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## SCOTTISH STATUTORY INSTRUMENTS

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# 2005 No. 605

## The Feeding Stuffs (Scotland) Regulations 2005

PROSPECTIVE

### PART I

#### Introductory and General

##### Citation, commencement and extent

1.—(1) These Regulations may be cited as the Feeding Stuffs (Scotland) Regulations 2005 and come into force on 1st January 2006.

(2) These Regulations extend to Scotland only.

##### Commencement Information

II Reg. 1 in force at 1.1.2006, see [reg. 1\(1\)](#)

##### Interpretation

2.—(1) In these Regulations—

“the Act” means the Agriculture Act 1970;

“additive”, except in the context of the definition of “compound feeding stuff”, means a feed additive to which the Additives Regulation applies that is not an excluded additive;

“the Additives Directive” means Council Directive [70/524/EEC](#) concerning additives in feeding stuffs(1), as last amended by Commission Regulation (EC) No [1800/2004](#)(2);

“the Additives Regulation” means Regulation (EC) No. [1831/2003](#) of the European Parliament and of the Council on additives for use in animal nutrition(3);

“ash” means the matter which results from the treatment of a feeding stuff in accordance with the appropriate procedure set out in the method of analysis for ash specified in Point 5 of the Annex to First Commission Directive [71/250/EEC](#)(4), as last amended by Commission Directive [1999/27/EC](#)(5);

“the Animal Nutrition Directive” means Council Directive [82/471/EEC](#) concerning certain products used in animal nutrition(6), as last amended by Commission Directive [2004/116/EC](#)(7);

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(1) O.J. No. L 270, 14.12.70, p.1 (O.J./SE Vol. 18, p.4).  
(2) O.J. No. L 317, 16.10.04, p.37.  
(3) O.J. No. L 268, 18.10.03, p.29.  
(4) O.J. No. L 155, 12.7.71, p.13 (O.J./SE 1971(II), p.480).  
(5) O.J. No. L 118, 6.5.99, p.36.  
(6) O.J. No. L 213, 21.7.82, p.8.

*Status: This version of this part contains provisions that are prospective.*

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“complementary feeding stuff” means a compound feeding stuff which has a high content of certain substances and which, by reason of its composition, is sufficient for a daily ration only if it is used in combination with other feeding stuffs;

“complete feeding stuff” means a compound feeding stuff which, by reason of its composition, is sufficient for a daily ration;

“compound feeding stuff”, subject to regulation 14(6), means a mixture of feed materials, whether or not containing any additive falling within the scope of the Additives Regulation, for oral feeding to pet animals or farmed creatures in the form of complementary feeding stuffs or complete feeding stuffs;

“the Compound Feedingsuffs Directive” means Council Directive [79/373/EEC](#) on the circulation of compound feedingsuffs(8), as last amended by Council Regulation (EC) No. [807/2003](#) of 14 April 2003 adapting to Decision [1999/468/EC](#) the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in Council instruments adapted in accordance with the consultation procedure (unanimity)(9);

“daily ration” means the average total quantity of feeding stuff, expressed on a 12% moisture basis, required daily by an animal of a given kind, age group and level of production in order to satisfy all its nutritional needs;

“EEA State” means a member State, Norway, Iceland or Liechtenstein;

“energy value” means the energy value of a compound feeding stuff calculated in accordance with the relevant method specified in Schedule 1;

“establishment” has the meaning given by Article 3(d) of Regulation (EC) No. [183/2005](#) of the European Parliament and of the Council laying down requirements for feed hygiene(10);

“excluded additive” means any of the following:

- (a) coccidiostats;
- (b) histomonostats; or
- (c) any zootechnical additive falling within category (d) of Article 6(1) of the Additives Regulation;

“fat” means the extract obtained following the treatment of a feeding stuff in accordance with the appropriate procedure set out in the method of analysis for oils and fats specified in Part IV of the Annex to Second Commission Directive [71/393/EEC](#)(11), as last amended by Commission Directive [98/64/EC](#)(12);

“feeding stuff intended for a particular nutritional purpose” means a compound feeding stuff, the composition or method of manufacture of which distinguishes it from other feeding stuffs and from the type of products covered by Council Directive [90/167/EEC](#) laying down the conditions governing the preparation, placing on the market and use of medicated feeding stuffs in the Community(13), and in respect of which any indication is given that it is intended for a particular nutritional purpose;

“feed material” means–

- (a) any product of vegetable or animal origin, in its natural state, fresh or preserved;

(7) O.J. No. L 379, 24.12.04, p.81.

(8) O.J. No. L 86, 6.4.79, p.30.

(9) O.J. No. L 122, 16.5.03, p.36.

(10) O.J. No. L 35, 8.2.05, p.1.

(11) O.J. No. L 279, 20.12.71, p.7 (O.J./SE 1971(III), p.987). Part IV was replaced entirely by Annex 1 to Directive [84/4/EEC](#) (O.J. No. L 15, 18.1.84, p.28). That Annex was in turn replaced entirely by Part B of the Annex to Directive [98/64/EC](#) (O.J. No. L 257, 19.9.98, p.14).

(12) O.J. No. L 257, 19.9.98, p.14.

(13) O.J. No. L 92, 7.4.90, p.42.

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(b) any product derived from such a product by industrial processing; or

(c) any organic or inorganic substance,

(whether or not containing any additive) and for use in oral feeding to pet animals or farmed creatures, directly as such, or after processing, in the preparation of a compound feeding stuff or as a carrier of a premixture;

“the Feed Materials Directive” means Council Directive [96/25/EC](#) on the circulation of feed materials(**14**), as last amended by Council Regulation ([EC](#)) No. [806/2003](#)(**15**);

“fibre” means the organic matter calculated following the treatment of a feeding stuff in accordance with the procedure set out in the method of analysis for fibre specified in Point 3 of Annex I to Fourth Commission Directive [73/46/EEC](#)(**16**), as last amended by Commission Directive [99/27/EC](#)(**17**);

“mammalian meat and bone meal” has the meaning given in Regulation 3(1) of the TSE (Scotland) Regulations 2002(**18**);

“member State” means a member State other than the United Kingdom;

“micro organism” has the meaning given by Article 2(2)(m) of the Additives Regulation;

“milk replacer feed” means a compound feeding stuff administered in dry form, or after reconstitution with a given quantity of liquid, for feeding young animals as a supplement to, or substitute for, post colostrum milk or for feeding calves intended for slaughter;

“mineral feeding stuff” means a complementary feeding stuff which is composed mainly of minerals and which contains at least 40% by weight of ash;

“minimum storage life” means, in relation to a compound feeding stuff, the date until which, under proper storage conditions, that feeding stuff retains its specific properties;

“molassed feeding stuff” means a complementary feeding stuff prepared from molasses and which contains at least 14% by weight of total sugar expressed as sucrose;

“moisture” means water and other volatile material determined in accordance with the procedure set out in the method of analysis for moisture specified in Part I of the Annex to Second Commission Directive [71/393/EEC](#), as last amended by Commission Directive [98/64/EC](#);

“oil” means the extract obtained following the treatment of a feeding stuff in accordance with the appropriate procedure set out in the method of analysis for oils and fats specified in Part IV of the Annex to Second Commission Directive [71/393/EEC](#), as last amended by Commission Directive [98/64/EC](#);

“particular nutritional purpose” means the purpose of satisfying any nutritional requirement of pet animals or productive livestock, the process of assimilation or absorption of which, or the metabolism of which, may be temporarily impaired, or is temporarily or permanently impaired, and which may therefore benefit from ingestion of a feeding stuff capable of achieving that purpose;

“pet food” means a feeding stuff for pet animals and “compound pet food” shall be construed accordingly;

(14) O.J. No. L 125, 23.5.96, p.35.

(15) O.J. No. L 122, 16.5.03, p.1.

(16) O.J. No. L 83, 30.3.73, p.21. Point 3 of Annex 1 was replaced entirely by the Annex to Directive [92/89/EEC](#) (O.J. No. L 344, 26.11.92, p.35).

(17) O.J. No. L 118, 6.5.99, p.36.

(18) [S.S.I. 2002/255](#), as amended by [S.S.I. 2003/198](#) and [411, 2004/277](#) and [2005/173](#).

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“premixture”, except in regulation 2(5), has the meaning given by Article 2(2)(e) of the Additives Regulation, excluding any mixture consisting solely of a combination of excluded additives;

“prescribed material” means material described in regulation 5(1);

“product intended for animal feed” means any product used or intended for use in feed for pet animals, farmed creatures or animals living freely in the wild;

“protein”, except in paragraphs 7, 8, 9 and 10 of Part I of Schedule 3 where it has the meaning given to it by regulation 3(1) of the TSE (Scotland) Regulations 2002, means the matter obtained as a result of treatment of a feeding stuff in accordance with the procedure set out in the method of analysis for protein specified in Point 2 of Annex I to Third Commission Directive [72/199/EEC](#)(**19**), as last amended by Commission Directive [99/79/EC](#)(**20**);

“put into circulation” means sell or otherwise transfer, have in possession with a view to selling or otherwise transferring, or offer for sale, in each case to a third party, and in regulations 13(8) and 14 also means import into Scotland from a state other than an EEA State;

“starch” means the matter obtained as the result of treatment of a feeding stuff in accordance with the procedure set out in the method of analysis for starch specified in Point 1 of Annex I to Third Commission Directive [72/199/EEC](#), as last amended by Commission Directive [99/79/EC](#);

“2000 Regulations” means the Feeding Stuffs (Scotland) Regulations 2000(**21**); and

“undesirable substance” means any substance or product, not being a pathogenic agent, which is present in or on a product intended for animal feed and—

- (a) constitutes a potential danger to animal or human health or the environment; or
- (b) could adversely affect livestock production.

(2) Any reference in these Regulations to a numbered regulation or Schedule shall, unless the context otherwise requires, be construed as a reference to the regulation or Schedule bearing that number in these Regulations.

(3) Where, in any tabular or other entry in a Schedule to these Regulations, a numbered reference to a footnote appears, the footnote so numbered shall be treated as included in or amplifying the text to which it relates.

(4) Any reference in these Regulations to a numbered section shall, unless otherwise indicated, be construed as a reference to the section bearing that number in the Act.

(5) In these Regulations references to “feeding stuff” or “feed material” do not include any excluded additive or premixture within the meaning of Article 2(2)(e) of the Additives Regulation consisting solely of a combination of excluded additives.

#### Commencement Information

**12** Reg. 2 in force at 1.1.2006, see [reg. 1\(1\)](#)

#### Modification of the Agriculture Act 1970 in relation to all feeding stuffs

**3.—(1)** For the purposes of these Regulations, section 66(1) (interpretation of Part IV) shall have effect as if—

(19) O.J. No. L 123, 29.5.72, p.6 (O.J./SE 1966–1972 supplement, p.74). Point 2 of Annex 1 has been replaced by the Annex to Directive [93/28/EEC](#) (O.J. No. L 179, 22.7.93, p.8).

(20) O.J. No. L 209, 7.8.99, p.23.

(21) [S.S.I. 2000/453](#), as amended by [S.S.I. 2001/334](#), [2002/255](#) and [285](#), [2003/101](#), [312](#) and [474](#), and [2004/208](#).

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- (a) for the definition of “feeding stuff”, there was substituted—
- ““feeding stuff” means—
- (a) a product of vegetable or animal origin in its natural state (whether fresh or preserved);
  - (b) a product derived from the industrial processing of such a product; or
  - (c) an organic or inorganic substance, used singly or in a mixture, whether or not containing additives, for oral feeding to pet animals or farmed creatures;”;
- (b) for the definition of “pet animal”, there was substituted—
- ““pet animal” means an animal belonging to a species normally nourished and kept, but not consumed, by man, other than an animal bred for fur;”.
- (2) For the purposes of these Regulations, section 66(2) shall have effect as if there was substituted for paragraph (b) of that section—
- “(b) material shall be treated—
- (i) as imported or sold for use as a feeding stuff whether it is imported or, as the case may be, sold, to be used by itself, or as an ingredient in something which is to be so used; and
  - (ii) as used as a feeding stuff whether it is so used by itself, or as an ingredient in something which is to be so used.
- (c) paragraph (b) shall not apply in any circumstances in which Article 16 (labelling and packaging of feed additives and premixtures) of Regulation (EC) No. 1831/2003 of the European Parliament and of the Council on additives for use in animal nutrition<sup>(22)</sup> applies.”.
- (3) For the purposes of these Regulations, sections 73 (deleterious ingredients in feeding stuff) and 73A shall have effect as if for “animals of any description prescribed for the purpose of the definition of “feeding stuff” in section 66(1) of this Act”, there was substituted “any farmed creatures”.
- (4) For the purposes of these Regulations, section 85 (exemption for certain sales) shall have effect as if—
- (a) in so far as it relates to delivery outside the United Kingdom, paragraph (a) was omitted; and
  - (b) paragraph (b) was omitted.

#### **Commencement Information**

**I3** Reg. 3 in force at 1.1.2006, see [reg. 1\(1\)](#)

#### **Modification of the Agriculture Act 1970 in relation to imported feeding stuffs**

**4.** In relation to feeding stuffs which have been imported, section 69(1) (marking of material prepared for sale) shall have effect as if “and in either case before it is removed from the premises” was omitted.

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#### Commencement Information

**I4** Reg. 4 in force at 1.1.2006, see [reg. 1\(1\)](#)

#### Prescribed material to which requirements for statutory statement and marking of material apply

**5.**—(1) Subject to paragraph (2), the material prescribed for the purposes of sections 68(1) (duty of seller to give statutory statement) and 69(1) is any material useable as a feeding stuff.

(2) For the purposes of these Regulations, section 68(2) does not apply.

#### Commencement Information

**I5** Reg. 5 in force at 1.1.2006, see [reg. 1\(1\)](#)

#### Exemption from these Regulations

**6.** In so far as these Regulations implement the Compound Feedingstuffs Directive (which principally regulates the labelling and packaging of compound feeding stuffs), they shall not apply in the circumstances specified in Article 14(c) (relating to animals kept for scientific or experimental purposes) of that Directive.

#### Commencement Information

**I6** Reg. 6 in force at 1.1.2006, see [reg. 1\(1\)](#)

#### Revocations and saving

**7.**—(1) The 2000 Regulations, with the exception of regulation 19A(**23**) (provision of information in relation to compound feeding stuffs for animals other than pet animals) of and paragraph 19 of Schedule 4(**24**) (contents of the statutory statement or other declaration (except for additives and premixtures not contained in feeding stuffs)) to those Regulations, are revoked.

(2) The provisions of Parts I and III of these Regulations shall apply as appropriate in relation to regulation 19A of the 2000 Regulations as if that regulation were a provision of these Regulations, with the modification that regulation 19A of the 2000 Regulations shall be treated as a provision specified in regulation 23(2) of these Regulations.

(3) Paragraph 19 of Schedule 4 to the 2000 Regulations shall be treated as if it were a paragraph of Schedule 3 to these Regulations and the provisions of Parts I and III of, and of paragraphs 1 and 23 of Schedule 3 to, these Regulations shall apply as appropriate to that paragraph as so treated.

(4) The instruments amending the 2000 Regulations listed in Schedule 9 are revoked to the extent specified in that Schedule.

(23) Regulation 19A was inserted by regulation 5 of [S.S.I. 2003/312](#). The operation of regulation 5 was suspended ad interim by interlocutor of the Court of Session dated 30th October 2003.

(24) Paragraph 19 of Schedule 4 was inserted by regulation 8(c) of [S.S.I. 2003/312](#). The operation of regulation 8(c), insofar as it inserts paragraph 19(b) and the words “with an indication”, “of the percentage” and “subject to a limit of variation of +15% in relation to each declared percentage; and” in paragraph 19(a), was suspended ad interim by interlocutor of the Court of Session dated 30th October 2003.

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### Commencement Information

**I7** Reg. 7 in force at 1.1.2006, see [reg. 1\(1\)](#)



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**Changes and effects yet to be applied to :**

- Regulations applied by [S.I. 2005/3362 reg. 4](#)
- Regulations revoked by [S.S.I. 2010/373 Sch. 2 para. 1](#)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 3 Pt. 1 para. 18A inserted by [S.S.I. 2006/516 reg. 2\(2\)](#)
- Sch. 3 Pt. 1 para. 23(1) words omitted by [S.S.I. 2006/516 reg. 2\(3\)](#)
- Sch. 3 Pt. 1 para. 26 words substituted by [S.S.I. 2006/516 reg. 2\(4\)](#)
- Sch. 5 Ch. A entries inserted by [S.S.I. 2006/578 reg. 2\(3\)\(b\)](#)Sch. 2 Pt. 1
- Sch. 5 Ch. A entries substituted by [S.S.I. 2006/578 reg. 2\(3\)\(a\)](#)Sch. 2 Pt. 1
- Sch. 5 Ch. D entries substituted by [S.S.I. 2006/578 reg. 2\(4\)\(a\)](#)Sch. 2 Pt. 2
- Sch. 5 Chapter C words omitted by [S.S.I. 2010/354 reg. 25\(3\)\(c\)\(ii\)](#)
- Sch. 5 Chapter A words substituted by [S.S.I. 2010/354 reg. 25\(3\)\(a\)](#)Sch. 2
- Sch. 5 Chapter B words substituted by [S.S.I. 2010/354 reg. 25\(3\)\(b\)](#)
- Sch. 5 Chapter C words substituted by [S.S.I. 2010/354 reg. 25\(3\)\(c\)\(i\)](#)
- Sch. 5 Chapter C words substituted by [S.S.I. 2010/354 reg. 25\(3\)\(c\)\(iii\)](#)
- Sch. 7 Ch. A coming into force by [S.S.I. 2005/605 reg. 1\(1\)](#)
- Sch. 7 Ch. B para. 1 coming into force by [S.S.I. 2005/605 reg. 1\(1\)](#)
- Sch. 7 Ch. B para. 2 coming into force by [S.S.I. 2005/605 reg. 1\(1\)](#)
- Sch. 7 Ch. B para. 3 coming into force by [S.S.I. 2005/605 reg. 1\(1\)](#)
- Sch. 7 Ch. B para. 4 coming into force by [S.S.I. 2005/605 reg. 1\(1\)](#)
- Sch. 7 Ch. B para. 5 coming into force by [S.S.I. 2005/605 reg. 1\(1\)](#)
- Sch. 7 Ch. B para. 6 coming into force by [S.S.I. 2005/605 reg. 1\(1\)](#)
- Sch. 7 Ch. B para. 7 coming into force by [S.S.I. 2005/605 reg. 1\(1\)](#)
- Sch. 7 Ch. B para. 8 coming into force by [S.S.I. 2005/605 reg. 1\(1\)](#)
- Sch. 7 Ch. B para. 9 coming into force by [S.S.I. 2005/605 reg. 1\(1\)](#)