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WELSH STATUTORY INSTRUMENTS

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**2018 No. 40 (W. 12)**

**AGRICULTURE, WALES**

**The Animal Feed (Basic Safety Standards) (Wales) Regulations 2018**

<i>Made</i>	- - - -	<i>15 January 2018</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>16 January 2018</i>
<i>Coming into force</i>	- -	<i>6 February 2018</i>

The Welsh Ministers make the following Regulations in exercise of the powers conferred on them by sections 66(1), 74A(1) and 84 of the Agriculture Act 1970(1) and section 2(2) of the European Communities Act 1972(2).

The Welsh Ministers have been designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to feed produced for or fed to food-producing animals(3), measures in the veterinary and phytosanitary fields for the protection of public health(4) and measures in relation to the common agricultural policy of the European Union(5).

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(6) and, in the case of provisions relating to feed for non food-producing animals, of section 84(1) of the Agriculture Act 1970.

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- (1) 1970 c. 40. Functions formerly exercisable by “the Ministers”, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672, and subsequently transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32). Section 74A was inserted by paragraph 6 of Schedule 4 to the European Communities Act 1972 (c. 68). Section 84 was amended by S.I. 2004/3254.
- (2) 1972 c. 68.
- (3) S.I. 2005/1971. The functions conferred on the National Assembly for Wales by this designation are transferred to the Welsh Ministers by virtue of section 162 of, and paragraphs 28 and 30 of Schedule 11 to, the Government of Wales Act 2006. The designation does not extend to measures concerning feed containing medicinal products (including growth regulators) or medicinal products when destined for use in feed except provision concerning digestibility enhancers, gut flora stabilisers, or substances which favourably affect the environment.
- (4) S.I. 2008/1792.
- (5) S.I. 2010/2690. The designation does not extend to making provision in respect of feed that contains medicinal products destined for use in feed, except provision concerning substances that favourably affect the environment, digestibility enhancers, or gut flora stabilisers.
- (6) OJ No L 31, 1.2.2002, p 1, as last amended by Regulation (EU) No 652/2014 of the European Parliament and of the Council laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material (OJ No L 189, 27.6.2014, p 1).

### **Title, application and commencement**

1.—(1) The title of these Regulations is the Animal Feed (Basic Safety Standards) (Wales) Regulations 2018.

(2) These Regulations apply in relation to Wales.

(3) These Regulations come into force on 6 February 2018.

### **Interpretation**

2.—(1) In these Regulations—

“feed” (“*bwyd anifeiliaid*”) has the meaning given in Article 3 of Regulation (EC) No 178/2002 of the European Parliament and of the Council;

“feed authority” (“*awdurdod bwyd anifeiliaid*”) means an authority identified in section 67(1A) of the Agriculture Act 1970 as having the duty to enforce Part IV of that Act within its area or district as the case may be;

“radioactive substance” (“*sylwedd ymbelydrol*”) 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.

(2) For the purpose of these Regulations, “import” (“*mewnforio*”) and “export” (“*allforio*”) 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(7).

### **Prohibition of practices**

3. No person may intentionally add a radioactive substance in the production of animal feed.

4. No person may 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 regulation 4 is guilty of an offence and liable on summary conviction to a fine or to imprisonment for a term not exceeding 3 months, or both.

### **Enforcement**

6. It is the duty of a feed authority within its area to enforce these Regulations.

### **Amendment of the Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations 2016**

7.—(1) The Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations 2016(8) 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) (Wales) Regulations 2016”, insert—

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

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(7) 1979 c. 2.

(8) S.I. 2016/387 (W. 121).

### **Amendment of the Official Feed and Food Controls (Wales) Regulations 2009**

**8.—**(1) The Official Feed and Food Controls (Wales) Regulations 2009<sup>(9)</sup> 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) (Wales) Regulations 2018.”

15 January 2018

*Vaughan Gething*  
Cabinet Secretary for Health and Social  
Services, one of the Welsh Ministers

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations transpose in Wales, 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 that no person may intentionally add a radioactive substance in the production of animal feed.

Regulation 4 sets out that no person may 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 each feed authority to enforce these Regulations in its area.

Regulation 7 amends Schedule 1 to the Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations 2016 ("the 2016 Regulations") ([S.I. 2016/387 \(W. 121\)](#)). 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 (Wales) Regulations 2009 ("the 2009 Regulations") ([S.I. 2009/3376 \(W. 298\)](#)). The amendment designates these Regulations as "relevant feed law" for the purposes of the 2009 Regulations. Among other things, the amendment allows feed authorities to share with other feed authorities any information received by them in the enforcement of these Regulations.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.