

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2003 No. (W.)

AGRICULTURE, WALES

**The Feeding Stuffs (Sampling and
Analysis) and the Feeding Stuffs
(Enforcement) (Amendment)
(Wales) Regulations 2003**

EXPLANATORY NOTE

(This note is not part of the Regulations)

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**The Feeding Stuffs (Sampling and
Analysis) and the Feeding Stuffs
(Enforcement) (Amendment)
(Wales) Regulations 2003**

Made [] 2003

Coming into force [] 2003

The National Assembly for Wales, in exercise of the powers conferred on it by sections 66(1), 75(1), 76(1), 77(4), 78(6), 79(1) and (2) 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 designated(e) for the purposes of section 2(2) of the European Communities Act 1972 in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on it 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:

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- (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.
- (b) S.I. 2000/656.
- (c) S.I. 2002/794.
- (d) OJ No. L31, 1.2.2002, p.1. Under Article 3 of Regulation (EC) 178/2002 “food law” extends to feed produced for, or fed to, food producing animals.
- (e) S.I. 1999/2788.

Title, commencement and application

1. —(1) These Regulations may be cited as the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2003 and shall come into force on []

(2) These Regulations shall apply to Wales only.

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

2. The Feeding Stuffs (Sampling and Analysis) Regulations 1999(a) shall be amended in relation to Wales in accordance with regulations 3 to 7.

3. In regulation 1 (title, commencement and interpretation) for paragraph (2) there shall be substituted the following paragraph —

(2) In these Regulations —

“the Act” means the Agriculture Act 1970;

“the sampling Directive” means First Commission Directive 76/371/EEC establishing the methods of sampling for the official control of feeding stuffs(b); and

“Directive 2002/70/EC” means Commission Directive 2002/70/EC establishing requirements for the determination of levels of dioxins and dioxin-like PCBs in feeding stuffs(c).”.

4. For regulation 3 (manner of taking, preparing, marking, sealing and fastening of samples) there shall be substituted the following regulation —

Manner of taking, preparing, marking, sealing and fastening samples

3. The manner in which samples of —

(a) feeding stuffs; and

(b) feed materials to be sampled pursuant to Directive 2002/70/EC,

are to be taken, prepared, marked, sealed and fastened shall be as prescribed in Schedule 1.”

5. In regulation 6 (application of methods of analysis) —

(a) for paragraph (1) there shall be substituted the following paragraph —

(a) S.I. 1999/1663, amended by S.I. 1999/1871, S.I. 2001/343 (W 15), S.I. 2001/2253 (W 163) and S.I. 2002/1797 (W 172).

(b) OJ No. L162, 15.4.76, p.1.

(c) OJ No. L209, 6.8.2002, p.15.

“(1) Subject to paragraphs (1A) and (2) below, to determine whether a substance of a kind listed in column 1 of Annex I to Part II of Schedule 2, or to which the method of analysis specified in Annex II or as the case may be Annex III to that Part relates, is present or active in a sample of —

- (a) a feeding stuff to be analysed pursuant to the Act;
- (b) (in the case of the substances vitamin A and vitamin E) a premixture to be analysed pursuant to Commission Directive 2000/45/EC establishing Community methods of analysis for the determination of vitamin A, vitamin E and tryphophan in feeding stuffs(a); or
- (c) (in the case of dioxins and dioxin-like PCBs) a feed material to be analysed pursuant to Directive 2002/70/EC,

or what quantity or preparation of such substance is present or active in such a sample —

- (d) the provisions specified in Part I of Schedule 2 under the heading “GENERAL PROVISIONS” shall apply;
- (e) in relation to a substance of a class or description listed (whether by itself or by reference to its activity) in column 1 of Annex I to Part II of that Schedule, the relevant method of analysis set out in the Community provision listed in the corresponding entry in column 2 of that Annex shall be used; and
- (f) in relation to a substance to which the method of analysis specified in Annex II or as the case may be Annex III to Part II of that Schedule relates, that method shall be used.”;

and

- (b) immediately after paragraph (1) there shall be inserted the following paragraph —

(1A) Where more than one method of analysis is referred to in column 2 of Annex I to Part II of Schedule 2 in relation to the same substance, the notes to that Annex shall have effect to specify which is the relevant method.

6. Immediately after regulation 6 there shall be inserted the following regulation —

(a) OJ No. L174, 13.7.2000, p.32.

“Modification of the Agriculture Act 1970 as regards analysis of samples of feeding stuffs and feed materials to determine levels of dioxins and dioxin-like PCBs

6A. For the purpose of determining whether dioxins or dioxin-like PCBs are present or active in a sample of a feeding stuff to be analysed pursuant to the Act or of a feed material to be analysed pursuant to Directive 2002/70/EC or what quantity or proportion of dioxins or dioxin-like PCBs are present or active in such a sample —

(a) Part IV of the Act shall have effect as if

(i) in section 66(1), immediately after the definition of “the Ministers” there were inserted the following definition —

“point 4 compliant laboratory” means a laboratory which complies with point 4 of Annex II to Commission Directive 2002/70/EC establishing requirements for the determination of levels of dioxins and dioxin-like PCBs in feeding stuffs;”,

(ii) in section 77(1)(a), for the words “the agricultural analyst for the inspector’s area” there were substituted the words “a point 4 compliant laboratory”,

(iii) in each of sections 77(3) and 78(5), for the words “the agricultural analyst” there were substituted the words “a point 4 compliant laboratory”,

(iv) in section 77(4), for the words “The agricultural analyst shall analyse the part of a sample which is sent to him” there were substituted the words “A point 4 complaint laboratory shall analyse the part of a sample which is sent to it”,

(v) section 77(5) were omitted,

(vi) in section 78(3), for the words “agricultural analyst’s”, in both places where they appear, there were substituted the words “point 4 compliant laboratory’s”,

(vii) for section 79(4) and (5) there were substituted the following subsections —

“(4) Any analysis required to be made by a point 4 compliant laboratory or the Government Chemist may be made by any person acting under the directions of an analyst at that laboratory or, as the case may be, of the Government Chemist.

(5) A certificate of analysis by an analyst at a point 4 compliant laboratory shall be signed by that analyst and a certificate of analysis by the Government Chemist shall be signed by him or a person authorised by him to sign the certificate.”, and

(vii) in section 79(6), for the words “an agricultural analyst” there were substituted the words “an analyst at a point 4 compliant laboratory”;

(b) Part I of Schedule 3 shall have effect as if in the certificate set out there for the words “agricultural analyst for” there were substituted the words “analyst at

(c) Part II of Schedule 3 shall have effect as if in note (2) to that certificate which is set out there for the words “local authority” there were substituted the word “laboratory”.

7. In Schedule 2 (methods of analysis), in Annex I to Part II, immediately after the entries for “Carbonates” there shall be inserted in columns 1 to 3 respectively the following entry —

“Dioxins and dioxin-like PCBs	Point 2 of Annex I to Directive 2002/70/EC and points 1 and 2, the second paragraph of point 3, the first three indents of point 4 and points 5 to 8 of Annex II to that Directive.
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Amendment of the Feeding Stuffs (Enforcement) Regulations 1999

8. The Feeding Stuffs (Enforcement) Regulations 1999(a) shall be amended in relation to Wales as follows —

- (a) in regulation 10 (modification of section 76 of the Agriculture Act 1970)—
 - (i) immediately after the modified text of subsection (8) of 76 of the Agriculture Act 1970 which is set out in that regulation there shall be inserted the following subsection —

“(8A). For the purposes of this Part of this Act a sample taken in accordance with subsection (8) of this section shall be deemed to be taken in the prescribed manner.”, and
 - (ii) in subsection (9) of that section as so modified, immediately after the expression “subsection (8)” there shall be inserted the expression “and (10)”;
- (b) for regulation 11 (modification of sections 77(4) and 78(6) of the Agriculture Act 1970) there shall be substituted the following regulation —

“Modification of sections 77(4) and 78(6) of the Agriculture Act 1970

11. For the purpose of sections 77(4) and 78(6) of the Act, analysis shall (as specified in regulation 7) be treated as carried out in the prescribed manner, in relation to a sample of a product which falls to be inspected pursuant to Directive 95/53 but is not —

- (a) a feeding stuff;
- (b) a premixture to which Part A or Part B of Commission Directive 2002/45/EC establishing Community methods of analysis for the determination of vitamin A, vitamin E and tryptophan in feeding stuffs applies; or
- (c) a feed material to which Annex II to Commission Directive 2002/70/EC establishing requirements for the determination of levels of dioxins and dioxin-like PCBs in feeding stuffs applies,

if —

(a) S.I. 1999/2325. Modified by S.I. 2000/656 and amended by S.I. 2001/2253 (W 163), S.I. 2001/3461 (W 280), S.I. 2002/1797 (W 172) and 2003/ .

- (d) where there is an applicable standard of the kind referred to in the first indent of Article 18.3 of Directive 95/53, analysis is carried out in accordance with that standard; and
 - (e) where there is no such standard, analysis is carried out in accordance with any scientifically valid method the application of which does not contravene any general principle of the Treaty establishing the European Community.”; and
- (c) immediately after regulation 11A there shall be inserted the following regulation —

11B. For the purposes of sections 77(4) and 78(6) of the Act, analysis shall (as specified in regulation 7) be treated as carried out in the prescribed manner, in relation to a sample of a feed material to which Annex II to Directive 2002/70/EC establishing requirements for the determination of levels of dioxins and dioxin-like PCBs in feeding stuffs applies, if it is carried out in accordance with the requirements specified in that Annex.”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(a).

Date

The Presiding Officer of the National Assembly

(a) 1998 c.38.