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WELSH STATUTORY INSTRUMENTS

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**2005 No. 3368**

**The Feed (Hygiene and Enforcement) (Wales) Regulations 2005**

**PART 4**

**Administration and Enforcement Generally**

**Feed business prohibition orders**

**21.—(1)** If—

- (a) a feed business operator is convicted of an offence under specified feed law; and
- (b) the court by or before which the operator is so convicted is satisfied that the health risk condition is fulfilled with respect to the feed business concerned,

the court must by an order impose the appropriate prohibition.

(2) The health risk condition is fulfilled with respect to any feed business if any of the following involves risk of injury to health (including any impairment, whether permanent or temporary), namely—

- (a) the use for the purposes of the business of any process or treatment;
- (b) the construction of any premises used for the purposes of the business, or the use for those purposes of any equipment; and
- (c) the state or condition of any premises or equipment used for the purposes of the business;

and for the purposes of this paragraph “health” means the health of an animal or, through the consumption of the products of such animal, human health.

(3) The appropriate prohibition is—

- (a) in a case falling within sub-paragraph (a) of paragraph (2), a prohibition on the use of the process or treatment for the purposes of the business;
- (b) in a case falling within sub-paragraph (b) of that paragraph, a prohibition on the use of the premises or equipment for the purposes of the business or any other feed business of the same class or description; and
- (c) in a case falling within sub-paragraph (c) of that paragraph, a prohibition on the use of the premises or equipment for the purposes of any feed business.

(4) If—

- (a) a feed business operator is convicted of an offence under specified feed law; and
- (b) the court by or before which the operator is so convicted thinks it proper to do so in all the circumstances of the case,

the court may, by an order, impose a prohibition on the feed business operator participating in the management of any feed business, or any feed business of a class or description specified in the order.

(5) As soon as practicable after the making of an order under paragraph (1) or (4) (in these Regulations referred to as a “feed business prohibition order”), the enforcement authority must—

- (a) serve a copy of the order on the relevant feed business operator; and

- (b) in the case of an order made under paragraph (1), affix a copy of the order in a conspicuous position on such premises used for the purposes of the feed business as they consider appropriate,

and any person who knowingly contravenes such an order is guilty of an offence.

(6) A feed business prohibition order will cease to have effect—

- (a) in the case of an order made under paragraph (1), on the issue by the enforcement authority of a certificate to the effect that it is satisfied that the feed business operator has taken sufficient measures to secure that the health risk condition is no longer fulfilled with respect to the feed business; and
- (b) in the case of an order made under paragraph (4), on the giving by the court of a direction to that effect.

(7) The enforcement authority must issue a certificate under sub-paragraph (a) of paragraph (6) within three days of its being satisfied as mentioned in that sub-paragraph; and on an application by the feed business operator for such a certificate, the authority must—

- (a) determine, as soon as is reasonably practicable and in any event within 14 days, whether or not it is so satisfied; and
- (b) if it determines that it is not so satisfied, give notice to the feed business operator of the reasons for that determination.

(8) The court must give a direction under sub-paragraph (b) of paragraph (6) if, on an application by the feed business operator, the court thinks it proper to do so having regard to all the circumstances of the case, including in particular the conduct of the feed business operator since the making of the order; but no such application may be entertained if it is made—

- (a) within six months of the making of the feed business prohibition order; or
- (b) within three months of the making by the feed business operator of a previous application for such a direction.

(9) Where a magistrates' court makes an order under regulation 22(2) with respect to any feed business, paragraph (1) will apply as if the feed business operator had been convicted by the court of an offence under specified feed law.

(10) Where the commission of an offence by a feed business operator leads to the conviction of another person pursuant to regulation 35(1), paragraph (4) will apply in relation to that other person as it applies in relation to the feed business operator and any reference in paragraph (5) or (8) to the feed business operator must be construed accordingly.