
WELSH STATUTORY INSTRUMENTS

2005 No. 3368

The Feed (Hygiene and Enforcement) (Wales) Regulations 2005

PART 2

Enforcement of Regulation 183/2005

Scope and interpretation of Part 2

3.—(1) This Part does not apply to the activities mentioned in Article 2(2) of Regulation 183/2005.

(2) Any reference in this Part to a numbered Article is a reference to the Article so numbered in Regulation 183/2005.

Competent authorities

4. The competent authorities for the purposes of Regulation 183/2005 are—

- (a) in respect of Articles 9(1) and (3), 18(3), 20(2), 21(1) and 22(2)(b), the Agency and the enforcement authority;
- (b) in respect of Articles 7, 9(2), 10, 13, 14, 15, 16, 17, 18(1), (2) and (4) and 19(2), the enforcement authority;
- (c) in respect of Article 19(1), the Agency.

Offences and penalties

5.—(1) Any person who contravenes or fails to comply with any of the specified provisions of Regulation 183/2005 set out in paragraph (2) is guilty of an offence and liable—

- (a) in the case of sub-paragraphs (d), (e), (g), (h), (i) and (j) of paragraph (2)—
 - (i) on summary conviction to a term of imprisonment not exceeding three months or to a fine not exceeding the statutory maximum, or both; or
 - (ii) on conviction on indictment to a term of imprisonment not exceeding two years or to a fine, or both;
 - (b) in the case of sub-paragraphs (a), (b), (c), and (f) of paragraph (2), on summary conviction to a term of imprisonment not exceeding three months or to a fine not exceeding level 5 on the standard scale, or both.
- (2) The specified provisions referred to in paragraph (1) are—
- (a) Article 5(1), (2), (3), (5) and (6) (specific obligations);
 - (b) Article 6(1), as read with (2) and (3) (HACCP system);
 - (c) Article 7(1) (documents concerning the HACCP system);
 - (d) Article 9(2) (official controls, notification and registration);
 - (e) Article 11 (prohibition on operating without approval or registration);

- (f) Article 17(2) (exemption from on-site visits);
- (g) Article 18(3) (declaration of compliance);
- (h) Article 23(1) (conditions relating to imports);
- (i) Article 24 (interim measures regarding third country establishments);
- (j) Article 25 (feed produced for export to third countries).

Form of notification with a view to registration

6. Any person who is required under Article 9 (official controls, notification and registration) to notify the enforcement authority of the information mentioned in paragraph (2)(a) or (b) of that Article must ensure that any such notification—

- (a) is in writing and signed by that person or on his or her behalf;
- (b) contains that person's name and, if different, his or her business name;
- (c) contains his or her address and, if different, the address of any establishment to which the notification relates;
- (d) identifies the feed business activities in such form as may be required by the enforcement authority; and
- (e) is properly addressed to the enforcement authority for the area in which the establishment to which the notification relates is situated.

Form of declaration in relation to transitional measures

7. Any person to whom Article 18(3) (transitional measures) applies must ensure that a declaration submitted in accordance with that provision—

- (a) is in writing and signed by that person or on his or her behalf;
- (b) contains that person's registration or approval number, his or her name and, if different, his or her business name;
- (c) contains that person's address, and if different, the address of any establishment to which the declaration relates;
- (d) contains a statement to the effect that the feed business is one to which Article 18(2) applies; and
- (e) is properly addressed to the enforcement authority for the area in which the establishment to which the declaration relates is situated.

Form of application for approval

8. Where approval of a feed business establishment is required pursuant to Article 10, an application to the enforcement authority for the area in which the establishment is located must be made which—

- (a) is in writing and signed by or on behalf of the applicant;
- (b) contains the name or business name and the address of the applicant and, if different, the address of the establishment;
- (c) identifies which of the feed business activities specified in Article 10(1) or as may be specified pursuant to Article 10(3) the applicant is exercising or intends to exercise and for which approval is sought;

- (d) in the case of any person to whom Article 17(2) (exemption from on-site visits) applies, includes a statement to the effect that the establishment is one to which Article 17(1) applies and a declaration of compliance as required by paragraph (2) of that Article; and
- (e) is properly addressed to the enforcement authority for the area in which the establishment to which the declaration relates is situated.

Procedure for suspension of registration or approval

9.—(1) Where an enforcement authority proposes to take action pursuant to Article 14 (temporary suspension of registration or approval) it must serve on the feed business operator a notice in accordance with paragraph (2).

- (2) The notice served by the enforcement authority under paragraph (1) must—
 - (a) specify the operative date of the notice, (“the operative date”);
 - (b) state that it intends to suspend on the operative date approval or as the case may be registration pursuant to Article 14 and these Regulations;
 - (c) specify the feed business activity or activities to which the notice relates;
 - (d) identify the remedial action required;
 - (e) state that unless remedial action has been carried out to the satisfaction of the enforcement authority within 1 year of the operative date, the registration or approval will be revoked without further notice on the first anniversary of the operative date;
 - (f) in the case of suspension of registration, provide information on the time limits for appealing under regulation 13.

Procedure for lifting of suspension

10. Where the enforcement authority which has served notice on a feed business operator under regulation 9 is satisfied that—

- (a) the remedial action required under paragraph (2)(e) of that regulation has been carried out; and
- (b) the period for action specified in that paragraph has not expired,

it must immediately lift the suspension and notify the feed business operator in writing to that effect.

Procedure for the revocation of registration or approval

11.—(1) Where an enforcement authority proposes to take action in the circumstances set out in Article 15 (revocation of registration or approval) it must serve on the feed business operator a notice in accordance with paragraph (2).

- (2) The notice served by the enforcement authority under paragraph (1) must—
 - (a) specify the operative date of the notice;
 - (b) state that registration or approval as the case may be has been revoked;
 - (c) specify the feed business activity or activities to which the revocation relates;
 - (d) identify which of the conditions of revocation set out in Article 15 is applicable;
 - (e) provide information on the time limits for appealing under regulation 13.

(3) Where an enforcement authority has revoked a registration or approval pursuant to this regulation it must—

- (a) make the appropriate amendments to its own register of feed business establishments; and

- (b) promptly transmit to the Agency the necessary information to ensure compliance with Article 19(3) (updating of national lists).

Form of application for amendments to approval or registration

12.—(1) Where a feed business operator wishes to apply for amendments to approval or registration pursuant to Article 16 (amendments to registration or approval of an establishment), an application to the enforcement authority for the area in which the relevant feed business establishment is located must be made which—

- (a) is signed by or on behalf of the applicant;
- (b) contains the name or business name and address of the applicant and, if different, the address of the establishment;
- (c) identifies the activities to which the application for amendments to approval or registration relates;
- (d) is properly addressed to the enforcement authority for the area in which the establishment to which the declaration relates is situated.

Right of appeal against suspension or revocation of registration

13.—(1) Any person who is aggrieved by the decision of an enforcement authority taken in respect of—

- (a) the approval of an establishment under Article 13;
- (b) suspension of the registration or approval of an establishment under Article 14;
- (c) revocation of the registration or approval of an establishment under Article 15; or
- (d) amendment of the approval of an establishment under Article 16

may appeal to a magistrates' court.

(2) The procedure on appeal to a magistrates' court under paragraph (1) is by way of complaint for an order, and the Magistrates' Courts Act 1980(1) will apply to the proceedings.

(3) The period within which an appeal under paragraph (1) may be brought is one month from the date on which notice of the decision was served on the person desiring to appeal and the making of a complaint for an order is deemed for the purposes of this paragraph to be the bringing of the appeal.

(4) Where on an appeal under paragraph (1) a magistrates' court determines that the decision of the enforcement authority is incorrect, the authority must give effect to the determination of the court.

(5) Where a registration is suspended or revoked, the feed business operator who, immediately before such suspension or revocation, had been using the establishment concerned may continue to use it, subject to any conditions imposed by the enforcement authority for the protection of public health, unless—

- (a) the time limit for appealing against the decision to suspend or revoke registration has expired without an appeal having been lodged; or
- (b) where an appeal against that decision has been lodged, the appeal has been finally disposed of or abandoned.

(6) Nothing in paragraph (5) permits an establishment to be used for a feed business if a feed business prohibition order, a feed business emergency prohibition notice or a feed business emergency prohibition order has been imposed in relation to the establishment.

Fees for approvals or amendments to approvals

14.—(1) Subject to paragraph (3), a feed business operator who applies to an enforcement authority under regulation 8 for approval or under regulation 12 for amendment to an approval must—

- (a) pay the relevant fee to the enforcement authority when the application referred to in paragraph (1) is submitted; and
- (b) reimburse the enforcement authority on demand the cost of any laboratory analysis incurred by it in connection with the application.

(2) In relation to any application submitted to it under regulations 8 or 12, the enforcement authority need not—

- (a) take any steps to approve an establishment in respect of one or more of its feed business activities until the relevant fee has been paid to it; or
- (b) approve an establishment in respect of one or more of its feed business activities until, in accordance with paragraph (1)(b), it has been reimbursed the cost of any laboratory analysis incurred by it in connection with the application.

(3) Where a feed business operator makes an application under regulation 8 or 12 seeking approval or as the case may be the amendment of approval of an establishment as one on which more than one feed business activity requiring approval may be exercised, the operator is liable to pay a single relevant fee, which fee will be the highest one otherwise payable.

(4) In this regulation “relevant fee” means the fee specified in Schedule 3.