragraph (6) below he shall condemn the material and order —

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

(6) In the case of material referred to in Article 15.1 which is the subject of an authorisation granted under Regulation 1829/2003 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 justice of the peace may, at his discretion, order —

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

(7) If a notice under paragraph 2(a) above is withdrawn, or the justice of the peace by whom any material falls to be dealt with under this regulation refuses to condemn it or to make an order for the proper labelling of the material, the enforcement authority shall compensate the owner of the material for any depreciation in its value resulting from the action taken by the inspector.

(8) Where any material which fails to comply with a specified Community provision is part of a batch, lot or consignment of feed of the same class or description, it shall be presumed for the purposes of this regulation, until the contrary is proved, that all of the feed in that batch, lot or consignment fails to comply with that specified Community provision.

(9) Any disputed question as to the right to or the amount of any compensation payable under paragraph (7) shall be determined by arbitration.