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STATUTORY INSTRUMENTS

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**2005 No. 3281**

**The Feeding Stuffs (England) Regulations 2005**

**PART 2**

*Presentation and Composition of Feeding Stuffs*

**Matters required and permitted to be contained in a statutory statement or otherwise declared**

**8.** Except in respect of additives and premixtures not contained in feeding stuffs, the particulars, information and instructions required or permitted to be contained in a statutory statement or otherwise declared, are as specified in and shall comply with the provisions of Schedule 3.

**Forms of statutory statement**

**9.—(1)** Except in the circumstances relating to small quantities of feeding stuffs mentioned in Article 5(2) of the Compound Feedingstuffs Directive and subject to paragraph (2), the statutory statement—

- (a) in the case of any prescribed material delivered in a package or other container, shall—
  - (i) take the form of a label attached to that package or container; or
  - (ii) be clearly marked directly on the package or container, and
- (b) in the case of such material delivered in bulk, shall take the form of a document relating to and accompanying each consignment.

(2) In the case of any feed material sold in a quantity not exceeding 10 kg, and supplied directly to the final user, the statutory statement may be provided in the form of a notice in writing.

(3) The particulars, information and instructions required or permitted to be contained in the statutory statement shall—

- (a) be clearly separate from any other information;
- (b) subject to paragraphs (5) and (6), be in English; and
- (c) be legible and indelible.

(4) For the purposes of section 69 (marking of material prepared for sale), prescribed material which is contained in a package or other container shall be labelled or marked in the manner prescribed in relation to such material in paragraph (1)(a) or, where applicable, (2), and such material in bulk shall be marked by the display in as close proximity to the material as may be practicable of a document relating thereto.

(5) In the case of any compound feeding stuff or feed material which is intended for export to a Member State, the statutory statement shall be in one or more official Community languages, as determined by that Member State.

(6) In the case of any feeding stuff, except a feeding stuff containing an additive in category (d) or (e) of Article 6(1) of the Additives Regulation other than those in the functional groups listed in paragraph 4(a), (b) or (c) of Annex 1 to that Regulation, which is intended for export to an EEA State

that is not a Member State, the statutory statement shall be in one or more of the official languages of the country of destination.

### **Limits of variation**

**10.**—(1) Section 74(2) shall have effect in England as if after the words “this Part of this Act” there were inserted the words “or the Feeding Stuffs (England) Regulations 2005”.

(2) For the purposes of section 74, as modified by paragraph (1), the limits of variation in relation to any mis-statement in a statutory statement, document or mark, as to the nature, substance or quality of a feeding stuff where the mis-statement relates to—

- (a) any analytical constituent specified in the first column of—
  - (i) Part A of Schedule 4 (where the feeding stuff is a compound feeding stuff not intended for pet animals),
  - (ii) Part B of Schedule 4 (where the feeding stuff is a compound pet food), or
  - (iii) Part C of Schedule 4 (in the case of a feed material);
- (b) any vitamin or trace element specified in the first column of Part D of that Schedule; or
- (c) the energy value of any feeding stuff specified in the first column of Part E of that Schedule,

shall be as set out with respect to that constituent or vitamin, trace element or feeding stuff, in the corresponding entry in the second Column of the relevant Part of that Schedule.

(3) Particulars with respect to any material which are contained in a statutory statement, or in any document, or which are marked on, or denoted by a mark on, the material, shall not, for the purposes of Part IV of the Act or of these Regulations, be treated as false by reason of any mis-statement therein as to the nature, substance or quality of the material, if—

- (a) the material was first sold, or otherwise put into circulation in an EEA State;
- (b) the mis-statement did not, at the time of putting into circulation, exceed any limits of variation prescribed in relation thereto in the State concerned; and
- (c) any such limits were in accordance with any applicable European Community legislation.

### **Assigned meanings for statutory statements or marks**

**11.** For the purposes of section 70, there is assigned to the expressions “complementary feeding stuff”, “complete feeding stuff”, “compound feeding stuff”, “milk replacer feed”, “mineral feeding stuff” and “molassed feeding stuff” in each case the meaning given by regulation 2(1) to the expression concerned.

### **Manner of packaging and sealing compound feeding stuffs**

**12.**—(1) Subject to paragraphs (2) and (3), no person shall put into circulation a compound feeding stuff, unless it is in a bag or container, and that bag or container is sealed in such a way that, when the bag or container is opened, the seal is damaged and cannot be re-used.

(2) Compound feeding stuffs may be put into circulation in bulk, in unsealed bags or in unsealed containers, in the case of—

- (a) deliveries between producers of compound feeding stuffs or those putting them into circulation;
- (b) deliveries from producers of compound feeding stuffs to packaging enterprises;
- (c) compound feeding stuffs obtained by mixing grain or whole fruit;
- (d) blocks or licks;

- (e) small quantities not exceeding 50 kg in weight, which are intended for the final user and are taken directly from a bag or container which, before opening, complied with the sealing provision in paragraph (1).
- (3) Compound feeding stuffs may be put into circulation in bulk, or in unsealed containers, but not in unsealed bags, in the case of—
  - (a) direct deliveries from the producer to the final user;
  - (b) molassed feeding stuffs consisting of less than three feed materials;
  - (c) pelleted feeding stuffs.

### **Control of feed materials**

**13.**—(1) In this regulation any reference to a numbered Part means a Part of Schedule 2.

(2) No person shall put into circulation any feed material of a description specified in column (3) of Part II under a name other than that specified in the corresponding entry in column (2) of that Part.

(3) No person shall put into circulation any feed material not listed in Part II under a name specified in column (2) of that Part or under a name or term which could otherwise mislead a purchaser as to the real identity of the material.

(4) Where the name of a feed material listed in column (2) of Part II includes a common name or term listed in column (4) of Part I no person shall put into circulation any such feed material or any compound feeding stuff containing such feed material unless the feed material was prepared by the process specified in columns (2) and (3) of Part I corresponding to that common name or term.

(5) No person shall put into circulation any feed material or any compound feeding stuff containing any feed material, unless—

- (a) in the case of any feed material of a description specified in column (3) of Part II the botanical purity by weight of the feed material is not less than the percentage (if any) specified in relation to it in column (3) of Part II or, if none is specified, is not less than 95%; or
- (b) in the case of any feed material of a description specified in column (1) of Part III the botanical purity by weight of the feed material is not less than 95%; and

the feed material also complies with the provisions regarding botanical and chemical purity set out in paragraph 1 of Section II of Part A of the Annex to the Feed Materials Directive.

(6) No person shall use any feed material to bind another feed material, if the quantity of the feed material so used exceeds 3% of the total weight of the feed material bound.

(7) Without prejudice to sections 73 and 73A, no person shall import into England from any state which is not an EEA State, supply (otherwise than on sale), have in possession with a view to so supplying or use any feed material which is deleterious or dangerous to farmed creatures, to pet animals or, through consumption of the products of any animal fed with the feed material, to human beings.

(8) No person shall put into circulation or use any feed material which presents a danger to the environment.

(9) No person shall put into circulation any feed material in a manner likely to mislead as to its properties.

(10) In paragraph (5)(a) “description” shall be taken to exclude any botanical purity requirement, and for the purposes of this regulation and of Schedule 2 “botanical purity” shall be construed in accordance with paragraph 2 of Section II of Part A of the Annex to the Feed Materials Directive.

## **Control of products intended for animal feed containing undesirable substances**

14.—(1) No person shall—

- (a) put into circulation any product intended for animal feed which is specified in column 2 of Schedule 5; or
- (b) use any such product for animal feed,

if it contains any undesirable substance specified in column 1 of that Schedule in excess of the level specified for it in column 3 of that Schedule.

(2) No person shall put into circulation, or use as a feeding stuff, any complementary feeding stuff if—

- (a) having regard to the quantity of it recommended for use in a daily ration, it contains any undesirable substance specified in column 1 of Schedule 5 in excess of the level specified for it in column 3 of that Schedule in relation to complete feeding stuffs; and
- (b) there is no provision relating to any complementary feeding stuff in the corresponding entry in column 2 of that Schedule.

(3) No person shall mix any product intended for animal feed which is specified in column 2 of Schedule 5 and which contains any undesirable substance specified in column 1 of that Schedule in excess of the level specified for it in column 3 of that Schedule for the purpose of dilution with any product intended for animal feed.

(4) No person shall put into circulation any product intended for animal feed or use any such product for animal feed unless it is—

- (a) sound and genuine; and
- (b) of merchantable quality.

(5) For the purposes of paragraph (4), a product intended for animal feed which is specified in column 2 of Schedule 5 is not sound, genuine and of merchantable quality if it contains any undesirable substance specified in column 1 of that Schedule in excess of the level specified in relation to it in column 3 of that Schedule.

(6) For the purposes of paragraph (2) “feeding stuff” includes feeding stuffs for oral feeding to animals living freely in the wild, and “complementary feeding stuff” and “complete feeding stuff” shall be construed accordingly.

(7) Paragraph (8) shall apply to any person who has in his possession or control for the purpose of a trade or business any of the following products intended for animal feed—

- (a) palm kernel expeller;
- (b) feeding stuffs obtained from the processing of fish or other marine animals;
- (c) seaweed meal and feed materials derived from seaweed; or
- (d) complete feeding stuffs for fish or for fur producing animals.

(8) Any person referred to in paragraph (7) shall, if requested by an inspector, procure and produce to the inspector an analysis in order to demonstrate that the content of inorganic arsenic in a product intended for animal feed listed in paragraph (7) is within the limit specified in the relevant entry in column 3 of Schedule 5.

(9) Any person who without reasonable excuse fails to comply with a request made under paragraph (8) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Control of feeding stuffs containing prohibited materials**

**15.**—(1) No person shall put into circulation for use as a feeding stuff, or use as a feeding stuff, any material which contains—

- (a) faeces, urine or separated digestive tract contents resulting from the emptying or removal of the digestive tract, irrespective of any form of treatment or admixture;
- (b) hide treated with tanning substances, including its waste;
- (c) seeds or other plant propagating materials which, after harvest, have undergone specific treatment with plant protection products for their intended propagation, or derived by-products;
- (d) wood, sawdust or other materials derived from wood which has been treated with wood preservatives as defined in Annex V to Directive [98/8/EC](#) of the European Parliament and of the Council concerning the placing of biocidal products on the market<sup>(1)</sup>;
- (e) subject to paragraph (3), waste (whether or not subjected, or to be subjected, to further processing) obtained from the treatment of “urban waste water”, “domestic waste water” or “industrial waste water” (as those terms are defined in Article 2 of Council Directive [91/271/EEC](#) concerning urban waste water treatment), whatever the origin of the waste water concerned<sup>(2)</sup>;
- (f) solid urban waste, such as household waste, but excluding catering waste as defined by Regulation [\(EC\) 1774/2002](#) of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption<sup>(3)</sup>;
- (g) packaging and parts of packaging from products used in agriculture or the food industry.

(2) For the purposes of paragraph (1) “waste” has the meaning given in Article 1 of Council Directive [75/442/EEC](#) on waste<sup>(4)</sup>.

(3) For the purposes of paragraph 1(e), the term “waste water” shall be construed in accordance with the footnote to point 5 of the Annex to Commission Decision [2004/217/EC](#) establishing a list of materials whose circulation or use for animal nutrition purposes is prohibited<sup>(5)</sup>.

### **Control of certain protein sources**

**16.**—(1) Subject to paragraphs (3) and (4), no person shall sell or have in possession with a view to sale, for use as a feeding stuff or as a protein source in a feeding stuff, any material belonging to a product group specified in column 1 of Schedule 6, unless that material—

- (a) is named as a permitted product in column 2 of that Schedule; and
- (b) complies with all the specifications and requirements contained in and imposed in relation thereto by columns 3 to 6 of that Schedule.

(2) Subject to paragraph (3), no person shall sell or have in possession with a view to sale for use as a feeding stuff, or use as a feeding stuff, any product obtained from yeasts of the “Candida” variety cultivated on n-alkanes.

(3) Paragraphs (1) and (2) do not apply in relation to any material or product excluded from application of the Certain Products Directive by Article 16 thereof concerning exports to third countries.

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(1) OJ No. L123, 24.4.98, p. 1, as amended by Regulation [\(EC\) 1882/2003](#) of the European Parliament and of the Council (OJ No. L284, 31.10.2003, p. 1).

(2) OJ No. L135, 30.5.1991, p. 40, as last amended by Regulation [\(EC\) 1882/2003](#) of the European Parliament and of the Council (OJ No. L284, 31.10.2003, p. 1).

(3) OJ No. L273, 10.10.2002, p. 1, as amended by Commission Regulation [\(EC\) 808/2003](#) (OJ No. L117, 13.5.2003, p. 1).

(4) OJ No. L194, 25.7.95, p. 39, as last amended by Regulation [\(EC\) No. 1882/2003](#) of the European Parliament and of the Council (OJ No. L284, 31.10.2003, p. 1).

(5) OJ No. L67, 5.3.2004, p. 31.

(4) Paragraph (1) does not apply in the circumstances authorised for derogation by Article 3(2) (concerning scientific or experimental purposes) of the Certain Products Directive.

#### **Control of the iron content of milk replacer feeds**

17. No person shall put into circulation any milk replacer feed intended for calves of up to 70 kilograms live weight, which has an iron content of less than 30 milligrams per kilogram of the complete feeding stuff at a moisture content of 12%.

#### **Control of ash insoluble in hydrochloric acid in compound feeding stuffs**

18.—(1) No person shall put into circulation—

- (a) any compound feeding stuff composed mainly of rice by-products in which the level of ash insoluble in hydrochloric acid exceeds 3.3% of its dry matter; or
- (b) subject to paragraph (2), any other compound feeding stuff in which the level of ash insoluble in hydrochloric acid exceeds 2.2% of its dry matter.

(2) Paragraph (1)(b) shall not apply to the putting into circulation of any compound feeding stuff which—

- (a) contains permitted mineral binders named or described in the Annex to Commission Directive 2003/57/EC(6);
- (b) is a mineral feeding stuff;
- (c) contains more than 50% of sugar beet chips or sugar beet pulp; or
- (d) is intended for farmed fish and has a fish meal content of more than 15%,

if the level of ash insoluble in hydrochloric acid is declared in the statutory statement as a percentage of the feeding stuff as such.

#### **Control of feeding stuffs intended for particular nutritional purposes, and supplementary provisions relating to statutory statement**

19.—(1) No person shall put into circulation any feeding stuff intended for a particular nutritional purpose unless—

- (a) the particular nutritional purpose in question is specified in column 1 of Chapter A of Schedule 7;
- (b) the feeding stuff possesses the essential nutritional characteristics specified opposite that particular nutritional purpose in column 2 of that Chapter;
- (c) the feeding stuff is intended for animals specified opposite that particular nutritional purpose in column 3 of that Chapter;
- (d) it is recommended that the feeding stuff be used for a period of time falling within the range specified opposite that particular nutritional purpose in column 5 of that Chapter;
- (e) in relation to the feeding stuff, the requirements specified in paragraphs 1, 2 and 8 of Chapter B of Schedule 7 are complied with; and
- (f) the composition of the feeding stuff is such that it is capable of achieving the particular nutritional purpose for which it is intended.

(2) Schedule 7 shall have effect as specified in Schedule 3.

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(6) OJ No. L151, 19.6.2003, p. 38, amending 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).

### **Control of additives and premixtures**

**20.**—(1) No person shall contravene or fail to comply with the provisions of the Additives Regulation specified in paragraph (2).

(2) The provisions referred to in paragraph (1) are—

- (a) Article 3 (placing on the market, processing and use of feed additives), paragraphs (1) to (4), as read with Article 10 (status of existing products);
- (b) Article 12 (supervision);
- (c) Article 16, paragraphs (1) to (5), (labelling and packaging of additives and premixtures).

(3) In any proceedings for an offence under paragraph (2)(a) it shall be a defence to prove that the act giving rise to the offence—

- (a) is one to which Article 10 of the Additives Regulation applies; and
- (b) would not have constituted an offence under the 2000 Regulations as they were immediately before the coming into force of these Regulations.

(4) In any proceedings for an offence under paragraph (2)(c) it shall be a defence to prove that the act giving rise to the offence—

- (a) is one to which Article 25(2) of the Additives Regulation applies; and
- (b) would not have constituted an offence under the 2000 Regulations as they were immediately before the coming into force of these Regulations.

(5) Notwithstanding the revocation referred to in regulation 7, where before the 18th October 2004 initial comments had been forwarded to the Commission in accordance with regulation 11(2) of the 2000 Regulations that application shall be treated as if regulation 11 of those Regulations were still in force.

### **Saving relating to confidential information relating to additives under the 2000 Regulations**

**21.**—(1) Notwithstanding the revocations in regulation 7, and subject to paragraphs (2) and (3), no person shall publish or disclose any confidential information that was, prior to the coming into force of these Regulations, obtained by him in the performance of functions under regulation 11 of the 2000 Regulations without the previous consent in writing of—

- (a) the person who, in accordance with that regulation, made an application for a Community authorisation of, or as the case may be, for a new use of, the additive concerned; or
- (b) that person's assignee or successor to ownership of the confidential information.

(2) Nothing in paragraph (1) shall restrict the publication or disclosure of such information for the purpose of the exercise of functions under that regulation.

(3) Nothing in paragraph (1) shall prevent the publication or disclosure of confidential information of a type specified in Article 7(2) of the Additives Directive.

(4) In this regulation, “confidential information” means information of the type specified in Article 7(1) of the Additives Directive and “additive” has the meaning given in Article 2 of that Directive.

(5) A publication or disclosure in contravention of paragraph (1) shall be punishable as if it were a disclosure prohibited by section 83.