

Feed Law Enforcement

Guidance Document (Northern Ireland)

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Please sign and date to confirm replacement of relevant pages with amendments issued by the Agency.

PREFACE

This Guidance document is directed at the Department of Agriculture and Rural Development in Northern Ireland (DARD) specified in Section 86(3) of the Agriculture Act 1970 (the Act) and their officers and inspectors insofar as their duties relate to animal feed. Legislation on animal feed includes Regulations made (i) under the Act, (ii) by the European Parliament and the Council or by the Commission, and or (iii) European Community legislation which relate to animal feeds enacted into Northern Ireland law under the European Communities Act 1972.

Separate Codes of Practice and guidance documents exist relating to enforcement of animal feed law undertaken by local authorities (feed authorities) and the Animal Medicines Inspectorate (AMI) in Great Britain. In this document regulations quoted are for Northern Ireland only. Parallel legislation exists for England, Scotland and Wales.

DARD has a statutory duty to enforce legislation relating to feed. Regulation 4 of the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005¹ sets out the division of enforcement responsibilities between DARD and the Food Standards Agency (the Agency) for the purposes of those Regulations and the European Feed Hygiene Regulations. (Regulation (EC) No. 183/2005² lays down requirements for feed hygiene.

DARD is also responsible for the enforcement of legislation on the composition and marketing of animal feeds. This includes provisions relating to the control of additives (e.g. vitamins and trace elements) authorised for use in feeds, controls on undesirable substances and materials prohibited from use in feeds. There are also rules on the labelling and marketing of compound feeds and feed materials. The Agriculture Act 1970 is the primary legislation dealing with deleterious, unwholesome and dangerous. The Feeding Stuffs Regulations (Northern Ireland) 2005³ (as amended) contain provisions on the composition and labelling of feeds.

The purpose of enforcement is to ensure compliance with legislation relating to feed in Northern Ireland. DARD must therefore discharge its duty as effectively as possible, using means that are most appropriate to the circumstances.

¹ The Feed Hygiene and Enforcement Regulations (Northern Ireland) 2005 SR No. 546

² Regulation (EC) No. 183/2005 of the European Parliament and of the Council laying down requirements for feed hygiene

³ The Feeding Stuffs Regulations (Northern Ireland) 2005 SR No. 545

The effective discharge of this duty relies on officers, authorised to enforce feed law, being familiar with the law they are appointed to enforce, referring to the law itself as well as to this guidance, understanding what the law actually states and requires, and seeking guidance when either it, or they, are unclear.

DARD will have responsibility for official controls at a feed establishment undertaking more than one activity, one of which involves the use, handling or incorporation of veterinary medicine/specified products.

The Agency may from time to time issue further guidance. DARD should take account of such guidance.

Reference to chapters, paragraphs and annexes are to the relevant parts of this Guidance document unless stated otherwise.

This Guidance document includes summaries of some statutory provisions. The summaries must therefore be read in conjunction with, not as a substitute for, the relevant legislation.

The term “officer” is used throughout this document to include where relevant an inspector for the purposes of the Act and Regulations made under it.

SECTION 1 ADMINISTRATION

CHAPTER 1.1 FEED AUTHORITY MATTERS

1.1.1 Introduction

This Chapter deals with liaison arrangements between DARD and other feed authorities, and the division of enforcement responsibilities. It requires the timely exchange of information on feed business establishment registration/approval, and appropriate representation of feed authorities in liaison groups

1.1.2 Duties of Feed Authorities

In Northern Ireland DARD enforces both non-medicated feeding stuffs legislation and that relating to veterinary medicines or specified products (i.e. certain quasi-medicinal additives). DARD, local authorities and the London Port Authority are designated enforcement bodies and competent authorities in relation to European Community legislation in their respective areas of responsibility.

Local authorities in England, Scotland and Wales and the London Port Authority have a statutory duty to enforce the legislation relating to the control of non-medicated feeding stuffs. In England, Scotland and Wales the AMI, which is part of the Veterinary Medicines Directorate (VMD), has responsibility for enforcement of legislation relating to feed materials which contain veterinary medicines or specified products.

1.1.3 Liaison between Feed Authorities

DARD feed officials should ensure that effective liaison arrangements are in place with AMI and local authorities through Local Authorities Co-ordinators of Regulatory Services (LACORS). A MoU between DARD and AMI will set out procedures to be followed in relation to enforcement matters. DARD should send an officer at an appropriate level of seniority to represent it on the national LACORS Feed and Fertiliser Focus Group, which meets regularly.

1.1.4 Co-ordination of Guidance, Enforcement and the Home Authority Principle

The co-ordination of DARD and other feed authorities in matters of guidance and enforcement is essential to ensure uniformity of enforcement and consistency in dealing with feed businesses, especially those that have branches or units situated in different feed authority areas.

In situations where DARD gives guidance or takes enforcement action in relation to feed businesses which have a home authority should consider whether they need to contact the home authority before doing so. This would normally be necessary, for example, where the guidance or enforcement action relates to centrally agreed policies or procedures of a feed business. It might not be necessary, however, where such action relates to matters of an exclusively local nature. DARD recognizes the Agency's endorsement of the LACORS home authority principle and will seek to follow its provisions although it is not bound to do so.

To share intelligence and avoid duplication of enforcement, DARD should meet with other agencies, e.g. Her Majesty's Revenue and Customs, experts and specialists' including the agricultural analyst as the need arises.

CHAPTER 1.2 QUALIFICATIONS AND EXPERIENCE

1.2.1 Introduction

This Chapter concerns the qualifications of authorised officers of feed authorities who carry out inspections or other enforcement duties under feed law.

It implements the qualification and training provisions of Regulation (EC) 882/2004⁴.

This Chapter does not apply to staff who do not have direct operational responsibility for DARD's feed law enforcement service such as Chief Executives, Directors or Chief Officers, or to those employed in a support role such as administrative and legal staff.

If DARD needs to engage expertise in an area listed in Chapter I of Annex II to Regulation (EC) 882/2004, it should ensure that any expert it engages has a recognised qualification and experience in the area for which the expertise is required.

1.2.2 General Qualification and Experience Requirements

DARD should set up and implement a documented procedure for the authorisation of officers. The Agriculture Act 1970 allows for the authorisation of officers, in writing, either generally or specially to act in matters arising under the Act or Regulations made under the Act. However, officers performing duties under the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 and the Official Feed and Food Controls Regulations (Northern Ireland) 2006⁵, need to be separately authorised in writing to deal with matters arising under these implementing Regulations, e.g. issues under the "specified community provisions". With regard to other specific feed Regulations made under the European Communities Act 1972, where appropriate, relevant officers should be specially authorised for each of those Regulations.

DARD should ensure that officers they authorise in accordance with their documented procedure to carry out enforcement under the feed law are:

- Suitably qualified;
- Experienced, and;
- Competent to carry out the range of tasks and duties they are required to perform.

This applies equally to those who are directly employed, to temporary staff, and to those employed by or as contractors.

⁴ Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules

⁵ The Official Feed and Food Control Regulations (Northern Ireland) 2006 SR 2006 No. 2

There may be other qualifications that are equivalent to those specifically set out in this Guidance. The Agency should be approached to consider such cases.

Existing or prospective officers may also have a range of qualifications, additional training and experience that together indicate their competence to undertake specific enforcement activities identified in this Guidance. In such cases the relevant professional and awarding bodies should be approached directly by either the existing feed authority employer or prospective officer for an assessment of equivalence.

Nationals from other countries in the European Economic Area (EEA) have a right under Community law to the recognition of qualifications and experience gained outside the UK. This situation may arise if an individual seeks employment in Northern Ireland as an Agricultural Analyst, or feed law enforcement officer, having acquired relevant qualifications and work experience in their home country. DARD should accept suitable non-UK qualifications and experience in order to give effect to these Community rights. The equivalence of non-UK qualifications will be determined by organisations recognised by the Department for Employment and Learning for the purposes of Directive 89/48/EEC⁶ (The Mutual Recognition of Professional Qualifications). DARD should make enquiries with the relevant professional and awarding bodies if they have any doubts in this area before confirming an appointment.

1.2.3 New Appointments

DARD must not authorise new officers, or extend the duties of currently employed officers, unless they are qualified in accordance with the relevant provisions of this Chapter and they meet any relevant additional requirements relating to specific duties or enforcement responsibilities. See also paragraph 1.2.10 in relation to newly qualified officers.

1.2.4 Training

DARD must ensure that authorised officers receive relevant structured on-going training in those areas identified in chapter 1 of annex II of Regulation (EC) 882/2004. Such training should explain new legislation and procedures and technological developments relevant to feed businesses subject to their inspection. The minimum ongoing training should be 10 hours per year based on the principles of continuing professional development.

Officers whose knowledge or practical experience of feed law enforcement is out of date should receive structured revision training and be monitored by an experienced feed law enforcement officer during the period of training.

⁶ Directive 89/48/EEC On a General System for the Recognition of Higher Education Diplomas Awarded on Completion of Professional Education and Training of at Least 3 Years' Duration (The Mutual Recognition of Professional Qualifications)

The extent of the revision training will vary according to the previous experience of the officer and the period that the officer has not been undertaking feed law enforcement duties. The minimum revision training should be 15 hours based on the principles of continuing professional development.

Officers that are newly qualified or are returning to feed law enforcement duties after an absence of more than 3 years should be monitored for at least three months or for the duration of their revision training period, whichever is longer.

1.2.5 Training Records

DARD should keep copies of certificates of registration, qualifications and documents required by this Chapter and record on-going and revision training undertaken by their authorised officers, including contract and temporary staff.

1.2.6 Contracted or Temporary Staff

DARD should be satisfied that contracted or temporary enforcement staff meet the qualification and experience requirements set out in Paragraph 1.2.9 below that are relevant to the enforcement duties they are engaged to perform. This includes the training referred to above in paragraph 1.2.4.

DARD should also be satisfied that such staff are competent to undertake the duties required and are familiar with enforcement and other policies and procedures.

DARD must ensure that persons employed by contractors to undertake inspection or other enforcement activities on their behalf, in accordance with Article 5 of Regulation (EC) 882/2004, are duly authorised to do so by DARD in writing.

1.2.7 Sampling

Only authorised officers who are trained in the appropriate techniques and competent to carry out the duties assigned to them should take samples of feed. Sampling in accordance with the provisions of the Feeding Stuffs (Sampling and Analysis) Regulations (Northern Ireland) 1999⁷ and this Guidance document should only be undertaken by officers meeting the relevant requirements described in Paragraph 1.2.9 below. These requirements do not apply where an adverse report following the sample being taken could not result in formal action i.e. the sample has not been taken in the prescribed manner.

⁷ Feeding Stuffs (Sampling and Analysis) Regulations (Northern Ireland) 1999 SR No. 296 as last amended by SR 2006 No. 18

1.2.8 Specific Qualification and Competency Requirements

DARD officers may be authorised to carry out feed law enforcement at two levels.

Level one authorisation shall relate to enforcement at feed business establishments, including imports, where simple and straightforward operations are employed and basic quality control and safety systems are in place. This will exclude the inspection of activities which require approval under the terms of the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005.

Examples of feed businesses where enforcement may be carried out by “level one” authorised officers include primary producers, farms producing and/or storing feed for use on their holdings, wholesalers or merchants not changing the nature of the feed.

Level one officers should not be authorised to issue prohibition notices (see Paragraph 1.2.11).

Level two authorisation shall relate to the full range of animal feed enforcement duties by DARD.

Examples where enforcement should be by “level two” authorised officers include businesses that require approval, such as additive and premixture manufacturers, manufacturers and those putting compound feeds onto the market.

1.2.8.1 Level One Qualifications

DARD officers must have the minimum entry level qualifications for Group Two Inspectors as laid down by DARD Personnel Branch.

In addition DARD feed enforcement officers must be able to demonstrate, having undertaken appropriate qualification/training and supervised experience, competence in:

- The evaluation and inspection of hazard analysis and critical control point (HACCP) based safety management systems;
- Basic components of quality control systems and auditing techniques to ensure effectiveness and operations of the simple systems.

1.2.8.2 Level Two Qualifications

Officers must hold the qualifications outlined in paragraph 1.2.9.1 and have been appropriately trained and able to demonstrate that they are competent to assess more complex quality assurance and HACCP systems.

Level two officers who are inspecting feed business operators' procedures based upon HACCP principles should also possess the competencies set out in Annex 2.

1.2.9 Experience

DARD should be able to demonstrate that its officers/inspectors are experienced and competent and:

- Have reasonable background knowledge of the feed and farming industry, animal feed materials and feeding practices.
- Have a good understanding of the acquisition, methods of production, processing and distribution of animal feed.
- Have a good understanding of the possible hazards involved in feed production, storage and use, and the risks of these hazards occurring.
- Have been trained in all aspects of animal feed legislation relevant to their authorisation.
- Have been trained in the requirements of biosecurity on leaving or entering premises where animals are kept.
- Have successfully undertaken for a period of at least two months, under supervision, within areas of animal feed law enforcement duties for which they are to be authorised.

1.2.10 Service of Emergency Prohibition Notices and Orders

Feed business emergency prohibition notices under regulation 22 of the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 should, whenever possible, be signed by officers holding the qualifications outlined in paragraph 1.2.9.2 above, who have two years' post qualification experience in feed safety matters, are currently involved in feed law enforcement and who are trained, competent and duly authorised.

1.2.11 Existing Feed Law Enforcement Officers

DARD must satisfy itself that existing enforcement officers not holding the necessary qualifications have up to date knowledge and experience to effectively carry out their enforcement duties. These officers must still be able to demonstrate the experience requirements outlined in paragraph 1.2.10 and must have received training in HACCP and other quality assurance techniques. They will be expected to obtain the necessary qualification

detailed in paragraph 1.2.9 within five years of this guidance coming into force.

1.2.12 Alternative Enforcement Strategies

Officers undertaking alternative enforcement strategies are not required to meet the qualification requirements set out in this Chapter, but they should, however, be appropriately authorised. Any visits by such unqualified, but appropriately authorised, officers undertaken as part of an alternative strategy, must be confined to information collection and reporting back. The overall management of alternative enforcement strategies must remain in the hands of a level 2 feed law enforcement officer qualified in accordance with this Chapter, and decisions to take other enforcement action and/or intervene further must also be made by such an officer.

CHAPTER 1.3 CONFLICTS OF INTEREST

1.3.1 Introduction

This Chapter deals with issues to be considered in ensuring that DARD and its authorised officers are impartial and free from conflicts of interest.

1.3.2 Avoiding Potential Conflicts of Interest

Article 4(2)(b) of Regulation (EC) 882/2004 requires that staff carrying out official controls are free from any conflict of interest. DARD should ensure that their officers are aware of potential conflicts of interest that may arise in an enforcement situation through promotion of the feed authority's services.

Officers should not provide their own services, e.g. training, in their own time within Northern Ireland.

Where DARD delegates an official control task, e.g. sampling to an independent third party (control body⁸) then DARD must obtain proof that the control body is impartial and free from any conflict of interest as regard the tasks delegated to it.

⁸ See Article 2(5) of Regulation (EC) 882/2004

CHAPTER 1.4 FEED BUSINESS ESTABLISHMENT RECORDS

1.4.1 Introduction

This Chapter requires, (in line with Article 19 of Regulation (EC) 183/2005) DARD to maintain an up-to-date database of registered and approved feed business establishments in Northern Ireland. This data may be divulged for the purposes of ensuring public health and the effective enforcement of feed law.

1.4.2 Database of Feed Business Establishments

DARD should maintain an up-to-date database of feed business establishments which have been registered with them and feed business establishments which have been approved or conditionally approved by them. DARD should liaise as necessary to ensure that information is made available to all authorities that require it in accordance with Paragraph 1.1.4. The database should include a comprehensive record of:

- Registered feed business establishments. DARD must maintain records which will enable them to produce a list under each activity carried out by feed business establishments it has registered;
- Establishments that are the decision-making base of feed businesses;
- Approved feed business establishments.

DARD should have a documented procedure for ensuring that its database is up-to-date and protected against corruption and loss of information, including the use of the information supplied on registration or approval application forms to update the database.

1.4.3 Access to information

DARD should provide details of relevant feed business establishment records if requested by other similar enforcement agencies or surveillance body to facilitate the investigation of a feed hazard or other feed or food related incident or criminal investigation.

Requests for information from the above bodies other than the Agency should be handled with due regard to Freedom of Information and Data Protection legislation.

CHAPTER 1.5 REGISTRATION/APPROVAL OF FEED BUSINESS ESTABLISHMENTS

1.5.1 Introduction

Under Article 9(3) of Regulation (EC) 183/2005, feed authorities shall maintain a register of establishments except for those which fall outside the scope of Regulation (EC) 183/2005 (see Paragraph 1.5.2).

Responsibility rests with DARD for recording and maintaining details of feed business establishments which have been registered/approved with them under Regulation (EC) 183/2005 (see Chapter 1.4).

1.5.2 Exemptions

Those activities currently outside the scope of Regulation (EC) 183/2005 and therefore the need for registration or approval include:

- Private domestic feed production for feeding of (i) animals kept for private domestic consumption or (ii) animals not kept for food production;
- Feeding of food-producing animals kept for private domestic consumption or for the activities mentioned in Article 1(2)(c) of Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs;
- Feeding of animals not kept for food production;
- Direct supply of primary production products in small quantities to local farms for their own use;
- Retailing of pet food. This does not, however, include the manufacturing at retail premises of pet food for sale *i.e.* the mixing of products arriving at a new formulation. This activity will require registration.

1.5.3 Registration of Feed Business Establishments

1.5.3.1 Applications for Registration: General

Under Article 31(1) (a) of Regulation (EC) 882/2004 the competent authorities, (which for the purposes of that Article the Agency and DARD), are required to establish procedures for feed business operators to follow when applying for the registration of their establishments. Some of the formalities are set out in the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005. The following paragraphs contain further procedures.

DARD should take steps to ensure that all applicants for registration are aware of the requirements they must meet for registration, *i.e.* Annex I or II to the EC 183/2005 Feed Hygiene Regulation and the application of HACCP principles as applicable.

1.5.3.2 Registration Forms

The feed business operator⁹ is responsible for ensuring the application form has been properly completed. Where incomplete forms are received, DARD should assess the information so as to determine whether or not there is a need to contact the feed business operator for more information. Where DARD believes that the details submitted are incorrect they should take all reasonable steps to verify the information before proceeding. A model application form can be found at Annex 9 to this Guidance.

1.5.4 Approved Establishments

1.5.4.1 Applications for Approval: Procedures / Forms

Article 31(2)(a) of Regulation (EC) 882/2004 obliges competent authorities to establish procedures for feed business operators to follow when applying for the approval of their establishments in accordance with Regulation (EC) 183/2005. Again some of the formalities are set out in the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005, and procedures for handling applications for approval are set out in Paragraphs 1.5.4.3 to 1.5.4.11. DARD should ensure that they, and feed business operators, follow these procedures as appropriate. Any deviations from these procedures should be recorded and retained.

1.5.4.2 Applications for Approval: Handling

Any application for approval from a feed business operator should be dealt with promptly. In order to ensure consistency, DARD should ask feed business operators to submit applications for approval in the appropriate format. A model application form for approval is set out in Annex 9.

Applications for approval of establishments should only be accepted from feed business operators that intend to engage in activities for which approval would be required in accordance with Regulation (EC) 183/2005. Under no circumstances should approval be granted to an establishment which is not subject to approval under Regulation (EC) 183/2005.

DARD should ensure that the feed business operator supplies all relevant information before an application for approval is determined. This information may be obtained from the feed business operator in documentation supplied with the application or during the subsequent on-site visit to the establishment as required by Article 31(2)(b) of Regulation (EC) 882/2004 (see Chapter 4.3). It is a matter for DARD to decide at which stage of the application this information should be provided.

⁹ EC Regulation 178/2002 Article 3

1.5.4.3 Determination of Applications for Approval

1.5.4.3.1 Before reaching a decision on an application for approval DARD should ensure that an on-site visit is made in accordance with Article 13 of Regulation (EC) 183/2005 unless the exemption from an on-site visit before approval in Article 17 of Regulation (EC) 183/2005 applies (see Paragraph 1.5.5.3.2 below). The on-site visit should take the form of a primary inspection of the establishment (see 4.1.2). The inspection should be conducted in accordance with, and cover, all aspects of the relevant inspection form for the business concerned (see paragraph 4.1.2) and consider all issues identified by Regulation (EC) 183/2005. As per Article 31(2) of Regulation (EC) 882/2004 all the requirements of feed law relevant to that business must be met.

1.5.4.3.2 Exemption from On-Site Visit Prior to Approval

This exemption relates to feed businesses that trade feed products but never hold the product on their premises. To qualify for this exemption feed businesses must make a declaration to DARD that the feeds they are placing on the market comply with the relevant requirements of Regulation (EC) 183/2005. A model declaration form can be found at Annex 10

1.5.4.4 Conditional Approval

Article 13(2) of Regulation (EC) 183/2005 permits the granting of conditional approval to an establishment, following an on site visit, which does not fully comply with the requirements of feed law, but only if the establishment meets all the infrastructure and equipment requirements.

It is for DARD to decide whether or not to grant conditional approval to an establishment which does not fully comply. Professional judgement should be used in deciding whether it would be appropriate to grant conditional approval, on a case by case basis. However, this discretion to give conditional approval should not be exercised if the non-compliance could lead to feeding stuffs seriously affecting the health of animals, humans through the consumption of animal products, or adversely affecting the environment.

If conditional approval is granted, a further visit must be carried out within three months of the conditional approval being granted in accordance with Article 13(2) of Regulation (EC) 183/2005. This visit should be a secondary inspection (see 4.1.3). In appropriate circumstances as set out in Article 13(2) of Regulation (EC) 183/2005, conditional approval may be extended, but this is restricted to a maximum of six months from the date of the initial granting of conditional approval. Professional judgement should be used in deciding whether it would be appropriate to extend conditional approval, on a case by case basis.

1.5.4.5 Approval Number / Identification Mark

DARD must give an approval number to each feed business establishment it approves or conditionally approves in accordance with Article 19(5) of

Regulation (EC) 183/2005. The first digit is the alpha sign, 'α'. The next digits are the ISO code of the Member State "NI" for Northern Ireland. The remaining digits are the national reference number, followed by a sequential but consecutive number of 1 to 99999.

1.5.4.6 Refusal of Approval and Appeals

If an establishment does not fully meet the requirements of Regulation (EC) 183/2005, DARD should consider whether conditional approval is appropriate in the circumstances (see Paragraph 1.5.4.4).

When DARD has decided to refuse an application for approval it should notify the applicant in writing of the decision at the earliest opportunity. DARD should also give the reasons for refusal in writing, the matters necessary to satisfy the requirements of the Regulation, and make it clear that activities requiring approval may not be undertaken unless approval or conditional approval is granted. Such notification should also make the feed business operator aware of their right of appeal against the decision and provide the address of the magistrates' court where such an appeal may be made. Rights of appeal are provided for in regulation 13 of the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005.

If DARD considers that any activities undertaken in an establishment pending the result of an appeal may present a risk to public health, it should consider the use of other relevant enforcement powers, appropriate to the circumstances involved (see Chapter 3).

1.5.4.7 Notification of Approval

Once approval, or conditional approval, has been granted, DARD should notify the applicant, in writing, of the nature and scope of the approval and any conditions or limitations that apply and the approval number.

When full approval is granted following conditional approval, DARD should notify the feed business operator in writing. Such a notification should also include details of the nature and scope of the approval, any conditions or limitations that apply and confirmation that the approval number allocated to the establishment may continue to be used.

DARD should retain a copy of the above notifications on the relevant establishment file and ensure that the Agency is notified of the approval in accordance with Paragraph 2.4.3.

1.5.4.8 Change of Details or Activities

Article 16 of Regulation (EC) 183/2005 requires feed authorities to amend details of approval of an establishment, where it has demonstrated its capacity to develop activities which are additional to those for which it was first registered or approved, or which replace them. Where DARD becomes aware of any significant changes in, for example, the activities of an approved establishment, they should carry out an inspection.

1.5.4.9 Fees

In accordance with regulation 14 of the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005, feed authorities must charge a statutory fee for approval, or amendments to approvals as outlined in the schedules to the Regulations. DARD may seek reimbursement of any laboratory analysis costs incurred in connection with assessment of the establishment prior to approval.

1.5.4.10 Non-approved Establishments Thought to be Engaged in Activities Requiring Approval

Where DARD becomes aware of businesses engaged in activities that require approval, but that are not approved, they should inform the feed business operator, in writing, of the need for approval and consider appropriate enforcement action.

Officers are directed to Section 3 for general guidance on enforcement.

1.5.5 Lists of Feed Business Establishments

1.5.5.1 Requirements of Regulation (EC) 183/2005

Article 19 of Regulation (EC) 183/2005 requires the appropriate competent authority to draw up a list of feed establishments that have been registered or approved.

1.5.5.2 Separate List of Registered/Approved Feed Business Establishments

DARD should ensure that a separate, up-to-date, list of feed establishments registered with them is available for inspection by the general public at all reasonable times. The list should contain the following information about each feed business and should be consistent with the information held in DARD's database:

1. Name of the feed business;
2. Address of the feed business establishment;
3. Activity.

DARD must also keep an updated list of feed establishments which they have approved available for inspection by the general public at all reasonable times. This list must contain the following information about each feed business and should be consistent with the information held in DARD's database:

1. Identity (approval) number;
2. Activity;
3. Name or business name of the feed business;
4. Address of the feed business;

5. Relevant remarks.

DARD may give or send a copy of their list or any entry on it to any person who makes a request for such information. Requests for information on feed business establishments should be handled with due regard to Freedom of Information and Data Protection legislation.

On receipt of a notification of a change of activities DARD should update the list of registered/approved feed business establishments as appropriate, and place or record the details on the file relating to that feed business establishment.

DARD should supply the Food Standards Agency with a complete copy of its registers and lists when requested by the Agency.

These lists also allow the Agency to fulfil its obligation to make a national list of registered and approved premises publicly available and to supply to the Commission a complete list of approved establishments in the United Kingdom.

CHAPTER 1.6 FEED INCIDENTS AND HAZARDS

1.6.1 Introduction

This Chapter deals with feed incidents and feed hazards that are first identified by the feed authority.

A schematic representation of the process that DARD should follow when dealing with a feed incident or hazard is included at Annex 3

1.6.2 Feed Incidents / Feed Hazards

1.6.2.1 Feed Incident: Definition

A “feed incident” occurs when a feed authority or the Agency becomes aware that feed or its labelling fails or appears to fail to meet feed law requirements. A feed incident can be a relatively minor matter or a major feed hazard.

1.6.2.2 Feed Hazard: Definition

A “feed hazard” is a feed incident involving a biological, chemical or physical agent in, or condition of, feed with the potential to cause an adverse effect on the health or safety of food producing animals or the public.

1.6.2.3 Documented Procedure

DARD should set up and implement a documented procedure for dealing with feed incidents that are identified.

1.6.2.4 Categories of Feed Hazard

DARD should categorise feed hazards according to the following criteria:

- A localised feed hazard – one in which feed is not distributed beyond Northern Ireland and is NOT deemed to be a serious feed hazard;
- A serious localised feed hazard – one in which feed is not distributed beyond Northern Ireland but which involves injury or sickness of animals or which DARD considers significant because of, for example, the vulnerability of the population likely to be affected, the numbers involved or any deaths associated with the incident;
- A non-localised feed hazard – one in which feed is distributed outside Northern Ireland.

DARD should seek the advice of the Agency if it is in doubt as to whether a feed incident amounts to a feed hazard.

1.6.2.5 Deliberate Contamination and Malicious Tampering

Feed may be contaminated deliberately. If such an incident occurs, DARD should follow the arrangements in this Chapter, except where the deliberate contamination is thought to be due to malicious tampering. For the purposes of this Guidance document, “malicious tampering” means the deliberate contamination of feed by any person or group.

Arrangements for dealing with malicious tampering incidents have been established between DARD, the Agency, police forces throughout the UK and, if necessary the National Criminal Intelligence Service will be involved in the investigation.

DARD should contact the Agency at the earliest opportunity if malicious tampering is suspected and hand over responsibility for dealing with such incidents to the police if requested by them to do so.

DARD should co-operate fully with police investigations into incidents of malicious tampering and respect police requests for confidentiality whenever possible, although there may be occasions when the need to alert consumers to the existence of a feed hazard outweighs the need to maintain confidentiality.

1.6.2.6 Action by DARD – Feed Hazards

Once a feed hazard has been identified, DARD should immediately carry out an assessment to determine the likely scale, extent and severity of the risk to public health or safety of the hazard, involving other agencies as appropriate. These other agencies may include veterinary and medical specialists, Agricultural Analysts, and The Agri Food and Biosciences Institute (AFBI).

DARD should have procedures in place to call the appropriate agencies together at short notice, to implement urgent control measures whenever they are required and to identify a lead authority if necessary.

The assessment should include the following:

- The nature of the hazard;
- The toxicity of the contaminant, the allergenicity of an undeclared ingredient/constituent, or the virulence and pathogenicity of the organism;
- The type of injury which might be caused by a physical contaminant;
- The population likely to be affected and its vulnerability;
- The likely quantity and distribution of the feed in the feed chain up to the point of consumption;
- The ability and willingness of the producer or distributor to implement an effective withdrawal of the product;

- The ability to identify accurately the affected batch(es) or lot(s);
- The accuracy and extent of records held by the producer, distributor or end buyer;
- The likely effectiveness of any trade withdrawal at all stages of the feed chain;
- The stage(s) at which the fault is likely to have occurred (for example in processing, packaging, handling, storage or distribution) and its likely significance to the problem;
- Whether other products produced in the same establishment may have been affected;
- Whether the feed has been imported; and its origin.
- Whether any of the feed has been exported; and its destination.
- Whether there are wider implications for others in the same industry or for establishments using similar processes in other feed industries;
- The possibility that the complaint or problem has been caused by a malicious act (see Paragraph 1.6.4).

When DARD becomes aware of a feed hazard it should take action to protect both animal and public health and safety at the earliest opportunity, including detaining or seizing the feed concerned.

DARD should also consider the use of other powers under the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 as appropriate, relevant to the circumstances involved.

Localised feed hazards should be dealt with locally, in conjunction with other relevant agencies and need not be reported to the Agency. DARD should inform the Agency of such feed hazards at routine Northern Ireland liaison meetings.

Serious localised feed hazards and non-localised feed hazards should be notified by DARD to the Agency and other relevant agencies at the earliest opportunity and by the quickest available means¹⁰ and confirmed in writing using a copy of the incident report form at Annex 4. Contact details can be found in DARD's Contingency Plan for Incidents Concerning Animal Feedingstuffs.

However, where DARD becomes aware that a feed business operator has withdrawn feed from the market in accordance with Article 20 of Regulation

¹⁰ A list giving contact details is issued as a separate document and is available from the Food Incident Team at the Agency, Room 715B, Aviation House, 125 Kingsway, London WC2B 6NH. Tel: 020 7276 8448 / 8453
FSANI 10a-c Clarendon Road, Belfast BT2 3BG Tel: 02890 417717.

178/2002¹¹ due to non-compliance with the feed safety requirements of that Regulation, DARD should confirm that the Agency is also aware of the situation.

Responsibility for action at local level remains with DARD unless the Agency and DARD agree otherwise.

1.6.2.7 Localised Feed Hazards – Media Relations

In the event of a localised feed hazard, DARD may issue a local press statement to alert the public to the hazard. The relevant feed business operators should be consulted before the identity of a named business or branded feed is discussed with, or released to, the media. Such media releases should be sent to the Agency without delay. DARD should notify the Agency immediately if the feed business operator raises objections to the release of such information.

1.6.2.8 Action by the Feed Authority – Feed Incidents

Feed incidents that are contraventions of feed law, but not feed hazards should normally be resolved by DARD and the feed business operator.

1.6.2.9 Rapid Alert System for Feed and Food (RASFF)

If the feed incident is discovered at the port of entry and the feed is to be rejected, a RASFF form must be completed and forwarded with the appropriate documentation (shipping note, health certificates, importer details, etc.) to the Agency's Incident Branch and copied to FSANI. The RASFF form can be obtained from FSANI if required.

¹¹ Regulation (EC) No. 178/2002 of the European Parliament and the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and Laying down procedures of Food Safety

SECTION 2 COMMUNICATION

CHAPTER 2.1 DISCLOSURE OF INFORMATION

2.1.1 General

There will be circumstances in dealing with communications when confidentiality, data protection and human rights issues arise. In such circumstances, DARD should take account of the contents of its own publication scheme under the Freedom of Information Act¹². They must apply the law and general principles set out in relevant legislation and case law to the specific facts with which they are dealing. This is best done at a local level, and local administrators should consult their own Legal Department.

¹² Freedom of Information Act 2000

CHAPTER 2.2 FEED ALERTS

2.2.1 Introduction

A “feed alert” is a communication from the Agency to a feed authority concerning a feed hazard or other feed incident, and a “feed alert update” should be read accordingly. A feed alert or a feed alert update may or may not require the feed authority to take action and any action/responses required by the Agency will be clearly specified.

The Agency may also issue information to feed authorities on product recalls or feed incidents.

2.2.2 Responding to Feed Alerts

DARD should ensure that their documented procedure for dealing with feed safety incidents includes the effective response to feed alerts issued by the Agency.

This documented procedure should be developed in consultation with:

- Members of the relevant Trade Bodies;
- The Agricultural Analyst
- AFBI
- Relevant officers of DARD, e.g. Emergency Planning Officer.

The documented procedure must include, as a minimum, the following:

- Details, including contact details, of the officers responsible for such matters;
- Any arrangements for the reception of and response to alerts received outside office hours;
- Arrangements to ensure that feed alerts and updates are brought to the attention of an officer with authority to initiate appropriate action without undue delay;
- Arrangements for the liaison with other relevant bodies, both within and outside normal office hours;
- Arrangements to provide adequate staff resources to allow effective response to alerts;
- Arrangements to provide adequate equipment, including access to DARD Offices out of hours, to allow an effective response to be made.

2.2.3 Facilities for Receiving Feed Alerts and Updates

DARD should have facilities to receive feed alerts and updates from the Agency by an electronic mail system that is acceptable to the Agency. DARD should put in place systems to ensure that feed alerts can be responded to outside normal working hours.

DARD should advise the Agency of their electronic mail address and of any changes to these details at the earliest opportunity.

2.2.4 Out-of-hours Services

DARD should advise the Agency of emergency telephone numbers on which responsible officers may be contacted outside normal office hours and of any changes to these details at the earliest opportunity.

2.2.5 Action by Feed Authorities

DARD must ensure that any action specified by the Agency in a feed alert is undertaken promptly and in accordance with any risk assessment carried out by the Agency. If DARD proposes to take alternative actions, they should agree these with the Agency before implementing them. Where DARD anticipates difficulties in complying with a request for action given in an alert, they must contact FSANI immediately.

2.2.6 Media Relations – Feed Alerts

Feed authorities wishing to enhance local publicity may, where specified by the Agency, use a press release/media statement issued by the Agency as a basis for a local press release. In such cases, DARD must ensure that the local statement is accurate, relevant and consistent with the Agency statement.

If DARD wishes to display feed alerts on their website they should ensure that any material from Agency feed alerts or press/media releases is edited so as to specify what local action has been taken in response to the alert. It should also include local contact information.

CHAPTER 2.3 AGENCY COMMUNICATIONS AND GUIDANCE

2.3.1 Introduction

This Chapter requires DARD to take appropriate action on Agency guidance on the effective enforcement of feed law.

2.3.2 Guidance Issued to DARD

The Agency will, from time to time, need to issue enforcement guidance or communicate with DARD to ask them to take action, to pass on information, or for other reasons connected with the effective enforcement of feed law.

Such communications may be by letter, fax or e-mail and will be clearly identified as communications to which this Chapter applies. They will be sequentially referenced and include details of any action required to be taken by DARD.

DARD should have arrangements to determine what action is appropriate locally on receipt of such communications and to bring them to the attention of their authorised officers if necessary.

2.3.3 Enforcement Consistency

The consistent application and enforcement of feed law by DARD is essential to ensure the protection of consumers and the fair treatment of feed businesses.

DARD should therefore have due regard to enforcement guidance issued by, jointly with, or on behalf of the Agency.

DARD may also consider advice issued by LACORS.

CHAPTER 2.4 INFORMATION TO BE SUPPLIED TO THE AGENCY

2.4.1 Introduction

This Chapter deals with the information required by the Agency in relation to feed hazards, approvals and other matters under the EU feed hygiene Regulations; matters relating to European liaison arrangements; electronic mail addresses; and emergency telephone numbers.

2.4.2 Matters Relating to Feed Hazards

DARD must notify the Agency as soon as they become aware of a:

- Serious localised feed hazard;
- Non-localised feed hazard;
- Serious localised outbreak of feed borne illness;
- Withdrawal of feed by a feed business operator due to non-compliance with the feed safety requirements of Regulation 178/2002 (Article 20).

2.4.3 Matters Relating to Registered/Approved Establishments

DARD should supply the Food Standards Agency with a complete copy of their registers and lists when requested by the Agency.

2.4.4 Matters Relating to the Delegation of Tasks Related to Official Controls

Feed authorities responsible for the delegation of specific tasks to independent third parties (control bodies) must provide the Agency with details of the control body and the tasks delegated to it.

2.4.5 Matters Relating to Liaison Arrangements with Other Member States

DARD must notify the Agency whenever they become aware of a trans-border matter that should be referred directly to the Agency (see Paragraph 2.5.1).

2.4.6 Electronic Mail Addresses

DARD must notify the Agency of their electronic mail address and notify any changes to these details (see Paragraph 2.2.3).

2.4.7 Emergency Telephone Numbers

DARD must notify the Agency of emergency telephone numbers for contact outside normal office hours and notify any changes to these details (see Paragraph 2.2.4).

2.4.8 Feed Business Prohibition Order Made Against a Person

See paragraph 3.3.2.7 and 3.3.2.8 below for further details.

CHAPTER 2.5 LIAISON WITH OTHER MEMBER STATES

2.5.1 Introduction

The Agency is the designated liaison body for the purposes of Article 35 of Regulation (EC) 882/2004 and, as such, is responsible for assisting and co-ordinating communication between competent authorities and the transmission and reception of requests for assistance. However, this does not preclude direct contacts, exchange of information or co-operation between the staff of feed authorities in different Member States.

Trans-border matters that may have policy implications and matters relating to feed hazards are dealt with by the Agency. DARD must therefore notify the Agency of all such matters at the earliest opportunity.

Detailed provisions on administrative assistance and co-operation with other Member States are set out in Articles 34 to 38 of Regulation (EC) 882/2004.

2.5.2 Trans-border Issues

Trans-border matters fall into three broad categories:

- A. Trans-border matters that need to be referred directly to the Agency;
- B. Trans-border matters reported to the Agency after liaison has taken place;
- C. Routine liaison between feed authorities and feed control authorities in other Member States.

2.5.2.1 A. Trans-border Matters to be Referred Directly to the Agency

- The identification of feeds which appear to pose a risk to animal health or safety;
- Enquiries about a particular product which has been examined and the microbiological condition of which gives cause for concern;
- The identification of feeds which relate to previously identified feed warnings, frauds or hazards;
- Cases where malicious tampering of feed is suspected;
- Circumstances in which feed products have been removed from the UK market with or without the agreement of the retailer or supplier;
- Cases in which the authorised officer suspects that other significant national or EC policy matters are at issue.
- Where repeated non-compliance has been identified in connection with different batches, lots or consignments from the same source.

2.5.2.2 B. Trans-border Matters Reported to the Agency After Liaison has Taken Place

- Any issue when, after investigation, liaison or inquiry, it appears that circumstances set out in Paragraph 2.5.2.1 above apply;
- Cases involving enforcement authorities in other EC Member States where there is undue delay, equivocation or a refusal to undertake action which appears to be warranted;
- Circumstances in which it appears that elements of the national feed law of one Member State conflicts with that of another;
- Any issue listed for information which, after investigation, liaison or enquiry, appears to have such implications or is of such a serious nature that the Agency should be informed of it.

2.5.2.3 C. Routine Liaison Between Local Feed Control Authorities of Member States

Matters of routine liaison between feed control authorities of other Member States under Category C would include:

- Enquiries about a particular product which has been analysed and found to have no feed safety implications;
- Enquiries about a product label or description which appears to be in breach of requirements;
- Enquiries about sampling records, company history or control systems likely to support legal action;
- Enquiries about relevant case law, regulation, compositional requirements and other feed standards applicable in a particular Member State;
- Enquiries to establish the integrity of documents, problem source and to avoid duplicating sampling or inspections;
- Enquiries into the particular circumstances surrounding the rejection of, or cause for enforcement action relating to, a specific UK feed product;
- Notification of other faults and infringements unlikely to require UK action, but which are for note or action by the authority in another EC Member State.

DARD should advise the agency on issues requiring action. DARD should seek advice from the Agency, if there is doubt as to the appropriate procedure for dealing with a particular trans-border matter.

Enquiries to Other Member States

DARD should address enquiries about feed law enforcement issues in other Member States to the appropriate liaison body or authority in the Member State concerned either via the Agency or direct. The Agency can provide assistance in identifying the relevant liaison body or authority if necessary.

DARD should carry out sufficient investigation prior to referring a matter to the Agency with full supporting documentation.

2.5.3 Enquiries from Other Member States

DARD should comply with any reasonable request for information or administrative assistance from another feed authority; feed control body, another Member State (or the Agency). In doing so they should take the following action:

- Acknowledge receipt of the request and advise the originating party that it is being dealt with;
- Investigate if necessary;
- Take appropriate enforcement action, if necessary;
- Inform the originating party of the results of any enquiries, inspections, or other enforcement action, either directly or through the Agency;
- Ensure that responses to requests are open, helpful and provided without undue delay;
- Keep the originating party updated on progress when action is ongoing and the outcome will not be known for some time.

Any request for information which, after investigation, liaison or enquiry, appears to be of a serious nature should be referred to the Agency.

2.5.4 Disclosure of Information to Other Member States

Article 7 of Regulation (EC) 882/2004 sets out the general requirements in respect of transparency and confidentiality. Detailed provisions on administrative assistance and co-operation with other Member States are set out in Articles 34 to 38 of Regulation (EC) 882/2004. Article 34 stipulates that Articles 35 – 40 of that Regulation, which deal with administrative assistance and co-operation between Member States “shall not prejudice national rules applicable to the release of documents which are the object of, or are related to, court proceedings, or rules aimed at the protection of natural or legal persons’ commercial interests”.

DARD should therefore ensure that any release of information is compatible with national legislation including that relating to Data Protection.

SECTION 3 GENERAL ENFORCEMENT

CHAPTER 3.1 APPROACH TO ENFORCEMENT

3.1.1 Introduction

This Chapter lists reference materials of which DARD should take account. It requires DARD to document its feed law Enforcement Policy and keep it up-to-date. It also requires that direct communication with multi-site feed businesses should normally be with the head office unless the business has agreed other arrangements. A clear distinction between statutory requirements and good practice must be made in all communications with feed businesses. Where appropriate, decisions to prosecute should be taken at the earliest opportunity. Where it is decided to adopt an informal approach, it should be explained to the feed business operator what action is needed to secure compliance.

3.1.2 Enforcement Information

DARD should ensure that authorised officers have up-to-date information readily available to enable them to carry out their duties competently.

This includes relevant legislation, this Guidance document, UK Guides to Good Practice¹³ where appropriate; guidance issued by the Agency and LACORS, relevant industry codes of practice and appropriate technical literature.

3.1.3 Reasonableness, Proportionality and Consistency

DARD should ensure that enforcement action taken by their authorised officers is reasonable, proportionate and consistent with good practice.

Authorised officers should take account of the full range of enforcement options. This includes educating feed business operators, giving advice, informal action, sampling, detaining and seizing feed, serving improvement notices, prohibition procedures and prosecution.

Except where circumstances indicate a significant risk, officers should operate a graduated and educative approach starting with advice/education and informal action and only moving to more formal action where the informal does not achieve the desired effect. This should lessen the likelihood of a legal challenge.

In considering whether to initiate enforcement action, DARD should take account of the following:

¹³ References to "UK Guides to Good Practice" in this guidance means Guides that are recognised by UK Government as Guides to compliance with relevant feed law

- The Principles of good enforcement as laid down in The Enforcement Concordat¹⁴
- DARD's Enforcement Policy.

3.1.4 Feed Law Enforcement Policies

DARD should have an up-to-date, documented feed law Enforcement Policy which is readily available to feed business operators and the public.

The Policy should cover all areas of feed law that the DARD has a duty to enforce and include criteria for the use of all the enforcement options that are available.

DARD should have regard to any advice issued by the Agency and by LACORS when drafting their feed law Enforcement Policies.

DARD's feed law Enforcement Policy may be part of a generic policy, or combined with other enforcement policies, e.g. feed law, providing the applicability of the Policy to the enforcement of feed law is clear.

Authorised officers should implement their feed law Enforcement Policy, which should reflect all the factors set out in Paragraph 3.1.3.

Departures from the Policy should be exceptional and the reasons for any departure should be recorded.

In deciding the type of enforcement action to take, an authorised officer should have regard to the nature of the breach and the history of compliance of the feed business operator or, in the case of new businesses, an assessment of the feed business operator's willingness to undertake the work identified by the officer.

It is important that the full range of enforcement options remains open to an authorised officer. DARD should not adopt policies where the number of improvement notices served or the number of other legal processes such as prosecution or caution is an indicator of performance.

3.1.5 Communication with Multi-site Feed Businesses

Direct communications between DARD and multi-site feed businesses should normally be with the head office of the business concerned unless the business has given a different address for communications to be sent.

Documents that are left with on-site personnel should also be copied to the relevant head office or other address unless the business indicates otherwise.

¹⁴ The Enforcement Concordat can be accessed at the following link, <http://bre.berr.gov.uk/regulation/documents/pst/pdf/concord.pdf>

3.1.6 Mandatory Requirements and Advice

A clear distinction between action needed to meet statutory requirements and recommendations about good practice should be made in all communications with feed businesses.

All correspondence should identify each contravention and the measures which, in the opinion of the officer, could be taken in order to secure compliance. Correspondence should contain an indication of the time scale suggested for achieving compliance.

Standard documents, circulars, booklets and other publications issued by DARD should be accurate and reflect current practice. DARD should be prepared to discuss letters, circulars, etc with any feed business operator to whom they have been sent.

3.1.7 Powers of Entry and Seizure: Human Rights Act 1998 Police and Criminal Evidence Act 1984 (PACE)

The right to privacy and respect for personal property are key principles of the Human Rights Act 1998. Powers of entry and seizure should be fully and clearly justified before use because they may significantly interfere with the occupier's privacy.

Regulation 24(4) of the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 permits an authorised officer to take with them such other persons as they consider necessary. This would include, for example, any suitably qualified or skilled person or an expert.

In all cases authorised officers should:

- exercise their powers courteously and with respect for persons and property,
- only use reasonable force under regulation 24 to enter premises when this is considered necessary and proportionate to the circumstances.
- If the provisions of Sections 15 and 16 of PACE or PACE Code of Practice B, the Agriculture Act 1970, the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005, the Official Feed and Food Controls Regulations (Northern Ireland) 2006 and this Guidance are not observed, evidence obtained during an investigation may be compromised.

3.1.8 Informal Approach

An authorised officer, who decides to adopt an informal approach to secure compliance with feed law, should do so in accordance with DARD's Enforcement Policy.

Any subsequent correspondence from DARD with the feed business operator should contain sufficient information to enable the feed business operator to understand exactly what action they are expected to take, and why the action is necessary.

Correspondence should be treated as outlined in Paragraph 3.1.5. This should be discussed and, if possible, agreed with the feed business operator.

3.1.9 Prosecution in NI

The decision to initiate a prosecution should be taken at the earliest opportunity.

Before deciding whether a prosecution should be taken DARD should consider a number of factors:

- The hierarchy of enforcement structure indicates that a prosecution is appropriate as opposed to use of, say, informal action or use of an enforcement notice. (Officers should be aware, however, that if a Feed Business Improvement Notice or similar is used, it too is a matter, which can go before the Court, and the Officer should be able to justify his actions. The criteria below will be of assistance).
- That the Enforcement Policy has been adhered to.
- The sufficiency of the evidence, the test for which is set out in the Code for Prosecutors¹⁵.

Of particular note are:

- The likely cogency of any important witness, and their willingness to co-operate;
- The alleged person or persons responsible have been identified;
- Any explanation offered by the suspect;
- The likelihood of the suspect being able to establish a defence - in particular a due diligence defence;
- The public interest test has been satisfied, again, the test is set out in the Code for Prosecutors. Prosecutors must note that unless the Evidential Test is satisfied, the Public Interest Test is irrelevant. If the evidence is not present, no amount of argument in favour of it being in the public interest will suffice to justify launching the prosecution, as the Prosecutor will already have decided that it is more likely than not that it will fail in Court on the available evidence.

¹⁵ The Code for Prosecutors can be accessed at this link. <http://ppsni.gov.uk/site/default.asp>

Factors favouring prosecution include:

- The seriousness of the offence;
- The prevalence of that type of offence in the area in which it was committed (if the offence is not serious in itself);
- The suspect's previous convictions or cautions.

There are various factors against prosecution including:

- The likelihood of a nominal penalty;
- The offence was committed as a result of a genuine mistake or misunderstanding (this must be balanced against the seriousness of the offence);
- Whether any other action, such as issuing a formal caution (known as a simple caution in GB) in accordance with the principles of Home Office Circular 30/2005 would be more appropriate.

However, it is important that the authorised officers fully brief their legal advisers on the public health aspect of the case in hand, including the public health basis for the legal requirements which have been breached, so that they can, in turn, impress upon the Court the seriousness of the charges.

Officers should explain, where possible, the reason for bringing a prosecution and record that reason, which may later be referred to in open Court.

3.2 FEED BUSINESS IMPROVEMENT NOTICES

3.2.1 Introduction

This Chapter deals with the use of a feed business improvement notices under Regulation 17 of the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005.

A model form for use in connection with Regulation 17 of the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 can be found at Annex 7.

3.2.2 When to use Feed Business Improvement Notices

Feed business improvement notices may be appropriate in any of the following circumstances or a combination thereof:

- Where formal action is proportionate to the risk to animal or human health;
- Where there is a record of non-compliance with breaches of specified feed law listed in the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005;
- Where the authorised officer has reason to believe that an informal approach will not be successful.

3.2.3 When Feed Business Improvement Notices are not appropriate

Feed business improvement notices procedure would not be appropriate in the following circumstances:

- In transient situations, where it is considered that swift enforcement action is needed, e.g., a one day festival or sporting event. An Emergency Prohibition Notice would be the only formal remedy which would have immediate effect;
- Where there is a breach of good hygiene practice but no failure to comply with an appropriate regulation; and
- Generally, an improvement notice should not be used to require withdrawal of product in circumstances where the feed business operator would have no obligation to do so under Article 20 of Regulation 178/2002.

CHAPTER 3.3: PROHIBITION PROCEDURES

(see also Paragraph 1.2.11)

3.3.1 Introduction

This Chapter deals first with the use of feed business emergency prohibition procedures under regulation 22 of the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 and then feed business prohibition orders under regulation 21.

Model forms for use in connection with regulations 21 and 22 of the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 can be found at Annex 7.

3.3.2 Use of Emergency Feed Business Prohibition Orders (Regulation 22)

Unless voluntary procedures (see paragraph 3.3.2.6) are more appropriate in the circumstances, feed business emergency prohibition procedures should be used if an authorised officer has evidence that the health risk condition is fulfilled and that this risk is immediate. If the appropriate evidence is found, a feed business emergency prohibition notice may be served on the feed business operator, followed by an application to a Magistrates' court for an emergency prohibition order.

3.3.2.1: Health Risk Conditions Where Use of Feed Business Prohibition Procedures and Emergency Feed Business Prohibition Orders May be Appropriate

The following paragraphs provide examples of circumstances that may show that the health risk condition as defined by regulation 21(2) / regulation 22(4) i.e. there is a risk / imminent risk of injury to health, and those in which an authorised officer may therefore consider the use of such prohibition powers. These examples are in no way prescriptive or exhaustive and are for illustrative purposes only. Prohibition Orders can only be confirmed by the courts.

3.3.2.2 Health Risk Conditions Where Prohibition on use of Premises May be Appropriate

- Infestation by rats, mice, cockroaches, birds or other vermin, serious enough to result in the actual contamination of feed or a significant risk of contamination;
- Very poor structural condition and poor equipment and/or poor maintenance or routine cleaning and/or serious accumulations of refuse, filth or other extraneous matter resulting in the actual contamination of feed or a significant risk of feed contamination;
- Drainage defects or flooding of the establishment, serious enough to result in the actual contamination of feed or a significant risk of feed contamination;

- Inadequate storage conditions or poor cleaning procedures which create a significant risk of contamination or cross contamination of the feed posing an actual risk to the health of animals, or the products of such animals to human health;
- Any combination of the above, or the cumulative effect of contraventions which, taken together, represent the fulfilment of the health risk condition.

3.3.2.3 Health Risk Conditions Where the Prohibition on use of Equipment may be Appropriate

Use of defective equipment, e.g. a mixer which is incapable of achieving the required blend of ration;

Use of equipment for the processing of high-risk feeds that has been inadequately cleaned or disinfected or which is grossly contaminated and can no longer be properly cleaned.

3.3.2.4 Health Risk Conditions Where Prohibition on use of a Process May be Appropriate

- Serious risk of cross contamination with undesirable substances;
- The use of a process for a product for which it is inappropriate.

3.3.2.5 Health Risk Condition No Longer Exists: Certificate (regulation 21(7) and regulation 22(9))

In respect of feed business prohibition orders DARD should issue a certificate to the feed business operator within three days of being satisfied that the health risk condition no longer exists. If the feed business operator applies for such a certificate, DARD must determine the position as soon as is reasonably practicable and within a period of no longer than fourteen days.

3.3.2.6 Voluntary Procedures

Voluntary procedures to remove a health risk condition may be used, at the instigation of the feed business operator, when the feed business operator agrees that a health risk condition exists. An officer may suggest this option to the feed business operator, but only in relation to civil proceedings under regulation 22. If in doubt, the feed business operator should be advised to take legal advice.

Any voluntary closure agreement should be confirmed in writing by the feed business operator and the authorised officer, with an undertaking by the feed business operator or manager not to re-open without the officer's prior approval.

If the manager of a feed business offers to close voluntarily, the officer should obtain written confirmation from the manager that he or she has the authority to agree to such action.

The officer should ensure that frequent checks are made on the establishment to ensure that it has not re-opened.

If the feed business operator offers to close voluntarily, the officer should:

- Consider whether there is a risk of the establishment being re-opened without the officer's knowledge and/or agreement (if this were to cause a feed incident, DARD could be criticised for not having used statutory powers);
- Recognise that there is no separate legal sanction against a feed business operator who re-opens for business after offering to close, although enforcement action for the actual breaches e.g. unsafe feed, similar processing as before, etc, remains available;
- Explain to the feed business operator that, by making the offer to close, compensation may be less likely to be awarded if a Court subsequently declines to make a feed business emergency prohibition order

3.3.2.7 Action When a Feed Business Prohibition Order Has Been Made Against a Person (Regulation 21(4))

DARD should notify the Agency as soon as possible after an order is made against a person prohibited from running a feed business, provided the order is not the subject of an appeal and the period allowed for appeal has expired, supplying the following information:

- Case number
- Court details
- Date of prohibition order
- Date(s) of offence
- Nature of offence(s)
- Regulation/section number under which offence was committed
- Penalties
- Name of convicted person
- Name of the business
- Feed business establishment address including post code
- Business type/main activity (e.g. catering, retail etc)
- Details of assumed names.

3.3.2.8 Lifting of a Feed Business Prohibition Order Against a Person (Regulation 21(6)(b) and Regulation 21(8))

A Feed Business Prohibition Orders against a person imposed under regulation 21(4) will only cease to have effect if, on an application by the feed business operator, the Court gives a direction to that effect.

DARD should also notify the Agency at the earliest opportunity after they learn that a Feed Business Prohibition Order against a person ceases to have effect.

CHAPTER 3.4 DETENTION AND SEIZURE

3.4.1 The Feed Hygiene and Enforcement Regulations (Northern Ireland) 2005 Regulation 25

When an authorised officer has inspected or sampled any feed material and where it appears from such inspection or analysis of sample taken that the material fails to comply with the requirements of a specified feed law, the officer may detain or seize the feed. A model form can be found at annex 7.

3.4.2 Detention of Feed

Unless the circumstances require immediate action, a decision to detain feed should only normally be taken if it has been discussed with the owner or person in charge of the feed and, if appropriate, with the manufacturer.

Where the authorised officer has served a detention of feed notice, professional judgement should be used to determine whether feed should be detained where it is, or moved elsewhere. If the officer has any doubts about the security or physical care of the feed, the detention notice should specify a place to which the feed is to be moved.

In all cases, but especially with highly perishable feed, the officer should act expeditiously at every stage and provide full information to those required to carry out analysis or examination of samples of the feed.

If feed is to be detained where it is found, the authorised officer should be satisfied that adequate arrangements can be made to ensure its security and prevent tampering. The officer should organise periodic monitoring of the feed throughout the period of detention. Before making such arrangements regard should be had to the nature of the feed, the quantity, any health hazard that it represents and the ownership of the establishment where it is located. The officer should generally avoid leaving it in the charge of, or in an establishment owned by, any person who may be prosecuted for an offence under feed law.

3.4.3 Seizure of Feed

When considering whether to seize feed, authorised officers should consider whether the feed in question can be treated or processed before consumption and if so, whether the feed, after treatment or processing, would satisfy feed safety requirements. It should be noted that blending down of feed to reduce high levels of undesirable substances is not permitted by Article 5 EC Directive 32/2002¹⁶

Arrangements for the treatment or processing of feed in these circumstances should be agreed by the authorised officer and the owner or the person in control of the feed and be subject to a signed, written undertaking.

¹⁶ Directive 2002/32/EC of the European Parliament and of the Council of 7 May 2002 on undesirable substances in animal feed as last amended by Directive 2006/13. This has been implemented into national law by the Feeding Stuffs Regulations (Northern Ireland) 2005

Any arrangement that involves feed being moved to the area of another feed authority for treatment or processing should be accepted by the receiving feed authority before the arrangement is concluded.

If the receiving feed authority is unable to accept responsibility for ensuring that the feed is properly processed or treated, the arrangement should not proceed unless there is no other way of rectifying the problem with the feedingstuff.

DARD should notify the receiving authority of any feed being moved to another area.

Unless the preceding paragraphs of this section apply, or the use of voluntary procedures is more appropriate, feed should be seized if an authorised officer has evidence that the material fails to comply with the requirements of specified feed law.

If evidence or information indicates that feed that has already been detained should be seized, the officer should serve a feed condemnation notification, warning of the intention to take the feed before a lay magistrate and apply for its condemnation.

Feed that has been seized should be dealt with by a lay magistrate as soon as is reasonably practicable, normally within 2 days, but if necessary longer to enable parties to attend and be represented should they so choose. Highly perishable feed should be dealt with at the earliest opportunity.

The person in charge of the feed must be informed of the intention to apply for a condemnation order, although action should not be delayed if the owner cannot be traced or contacted. The Regulations require that anyone who may be liable to prosecution is entitled to attend and good service of notice of the hearing should be documented and retained to show the Court that was the case.

The authorised officer should ensure continuity of evidence whether or not there may be a subsequent prosecution and should make every attempt not to leave the feed which has been seized unattended.

3.4.4 Notices of Detention and Seizure

A Detention of Feed Notice should be signed by the officer who takes the decision to detain the feed.

When feed is seized, written notification of the seizure should be issued as soon as is reasonably practicable. This notification should include details of the type and quantity of the feed seized, including any distinguishing marks, codes, dates etc.

A feed condemnation notification should be given to the person in charge of the feed when the officer intends to have the feed dealt with by a Justice of the Peace. The notification may also be given to the owner of the feed.

3.4.4.1 Withdrawal of Detention of Feed Notice

The authorised officer should act as quickly as possible when evidence or information indicates that detained feed can be released, and in any case within 21 days. A Withdrawal of Detention of Feed Notice should be served.

The decision to issue a Withdrawal of Detention of Feed Notice should be taken either by the officer who originally issued the notice or initiated the action or by another officer with the relevant experience.

A Withdrawal of Detention of Feed Notice should be served as soon as possible to prevent possible deterioration of the feed and to minimise DARD's exposure to compensation under regulation 25(6). The notice need not be served by the officer who made the decision, but may be served by any authorised officer.

3.4.5 Dealing with Batches, Lots or Consignments of Feed

Article 15(3) of Regulation 178/2002 stipulates that where any feed which is unsafe forms part of a batch, lot, or consignment of feed of the same class or description, it shall be presumed that all the feed in that batch, lot or consignment is also unsafe, unless following a detailed assessment there is no evidence that the rest of the batch, lot or consignment is unsafe.

If a quantity of feed of different types or batches is being detained, the authorised officer should issue a separate Detention of Feed Notice in respect of each type or batch.

When considering whether to seize or detain a batch, lot or consignment the authorised officer should take into account the following:

- The evidence available;
- The nature of the contamination;
- The nature and condition of any container holding the feed;
- The risk to health;

- The quantity of feed involved in relation to any sampling which has been undertaken.

3.4.6 Voluntary Procedures

Voluntary procedures for the disposal of feed that is not suitable for consumption by animals intended to enter the food chain may be used, either at the instigation of the owner of the feed or at the suggestion of the authorised officer when the owner of the feed agrees the feed is not suitable for consumption by animals.

A receipt should be issued for feed that is voluntarily surrendered to DARD for destruction. The receipt should indicate that the feed has been voluntarily surrendered to DARD for destruction and be signed and counter-signed by the authorised officer and the person surrendering the feed respectively.

The receipt should include space for recording the time, place and method of destruction of the feed, and these details should be recorded on the office copy by the authorised officer in due course and retained by DARD. DARD should secure, as part of the voluntary surrender, an agreement by the owner to pay the reasonable expenses of destruction or disposal. Otherwise it may have to bear the expenses itself.

3.4.7 Destruction or Disposal of Feed

DARD is responsible for ensuring the destruction of feed that has been seized or voluntarily surrendered, and arrangements should be made for the feed to be supervised until it can be dealt with in the appropriate manner. If possible and if there is likely to be some delay before destruction, the feed should be disfigured so as to prevent any possibility of it being returned to the feed chain or being diverted for human consumption.

DARD should ensure the total destruction of the feed by incineration or some other appropriate method having regard to the requirements of relevant waste disposal legislation. When disposing of feed, DARD should bear in mind that pet foods, or similar feeds, containing animal by products, may need to be disposed of through licensed renderers.

A copy of the waste transfer note must be obtained and kept on file for any feed that has been disposed of by a licensed waste disposal contractor under these arrangements.

CHAPTER 3.5 ENFORCEMENT OPTIONS IN ESTABLISHMENTS SUBJECT TO REGISTRATION/ APPROVAL UNDER REGULATION (EC) 183/2005

3.5.1 Introduction

In addition to the enforcement powers detailed above, authorised officers have other powers available to them under the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 in respect of establishments subject to registration/approval under Regulation (EC) 183/2005.

Powers to revoke, or suspend, the approval of an establishment subject to regulation/approval under Regulation (EC) 183/2005 are provided by regulation 9 and 11 of the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005.

3.5.2 Suspension / Revocation of Registration or Approval - General

DARD should bear in mind that the immediate effect of the suspension or withdrawal of an establishment's approval is such that the establishment may not be used for any activities which would render it subject to approval/registration under Regulation (EC) 183/2005.

On the discovery of non-compliance in establishments subject to registration or approval/conditional approval under Regulation (EC) 183/2005, DARD should, before considering suspension or revocation, explore other enforcement options to control the feed hazards presented by the establishment.

Non-compliance should not necessarily be considered sufficient to justify the *immediate* suspension or withdrawal of an establishment's approval or conditional approval, and a reasonable opportunity to achieve compliance should be allowed where this is appropriate.

3.5.2.1 Suspension of Registration or Approval/Conditional Approval

DARD should only initiate procedures to suspend an establishment's registration or approval if other enforcement options have been considered and circumstances exist in accordance with Article 14 of Regulation (EC) 183/2005. DARD should request that any guarantee regarding future production made by a feed business operator in accordance with this Article is made in writing, although DARD should be aware that they cannot insist on this as no requirement exists in law to provide such guarantees in writing.

3.5.2.2 Revocation of Registration or Approval

DARD should only initiate procedures to withdraw an establishment's registration or approval if other enforcement options have been considered, including suspension of the approval (see paragraph 3.5.2.3), and if circumstances exist in accordance with Article 15 of Regulation (EC) 183/2005.

An establishment's approval/registration should only be withdrawn in circumstances where the feed business operator is unable to satisfy DARD to the extent that it has a reasonable expectation that the identified deficiencies will be rectified and acceptable standard will be maintained in the future.

3.5.2.3 Notifications of Suspension/Revocation of Registration or Approval

Notice of suspension or revocation must be given in accordance with regulations 9 and 11 of the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005, respectively. Model documents of notification can be found at annex 7. Such notifications should also make the feed business operator aware of their right of appeal against the decision and provide the address of the Court of summary jurisdiction where such an appeal may be made. Rights of appeal are subject to regulation 13 of the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005.

Copies of notifications should be retained on DARD's files. DARD should also notify the Agency when an establishment's registration or approval or conditional approval has been suspended or withdrawn (see paragraph 2.4.3).

3.5.2.4 Appeals Against Suspension or Withdrawal of Approval/Registration

DARD should bear in mind that regulation 13(5) of the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 stipulates that following an appeal against a decision of a feed authority to suspend or revoke an approval/registration, the feed business operator who, immediately before such suspension or revocation, had been using the establishment concerned may continue to use it, pending the results of the appeal, subject to any conditions imposed by the competent authority for the protection of public health.

If DARD considers that any activities undertaken in an establishment pending the result of an appeal may present a risk to animal or public health, it should consider the use of other relevant enforcement powers, appropriate to the circumstances involved.

CHAPTER 3.6 ENFORCEMENT OPTIONS WITH REGARD TO FEED MATERIALS IMPORTED FROM THIRD COUNTRIES

3.6.1 Introduction

Authorised officers have further powers available to them under the Official Feed and Food Control Regulations to ensure that feed from third countries which does not comply with feed law does not enter into circulation in the EU.

3.6.2 Feed consignments which are injurious to human or animal health or are unsafe

Article 19(2)(a) of Regulation (EC) 882/2004 requires that feed which is injurious to human or animal health or is unsafe is detained pending destruction or any other appropriate measure to protect human or animal health.

Where a decision is taken to reject any feed consignment on the basis that it will give rise to a risk to animal or human health, DARD should inform the FSANI Incidents Branch. It should use the rapid alert system form for this purpose (see Paragraph 1.6.2.9).

3.6.3 Feed consignments which do not comply with feed law but are not injurious to human or animal health or unsafe

Such consignments of feed must be detained and then either:

- ordered to be destroyed;
- subject to special treatments detailed in Article 20 of Regulation (EC) 882/2004; or
- Re-dispatched outside the Community.

3.6.3.1 Special treatments detailed in Article 20

Special treatments can consist of:

- i. treatment or processing to bring the feed into line with the requirements of Community law or the third country of dispatch, including decontamination, where appropriate, but not dilution.
- ii. Processing in any other suitable manner for purposes other than animal or human consumption.

3.6.3.2 Re-dispatch of consignments

DARD can agree to re-dispatch only if:

- (a) The destination has been agreed with the feed business operator responsible for the consignment;
- (b) The feed business operator has informed the competent authority in the third country of origin, or the third country of destination if

different of the reasons and circumstances preventing the placing of the feed on the market for feed in the Community;

- (c) When the feed authority of the third country of destination, if not the third country of origin, has notified the relevant UK competent authority of its willingness to accept the consignment.

Article 21(2) requires that re-dispatch generally takes place in no more than 60 days after the feed authority has decided on the destination of the consignment unless legal action has been undertaken or the delay is justified. Otherwise the consignment will be destroyed.

Where a product is to be re-dispatched notifications identifying the product and its final destination must be given to the Agency in order that it can inform HMRC, the Commission and other Member States.

3.6.4 Appeals against action taken under Article 19 to 21 of Regulation (EC) 882/2004

The importer must be given DARD's decision by way of a notice in writing. The decision must relate to the most effective way of dealing with the product and should not be used as a punitive measure. There is a right of appeal against DARD's decision provided by Official Feed and Food Controls Regulations (Northern Ireland) 2006. Appeals against the notice must be made within one month of the notice being issued.

SECTION 4 INSPECTIONS

CHAPTER 4.1 INSPECTIONS

4.1.1 Introduction

This Chapter defines the types of inspections which DARD may undertake, the circumstances in which these types of inspection are appropriate, the nature of these inspections and a risk based system for undertaking routine inspections.

4.1.2 Primary Inspections – General

DARD will establish an annual programme of inspections. The programme of inspections will be based on the risk posed by the activities of individual feed businesses. For further information on risk ratings for feed businesses and the frequency of inspections see Paragraphs 4.1.5 and Annex 5.

Inspections should be carried out at all stages of production, processing and distribution to establish whether the requirements of relevant feed law are being met, in line with the general obligations as set out in Article 3 of Regulation (EC) 882/2004.

An inspection of a feed business may be either a primary inspection or a secondary inspection.

“Enforcement” includes the giving of advice and practical guidance on the interpretation or application of feed law.

A primary inspection is an inspection of a feed business in which the appropriate elements set out in the relevant inspection form for the business concerned are considered. Authorised officers may, however, use their professional judgement and decide to cover only certain elements of the inspection form in circumstances where they consider it appropriate to do so (see Paragraph 4.2.2). A primary inspection may also be undertaken when information received indicates a serious breach of animal feed law.

DARD may develop and use inspection forms, which include all the elements of an inspection that are appropriate to each type of business.

An officer carrying out a primary inspection should:

- Establish the scope of the business and the relevant feed law that applies to the operations taking place;
- Thoroughly and systematically gather and record information from the observation of practices, procedures and processes, including procedures based on HACCP principles, and discussion with feed business operators and managers;
- Determine whether it is necessary to collect samples of raw materials, ingredients, additives, intermediates, or finished products, for analysis;

- Identify any actual or potential breaches of feed law and, if appropriate, gather and preserve evidence;
- Identify possible sources of contamination with undesirable substances and where these maximum permitted or exceed action thresholds ¹⁷limits carry out appropriate investigations;

The first visit to a feed business establishment in order to assist the operator in putting in place and implementing procedures based on the HACCP principles as required by Article 6 of Regulation (EC) 1831/2003 will also be considered to be a primary inspection, provided it includes the activities set out at Paragraph 4.2.2.

Subsequent visits to discuss aspects of feed safety management procedures based on the HACCP principles will continue to be considered to be a secondary inspection (the forth bullet of Paragraph 4.1.3 below refers).

4.1.3 Secondary Inspections - General

A secondary inspection is any other visit to a feed business that is not a primary inspection, for any purpose connected with the enforcement of feed law, including:

- Sampling visits;
- Visits to check on the progress of measures required after a previous inspection;
- Visits to investigate complaints;
- Visits to discuss aspects of feed safety management procedures based on HACCP principles;

4.1.3.1 Businesses

DARD should make use of information supplied to them by feed business operators in connection with the registration or approval of their feed business establishments in accordance with Article 31 of Regulation (EC) 853/2004 (see Chapter 1.5) in order to determine when to carry out a primary or secondary inspection.

DARD's approach to the recording and inspection of feed businesses that should be registered or approved but are not should be documented in its Enforcement Policy.

¹⁷ Article 4.2 of Directive 2002/32 on undesirable substances in feed introduced a provision for Member States, in co-operation with feed businesses, to undertake investigations of possible sources of contamination in cases where high levels of an undesirable substance, below the statutory maximum permitted level, are found. New provisions have been introduced into the Feed (Hygiene and Enforcement) Regulations (NI) 2005 to empower enforcement officers to examine records and take samples in pursuit of investigations under Article 4.2 of Directive 2002/32.

4.1.4 Frequency of Inspection: Inspection Ratings

Inspection ratings determine the interval that should elapse between one primary inspection of a feed business and the next and the priority of the next primary inspection of that business relative to the other businesses in DARD's planned inspection programme (see Annex 5).

The inspection rating(s) of a feed business should be assessed or re-assessed at the conclusion of every primary inspection in accordance with Annex 5 (or any amendment thereto that may be notified to feed authorities by the Agency).

Inspection ratings should not be re-assessed at secondary inspections.

Inspection programmes should be planned so that businesses are inspected no later than 28 days after the relevant date determined by the inspection rating, apart from circumstances outside the DARD's control.

DARD should ensure that inspections of feed business establishments meet the minimum inspection frequencies set out in Annex 5.

4.1.5.1 Early Inspection

Circumstances may arise that make it appropriate to bring forward the timing of a primary inspection. Such circumstances may include when DARD:

- Receives a new registration application;
- Receives a complaint of a serious nature;
- Receives a request to change registration details;
- Becomes aware of any material change in the ownership, management, layout or nature of operation of a feed business;
- Receives a request or other information from the Agency.

4.1.5.2 Need to Re-schedule Primary Inspections

Circumstances may arise that require DARD to re-schedule their primary inspections in order to take urgent action over a period of time.

Such situations may include those where there is evidence that:

- An unsafe practice is occurring or has occurred which represents a significant hazard to animal or public health;
- A particular feed handling or feed preparation practice is found to entail a previously unsuspected hazard to animal or public health;
- A feedstuff previously thought to be safe is found to be hazardous to animal or public health;

- A feed with widespread distribution is found to be contaminated and thereby presents a significant hazard to animal or public health;
- A feed with widespread distribution is the subject of misrepresentation in labelling or presentation.

Where such a situation arises the Agency may, by means of a communication issued in accordance with Paragraph 2.2.2, require DARD to take specific action. DARD is required to consider and act on, any such communication.

In all cases, the Agency will, before taking action under this paragraph, consider whether urgent action by DARD is necessary to protect animal or public health.

DARD may be asked to provide information to the Agency about the action that it has taken. DARD should document the action taken in response to requests under this paragraph.

4.1.6 Feed Composition Inspections

Inspections on feed composition should include checks that the feed business is meeting the legal requirements relating to composition, labelling, presentation and advertising of the feed. This includes checks for the presence of non-permitted additives or excessive levels of additives, and for undesirable substances, prohibited materials or other contaminants. Particular attention should be paid to relevant key control points, stages where ingredients and additives are mixed, monitoring and verification procedures, corrective actions and documentation.

An officer carrying out a primary inspection should:

- assess the risk of the business failing to meet requirements;
- consider the existence and effectiveness of management systems designed to ensure compositional requirements are met;
- assess compliance with composition and labelling requirements by examining formula, internal monitoring results, labelling and sampling where appropriate;
- recommend best/good practice in accordance with relevant codes of practice and technical standards.

4.1.7 Feed Hygiene Inspections

Regulation (EC) 183/2005 defines “Feed Hygiene” as “the measures and conditions necessary to control hazards and to ensure fitness for animal consumption of a feed, taking into account its intended use”.

Inspections should include checks that the feed business is meeting the provisions of requirements of Regulation EC 183/2005 relating to the safety for consumption of animal feed. In particular that safety requirements in

relation to animal health, human health through the consumption of animal products, and to the environment are being met.

An authorised officer carrying out a primary inspection should:

- assess the risk to the business of failing to meet hygiene standards as laid down (e.g. annex I, II and III or HACCP as applicable);
- assess the hazards posed by the activities of the business, the understanding of those hazards and the application of appropriate controls, having regard to the nature and size of the business;
- physically inspect to determine whether critical controls have been identified and whether the controls are in place and operational;
- assess and verify that the feed safety management procedures based on HACCP principles are appropriate and proportionate to the nature and size of the business. The assessment should confirm that controls are in place and operating effectively and that appropriate corrective actions are taken where necessary;
- recommend good hygiene practice in accordance with appropriate codes of practice, in particular those developed under Article 20 of the EC Regulation (EC) 183/2005, and promote continued improvements in hygiene standards through the adoption of good practice;
- discuss with the feed business operator any hazards identified by the officer/inspector that have not been covered by the business, or though identified are not covered by effective controls;
- inspect records of business purchases to establish that all feeds or additives have been sourced from feed businesses that are either approved or registered to supply such material in accordance with the EC Regulation (EC) 183/2005.

Chapter 4.3 contains additional requirements in relation to the inspection programme for approved establishments.

4.1.8 Businesses Regarded as Low Risk

Feed businesses that present little or no risk to animal or public health or safety for feed composition or hygiene purposes, or of prejudicing consumers or trading unfairly for feed composition purposes, need not be subject to primary inspections once their low risk rating has been confirmed by a primary inspection of the premises and is in compliance with the provisions of relevant feed law legislation (see paragraph 1.2.13 and Annex 5).

However, primary inspections of such businesses should be triggered by criteria other than the planned inspection programme. These criteria include:

- Where communication has not been received from a feed business subject to alternative enforcement strategies e.g. a questionnaire has not been returned;
- Complaints;

- Information received from alternative enforcement strategies suggests non-compliance with feed law requirements or significant changes in activities;

Alternative enforcement strategies could include the receipt of a completed questionnaire from a business sent by DARD which may require documents *i.e.* labels, quality and feed safety management system plans (such as HACCP) to be forwarded to the enforcement body.

CHAPTER 4.2 THE INSPECTION

4.2.1 Inspections – General

Primary inspections should be based on the relevant DARD inspection form for the business concerned. (See Paragraph 4.1.2)

The inspection form is intended to assist officers and businesses by introducing a structured approach to the inspection process consistent with quality assurance practice. It is not necessary to inspect every aspect of a feed business at every primary inspection.

The inspection process should begin with a review of the information held on record by DARD in relation to the feed business to be inspected.

At an appropriate point at the beginning of the inspection, the officer should discuss with the feed business operator or representative the purpose and scope of the inspection, and how the inspection will proceed.

A primary inspection should include the identification of all the feed related activities undertaken by the business, particularly any changes since the last visit, the areas of the establishment used for the preparation, production and storage of feedstuffs, any processes used and the staff involved.

Staff of feed businesses who have been given specific responsibilities for ensuring compliance with relevant legal requirements may be questioned in order to verify that they understand their duties and are carrying them out effectively.

An assessment of whether to take samples, and if so what to sample, should be an integral part of every primary inspection, but particularly in feed manufacturing businesses and on-farm mixers.

Officers should offer guidance where it is appropriate or is requested, and should encourage feed business operators through an educative approach to adopt best/good practice to ensure statutory compliance.

At the conclusion of every inspection, the officer should inform the feed business operator of any contravention of feed law discovered. The officer should discuss any corrective action necessary, the timescale for corrective action, any further action the officer intends to take and any recommendations of best/good practice that the officer considers appropriate.

In this closing discussion, and in subsequent reports or correspondence, officers should clearly differentiate between action required to comply with legal requirements and recommendations of good practice.

The officer should, on request, advise and discuss with the feed business operator, the inspection frequency or rating applied to the business.

4.2.2 Primary Feed Hygiene Inspections

(See also Paragraph 4.1.2)

4.2.2.1 Scope

The approach to inspection will depend on the legal requirements that apply to a particular feed business as outlined in Annexes I,II and III of EC Regulation (EC) 183/2005 and the extent to which the business has to apply the principles of a HACCP based feed safety management system.

In general, an officer conducting a primary feed hygiene inspection should:

- Assess the risk of the enterprise failing to meet feed hygiene requirements;
- Assess the hazards posed by the activities of the business, the feed business operator's understanding of those hazards, and the application of appropriate controls; having regard to the nature and size of the business;
- Assess and verify appropriate procedures based on HACCP principles appropriate to the nature and size of the business, confirming that controls are in place and operating effectively and that appropriate corrective action is taken when necessary;
- Examine records required to be kept by feed businesses in Annex I and II of EC Regulation (EC) 183/2005 and verify that this requirement is being observed;
- Establish whether feed is being handled and produced hygienically, that it is safe, and that relevant storage conditions are being observed;
- Recommend good feed hygiene practice in accordance with EU and UK Industry Guides, relevant sector specific codes, and other relevant technical standards, and promote continued improvements in hygiene standards through the adoption of good practice;

In addition to the general requirements detailed above, a primary feed hygiene inspection should include if appropriate:

- A discussion with any staff responsible for monitoring and corrective action at critical control points to confirm that control is effective;
- A physical inspection to determine whether critical controls have been identified and whether the controls are in place and to assess compliance with relevant feed law;
- An assessment of compliance with the traceability requirements of Article 18 of Regulation 178/2002;
- A discussion regarding any hazards that have been identified by the officer that have not been covered by the business's systems;

- A discussion regarding any failure to implement or monitor any critical controls that have been identified by the business.

Published UK Guides to Good Practice may be particularly relevant to certain establishments subject to feed law as will other published recommended industry codes of practice. Officers may draw these to the attention of feed business operators in appropriate circumstances.

The full scope of the feed hygiene inspection should be detailed in the relevant inspection form for the business concerned.

4.2.3 Primary Feed Composition Inspections - Scope

(See also Paragraph 4.1.2)

Particular attention should be paid to relevant key control points, in relation to the mixing stages, addition of ingredients and associated monitoring, verification, corrective action and documentation.

In particular, an officer conducting a primary feed composition inspection should:

- Assess the risk of the enterprise failing to meet feed compositional requirements;
- Assess the effectiveness of management systems, designed to ensure that feed compositional requirements are met.
- Assess compliance with composition, presentation and labelling requirements by examining labels, descriptions, formulae, feed sample analysis and other records including supplier specifications;
- Assess compliance with the traceability requirements of Article 18 of Regulation 178/2002;
- Recommend good practice in accordance with relevant industry codes and other relevant technical standards.

The full scope of the feed compositional inspection is detailed in the relevant inspection form for the business concerned.

4.2.4 Secondary Inspections – Feed Hygiene and Feed Composition

(See also Paragraph 4.1.3)

Feed businesses demonstrating significant non-compliance with statutory requirements must be subject to appropriate enforcement action and secondary inspection(s).

Significant non-compliance with statutory requirements includes:

- Failure to comply with a single requirement that compromises feed safety, compromises animal or public health, or prejudices consumers;
- Failure to comply with a number of requirements that, taken together, indicate ineffective management;
- Failure to comply with a feed business improvement notice;
- Failure to comply with the requirements of a Feed Business Prohibition Order or a Feed Business Emergency Prohibition Notice or Order;

Secondary inspections under this section should be based on the relevant inspection form for the business concerned, although the inspection may focus on the statutory requirements that were found to be contravened at the previous inspection.

The timing of the secondary inspection will be determined by the action taken as a result of the earlier inspection.

Such an inspection should, whenever practicable, be undertaken by the officer who undertook the original inspection.

DARD's approach to secondary inspections should be part of their documented Enforcement Policy (see Paragraph 3.1.4).

4.2.4.1 Clothing and Equipment

DARD should provide officers who carry out inspections with clean protective clothing including headgear consistent with good industry practice.

DARD should require officers to wear protective clothing, give any relevant information on their health status when requested and adhere to any reasonable precautions that are required by the business being inspected. Officers should wear appropriate protective clothing etc if it is provided by the business.

DARD should provide their officers with the equipment and facilities necessary to enable them to carry out their inspections competently and in accordance with feed law and the standards in this Guidance.

CHAPTER 4.3 ADDITIONAL REQUIREMENTS CONCERNING INSPECTION OF APPROVED PREMISES

4.3.1 Introduction

This Chapter requires DARD to identify feed business establishments within their enforcement remit that are subject to approval under Regulation (EC) 183/2005 and ensure they are approved and inspected as appropriate.

4.3.2 General Requirements

DARD should ensure that establishments that are subject to approval under Regulation (EC) 183/2005 are identified and appropriately approved, as required by the relevant legislation (see Chapter 1.5).

4.3.3 Primary Inspections

Primary inspections of establishments subject to approval under Regulation (EC) 183/2005 should be carried out in accordance with Chapter 4.1 and Chapter 4.2.

The scope of the inspection and the matters considered should be recorded on the file relating to the establishment, and in any report to the feed business operator.

Inspectors should ensure that prior to approval and on subsequent inspections, the requirements set out in Annex II of Regulation (EC) 183/2005 are being satisfied.

CHAPTER 4.4 ACTION FOLLOWING INSPECTION

4.4.1 Introduction

This Chapter sets out minimum standards of report writing and record keeping.

4.4.2 Post-inspection Reports

The outcome of a primary inspection should always be reported in writing to the feed business operator either at the conclusion of the inspection or as soon as practicable thereafter, even if the outcome was satisfactory.

The report should include all the information detailed in Annex 6, which may be included in a post-inspection letter that sets out the measures to be taken to secure compliance.

Secondary inspections should be followed up in writing if the officer conducting the inspection:

- Requires the feed business operator to take action;
- Needs to confirm something has been done;
- Needs something to be noted.

Post-inspection reports may include other matters encountered during inspections of feed businesses, e.g. animal health and health and safety, although matters relating to feed law should be clearly differentiated from these.

4.4.3 Inspection Record Files

DARD's inspection record files, which may be computer based, should be updated after each inspection and include:

- Information on the size and scale of the business its product range and customer base;
- Information on the type of feed activities undertaken by the business, including any special equipment, processes or features;
- Copies of any correspondence with the business, including documentation associated with approvals or registration;
- Copies of feed sample analysis results;
- An assessment of compliance with procedures based on HACCP principles;
- Information on training undertaken and qualifications held by employees; involved in the manufacture of feeding stuffs;

- For establishments that are subject to approval requirements, details of approved products handled;
- The existence and assessment of any documented quality system;
- Details of other businesses that produce or import for the business.

4.4.4 Retention of Inspection Reports

Inspection reports should be retained for at least 6 years, or until the next primary inspection, whichever period is the longer, unless required for longer retention because of litigation, or instruction by the Agency.

CHAPTER 4.5 IMPORTED FEED FROM THIRD COUNTRIES

Significant volumes of feed are routinely imported into the UK and it is important that effective arrangements are put in place in feed authorities to check imported food both at points of entry and inland. DARD should have regard to the general advice on enforcement contained in this Guidance document in relation to their imported feed enforcement control arrangements.

SECTION 5 SAMPLING AND ANALYSIS

CHAPTER 5.1 SAMPLING AND ANALYSIS

5.1.1 Introduction

Effective routine sampling is an essential part of a well-balanced enforcement service and should therefore feature in the Sampling Policy of all feed authorities.

It is important to recognise that samples may be taken for the purposes of surveillance, monitoring and providing advice to feed business operators as well as enforcement purposes. DARD's Sampling Policy and Programme should cover all types of feed law enforcement work undertaken.

5.2 Sampling Policy and Sampling Programme

Enforcement bodies should prepare and publish an animal feed sampling policy. The policy should detail factors on which their sampling programme is based including the type of feed businesses, national and regional monitoring sampling projects and priorities identified by the central competent body in the national control plan.

DARD should also prepare a feed sampling programme. The sampling programme may be prepared in consultation with AFBI.

5.3 Requests for Information from Manufacturers or Importers

DARD should meet all reasonable requests to provide information on the selection of the sample, sampling method and method of analysis to enable the manufacturer or importer of the feed to assess the result or repeat the examination or analysis.

5.4 Sampling – General

The sampling provisions of the remainder of this Section do not apply to:

- Samples of feed that are the subject of complaint and are brought to DARD by consumers or other agencies;
- Samples of feed that are submitted for monitoring or surveillance purposes alone, i.e. there is no intention at the time of sampling that any formal enforcement action will ensue from the result;
- Samples taken at the request of the purchaser to check for compliance with a warranty given to the feed in question.

Formal samples are those taken in accordance with procedures laid down in Directive 76/371/EEC¹⁸ on which the Feeding Stuffs (Sampling and Analysis) Regulations (Northern Ireland) 1999 are based. A sample taken by the prescribed method is deemed to be representative of the whole material being sampled unless the contrary is proved.

Officers must be aware of the relevant sampling requirements to obtain formal samples and the differences that might exist for sampling certain specified products especially those containing non-uniformly distributed undesirable substances e.g. mycotoxins.

When obtaining informal samples of feed care should be taken to ensure the sample is as representative as possible if the results of analysis are to be reliable.

DARD must provide sampling equipment necessary for the proper taking of samples at all feed business premises.

DARD should have regard to the guidance on sampling 'Practical Sampling Guidance for Food Standards and Feeding Stuffs' Parts 1 and 3 issued by the Food Standards Agency which is available on Agency's web site.

<http://www.food.gov.uk/foodindustry/guidancenotes/foodguid/guidance>

5.4.1 Samples for Analysis (Agriculture Act 1970 or the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005)

All samples for analysis should be submitted to the Agricultural Analyst in NI, or a point 4 compliant laboratory where the sample is to be analysed for the presence of dioxin. The enforcement body shall appoint all such laboratories.

Officers must work with importers, HM Revenue and Customs, Port (Health) Authorities and DARD Portal Inspectors to establish sampling points at points of entry. Enforcement bodies must make arrangements with the Agricultural Analyst and point 4 appointed laboratories¹⁹ to ensure that the results of both formal and informal samples taken at points of entry are produced in a timely manner. Officers should take formal samples wherever possible.

¹⁸ First Commission Directive 76/371/EEC of 1 March 1976 establishing Community methods of sampling for the official control of feedingstuffs.

¹⁹ To whom any samples which require testing for dioxins must be sent. Where a sample is taken and is to be tested for dioxin contamination, a part of the final sample must be sent to a point four compliant laboratory which may or may not be the Agricultural Analyst.

5.4.2 Certificates of Analysis

In accordance with Regulation 6 of the Feeding Stuffs (Sampling and Analysis) Regulations (Northern Ireland) 1999, certificates of analysis must be in the format set out in Schedule 3 to those Regulations.

5.4.3 Notification of Results (Analysis)

Where a certificate of analysis indicating that the feedstuff does not comply with legal requirements has been received, DARD should refer to and implement any relevant provisions of Chapters 1.6 and 2.4.

If the alleged offence has food or feed safety implications, the person in charge of the material should be informed at the earliest opportunity and DARD's Feed Contingency Plan implemented.

ANNEX 1

Glossary of Terms and abbreviations used in this Code of Practice

AFBI	Agri Food and Biosciences Institute
Animal Feedingstuff	This is defined in article 3.4 of 178/2002 to mean any substance or products, including additives, whether processed, partially processed or unprocessed, intended to be used for oral feeding to animals.
BIP	Border Inspection Post
Competent authority	This is defined in the EC OFFC Regulation as “the central authority of a Member State competent for the organisation of official controls, or any other authority on which that competence has been conferred; it shall also include, where appropriate, the corresponding authority of a third country.
Complementary compound feed	A compound mixture of feed materials with a high concentration of certain nutrients (e.g. protein) which is sufficient to provide a daily ration only if fed in combination with other feedingstuffs.
Complete compound feed	A compound mixture of feed materials, and sometimes additives, which supplies the total dietary needs of an animal (i.e. the daily ration).
Compound feed	A mixture of feed materials, sometimes including additives, intended for feeding either as a complete or complementary feed.
DARD	Department of Agriculture and Rural Development
DEFRA	Department for Environment, Food and Rural Affairs
EEA	European Economic Area
EHO	Environmental Health Office
EU	European Union
Feed additive	Substances added to feed mainly to perform technological functions (e.g. vitamins and trace elements) or to improve animal production (e.g. micro-organisms).
Feed material	Any products of vegetable or animal origin, in their natural state, fresh or preserved; any products derived from the industrial processing of such products or organic or inorganic substances which are intended for oral animal feeding, either directly or in a compound feed.
FSANI	Food Standards Agency for Northern Ireland
FVO	Food and Veterinary Office (of the European Commission)
HA	Home Authority
HACCP	Hazard Analysis and Critical Control Point
IFST	Institute of Food Science and Technology
LACORS	Local Authorities Co-ordinators of Regulatory Services
MoU	Memorandum of Understanding

Official control	For the purposes of this Code, any form of control that the competent authority (enforcement body) or the Community performs for the verification of compliance with feed law.
PHA	Port Health Authority
The Agency	The Food Standards Agency
Third Country	A country other than a Member State /EEA
TSI	Trading Standards Institute
TSO	Trading Standards Officer
UKAS	United Kingdom Accreditation Service

Annex 2

ANNEX 2: HACCP Evaluation Competencies

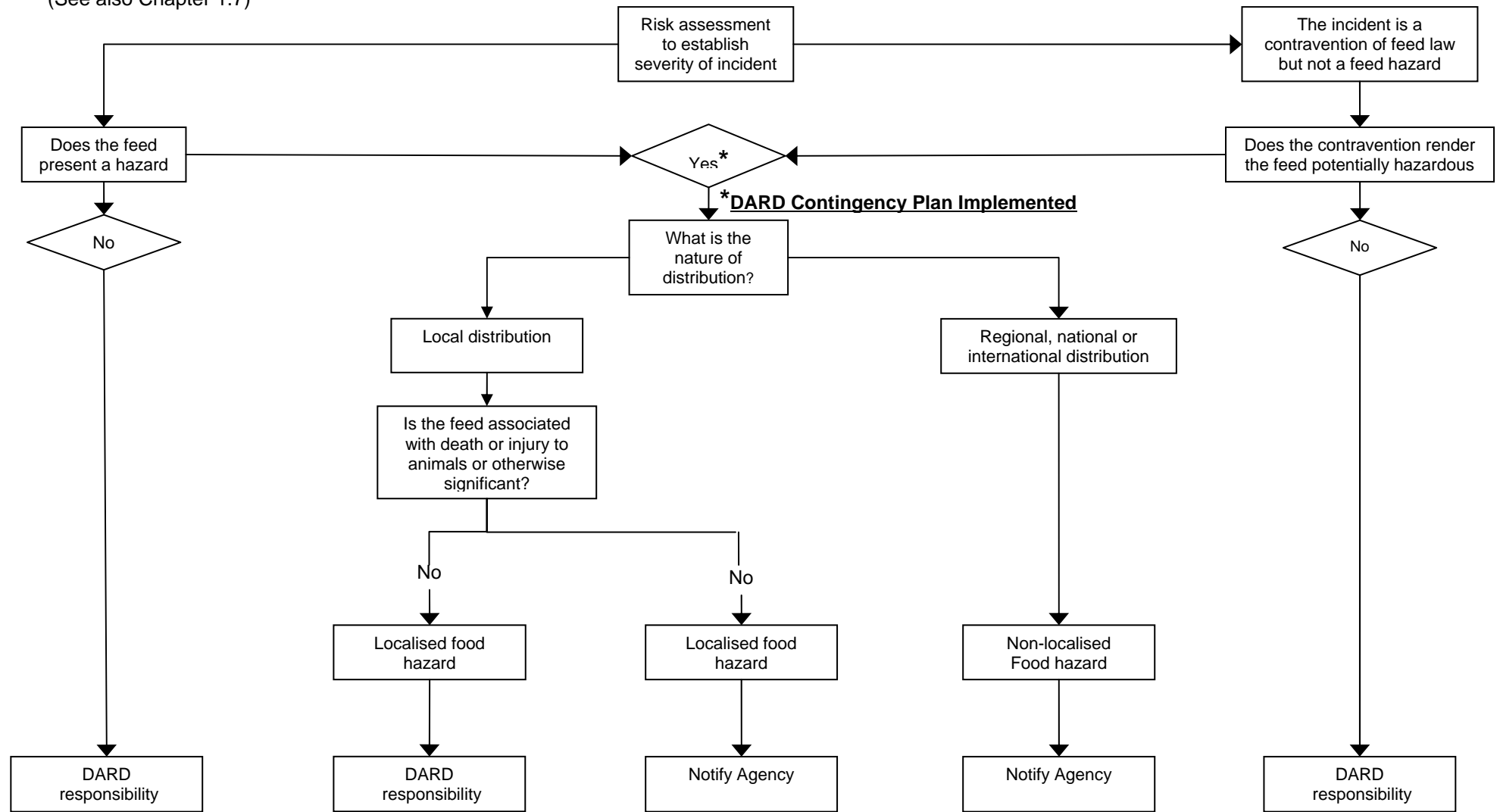
Standards of Competence for feed authority officers in relation to procedures based on HACCP principles (level two authorisation)

DARD must be satisfied that staff carrying out feed hygiene inspections on feed businesses with HACCP based feed safety management systems hold the relevant qualification prescribed in Chapter 1.2. In addition inspectors should be able to demonstrate the following competencies.

- To identify, through the conduct of an audit, feed business compliance with Article 6 of EC Regulation (EC) 1831/2003 having regard to the nature and size of the business.
- Assess the identification of feed safety hazards.
- Assess the critical control points (CCP) and appropriate critical limits.
- Assess the suitability of controls in place and their monitoring at CCP's.
- Assess the verification and review by feed business operators of procedures based on HACCP principles.
- To promote and support the implementation of procedures based on HACCP principles appropriate to the nature and size of the business.
- Explain the principles of hazard analysis to feed business operators or managers in terms appropriate to the nature and size of the business.
- Specify targets for improved control of feed safety hazards.
- Provide advice on carrying out hazard analysis and implementing controls in terms appropriate to the nature and size of the business.
- Explain where appropriate, the relationship between HACCP systems (based on Codex) and other procedures based on HACCP principles.
- To secure compliance with procedures based upon HACCP principles as required in legislation, appropriate to the nature and size of the business.
- Explain the legal requirements in relation to procedures based on HACCP principles.
- Secure progress towards compliance by discussion and persuasion.
- Secure compliance by the issue of notices. Secure compliance through the courts (and gather and preserve evidence in a form usable in court).

Annex 3: Feed Incident Flow Diagram

(See also Chapter 1.7)



ANNEX 4

Feed Incident Report Form (DARD)

ANIMAL FEEDINGSTUFFS INCIDENT REPORT FORM

To be completed by the investigating officer and sent to the chairperson/deputy of the Incident Management Team.

Please provide us with the following details:

1. Reporting Officer	
Name	
Phone	
Fax	
E-mail	
2. Incident Description	
Date and time of notification of incident to DARD	Date: Time:
Initial information received by	
Type of notification (Phone, Fax, Letter, Other)	
Notification from	Name Address Phone
Brief description of incident	
Type of contamination (If applicable)	

3. Product Details	
Type of product <i>E.g. compound, feed material, premixture</i>	
Name of product	
Description of product	
Batch Number / Code	
Expiry Date <i>(If applicable)</i>	
Other relevant details	

4. Product Use	
Intended species	
Age/sex/status of animal <i>E.g. layer, broiler, dairy, beef</i>	
Feeding/Inclusion Rates	

5. Product Origin	
Name & Address of manufacturer/supplier of feed	
Supplier contact details	
Date of import <i>(If applicable)</i>	
Importer contact details <i>(If applicable)</i>	

9. What Enforcement Action Has Been Taken?

E.g. Relevant parties informed, advised on appropriate action, samples taken for analysis, notices served, seizures etc...

(Please attach copies of detention notices etc. to this form where available)

10. Any Relevant Further Information	

Signed:

Date:

Job Title:

If this incident is deemed to be significantly serious this, this information must be sent by the IMT chairperson to Mr. Tim Franck, Animal Feed Unit, FSA, London and copied to Kirsten Dunbar at FSANI.

This will then form the basis of a RASFF (Rapid Alert System for Food and Feed) to inform the European Commission and other member states about this incident.

FAX: 020 7276 8478

E MAIL:tim.franck@foodstandards.gsi.gov.uk

CC :kirsten.dunbar@foodstandards.gsi.gov.uk

ANNEX 5

Animal Feed Law Inspection Rating Scheme

A5.1: Basic Principles

- i. DARD should determine the feed law inspection frequencies of feed businesses using the risk assessment criteria in this Annex, in order to determine their planned animal feed law inspection programmes.
- ii. The scheme incorporates an option for alternative enforcement strategies other than primary inspections for “low-risk” businesses in which the inherent hazards are not significant by virtue of their trading activities or the number of customers they supply (see below).
- iii. The scheme is set out in the form of an assessment document that can be used by officers in the field. An assessment should be completed at the end of every primary inspection.
- iv. Officers should use the full range of scores available within the system, as the purpose of the rating system will be frustrated by cautious marking or by a reluctance to recognise effective management/control systems.
- v. Businesses that fall into more than one scoring category for a scoring factor should be allocated the highest score of those that are applicable.
- vi. The operation of this inspection rating scheme within DARD should be subject to periodic management review to ensure that staff are using the scheme correctly and consistently.
- vii. The inspection of higher risk businesses must always take preference over the inspection of lower risk. The practice of completing the inspection programme of lower risk businesses that have not been visited during an earlier programme before commencing the inspection of higher risk businesses cannot be supported.
- viii. The minimum inspection frequencies described should not be regarded as strict and absolute. However, primary inspections should be completed no more than three months after the due date, apart from circumstances outside the control of DARD such as business closures (see Paragraph 4.1.4).

A5.2: Low-Risk Activities

- ix. Businesses scoring 45 points or less overall need not be subject to primary inspections once they have received a primary inspection which confirms that the appropriate risk rating is low and that the business is in compliance with the provisions of relevant feed law legislation. (see Paragraph 4.1.8).
- x. Such “low-risk” businesses must, however, be subject to an alternative enforcement strategy not less than once in any 5-year period.
- xi. If DARD decides not to subject “low-risk” businesses to primary inspections it must set out their alternative enforcement strategies for maintaining surveillance of such businesses in their Feed Service Plan or Enforcement Policy.
- xii. It is not intended to preclude inspections of such businesses where inspection is DARD’s preferred surveillance option, in which case the minimum frequency of inspection is determined by the inspection rating.

A5.3: Definitions

- xiii. For the purpose of interpreting the following risk rating scheme the following definitions apply:

Manufacturer A feed business which processes feed¹ with or without the inclusion of feed additives or produces feed products². This would include farms where rations are being made on-site by the inclusion of feed additives or complementary feeds.

Packer A feed business which does not manufacture but packages feed or feed products.

Distributor A wholesaler or retailer of feed or feed products.

Transporter A feed business which simply move feed or feed products from one place to another.

Store A feed business which stores feed and feed products for their own use or on behalf of other businesses. This would include farms that store feed for use by their own animals.

¹ Feed includes compound feeds, feed materials and pet foods.

² Feed products include additives and premixtures.

A5.4: The Animal Feed Law Scoring System

A5.4.1: The Potential Risk

A5.4.2: A. Risk to Animal/Human Health and/or Other Businesses

This factor considers the potential adverse effect on animals/human health, and the consequences for other businesses, should the business not comply with feed legislation. Consequences for other businesses include the economic effects of unfair trading and the potential harm to animals and human health.

Score	Guidance on the Scoring System
30	<ul style="list-style-type: none">• Manufacturers of nutritional additives including vitamins, provitamins, trace elements, amino acids their salts and analogues, and urea and derivatives.• Manufacturers of additives: enzyme and micro-organisms which act as digestibility enhancers, gut flora stabilisers and substances which favourably effect the environment.• Manufacturers of antioxidants with maximum permitted limits, colourant additives: carotenoids and xantophylls.• Manufacturers of proteins obtained from micro organisms belonging to groups of bacteria, yeast, algae and lower fungi.• Manufacturers of premixtures, additives with maximum limits and novel protein products.• Manufacturers of other additives used in feeds.• Manufacturers of compound feeds with additives.• Importers of all feed and feed products .
20	<ul style="list-style-type: none">• Manufacturers of compound feeds which do not contain additives but are manufactured to be placed on the market.• Manufacturers of animal feeds with the inclusion of feed additives for feeding to the manufacturers own animals e.g. farms.• Manufacturer of feed materials including those from the food industry (co-products) and Transporters and Stores of these products.• Packer for a manufacturer of any of the products listed in this section of the table.• Transporters of feed additives and premixtures• Distributors of feed additives and premixtures.
10	<ul style="list-style-type: none">• Manufacturers of animal feeds by the inclusion of complementary feed which are produced for the manufacturers own use e.g. farms.• Producers of primary products including arable farms which grow crops for animal feed and livestock farms that grow and use crops for animal feed.• Transporters of feed and feed products not already mentioned.• Stores of feed or feed and feed products not already mentioned.

Score:	
--------	--

A5.4.3: B. Extent to Which the Activities of the Business Affect any Hazard

This factor considers the type of activities that the feed business undertakes, the need for those activities to be closely monitored and controlled, and their potential effectiveness in maintaining compliance with animal feed law. Consider whether the business produces, labels, or advertises products to which animal feed law applies. If the business produces its own products, consider the monitoring and control of recipes and ingredients.

The scores below provide examples of feed businesses to which a particular score could apply.

Score	Guidance on the Scoring System
30	Manufacturers, packers, importers dealing in a wide range of products which contain additives.
20	Manufacturers of animal feeds with the inclusion of feed additives for feeding to the manufacturers own animals e.g. farms. Manufacturers and packers of products that do not contain additives but are manufactured to be placed on the market. Manufacturers, packers, importers dealing in a limited range of products which contain additives.
10	Manufacturers of animal feeds by the inclusion of complementary feed which are produced for the manufacturers own use e.g. farms.
0	Any business not included in the categories above.

Score:	<input type="text"/>
---------------	----------------------

A5.4.4: C. Ease of Compliance

This factor considers the volume and complexity of animal feed law that applies to the business and with which it has a responsibility to ensure compliance. Consider the range and complexity of products, processes and services including the consistency of raw materials. Consider the level of difficulty of the task for the feed business operator including how easy it is to recognise a hazard.

Score	Guidance on the Scoring System
30	Manufacturer, packer or importer of a wide range of products.
20	Manufacturer, packer or importer of a limited range of products.
10	Manufacturers of feeds for their own use. Distributors including retailers that break down feed from bulk and display descriptions and statutory statement information.
0	Any business not included in the categories above.

Score:	<input type="text"/>
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A5.4.5: D. Animals and People at Risk

This factor considers the number of animals/customers likely to be at risk if the business fails to comply with animal feed legislation.

Score	Guidance on the Scoring System
20	Manufacturers, packers, importers and distributors of feed that is traded nationally or internationally.
10	Manufacturers, packers, importers and distributors of feed whose trade does not extend beyond the local area, e.g. regional wholesaler/distributor; small-scale local manufacturer.
5	Manufacturers, packers and distributors supplying the local area, e.g. local farms.
0	Any other business not included in the categories above.

Score:	
--------	--

A5.4.6: Part 2: Level of (Current) Compliance

This factor considers the level of compliance with animal feed law observed during the inspection. Adherence to relevant UK or EU Industry Guides to Good Practice and other similar guidance e.g. Agency, Advisory Committee on Animal Feed and LACORS should be considered.

Score	Guidance on the Scoring System
40	General failure to satisfy statutory obligations. Standards generally low.
10	A typical business with some minor non-compliance with statutory obligations.
0	High standard of compliance with statutory obligations and industry codes of recommended practice conforms to relevant trade good practice.

Score:	
--------	--

A5.4.7: Part 3: Confidence in Management/Control Systems

The actual performance of management is scored in Part 2 on the basis of the results achieved and observed. A management that achieves good compliance with animal feed law, including feed hygiene requirements, which are well understood by the workforce, should achieve a good standard in Part 2, and consequently a low score for that factor.

Confidence in Management is not meant to reconsider Level of (Current) Compliance. It is to elicit a judgement on the likelihood of satisfactory compliance being maintained in the future.

Factors that will influence the officer's judgement include:

- The "track record" of the company, its willingness to act on previous advice and enforcement, and the complaint history;
- The attitude of the present management towards animal feed legislation, including feed hygiene requirements;
- The existence or otherwise of relevant home or originating authority arrangements;
- Internal or external technical knowledge on animal feed legislation available to the business including the control of critical control points;
- The presence of quality systems, including supplier assessments and performance monitoring, appropriate to the size of the business and the risks involved, with clearly defined responsibilities for managing risk;
- Satisfactory documented procedures and HACCP based feed hygiene management systems;
- For small businesses, consider the checks appropriate to that business;
- Membership and compliance with the requirements of Feed Assurance Schemes.

Score	Guidance on the Scoring System
30	Poor track record of compliance. Little or no technical knowledge. Little or no appreciation of hazards or quality control. No feed management system.
20	Varying record of compliance. Poor appreciation of hazards and control measures. No feed management system.
10	Satisfactory record of compliance. Access to and use of technical advice either in-house, from trade associations and/or from Guides to Good Practice. Understanding of significant hazards and control measures in place. Making satisfactory progress towards a feed safety management system.
5	Reasonable record of compliance. Technical advice available in-house or access to and use of technical advice from trade associations or feed assurance schemes and/or from Guides to Good Practice. Have satisfactory documented procedures and systems. Able to demonstrate effective control of hazards. Will have a satisfactory documented food safety management system. Audit by feed authority confirms general compliance with documented system.
0	Good record of compliance. Access to technical advice within organisation. Will have satisfactory documented HACCP based feed safety management system which may be subject to external audit process. Audit by feed authority confirms compliance with documented management system with few/minor non-conformities not identified in the system as critical control points.
-10	Excellent record of compliance. Very effective management. Total confidence in management to manage, maintain and adapt the feed management system as appropriate and to advise of any significant changes to the business.
Score:	

A5.4.8: Inspection Frequencies

Category	Points Range	Minimum Inspection Frequency
A	101 to 180	at least every 12 months
B	46 to 100	at least every 24 months
C	0 to 45	at least every 60 months

Establishments rated as low risk (45 or less) need not be included in the planned inspection programme but must be subject to an alternative enforcement strategy at least once in every 5 years.

ANNEX 6

Feed Business Establishment / Feed Premises Inspection Report

A report containing the following information must be provided to the feed business operator / feed business proprietor following each primary inspection. The information may be provided as a separate report or may be included as part of a letter from the feed authority.

Trading name and address of business and registered address if different:

Name of the feed business operator / feed business proprietor:

Type of business:

Name(s) of person(s) seen and/or interviewed:

Date and time of inspection:

Specified feed law under which inspection conducted:

Areas Inspected (to be specified):

Documents and/or other records examined (to be specified):

Samples Taken (to be specified):

Key points discussed during the inspection (to be specified):

Action to be taken by DARD (to be specified):

Signature of inspecting officer:

Name in capitals of inspecting officer:

Contact details of inspecting officer:

Date:

DARD contact details:

ANNEX 7

Model Forms for Use in Connection with the (Feed Hygiene and Enforcement) Regulations (Northern Ireland) 2005

Model forms which may be used by authorised officers in connection with the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 are provided below.

Location	Model Form	For Use In Connection With
A7.1	Feed Business Improvement Notice	Article 17
A7.2	Feed Business Emergency Prohibition Notice	Article 22
A7.3	Detention Notice	Article 25
A7.4	Certificate of Withdrawal of Detention Notice	Article 25
A7.5	Seizure Notice	Article 25
A7.6	Certification That Health Risk Condition No Longer Exists	Articles 21(6) & 22(8)
A7.7	Notice of Suspension of Registration/Approval	Article 9
A7.8	Notice of Revocation of Registration/Approval	Article 11

A7.1: Model Form 1 – Feed Business Improvement Notice

Authority:

The Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 Regulation 17

FEED BUSINESS IMPROVEMENT NOTICE

Reference Number:

1. To:.....(Feed Business Operator)

At:.....

.....(Address of Feed Business Operator)

2. I have reasonable grounds for believing that you are failing to comply with the feed law because:

.....

.....
[Officer to insert grounds for believing that requirements of specified feed law as defined in the Feed Hygiene Regulations are being breached]

in connection with your feed business

.....(Name of Feed Business)

at

.....(Address of Feed Business)

The matters which constitute your failure to comply are:

.....

.....

.....
[Officer to insert provision(s) of specified feed law as defined in the Feed Hygiene Regulations are being breached and how]

3. In my opinion, the following measure(s) are needed for you to comply with the legal requirements specified above:

.....

.....

4. The measure or measures that will achieve the same effect must be taken by:.....(date)

5. *It is an offence not to comply with this feed business improvement notice by the date stated.*

Signed:.....(Authorised Officer)

Name in capitals:

Date:

Address:

Tel: Fax:

E-mail:

Please read the notes overleaf carefully. If you are not sure of your rights or the implications of this notice, you may want to seek legal advice.

A7.1: Model Form 1 - Improvement Notice (Reverse)

NOTES

1. In the opinion of the authorised officer you are not complying with specified feed law as that defined in the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 as detailed in paragraph 2 of the notice. The work needed in the officer's opinion to put matters right is described and it must be finished by the date set.
2. You are responsible for ensuring that the work is carried out within the period specified, which must be at least 14 days.
3. You have a right to carry out work that will achieve the same effect as that described in the notice. If you think that there is another equally effective way of complying with the law, you should first discuss it with the officer.

YOUR RIGHT OF APPEAL

4. In accordance with Regulation 18 of the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005, if you disagree with all or part of this notice, you can appeal to the court of summary jurisdiction. You must appeal within one calendar month of the date of the notice or the period ending with the date stated in paragraph 4 of the notice, whichever ends earlier.
5. If you decide to appeal, the time set out in the notice is suspended and you do not have to carry out the work described until the appeal is heard. However, if you are not complying with the legal requirements mentioned in the notice, you may still be prosecuted for failure to comply with those requirements.
6. When the appeal is heard, the court of summary jurisdiction may confirm, cancel or vary the notice.

WARNING

FAILURE TO COMPLY WITH THIS NOTICE IS AN OFFENCE

Offenders are liable to be fined and/or imprisoned for up to 2 years.

A7.2: Model Form 2 – Feed Business Emergency Prohibition Notice

Authority:

The Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 Regulation 22

FEED BUSINESS EMERGENCY PROHIBITION NOTICE

Reference Number:

1. To:(Feed Business Operator)

At:

.....(Address of Feed Business Operator)

2.* I am satisfied that the health risk condition is fulfilled with respect to:

.....

.....(Name of Feed Business)

At:

.....(Address of Feed Business)

Because:.....

.....

.....

(* See Note 1 overleaf)

YOU MUST NOT USE IT FOR THE PURPOSES OF [THIS] [ANY] [THIS OR ANY SIMILAR]† FEED BUSINESS.

[† Officer to delete as appropriate]

Signed:(Authorised Officer)

Name in capitals:

Date:

Address:

.....

Tel: Fax:

E-mail:

Please read the notes overleaf carefully. If you are not sure of your rights or the implications of this notice, you may want to seek legal advice.

A7.2: Model Form 2 – Feed Business Emergency Prohibition Notice (Reverse)

NOTES

1. When you receive this notice you must IMMEDIATELY stop using the premises, process, treatment or equipment described by the officer in paragraph 2 of the notice and located at the address stated.
2. Within 3 days of service of this notice, the authority must apply to a magistrates' court for an order confirming the prohibition. You will be told the date of the hearing which you are entitled to attend and at which you may call witnesses if you wish.
3. If you believe that you have acted to remove the health risk condition, you should apply in writing to the authority for a certificate, which would allow you to use the premises, process, treatment or equipment again. You can do this even if the court hearing has not taken place.
4. You are not allowed to use the premises, process, treatment or equipment for the purpose specified in paragraph 2 of the notice (see regulation 21(2) of the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 as applied by Regulation 22(4)) until (a) a court decides you may do so; (b) the authority issues you with a certificate as in paragraph 3 above; (c) 3 days have passed since the service of the notice and the authority has not applied to the court as in paragraph 2 above; or (d) the authority abandons the application.
5. A copy of this notice must, by law, be fixed on the premises or equipment which is not to be used. It is an offence (under section 1 of the Criminal Damage Act 1971) to deface it.
6. **COMPENSATION:** If the authority does not apply to the magistrates' court, for an order confirming its action within 3 days of the date of service of this notice, you will be entitled to compensation for any losses you have suffered because you could not use the premises, process, treatment or equipment because you were complying with this notice. You will also be entitled to such compensation if the magistrates' court, decide at the hearing that the health risk condition was not fulfilled with respect to the feed business at the time when the notice was served.

WARNING

ANYONE WHO KNOWINGLY CONTRAVENES THIS NOTICE IS GUILTY OF AN OFFENCE

Offenders are liable to be fined and/or imprisoned for up to 2 years.

A7.3: Model Form 3 - Detention Notice

Authority:

The Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 - Regulation 25

DETENTION NOTICE

1. To:.....(Feed Business)

At:.....

.....(Address of Feed Business)

Name of feed business:.....

Address of feed business:.....

.....

2. The enforcement authority is satisfied that Requirements under the Hygiene Regulations are being breached, as outlined below:

.....

.....

.....

.....

3. For the purpose of examination the following feed is being detained:

.....

.....

.....

Signed:(Authorised Officer)

Name in capitals:

Date:

Address:.....

.....

Tel: Fax:

E-mail:

Please read the notes overleaf carefully. If you are not sure of your rights or the implications of this notice, you may want to seek legal advice.

A7.3: Model Form 3 - Detention Notice (Reverse)

NOTES

1. When the authorised officer is satisfied that the legal requirements specified in paragraph 2 of the Detention Notice are being met, and receives evidence that the feed need no longer be detained, a withdrawal notice shall be issued to you. An authorised officer has 21 days following receipt of such evidence to come to a decision.
2. In accordance with Regulation 25 of the Feed (Hygiene and Enforcement) Regulations 2005, you are entitled to appeal against this notice. If you want to do so, you should apply to the magistrates' court, within one calendar month of the date on which this notice is served on you.

A7.4: Model Form 4 – Certificate of Withdrawal of Detention Notice

Authority:

The Feed (Hygiene and Enforcement) Regulations (Northern Ireland) +2005 - Regulation 25 CERTIFICATE FOR THE WITHDRAWAL OF A DETENTION NOTICE

1. To: (Feed Business Operator)

At:
..... (Address of Feed Business Operator)

Name of food business
Address of feed business
.....

1. The enforcement authority certifies that it is satisfied that you have taken sufficient measures: i.e.

Therefore the specified feed need no longer be detained.

The Detention Remedial Action Notice served on you on (date) is hereby withdrawn.

Signed: (Authorised Officer)
Name in capitals:
Date:
Address:
.....
Tel: Fax:
E-mail:

Please read the notes overleaf carefully. If you are not sure of your rights or the implications of this notice, you may want to seek legal advice.

A7.4: Model Form 4 - Certificate of Withdrawal of a Detention Notice (Reverse)

NOTES

1. The feed that has been released may be returned to the feed chain.
In appropriate circumstances you may have a right to claim compensation under the terms of regulation 25(6) of the Feed (Hygiene And Enforcement) Regulations (Northern Ireland) 2005.

A7.5: Model Form 5 – Seizure Notice

Authority:

**The Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 -
Regulation 25
SEIZURE NOTICE**

4. To:.....(Feed Business)

At:.....

.....(Address of Feed Business)

Name of feed business:.....

Address of feed business:.....

.....

5. The enforcement authority is satisfied that Requirements under the Hygiene Regulations are being breached, as outlined below:

.....

.....

.....

.....

Signed:(Authorised Officer)

Name in capitals:

Date:

Address:.....

.....

Tel: Fax:

E-mail:

If you are not sure of your rights or the implications of this notice, you may want to seek legal advice.

A7.6: Model Form 6 - Certification that Health Risk Condition No Longer Exists

Authority:

**The Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 -
Regulations 21(6) & 22(8)
CERTIFICATE THAT THE HEALTH RISK CONDITION NO LONGER EXISTS**

1. To:(Feed Business Operator)

At:.....

.....(Address of Feed Business Operator)

Name of feed business

Address of feed business

.....

2. The enforcement authority certifies that it is satisfied that you have taken sufficient measures to secure the removal of the imminent* risk of injury to health described in the:

Feed Business Prohibition Order*

Feed Business Emergency Prohibition Notice*

Feed Business Emergency Prohibition Order*

[* Officer to delete as appropriate]

served on you on(date).

Signed:(Authorised Officer)

Name in capitals:

Date:

Address:

.....

Tel: Fax:

E-mail:

THIS CERTIFICATE MEANS THAT YOU MAY NOW USE THE PREMISES, PROCESS, TREATMENT OR EQUIPMENT AGAIN.

A7.6: Model Form 6 - Certification that Health Risk Condition No Longer Exists (Reverse)

NOTES

1. The authority is now satisfied that the health risk condition no longer exists in respect of the circumstances that caused the authority to issue you with an Emergency Prohibition Notice or the court to impose a Prohibition Order or Hygiene Emergency Prohibition Order*.
2. The relevant notice or order is now lifted and you may use the premises, process, treatment or equipment again.

[* Officer to delete as appropriate]

A7.7: Model Form 7 - NOTICE OF SUSPENSION REGISTRATION/APPROVAL

Authority:

The Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 - Regulation 9

Notice of Intention to Suspend Registration/Approval*

1. To:(Feed Business Operator)

At:.....
.....(Address of Feed Business Operator)

Name of feed business

Address of feed business

2. The enforcement authority gives notice that on the [enter date suspension is to be effect from], the [enter the full name of the enforcement authority], proposes to suspend your approval/registration to [enter the activity(ies) for which the approval/registration is held] at [enter the address of the establishment(s) to which the suspension applies] because the Authority is not satisfied that the relevant/essential conditions/duties stated in column one of the table in the attached schedule, required by the Regulations, are being complied with.

3. In order for the suspension to be lifted, you must take the remedial action listed in column two of the attached schedule, to the satisfaction of the Authority. If the required remedial action has not been carried out to the satisfaction of the Authority within twelve months of the operative date mentioned in paragraph 2 the approval/registration will be revoked without further notice.

[* Officer to delete as appropriate]

served on you on(date).

Signed:(Authorised Officer)

Name in capitals:

Date:

Address:

Tel: Fax:

E-mail:

A7.7: Model Form 7 - NOTICE OF SUSPENSION REGISTRATION/APPROVAL (Reverse)

Right of Appeal.

Take notice that under Regulation (13) of the Food (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 you have a right to appeal to a court of summary jurisdiction against the decision of the Authority to suspend your registration/approval at [*enter the address of the establishment(s) to which the suspension applies*]. You must make your appeal within **one month** of the date on which this notice was served on you. **If you are considering making an appeal you are strongly advised to seek prompt legal advice.**

A7.7: Model Form 7 - NOTICE OF SUSPENSION OF REGISTRATION/APPROVAL (SCHEDULE)

Column 1	Column 2
Relevant/essential conditions/duties not being complied with	Action required to ensure compliance
[Enter appropriate reference -refer to the EC 183/2005 Feed Hygiene Regulations]	[Enter appropriate detail]

A7.8: Model Form 8 - NOTICE OF REVOCATION OF REGISTRATION/APPROVAL

Authority:

The Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 - Regulation 11

Notice of Intention to Revoke Registration/Approval*

1. To:(Feed Business Operator)

At:.....
.....(Address of Feed Business Operator)

Name of feed business

Address of feed business

.....

2. You are hereby given notice that with effect from the [enter date revocation to be effective from], your approval/ registration is revoked in relation to [here enter the activity(ies) for which the approval/registration is held] at [enter the address of the establishment(s) to which the revocation applies] because the Authority is satisfied [here insert one of the following three reasons:

- (1) the activity has ceased at the establishment,
- (2) the establishment has not complied with the relevant requirements for the activity being undertaken stated in column one of the table below, required by the Regulations.
- (3) that serious deficiencies have been identified and/or production has had to be repeatedly stopped and furthermore that you are unable to give to the authority guarantees that future production will comply with Community rules.

In order to regain your approval/registration you must take remedial action, to the satisfaction of the Authority, which is listed in column two of the attached schedule and reapply to the Authority for approval/registration as appropriate.

[* Officer to delete as appropriate]

served on you on(date).

Signed:(Authorised Officer)

Name in capitals:

Date:

Address:
.....

Tel: Fax:

E-mail:

A7.8: Model Form 8 - NOTICE OF REVOCATION OF REGISTRATION/APPROVAL (REVERSE)

Right of Appeal

Take notice that under Regulation (13) of the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 you have a right to appeal to a court of summary jurisdiction against the decision of the Authority to revoke your registration/approval at (*here enter the address of the establishment(s) to which the revocation applies*). You must make your appeal within **one month** of the date on which this notice was served on you. **If you are considering making an appeal you are strongly advised to seek prompt legal advice.**

A7.8: Model Form 8 - NOTICE OF REVOCATION OF REGISTRATION/APPROVAL (SCHEDULE)

Column 1	Column 2
Relevant/essential conditions/duties not being complied with	Action required to ensure compliance
[Enter appropriate reference -refer to the EC 183/2005 Feed Hygiene Regulations]	[Enter appropriate detail]

Carrying out these activities without the appropriate approval/registration is an offence under the Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 and could result in prosecution.

ANNEX 8

Model application document to be completed by applicant

Application with a view to Registration or Approval under the EC Feed Hygiene Regulation (183/2005)

To: DARD Quality Assurance Branch
Magnet House
81-93 York Street
BELFAST
BT15 1AD

I am applying for the following premises to be registered / approved under the above legislation. The information required is set out below:

1. Name or business name of the feed business to which this application relates:

Name:

Business Name:

2. Address and associated details of the premises where the activity requiring registration or approval is undertaken or to be undertaken:

Address:

Telephone No:

Fax No:

E-mail:

3. Activity or activities carried out on the premises (please use the code and activity descriptions shown overleaf)

Code:

Activity:

4. Applicant details:

Name:

Address (only complete if different to the address indicated in at 2 above):

5. Premises currently approved or registered under the Feeding Stuffs (Establishments and Intermediaries) Regulations 1999

(Please indicate below in the appropriate box if the business is currently approved or registered, and provide its approval/registration number)

Registered	Yes/No (delete as appropriate)	Approved	Yes/No (delete as appropriate)
------------	--------------------------------	----------	--------------------------------

Approval/Registration Number (if available):

Signature of Applicant:	Date:
--------------------------------	--------------

R. Registration Activities

Code	<i>Activity description</i>	Notes
R1	Manufacture and/or placing on the market ¹ of feed additives (other than those subject to approval)	This includes preservatives, emulsifiers, stabilisers, thickeners, gelling agents, binders, anticaking agents, acidity regulators, antioxidants (not subject to a maximum permitted level), silage agents, denaturants, substances to control radionuclide contamination, colourants (except carotenoids and xanthophylls).
R2	Manufacture and/or placing on the market ¹ of premixtures (other than those subject to approval)	This includes premixtures containing any feed additive excluding vitamins A and D and copper and selenium.
R3	Manufacture and/or placing on the market ¹ of bioproteins ("certain products") not subject to approval.	This includes urea and its salts, ammonium salts, amino acids and their salts, analogues of amino acids.
R4	Manufacture of compound feedingstuffs (other than those subject to approval).	This includes the manufacture of complete and complementary feeds, with or without additives.
R5	Placing on the market of compound feeds.	Covers premises engaged in the buying and selling of compound feeds but not manufacturing such feeds.
R6	Manufacture of pet foods	Includes the manufacture of complete and complementary feeds with or without additives.
R7	Manufacture and/or placing on the market ¹ of feed materials.	Feed materials are products which are intended as ingredients of compound feeds or which can be fed singly to animals (e.g. cereal or cereal products).
R8	Transport of feed and feed products	This includes the premises of businesses that transport feed materials, compound feed, feed additives and premixtures. <i>Transport of feed and feed products by manufacturers own vehicles are covered by the approval/registration of the manufacturer's premises.</i>
R9	Storage of feed and feed products.	Only covers premises not covered by another approval/registration activity relating to the manufacture or placing on the market of the products in question. <i>In other words , it excludes storage facilities at a manufacturer's or transporter's premises.</i>

¹ These activities cover premises that both manufacture and place such products on the market (sell) and also those premises that do not manufacture but buy and sell products.

	Farms		
R10	Mixing feeds, on farms, with additives and premixtures.		This activity is subject to registration under existing legislation (EC Directive 95/69 as implemented by the Feeding Stuffs (Establishment and Intermediaries) Regulations 1999). It covers cases where farms buy-in additives and premixtures products (i.e. not contained in a compound feed) and mix them with feeds (forage, cereals etc.)
R 11	Mixing feeds, on farms, with compound feedingstuffs which contain additives.		This activity is subject to registration under existing legislation (EC Directive 95/69 as implemented by the Feeding stuffs (Establishment and Intermediaries) Regulations 1999).

¹ These activities cover premises that both manufacture and place such products on the market (sell) and also those premises that do not manufacture but buy and sell products.

Note: Certain other activities are subject to the provisions of the Feed Hygiene Regulation which have not been specifically identified above. This includes:

R12	Food Businesses selling co-products of the food industry which are destined as feed materials.		This includes brewers, distillers, dairies and food manufacturers carrying out such an activity.
R13	Livestock farms which do not mix feeds or mix feeds without additives		This includes fish farms.
R14	Arable farms growing or selling crops for feed.		

However, most of these premises will be registered under other official schemes and if this is the case no application for registration under the Feed Hygiene Regulation needs to be made. This includes food businesses registered under the Food Hygiene Regulations.

ANNEX 9

**DECLARATION FOR APPROVAL WITHOUT PRIOR ON-SITE INSPECTION
(ARTICLE 17 OF REGULATION (EC) No 183/2005)**

- 1. Name of Feed business:
- 2. Business name(s) if different:
- 3. Registered Office address :
- 4. Trading address of establishment if different:
- 5. Contact name:
- 6. Contact telephone number: Fax number:
E-mail address:
- 7. Description of products being traded (indicate activity description code as appropriate – see overleaf):
.....
.....
.....
.....

I hereby declare as a person authorised to make such declarations on behalf of the feed business in (1) above, that all the products the business trades on the market from the establishment are never held on premises under the control of this business and the establishment is, therefore, one to which Article 17(1) of Regulation (EC) No. 183/2005 (the European Feed Hygiene Regulation) applies. I further declare that the products are sourced, stored and transported by feed businesses that are approved or registered in accordance with the European Union Feed Hygiene Regulation (EC) 183/2005.

Signed:
Designation:
On behalf of:
Date:

For Office use:-

Received.....

Date entered on list..... Establishment number allocated.....

Date acknowledged and number notified.....
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Approval Activities

A. Approval Activities

Code	Activity description	Notes
	<u>Manufacture and/or placing¹ on the market of certain feed additives</u>	
A1	Manufacture and/or placing on the market of nutritional additives.	This includes: vitamins, pro-vitamins and chemically defined substances having a similar effect; trace elements; amino acids, their salts and analogues and urea and its derivatives.
A2	Manufacture and/or placing on the market of zootechnical additives: Digestibility enhancers, gut flora stabilisers and substances which favourably affect the environment.	This includes enzymes and micro-organisms.
A3	Manufacture and/or placing on the market of antioxidant additives with a maximum content in feeds specified in EC Regulation 1831/2003.	This covers propyl gallate, octyl gallate, dodecyl gallate, butylated hydroxyanisole (BHA), butylated hydroxytoluene (BHT), ethoxyquin.
A4	Manufacture and/or placing on the market of colorant additives: carotenoids and xanthophylls.	
A5	Manufacture and/or placing on the market of proteins obtained from micro-organisms belonging to groups of bacteria, yeast, algae and lower fungi.	
A6	Manufacture and/or placing on the market of co-products of the manufacture of amino acids by fermentation.	These products were previously covered by Council Directive 82/471/EEC on Certain Products (Bioproteins) and are now authorised under the EC Feed Additives Regulation (1831/2003).
	<u>Manufacture and/or placing¹ on the market of premixtures containing certain feed additives⁽¹⁾</u>	
A7	Manufacture and/or placing on the market of premixtures containing vitamins A and D.	
A8	Manufacture and/or placing on the market ¹ of premixtures containing copper and selenium.	

¹ These activities cover premises that both manufacture and place such products on the market (sell) and also those premises that do not manufacture but buy and sell products.