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## EXPLANATORY NOTE

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

These Regulations, which apply in relation to Scotland only—

- (a) largely revoke and replace the Feeding Stuffs (Scotland) Regulations 2000 as amended, (“the 2000 Regulations”);
- (b) introduce new provisions to enforce and administer Regulation (EC) No. 1831/2003 on additives for use in animal nutrition (“the Additives Regulation”); and
- (c) implement Commission Directive 2004/116/EC amending the Annex to Council Directive 82/471/EEC as regards the inclusion of *Candida guilliermondii*.

They provide for the implementation, or as the case may be the continuing implementation, of the EC Directives and Decision listed at the end of this note.

The Regulations apply to farmed creatures and pet animals, and in regulation 14 also to animals living freely in the wild.

The Regulations preserve the modifications made to the Agriculture Act 1970 (“the Act”) by regulations 20 and 21 of the 2000 Regulations, with the minor drafting amendment that the definition of “pet animal” is made explicit rather than by reference to EC legislation (regulations 3 and 4).

They continue to prescribe the material that is “prescribed material” for the purposes of sections 68(1) and 69(1) of the Act as any material useable as a feeding stuff (regulation 5). Under those sections, sellers of prescribed materials are required to give to purchasers “statutory statements” covering the composition of the material and information on storage, handling and use. Material held for sale must be marked with such information.

They revoke with certain exceptions the provisions of the 2000 Regulations, which were last amended by S.S.I. 2004/208, and re-enact the majority of those provisions (regulation 7).

Part II of these Regulations deals with the presentation and composition of feeding stuffs. The content of the statutory statement and other declarations are prescribed by regulation 8 and Schedule 3 and their form by regulation 9 (the labelling of additives and premixtures not mixed with feeding stuffs is now regulated directly by Regulation (EC) No. 1831/2003).

The Regulations with minor drafting amendments also re-enact provisions of the 2000 Regulations so as to—

- (a) prescribe the limits of inaccuracy permitted in the declaration of ingredients (regulation 10 and Schedule 4);
- (b) attribute meanings to the names of certain materials for the purposes of section 70 of the Act (which creates an implicit warranty that material described by a name to which a meaning has been assigned under that section accords with the meaning) (regulation 11);
- (c) prescribe the way in which compound feeds may be sealed and packaged (regulation 12);
- (d) regulate the putting into circulation and use of feed materials (regulation 13 and Schedule 2);
- (e) restrict the putting into circulation or use of feeding stuffs containing specified undesirable substances (regulation 14 and Schedule 5);
- (f) prohibit the putting into circulation or use of any feeding stuff containing certain prescribed substances (regulation 15);

*Status: This is the original version (as it was originally made).*

- (g) control the marketing and use of certain protein sources and non-protein nitrogenous compounds in feeds (regulation 16 and Schedule 6);
- (h) regulate the iron content of milk replacer feeds (regulation 17);
- (i) prohibit the putting into circulation of compound feeding stuffs in which the amount of ash insoluble in hydrochloric acid exceeds specified levels (regulation 18); and
- (j) control the marketing of feeds intended for particular nutritional purposes (dietetics) (regulation 19 and Schedule 7).

These Regulations provide for the implementation of Commission Directive [2004/116/EC](#) mentioned above by including *Candida guilliermondii* among the substances authorised and regulated by regulation 16 and Schedule 6, and in regulation 20 provide for the execution and enforcement of the Additives Regulation by—

- (a) making it an offence not to comply with certain specified requirements in the Additives Regulation;
- (b) giving effect to the transitional arrangements in the Additives Regulation relating to products already on the market that were authorised under superseded EC legislation; and
- (c) giving effect to the transitional arrangements in the Additives Regulation relating to applications for authorisation under the superseded EC legislation that were still being processed at the date of application of the Additives Regulation.

In relation to feed additives these Regulations also maintain the duty of confidentiality imposed by the 2000 Regulations on anyone who may, in the course of processing an application for authorisation, have acquired commercially sensitive information (regulation 21).

Part III of these Regulations deals with enforcement. It re-enacts provisions in the 2000 Regulations that—

- (a) provide for the enforcement of requirements where the legal basis is the European Communities Act 1972 by linking such requirements to enforcement provisions in the Act (regulation 22);
- (b) modify section 74A of the Act and provide for offences and penalties in relation to matters covered by the Regulations that would not otherwise come with that section (regulation 23); and
- (c) amend the Feeding Stuffs (Sampling and Analysis) Regulations 1999 in the same way as that expressed as a modification in the 2000 Regulations, and also make consequential amendments to the 1999 Regulations mentioned above (regulation 24).

The EC Directives and Decision for which these Regulations provide continued implementation are—

- (a) Council Directive [70/524/EEC](#) (O.J. No. L 270, 14.12.70, p.1) concerning additives in feedingstuffs (to the extent that its measures are preserved by Regulation (EC) [No. 1831/2003](#)), as last amended by Council Regulation (EC) [No. 1800/2004](#) (O.J. No. L 317, 16.10.04, p.37);
- (b) Council Directive [79/373/EEC](#) (O.J. No. L 86, 6.4.79, p.30) on the circulation of compound feedingstuffs, as last amended by Council Regulation (EC) [No. 807/2003](#) (O.J. No. L 122, 16.5.03, p.36);
- (c) Council Directive [82/471/EEC](#) (O.J. No. L 213, 21.7.82, p.8) concerning certain products used in animal nutrition, as last amended by Commission Directive [2004/116/EC](#) (O.J. No. L 379, 24.12.04, p.81);
- (d) Commission Directive [82/475/EEC](#) (O.J. No. L 213, 21.7.82, p.27) laying down the categories of feed materials which may be used for the purposes of labelling compound feedingstuffs for pet animals, as last amended by Commission Directive [98/67/EC](#)

- amending Directives [80/511/EEC](#), [82/475/EEC](#), [91/357/EEC](#) and Council Directive [96/25/EC](#) and repealing Directive [92/87/EEC](#) (O.J. No. L 261, 24.9.98, p.10);
- (e) Council Directive [93/74/EEC](#) (O.J. No. L 237, 22.9.93, p.23) on feedingstuffs intended for particular nutritional purposes, as last amended by Council Regulation [\(EC\) No. 806/2003](#) (O.J. No. L 122, 16.5.03, p.1);
  - (f) Commission Directive [94/39/EC](#) (O.J. No. L 207, 10.8.94, p.20) establishing a list of intended uses of animal feedingstuffs for particular nutritional purposes, as last amended by Commission Directive [2002/1/EC](#) of 7 January 2002 amending Directive [94/39/EC](#) as regards animal feedingstuffs for the support of liver function in case of chronic liver insufficiency (O.J. No. L 005, 9.1.02, p.8);
  - (g) Council Directive [96/25/EC](#) (O.J. No. L 125, 23.5.96, p.35) on the circulation and use of feed materials, as last amended by Council Regulation [\(EC\) No. 806/2003](#) (O.J. No. L 122, 16.5.03, p.1);
  - (h) Directive [2002/32/EC](#) of the European Parliament and of the Council on undesirable substances in animal feed (O.J. No. L 140, 30.5.02, p.10), as last amended by Commission Directive [2005/8/EC](#) of 27 January 2005 amending Annex I to Directive [2002/32/EC](#) of the European Parliament and of the Council on undesirable substances in animal feed (O.J. No. L 27, 29.1.05, p.44); and
  - (i) Commission Decision [2004/217/EC](#) adopting a list of materials whose circulation or use for animal nutrition purposes is prohibited (O.J. No. L 67, 5.3.04, p.31).

A full regulatory impact assessment, which includes a compliance cost assessment of the effect which these Regulations will have on business costs, has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Food Standards Agency (Scotland), 6th Floor, St Magnus House, 25 Guild Street, Aberdeen AB11 6NJ.