

## **ANIMAL FEEDING STUFFS – SUMMARY OF CURRENT LEGISLATION (SCOTLAND)**

*This summary is intended only as an outline guide to the legislation, and should not be regarded as comprehensive or definitive. It should be read in conjunction with, and not as a substitute for, the legislation itself. Any interpretation of the law is only an opinion. Only the courts can decide whether in particular circumstances an offence has been committed.*

Legislation on animal feeding stuffs is harmonised throughout the EU, and based mainly on measures negotiated in Brussels and enacted in European Community law. The measures apply to a range of animal feed businesses and activities, including farms, as specified in the appropriate legislation.

Ultimate responsibility for much of this legislation formerly rested with what was then the Minister of Agriculture, Fisheries and Food, but passed to the Secretary of State for Health following the establishment of the Food Standards Agency on 1 April 2000.

The legislation summarised in this document is divided into three groups: primary legislation; secondary legislation which is the responsibility of the Food Standards Agency; and EU measures which apply directly.

There is other feed-related legislation which is not summarised here and for which other Government departments are responsible – for example, the Animal By-Products Regulations 2005 and the Veterinary Medicines Regulations 2005. Those Regulations are the responsibility of SGRD's BSE & Animal Health Division and Veterinary Medicines Directorate respectively, who should be contacted for advice on their provisions.

### **PART 1 – PRIMARY LEGISLATION**

(Primary legislation: Acts of Parliament, usually but not always originating as Government Bills, which may contain both directly operative provisions as well as powers enabling Ministers to make further secondary legislation, usually in the form of Orders or Regulations.)

#### **THE AGRICULTURE ACT 1970**

Part IV of this Act regulates the preparation and sale of animal feeding stuffs. One of the main requirements is that they should be "sound, genuine and of merchantable quality" – that is, fit for their intended purpose and free from harmful ingredients. Part IV of the Act also:

- requires that sellers of feeding stuffs should provide purchasers with a "statutory statement" – i.e., a label or an accompanying document – in the form and containing the information laid down in the Regulations (which are made under secondary legislation, and subject to amendment);

- contains provisions for the sampling and analysis of feeding stuffs; and
- provides for the control and enforcement of these rules by the relevant authorities.

The Act also contains general powers enabling the Secretary of State to make Regulations to control the manufacture, marketing and use of feeding stuffs, including provisions to implement or enforce Community law on animal feed.

In Great Britain (i.e., England, Scotland and Wales), enforcement is mainly the responsibility of local authority trading standards officers; in Northern Ireland, enforcement is the responsibility of the Department of Agriculture and Rural Development.

## **THE EUROPEAN COMMUNITIES ACT 1972**

Section 2(2) of this Act provides the legal powers to make secondary legislation (see below) when powers under the Agriculture Act 1970 are considered insufficient to implement the UK's EC obligations.

## **PART 2 – PRINCIPAL SECONDARY LEGISLATION**

(Secondary legislation: Regulations made by Government Ministers under the powers conferred on them by Acts of Parliament to cover matters of detail arising from the Acts concerned.)

The following Regulations are the main items of secondary legislation governing the composition and labelling of animal feeding stuffs and which fall within the remit of the Food Standards Agency. These Regulations apply mainly in Scotland. There are separate but parallel Regulations for England, Wales and Northern Ireland.

### **THE FEEDING STUFFS (SCOTLAND) REGULATIONS 2005 (SSI 2005 No 605)**

This is the principal secondary legislation made under Part IV of the Agriculture Act 1970. It replaced the Feeding Stuffs (Scotland) Regulations 2000, which had been amended several times.

The Regulations cover aspects of the composition, labelling and marketing of animal feeding stuffs (including pet food, feed for horses and farmed fish and, to a limited degree as specified, feed for animals living freely in the wild), and contain provisions intended to safeguard animal and human health. These provisions concern the additives authorised for use in feed, the maximum permitted levels of certain undesirable substances (contaminants), the dietetic claims which may be made for certain types of feed, the names and descriptions which must be applied to various feed materials, and the labelling information to be provided to purchasers.

The EC legal instruments which the Regulations implement and enforce have been amended (and in some case consolidated) a number of times since they were first agreed. The principal measures are as follows:

### **Council Directive 79/373/EEC – Marketing of Compound Feeding Stuffs**

This Directive specifies the information which feed labels must carry – including a description of the feed, quantity, storage life, moisture content and its ingredients – and sets out the additional information items which may optionally be included (such as price, country of origin, directions for use, and date of manufacture). The Directive also lists various analytical constituents – such as protein, fibre, oil and ash – the declaration of which is (depending on the type of feed and species of animal) compulsory or optional, and the limits of variation applicable to such declarations.

### **Council Directive 82/471/EEC – Certain Products used in Animal Nutrition**

This measure sets out the approval process for the use in feed of certain protein substitute products, such as yeasts, and proteins produced by novel processes, such as synthetic amino acids. Approval involves the specification of limits on maximum incorporation rates, the target species of animal, and other conditions of use such as the labelling requirements.

### **Council Directive 93/74/EEC – Feeding Stuffs for Particular Nutritional Purposes**

These are non-medicinal feeds intended to meet the nutritional requirements of pet animals, horses and farmed livestock whose metabolism may be permanently or temporarily impaired – for example, ketosis in dairy cows and ewes, electrolyte loss due to heavy sweating in horses, acidosis in ruminants, and intestinal absorptive disorders in dogs and cats. The Annex to the Directive sets out the nutritional purposes for which these products may be promoted, the nutritional characteristics they must have, and the species for which they may be used.

### **Council Directive 96/25/EC – Circulation of Feed Materials**

This measure introduced harmonised rules for the labelling of “feed materials” – i.e., ingredients intended to be either fed singly or incorporated into a compound feeding stuff – and laid down a non-exclusive list of the names and descriptions permitted to be used for these materials. The measure, which replaced an earlier Directive - 77/101 - on the labelling of what were then called “straight” feeds, also removed previous national derogations on their marketing and labelling to ensure EU-wide consistency of information for purchasers and others.

### **Council Directive 2002/32/EC – Undesirable Substances**

This Directive prescribes maximum permitted levels (MPLs) for certain undesirable substances in feed materials and complementary and compound feeds, and sets out controls for the reporting of contaminated consignments.

### **Commission Decision 2004/217/EC – Prohibited Ingredients in Animal Nutrition**

This lays down a list of materials which cannot be used for animal feed, such as faeces, urine or separated digestive tract content, waste from the treatment of various waste waters, solid urban waste, and wood and sawdust. It replaced an earlier measure which applied the prohibition only to the use of these materials in compound feeding stuffs.

### **EC Regulation 1831/2003 – Feed Additives**

This replaced Council Directive 70/524 on feed additives (although Article 16 of the Directive will remain in force until Directive 79/373 has been revised to include rules for the labelling of compound feeds which contain additives). The Regulation has applied directly in all Member States as from October 2004. The Feeding Stuffs (Scotland) Regulations 2005 provide for its enforcement.

### **THE FEEDING STUFFS (SAMPLING AND ANALYSIS) REGULATIONS 1999 (SI 1999 No 1663)**

These Regulations, which apply to Great Britain, implement a number of Directives establishing Community methods of analysis for animal feeding stuffs. Only the methods specified in the Directives and the amendments thereto may be used. The Regulations also specify the type and number of samples to be selected for analysis, depending on the nature and packaging of the feed in question. Separate but parallel legislation applies in Northern Ireland.

### **THE FEEDING STUFFS (SAMPLING AND ANALYSIS) AMENDMENT (SCOTLAND) REGULATIONS 2001 (SSI 2001 No 104)**

These Regulations, which apply to Scotland only, implement Commission Directive 2000/45 on methods of analysis for particular substances. Separate but parallel legislation applies in England, Wales and Northern Ireland.

### **THE FEEDING STUFFS (MISCELLANEOUS AMENDMENTS) (SCOTLAND) REGULATIONS 2003 (SSI 2003 No 277)**

These Regulations implement Commission Directive 2002/70 establishing harmonised methods for the sampling and analysis of dioxins and dioxin-like PCBs. The principal change was to modify Part IV of the Agriculture Act 1970 to permit this work to be undertaken by laboratories other than those of Agricultural Analysts. Separate but parallel legislation applies in England, Wales and Northern Ireland.

### **THE FEEDING STUFFS (SAMPLING AND ANALYSIS) AMENDMENT (SCOTLAND) REGULATIONS 2004 (SSI 2004 No 414)**

These Regulations implement Commission Directive 2003/126 on microscopy for the identification of ingredients of animal origin in animal feeding stuffs.

### **THE GENETICALLY MODIFIED ANIMAL FEED (SCOTLAND) REGULATIONS 2004 (SSI 2004 No 433)**

These Regulations provide for the enforcement of the feed-related provisions of EC Regulation 1829/2003 on genetically modified food and feed, by linking them to penalties for non-compliance and the powers of enforcement officers to seize products, issue notices, etc.

### **THE FEED (HYGIENE AND ENFORCEMENT) (SCOTLAND) REGULATIONS 2005 (SSI 2005 No 608)**

These Regulations provide for the enforcement in Scotland of the feed-related Articles of EC Regulation 178/2002 on the general principles of food and feed law and EC Regulation 183/2005 laying down the requirements for feed hygiene. (More details of the scope and content of the two EC Regulations are given in part 3 of this Annex, covering directly applicable legislation.) These Regulations also consolidate and update the powers of feed enforcement authorities, to bring them into closer

parity with those available to food authorities in accordance with the requirements of EC Regulation 882/2004 on official feed and food controls. They also revoke the Feeding Stuffs (Enforcement) Regulations 1999 and the Feeding Stuffs (Establishments and Intermediaries) Regulations 1999.

**THE FEEDING STUFFS (SCOTLAND) AMENDMENT AND THE FEEDING STUFFS (SAMPLING AND ANALYSIS) AMENDMENT (SCOTLAND) REGULATIONS 2006 (SSI 2006 No 16)**

These Regulations implement Commission Directives 2005/6 and 2005/7 introducing expanded measurement uncertainty and correction for recovery into the analysis of undesirable substances in general and dioxins and dioxin-like PCBs in particular, and Commission Directive 2005/8 introducing amended entries for the undesirable substances lead, fluorine and cadmium.

**THE FEEDING STUFFS (SCOTLAND) AMENDMENT REGULATIONS 2006 (SSI 2006 No 516)**

These Regulations implement in Scotland those provisions of European Parliament and Council Directive 2002/2 which were upheld by the ruling of the European Court of Justice in December 2005 and require the labelling of the ingredients of compound animal feeds according to their percentage weight of inclusion ("percentage ingredient declaration"), with a tolerance of +/- 15% for each declaration. (These provisions had originally been implemented in the UK by amendment to the Feeding Stuffs Regulations 2000 in 2003, but were suspended by order of the courts in the UK pending the outcome of the referral to the ECJ). Separate but parallel legislation applies in England, Wales and Northern Ireland.

**THE FEEDING STUFFS (SCOTLAND) AND THE FEED (HYGIENE AND ENFORCEMENT) (SCOTLAND) (AMENDMENT) REGULATIONS 2006 (SSI 2006 No 578)**

These Regulations implement in Scotland Commission Directives 2005/86, 2005/87 and 2006/13 which amend or extend the maximum permitted levels for the undesirable substances (contaminants) camphechlor, cadmium, fluorine, lead, and dioxins and dioxin-like PCBs in animal feedingstuffs. The Regulations apply to Scotland only – separate but parallel legislation applies in England, Wales and Northern Ireland.

**THE FEED (SPECIFIED UNDESIRABLE SUBSTANCES) (SCOTLAND) REGULATIONS 2007 (SSI 2007 No 492)**

These Regulations implement Commission Directive 2006/77 amending the maximum permitted levels for a range of organochlorine compounds (chiefly pesticides).

**THE FEEDING STUFFS (SCOTLAND) AMENDMENT REGULATIONS 2008 (SSI 2008 No 215)**

These Regulations implement Commission Directive 2008/4/EC, amending Directive 94/39/EC regarding animal feeds intended for the reduction of the risk of milk fever. The amendments concern the addition of two new essential nutritional characteristics for feeds that can claim to reduce the risk of milk fever.

## **THE FEEDING STUFFS (SCOTLAND) AMENDMENT REGULATIONS 2009 (SSI 2009 No 21)**

These Regulations implement Commission Directive 2008/76 amending some entries for undesirable substances and Commission Directive 2008/82 amending the entry for dietetic feeding stuffs for the support of renal function.

### **PART 3 – DIRECTLY APPLICABLE EC LEGISLATION**

The following legislation, negotiated and agreed at European level, applies directly in Member States and therefore does not require transposition into national legislation. However, certain of their requirements have been linked to offences and penalties to provide for effective enforcement (see the relevant entries for national legislation in part 2).

#### **EUROPEAN PARLIAMENT AND COUNCIL REGULATION 178/2002 ON THE PRINCIPLES OF FOOD AND FEED LAW**

Among other things, this Regulation defines “food law” to cover the production, processing and distribution of feed for food-producing animals. A “feed business” means “any business ... carrying out any operation of production, manufacture, processing, storage, transport, or distribution of feed including any producer producing, processing or storing feed for feeding to animals on his own holding”.

Enforcement of the feed-related aspects of this Regulation in Great Britain was previously provided for by The Feeding Stuffs (Safety Requirements for Feed for Food-Producing Animals) Regulations 2004, which was revoked as from 1 January 2006 and its relevant operative provisions re-enacted by The Feed (Hygiene and Enforcement) (Scotland) Regulations 2005.

#### **EUROPEAN PARLIAMENT AND COUNCIL REGULATION 1829/2003 ON GENETICALLY MODIFIED FOOD AND FEED**

This established a harmonised, centralised (in the European Food Safety Authority) procedure for the scientific assessment and authorisation of genetically modified organisms (GMOs) and GM food and feed. The assessment procedures cover both the GMO itself and the food and feed derivatives.

The Regulation requires labelling of all GM food and feed which contains or consists of GMOs or is produced from or contains ingredients produced from GMOs, regardless of the presence or absence of GM material in the final product. (Previously, food was required to be labelled only if GM material was demonstrably present in the final product.) There is a threshold of 0.9% for the presence of GMOs that have an EU authorisation below which labelling is not required, provided that this presence is adventitious or technically unavoidable.

## **EUROPEAN PARLIAMENT AND COUNCIL REGULATION 1831/2003 ON ADDITIVES FOR USE IN ANIMAL NUTRITION**

This established harmonised procedures for the authorisation and labelling of feed additives – for example, vitamins, preservatives, binders and gelling agents, colourants, antioxidants, stabilisers, trace elements, and enzymes and micro-organisms, certain of which are subject to specific limits on maximum incorporation rates, target species of animal, and other conditions of use. The European Food Safety Authority is responsible for the authorisation of a new additive or of a new use for an existing additive.

The Regulation also specifies the information which must appear on additive and premixture labels, and reclassified the amino acids covered by Directive 82/471 as additives in order to bring them within its scope. It repealed all of Council Directive 70/524 on feed additives apart from Article 16, which will remain in force until Directive 79/373 has been revised to include rules for the labelling of compound feeds which contain additives.

The Regulation also covers zootechnical additives, some categories of which are the responsibility of the Veterinary Medicines Directorate (VMD), and required the use of antibiotics other than coccidiostats and histomonostats to be phased out by 31 December 2005. (The Commission is required to submit by 1 January 2008 a report on the continued use of coccidiostats and histomonostats and possible alternatives to them.) The Regulation has applied in all Member States as from 18 October 2004.

## **EUROPEAN PARLIAMENT AND COUNCIL REGULATION 882/2004 ON OFFICIAL CONTROLS PERFORMED TO ENSURE THE VERIFICATION OF COMPLIANCE WITH FEED AND FOOD LAW, ANIMAL HEALTH AND ANIMAL WELFARE RULES**

This consolidated and extended existing EU legislation on official feed and food controls, setting out the general principles and enabling powers for carrying out official controls and specifying the approach to be adopted by Member States' enforcement authorities for checking businesses' compliance with feed and food law and EU animal health and welfare rules. It also contains provisions for the financing of these controls, and covers the action that may be taken in cases of breaches of applicable legislation. The Regulation also sets out the approach that the European Commission will take to check that national control systems and enforcement bodies in Member States and third countries comply with its specific requirements.

The Regulation replaced previous sector-specific measures, including Council Directive 95/53 on the organisation of official inspections in the field of animal nutrition, and applied in all Member States as from 1 January 2006, except for Articles 27 and 28 on fees and expenses which have applied from 1 January 2007.

## **EUROPEAN PARLIAMENT AND COUNCIL REGULATION 183/2005 LAYING DOWN REQUIREMENTS FOR FEED HYGIENE**

This measure is intended to strengthen the controls on feed safety and in particular the feed traceability and operating standards of feed businesses throughout the feed

chain, from primary production (such as arable farms growing crops for feed use) to the placing of feed on the market and the feeding of food-producing animals. Most feed businesses involved in the use, manufacture or marketing of feeds require to be approved or registered.

Feed businesses include importers and merchants of feed materials and manufactured feeds (including merchants buying direct from farmers), food manufacturers selling material into the feed chain, road hauliers and transport companies which ship or deliver feeding stuffs, livestock and some arable farmers, and traders who do not hold stock on their premises (e.g., brokers). (There are some exemptions, such as persons producing or storing feed for or feeding animals intended for their own consumption, or animals not kept for food production; the direct supply of “small quantities” of primary products at local level by the producer to local farms; and the retailing of pet food.) All have to comply with specified standards (as appropriate) in respect of their facilities, storage, personnel and record-keeping. Farmers feeding animals producing food for human consumption will have to follow a code of good practice and arable farms growing crops for feed will have to comply with standards relating to primary production.

The Regulation replaced a number of existing measures, including Council Directive 95/69 on the arrangements for approving and inspecting certain feed establishments and intermediaries, and applied directly in all Member States as from 1 January 2006.

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