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## STATUTORY INSTRUMENTS

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# 1998 No. 1047

## The Feedingstuffs (Zootechnical Products) Regulations 1998

### PART VIII

#### MISCELLANEOUS AND SUPPLEMENTAL PROVISIONS

##### Restrictions on toxicological tests on vertebrates

**63.** No person applying, or intending to apply, for the Community authorisation of a zootechnical additive shall begin toxicological tests on vertebrates unless, before beginning the tests, he has—

- (a) carried out a check of the type specified in the first paragraph of Article 9c.6 of the Additives Directive, as amended by Directive [96/51/EC](#), and
- (b) otherwise complied with the requirements of the first and second paragraphs of Article 9c.6 of the Additives Directive as amended by Directive [96/51/EC](#).

##### Confidential information relating to zootechnical additives

**64.**—(1) Subject to paragraphs (2) and (3), no person shall publish or disclose any confidential information relating to a zootechnical additive obtained by him in the performance of functions under these Regulations and to which this regulation applies without the previous consent in writing of the person responsible for putting the additive into circulation.

(2) Nothing in paragraph (1) shall restrict the publication or disclosure of such information for the purpose of the exercise of functions under Part II of these Regulations or the disclosure of such information for the purpose of the exercise of any function, or of assisting any authority in the exercise of any function bestowed on it, in implementation of the Additives Directive, the Additives Directive as amended by Directive [96/51/EC](#) or the Establishments Directive.

(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 as amended by Directive [96/51/EC](#).

(4) In this regulation, “confidential information” means information of the type specified in Article 7.1 of the Additives Directive as amended by Directive [96/51/EC](#).

##### Use of Article 9c data

**65.** No person shall use scientific data and other information of the type specified in Article 9c of the Additives Directive, as amended by Directive [96/51/EC](#), unless the use of the data is in accordance with Article 9c of the Additives Directive as so amended.

##### Official checks and enforcement

**66.** It shall be the duty of the enforcement authority to carry out official checks and enforce these Regulations.

## **Powers of authorised persons**

67.—(1) An authorised person may at all reasonable times and on producing, if so required, some duly authenticated document showing his authority, exercise the powers specified in this regulation for the purposes of—

- (a) carrying out any official checks, and
- (b) ascertaining whether an offence under regulation 68 has been or is being committed.

(2) An authorised person shall have the right to enter—

- (a) any premises on which he has reasonable cause to believe that a zootechnical product has been manufactured or is being kept for the purpose of being put into circulation, placed on the market, marketed, supplied, incorporated or used, and
- (b) any premises (not being premises used only as a dwelling) on which he has reasonable cause to believe that there is any such product which the occupier of the premises has in his possession.

(3) An authorised person entering any premises by virtue of this regulation may take with him such other persons and such equipment as may appear to him to be necessary for the purposes mentioned in sub-paragraphs (a) and (b) of paragraph (1).

(4) An authorised person shall have the right to inspect—

- (a) any substance or article appearing to him to be a zootechnical product;
- (b) any article appearing to him to be a container or package used or intended to be used to wrap, package or store any such product, or to be a label used or intended to be used in connection with any such product; or
- (c) any plant or equipment appearing to him to be used, or intended to be used, in connection with the manufacture of any zootechnical product and any process of manufacture of such a product, and the means employed, at any stage in the process of manufacture, for testing the product after it has been subject to those processes.

(5) An authorised person shall have the right to take a sample of—

- (a) a substance or article used, or intended to be used, in the manufacture of a zootechnical product;
- (b) a product appearing to him to be a zootechnical product manufactured, wrapped, packaged, stored, circulated, marketed or supplied, or intended to be circulated, marketed or supplied; or
- (c) a product appearing to him to be a zootechnical product, used, or intended to be used, for the purpose of animal feeding.

(6) An authorised person shall have the right—

- (a) to require any person carrying on a business which consists of or includes the activities of manufacture, wrapping, packaging, storage, circulation, marketing, supply or use of zootechnical products, and any person employed in connection with such a business, to produce any record (in whatever form it is held) relating to those activities which is in his possession or under his control, and
- (b) to inspect and take copies of a record, or of an entry in a record, produced in pursuance of the preceding sub-paragraph.

(7) An authorised person exercising the power conferred by paragraph (6) in respect of a record held by means of a computer—

- (a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and associated apparatus or material which is or has been in use in connection with the record in question;

- (b) may require—
  - (i) the person by whom or on whose behalf the computer is or has been so used, or
  - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material, to afford the authorised person such reasonable assistance as he may require for the purpose; and
- (c) may require the record, or an extract from the record, to be produced in a form in which it may be taken away.

(8) An authorised person shall have the right to seize and detain a product which he has reason to believe to be a zootechnical product in relation to which, or by means of which, an offence under these Regulations is being or has been committed, and any record which he has reasonable cause to believe to be a record which may be required as evidence in proceedings under these Regulations.

(9) In this regulation, “premises” includes any land, vehicle, vessel, aircraft or hovercraft.

## Offences

**68.** It shall be an offence for a person—

- (a) without reasonable excuse, to contravene any provision of regulation 26, 28, 29, 30, 32, 34(1) or (2), 35(1), 36(1), (2) or (5), 37(1) or (2), 41, 43, 44, 45, 47, 49(1), 50(1), 51(1), 52, 54, 56, 57(1), 58, 59(1), 60 to 63 inclusive, 64(1) or 65;
- (b) without reasonable excuse, to fail to comply with any provision of regulation 27, 31, 33, 38, 39(1), 40, 42, 46, 48, 53 or 55;
- (c) intentionally to obstruct an authorised person in the exercise of a power conferred by regulation 67; or
- (d) without reasonable excuse, to fail to comply with any requirement made of him, pursuant to regulation 67, by an authorised person.

## Punishment of offences

**69.—**(1) Any person who commits any of the offences set out in regulation 68(a) shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment, to a fine.

(2) Any person who commits any of the offences set out in regulation 68(b) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Any person who commits any of the offences set out in regulation 68(c) or 68(d) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## Time limit for prosecutions

**70.—**(1) Proceedings for an offence under regulation 68(b) may, subject to paragraph (2) below, be commenced within the period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant proceedings comes to his knowledge.

(2) No such proceedings shall be commenced by virtue of this regulation more than two years after the commission of the offence.

(3) For the purpose of this regulation, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.

(4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Feedingstuffs (Zootechnical Products) Regulations 1998. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(5) In relation to proceedings in Scotland, subsection (3) of section 136 of the Criminal Procedure (Scotland) Act 1995<sup>M1</sup> (date of commencement of proceedings) shall apply for the purposes of this regulation as it applies for the purposes of that section.

#### Marginal Citations

M1 1995 c.46.

### Offences by bodies corporate and Scottish partnerships

71.—(1) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to, any neglect on the part of—

- (a) any director, manager, secretary or other similar officer of the body corporate, or
- (b) any person who was purporting to act in any such capacity,

he, as well as the body corporate, shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

(2) For the purposes of paragraph (1), “director” in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(3) Where a Scottish partnership is guilty of an offence under these Regulations in respect of an act or default which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner in the partnership, he, as well as the partnership, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

### Defence

72. Where a person responsible for putting a zootechnical product into circulation is charged with an offence under these Regulations in respect of a product that has been manufactured or assembled to his order by another person and which has been so manufactured or assembled so as not to comply with his order, it shall be a defence for him to prove—

- (a) that, in placing his order, a copy of the documents relating to the manufacture and assembly of the product were available, or had been provided, to that other person and the person responsible for putting the product into circulation had instructed that other person to manufacture or assemble the product in accordance with those documents,
- (b) that if that other person had complied with that instruction, no offence would have been committed, and
- (c) that the person responsible for putting the product into circulation did not know, and could not by the exercise of reasonable care have known, that those instructions had not been complied with.

### Service of notices

73. Any notice required to be served on a person under any provision of these Regulations may be served—

- (a) by delivering it to him;
- (b) by leaving it at the usual or last known place of abode or business of that person, or, in a case where an address for service has been given by that person, at that address;

- (c) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his usual or last-known place of abode or business or, in a case where an address for service has been given by that person, at that address; or
- (d) in the case of a body corporate, by delivering it to the secretary or clerk of the body corporate at its registered or principal office or by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to the secretary or clerk of that body corporate at that office.

### **Exclusion of application of the Medicines Act 1968**

**74.**—(1) Except as specified in paragraph (2), the Medicines Act 1968 <sup>M2</sup>, and instruments made wholly or partly under that Act, shall not apply to zootechnical products.

(2) The provisions of sections 32 to 36 (other than section 35(8)(a)), 38 and 39 of the Medicines Act 1968, and instruments made under any of those provisions, shall continue to apply to unauthorised zootechnical additives as if paragraph (1) had not come into force.

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#### **Marginal Citations**

**M2** 1968 c.67.

### **Revocation of product licences**

**75.** Any product licence granted in respect of a zootechnical product under the Medicines Act 1968 which is extant immediately before this regulation comes into force shall automatically be revoked on the coming into force of this regulation.

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Feedingstuffs (Zootechnical Products) Regulations 1998. Any changes that have already been made by the team appear in the content and are referenced with annotations.

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

- Regulations revoked by [S.I. 1999/1871 reg. 1\(2\)](#)

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

- Act revoked by [S.I. 1999/1871 reg 1\(2\)](#)