

2002 No. 892

AGRICULTURE, ENGLAND

The Feeding Stuffs (Amendment) Regulations 2002

Made - - - - - *23rd May 2002*

Laid before Parliament *24th May 2002*

Coming into force - - *1st July 2002*

The Secretary of State for Health, in exercise of the powers conferred on him by sections 66(1), 68(1) and (1A), 69(1), 74A, 75(1), 76(1), 77(4), 78(6), 79(1) and 84 of the Agriculture Act 1970(a) (as read with regulation 14 of the Food Standards Act 1999 (Transitional and Consequential Provisions and Savings) (England and Wales) Regulations 2000(b) and articles 2 and 6 of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002(c), after consultation as required by section 84(1) of that Act and by 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(d), and being a Minister designated(e) for the purposes of section 2(2) of the European Communities Act 1972(f) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on him by that last mentioned section (in so far as these Regulations cannot be made under the powers in the Agriculture Act 1970 specified above), makes the following Regulations:

Title, commencement and extent

- 1.** These Regulations may be cited as the Feeding Stuffs (Amendment) Regulations 2002, shall come into force on 1st July 2002 and shall extend to England only, except that—
- (a) regulation 3 shall extend to England, Wales and Northern Ireland in so far as it relates to regulation 11 of the Feeding Stuffs Regulations 2000 as amended by these Regulations or to regulation 12 of those Regulations; and
 - (b) regulation 5 shall extend to England, Wales and Northern Ireland.

(a) 1970 c. 40. Section 66(1) contains definitions of the expressions “the Ministers”, “prescribed” and “regulations”; the definition of “the Ministers” was amended by the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I. 1978/272), Schedule 5, paragraph 1. Functions of “the Ministers”, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672, but the reserve power in paragraph 5 of Schedule 3 to the Government of Wales Act 1998 (1998 c. 38) has been exercised in the case of these Regulations. Functions of “the Ministers” so far as exercisable in relation to Scotland were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (1998 c. 46). By virtue of S.I. 1999/3141, functions of the Secretaries of State for Wales and Scotland previously exercisable in relation to England ceased to be so exercisable and were transferred to the Minister of Agriculture, Fisheries and Food. Section 68(1A) was inserted by the Agriculture Act 1970 Amendment Regulations 1982 (S.I. 1982/980) and section 74A was inserted by the European Communities Act 1972 (1972 c. 68), Schedule 4, paragraph 6.

(b) S.I. 2000/656.

(c) S.I. 2002/794.

(d) OJ No. L31, 1.2.2002, p. 1. Under Article 3 of the EC Regulation “food law” extends to feed produced for, or fed to, food producing animals.

(e) S.I. 1972/1811.

(f) 1972 c. 68. The enabling powers conferred by section 2(2) were extended by virtue of section 1 of the European Economic Area Act 1993 (1993 c. 51).

Amendment of the Feeding Stuffs Regulations 2000

2. The Feeding Stuffs Regulations 2000(a) shall be amended in accordance with regulations 3 to 12 below.

3. In regulation 2 (interpretation), for paragraph (8) there shall be substituted the following paragraph—

“(8) Any reference in these Regulations to a Community instrument shall be construed as a reference to that instrument as amended on the date the Feeding Stuffs (Amendment) Regulations 2002 are made.”.

4. In each of regulations 7(1) and 25(1), after the expression “the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2001” there shall be added the expression “and the Feeding Stuffs (Amendment) Regulations 2002”.

5. In regulation 11 (applications for Community authorisation of additives and of new uses for additives)—

(a) for paragraph (2) there shall be substituted the following paragraph—

“(2) Where documentation is submitted to the Agency pursuant to paragraph (1) above, it shall—

(a) forward it to the Commission; and

(b) forward a copy of it to each EEA State (other than the United Kingdom),

in accordance with Article 4.3 of the Additives Directive, if it is satisfied as specified in paragraph (3) below.”; and

(c) for paragraph (5) there shall be substituted the following paragraph—

“(5) Where the Agency rejects documentation submitted to it pursuant to paragraph (1) above, or postpones taking the action specified in paragraph (2) above in relation to it, it shall inform the Commission, the applicant and each EEA State (other than the United Kingdom) of the rejection or postponement, and shall notify them of the reasons for its rejection or postponement.”.

6. In paragraph (2) of regulation 19, for the expression “Schedule 10” there shall be substituted the expression “Schedule 9”.

7. In paragraph (2) of regulation 25, for the word “regulations” to the end there shall be substituted the following provisions—

“regulation 4 (except in so far as it relates to Part II of Schedule 5), 9(1) (in so far as it regulates putting into circulation), (2) and (3), 10(1) to (4), (6), (6A) and (7), 13(2) (in so far as it falls to be read with paragraph (3)(a), (c) or (d) of that regulation), (4), (6) and (7), 14(3), (4), (6), (7) and (9), 15(1), 17, 18(1) and 19(1).”.

8. Regulation 27(a) and (b) shall be revoked.

9. In Schedule 3 (permitted additives and provisions relating to their use), for the provisions in Part IX of the Table (European Community Regulations by which additives are controlled) there shall be substituted the provisions set out in Schedule 1 to these Regulations.

10. In Schedule 7 (prescribed limits for undesirable substances)—

(a) for the entry for Dioxin (sum of PCDD and PCDF) in column 1 of Chapter A of Part I of the Table and the corresponding entries in columns 2 and 3 respectively of that Chapter; and

(b) for the entry for Dioxin (sum of PCDD and PCDF) in column 1 of Chapter A of Part II of the Table and the corresponding entries in columns 2 and 3 respectively of that Chapter,

there shall be substituted the entries set out in Schedule 2 to these Regulations.

11. In Schedule 8 (control of certain protein sources)—

(a) the entry in column 6 (“All animal species”) corresponding with the entry in column 2 relating to “3. Amino acids and their salts” shall be deleted; and

(a) S.I. 2000/2481, amended by S.I. 2001/541 and S.I. 2001/3389.

- (b) for the entry in that column (“Ruminants from the beginning of rumination”) corresponding with the entry in column 2 relating to “3.1.1.DL-methionine, technically pure” there shall be substituted the entry “All animal species”.

12. In Schedule 9 (permitted feeding stuffs intended for particular nutritional purposes and provisions relating to their use) for the entries in columns 2 to 6 of Chapter A relating to the support of liver function in case of chronic liver insufficiency in dogs or cats there shall be substituted the entries set out in Schedule 3 to these Regulations.

Amendment of the Feeding Stuffs (Sampling and Analysis) Regulations 1999

13. The Feeding Stuffs (Sampling and Analysis) Regulations 1999(a) shall be amended in so far as they extend to England as follows—

- (a) in Part II of Schedule 1 (manner of taking, preparing, marking, sealing and fastening of samples), for paragraph 5(1) there shall be substituted the following provision—

“(1) An inspector who intends to take a sample in accordance with section 76(7) of the Act as that section is modified by regulation 10 of the Feeding Stuffs (Enforcement) Regulations 1999(b) shall satisfy himself that the conditions in which the material concerned is stored are not such as might have caused undue deterioration of it, and that it appears not to have been contaminated by any other material.”;

- (b) in Part I of Schedule 2 (methods of analysis), for paragraph 3(e)(ii) there shall be substituted the following provision—

“(ii) grinding to pass 1 mm should not be used where it could lead to difficulties in identifying the undesirable substances listed in Schedule 7 to the Feeding Stuffs Regulations 2000 as amended by the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2001(c) and the Feeding Stuffs (Amendment) Regulations 2002.”; and

- (c) in Part II of Schedule 3 (form of certificate of analysis), for note 11(a) there shall be substituted the following note—

“(a) whether or not the material was named in accordance with the requirements of the Feeding Stuffs Regulations 2000 as amended by the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2001 and the Feeding Stuffs (Amendment) Regulations 2002 and, if it was not named in accordance with those requirements, in what respect it was not;”.

Amendment of the Feeding Stuffs (Establishments and Intermediaries) Regulations 1999

14.—(1) The Feeding Stuffs (Establishments and Intermediaries) Regulations 1999(d) shall be amended in so far as they extend to England as specified in paragraph (2).

(2) In the provisions of those Regulations specified in paragraph (3), for the expression “as amended by the Feedingstuffs (Zootechnical Products) Regulations 1999(e) and as modified by the Feeding Stuffs Regulations 2000 and amended by the Feeding Stuffs (Sampling and Analysis) (Amendment) (England) Regulations 2001” there shall be substituted the expression “as amended by the Feedingstuffs (Zootechnical Products) Regulations 1999, the Feeding Stuffs (Sampling and Analysis) (Amendment) (England) Regulations 2001(f) and the Feeding Stuffs (Amendment) Regulations 2002”.

- (3) The provisions are regulations 98(8) and (9), 99 and 106(1).

Amendment of the Feeding Stuffs (Enforcement) Regulations 1999

15. The Feeding Stuffs (Enforcement) Regulations 1999 shall be amended in so far as they extend to England as follows—

- (a) in paragraph (1) of regulation 2, for the definition of “third country” there shall be substituted the following definition—

(a) S.I. 1999/1663, amended by S.I. 2000/2481 and S.I. 2001/541.
(b) S.I. 1999/2325, amended by S.I. 2000/2481, S.I. 2001/541 and S.I. 2001/3389.
(c) S.I. 2001/3389.
(d) S.I. 1999/1872. The relevant amending instrument is S.I. 2001/541.
(e) S.I. 1999/1871 (to which there are amendments not relevant to these Regulations).
(f) S.I. 2001/541.

““third country” means a country other than a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(a) as adjusted by the Protocol signed at Brussels on 17th March 1993(b);”;

- (b) in each of paragraphs (2) and (4) of regulation 7, after the expression “the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2001” there shall be inserted the expression “and the Feeding Stuffs (Amendment) Regulations 2002”;
- (c) in regulation 8, for the expression “as amended by the Feedingstuffs (Zootechnical Products) Regulations 1999 and as modified by the Feeding Stuffs Regulations 2000 and amended by the Feeding Stuffs (Sampling and Analysis) (Amendment) (England) Regulations 2001” there shall be substituted the expression “as amended by the Feedingstuffs (Zootechnical Products) Regulations 1999, the Feeding Stuffs (Sampling and Analysis) (Amendment) (England) Regulations 2001 and the Feeding Stuffs (Amendment) Regulations 2002”; and
- (d) in regulation 9, in the text of subsection (8) of section 67 of the Agriculture Act 1970 shown as modified by that regulation, after the expression “the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2001” there shall be inserted the expression “and the Feeding Stuffs (Amendment) Regulations 2002”; and
- (e) in regulation 10, in the text of subsection (17) of section 76 of the Agriculture Act 1970 shown as modified by that regulation, after the expression “the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2001” there shall be inserted the expression “and the Feeding Stuffs (Amendment) Regulations 2002”.

Signed by authority of the Secretary of State for Health

Yvette Cooper
Parliamentary Under-Secretary of State,
Department of Health

23rd May 2002

(a) OJ No. L1, 3.1.94, p.1.
(b) OJ No. L1, 3.1.94, p.571.

PROVISIONS SUBSTITUTED FOR PART IX OF THE TABLE TO SCHEDULE 3 TO THE
FEEDING STUFFS REGULATIONS 2000

"PART IX

EUROPEAN COMMUNITY REGULATIONS BY WHICH ADDITIVES ARE
CONTROLLED(1)

Commission Regulation (EC) No. 2316/98 concerning authorisation of new additives and amending the conditions for authorisation of a number of additives already authorised in feedingstuffs(2).

Commission Regulation (EC) No. 1594/1999 amending the conditions for the authorisation of an additive in feedingstuffs(3).

Commission Regulation (EC) No. 2439/1999 on the conditions for authorisation of additives belonging to the group "binders, anti-caking agents and coagulants" in feedingstuffs(4).

Commission Regulation (EC) No. 1353/2000 concerning the permanent authorisation of an additive and the provisional authorisation of new additives, new additive uses and new preparations in feedingstuffs(5).

Commission Regulation (EC) No. 2437/2000 concerning the permanent authorisation of an additive and the provisional authorisation of new additives in feedingstuffs(6).

Commission Regulation (EC) No. 2013/2001 concerning the provisional authorisation of a new additive use and the permanent authorisation of an additive in feedingstuffs(7).

Commission Regulation (EC) No. 2200/2001 concerning provisional authorisation of additives in feedingstuffs(8).

Commission Regulation (EC) No. 256/2002 concerning the provisional authorisation of new additives, the prolongation of provisional authorisation of an additive and the permanent authorisation of an additive in feedingstuffs(9).

(1) Certain of the listed Regulations relate to categories of additive which also include additives controlled by the Additives Directive, and which are thus listed in the relevant Part of Parts I to VIII of the Table to this Schedule (eg the preservative formic acid is covered by Regulation (EC) No. 1594/1999 (above), whereas certain other preservatives are covered by Part VII of the Table).

(2) OJ No. L289, 28.10.98, p.4.

(3) OJ No. L188, 21.7.1999, p.35.

(4) OJ No. L297, 18.11.1999, p.8. The Annex to this Regulation is now replaced by the Annex to Regulation (EC) No. 739/2000 (OJ No. L87, 8.4.2000, p.14).

(5) OJ No. L155, 28.6.2000, p.15.

(6) OJ No. L280, 4.11.2000, p.28.

(7) OJ No. L272, 13.10.2001, p.24.

(8) OJ No. L299, 15.11.2001, p.1.

(9) OJ No. L41, 13.2.2002, p.6."

SCHEDULE 2

Regulation 10

PROVISIONS SUBSTITUTED IN PARTS I AND II OF SCHEDULE 7 TO THE FEEDING STUFFS REGULATIONS 2000

(1)	(2)	(3)
<p>Dioxin (sum of polychlorinated dibenzo-para-dioxins (PCDDs) and polychlorinated dibenzofurans (PCDFs) expressed in World Health Organisation (WHO) toxic equivalents, using the WHO-TEFs (toxic equivalency factors, 1997)) PCDD/F</p>	<p>All feed materials of plant origin including vegetable oils and by-products</p>	<p>0.75 ng WHO-PCDD/F-TEQ/kg⁽¹⁾</p>
	<p>Minerals</p>	<p>1.0 ng WHO-PCDD/F-TEQ/kg⁽¹⁾</p>
	<p>Animal fat, including milk fat and egg fat</p>	<p>2.0 ng WHO-PCDD/F-TEQ/kg⁽¹⁾</p>
	<p>Other land animal products including milk and milk products and eggs and egg products</p>	<p>0.75 ng WHO-PCDD/F-TEQ/kg⁽¹⁾</p>
	<p>Fish oil</p>	<p>6 ng WHO-PCDD/F-TEQ/kg⁽¹⁾</p>
	<p>Fish, other aquatic animals, their products and by-products with the exception of fish oil⁽²⁾</p>	<p>1.25 ng WHO-PCDD/F-TEQ/kg⁽¹⁾</p>
	<p>Compound feedingstuffs, with the exception of feedingstuffs for fur animals, pet foods and feedingstuffs for fish</p>	<p>0.75 ng WHO-PCDD/F-TEQ/kg⁽¹⁾</p>
	<p>Feedingstuffs for fish</p>	<p>2.25 ng WHO-PCDD/F-TEQ/kg⁽¹⁾</p>
	<p>Pet foods</p>	<p>2.25 ng WHO-PCDD/F-TEQ/kg⁽¹⁾</p>

SCHEDULE 3

Regulation 12

PROVISIONS SUBSTITUTED IN SCHEDULE 9 TO THE FEEDING STUFFS REGULATIONS 2000

(2)	(3)	(4)	(5)	(6)
<p>High quality protein, moderate level of protein, high level of essential fatty acids and high level of highly digestive carbohydrates</p>	<p>Dogs</p>	<ul style="list-style-type: none"> — Protein source(s) — Content of essential fatty acids — Highly digestible carbohydrates including their treatment if appropriate — Sodium — Total copper 	<p>Initially up to 6 months</p>	<p>Indicate on the package, container or label: “It is recommended that a veterinarian’s opinion be sought before use or before extending the period of use”</p> <p>Indicate in the instructions for use: “Water should be available at all times”</p>
<p>High quality protein, moderate level of protein and high level of essential fatty acids</p>	<p>Cats</p>	<ul style="list-style-type: none"> — Protein source(s) — Content of essential fatty acids — Sodium — Total copper 	<p>Initially up to 6 months</p>	<p>Indicate on the package, container or label: “It is recommended that a veterinarian’s opinion be sought before use or before extending the period of use”</p> <p>Indicated in the instructions for use: “Water should be available at all times”</p>

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations amend for the third time the Feeding Stuffs Regulations 2000 (S.I. 2000/2481, “the principal Regulations”).
2. These Regulations extend largely to England only but, to the extent specified in regulation 1, also apply to Wales and Northern Ireland.
3. These Regulations implement—
 - (a) Commission Directive 2001/79/EC amending Council Directive 87/153/EEC fixing guidelines for the assessment of additives in animal nutrition (OJ No. L267, 6.10.2001, p.1);
 - (b) Council Directive 2001/102/EC amending Directive 1999/29/EC on the undesirable substances and products in animal nutrition (OJ No. L6, 10.1.2002, p.45); and
 - (c) Commission Directive 2002/1/EC amending Directive 94/39/EC as regards animal feedingstuffs for the support of liver function in case of chronic liver insufficiency.
4. These Regulations also provide for the enforcement of the following Commission Regulations—
 - (a) Commission Regulation (EC) No. 2013/2001 concerning the provisional authorisation of a new additive use and the permanent authorisation of an additive in feedingstuffs (OJ No. L272, 13.10.2001, p.24);
 - (b) Commission Regulation (EC) No. 2200/2001 concerning provisional authorisation of additives in feedingstuffs (OJ No. L299, 15.11.2001, p.1); and
 - (c) Commission Regulation (EC) No. 256/2002 concerning the provisional authorisation of an additive and the permanent authorisation of an additive in feedingstuffs (OJ No. L41, 13.2.2002, p.6).
5. These Regulations—
 - (a) modify the provisions of the principal Regulations which specify the procedure to be followed in relation to the assessment of feed additives for which marketing authorisation has been sought and as regards applications for such authorisation (*regulations 3 and 5*);
 - (b) modify the provisions of the principal Regulations which provide for the enforcement of the provisions of those Regulations which are made under the European Communities Act 1972 (*regulation 7*);
 - (c) add three new Commission Regulations to the list of Commission Regulations under which authorisation for the marketing of feed additives has been granted which is contained in Schedule 3 to the principal Regulations (*regulation 9 and Schedule 1*);
 - (d) modify the controls in the principal Regulations regulating the presence of undesirable substances in animal feed by specifying new maximum levels for Dioxin in feed (*regulation 10 and Schedule 2*);
 - (e) modify the provisions of the principal Regulations regulating dietetic feeds as regards the required nutritional characteristics and labelling of feeds intended for the support of liver function in case of chronic liver insufficiency in dogs or cats (*regulation 12 and Schedule 3*);
 - (f) make amendments to the principal Regulations to correct minor errors in them (*regulations 6 and 11*); and
 - (g) make consequential amendments to those Regulations and to the Feeding Stuffs (Sampling and Analysis) Regulations 1999 (S.I. 1999/1663), the Feeding Stuffs (Establishments and Intermediaries) Regulations 1999 (S.I. 1999/1872) and the Feeding Stuffs (Enforcement) Regulations 1999 (S.I. 1999/2325) (*regulations 4, 8 and 13 to 15*).

6. A regulatory impact assessment, which includes a compliance cost assessment of the effect that they are likely to have on business costs, has been prepared for these Regulations and has been placed in the library of each House of Parliament, together with a transposition note setting out how the main elements of the Directives referred to in paragraph 3 above are transposed into domestic law by these Regulations. Copies may be obtained from the Animal Feed Unit of the Food Standards Agency, Aviation House, 125 Kingsway, London WC2B 6NH.

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