

# **Feed Law Enforcement**

## **Guidance Document (Northern Ireland)**

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Amendment Number	Signed	Date
Amendment No. 1	_____	_____
Amendment No. 2	_____	_____
Amendment No. 3	_____	_____
Amendment No. 4	_____	_____
Amendment No. 5	_____	_____
Amendment No. 6	_____	_____
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Amendment No. 18	_____	_____
Amendment No. 19	_____	_____
Amendment No. 20	_____	_____

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, Environment and Rural Affairs (DAERA) 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 Veterinary Medicines Directorate (VMD) in Great Britain. In this document Regulations quoted are for Northern Ireland only. Parallel legislation exists for England, Scotland and Wales.

DAERA has a statutory duty to enforce legislation relating to feed. Regulation 4 of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016<sup>1</sup> sets out the division of enforcement responsibilities between DAERA and the Food Standards Agency (the Agency) for the purposes of those Regulations and the European Feed Hygiene Regulations Regulation (EC) No. 183/2005<sup>2</sup> lays down requirements for feed hygiene.

DAERA 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 composition, labelling and marketing of compound feeds and feed materials. The Agriculture Act 1970 is the primary legislation dealing with deleterious, unwholesome and dangerous feed. The Animal Feed (Composition, Marketing and Use) Regulations (Northern Ireland) 2016<sup>3</sup> contain provisions on the composition, marketing and labelling of feeds.

To harmonise official controls at the level of primary production on-farm official controls for feed hygiene can be undertaken in conjunction with primary production food hygiene official controls. These inspection frequencies are set at 1% for low risk farms (i.e. those members of approved assurance schemes with no information available relating to non-compliance) and 10% for all other farms. These farms are not included in the Animal Feed Law Scoring System. However farms which indicate an activity that would require them to comply with the requirements of Annex II of Regulation (EC) 183/2005 and apply HACCP are subject to the Animal Feed Law Scoring System in this guidance.

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<sup>1</sup> Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016 SR No. 5

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

<sup>3</sup> The Animal Feed (Composition, Marketing and Use) Regulations (Northern Ireland) 2016SR No. 4

It is for individual feed business operators to ensure they comply with the requirements of feed law. The purpose of enforcement is to ensure compliance with legislation relating to feed in Northern Ireland. DAERA must therefore discharge its duty as effectively as possible, using means that are most appropriate to the circumstances.

This guidance provides general advice on approach to enforcement of the law where its intention might be unclear. The guidance also takes account of recommendations made by the EU Food and Veterinary Office (FVO) following their inspections of the UK's food and feed control services. The guidance contained in this document is given in good faith, and accords with the FSA's understanding of relevant legal requirements. Any examples given in the guidance are illustrative and not comprehensive.

European Regulation (EC) No 882/2004 on the official controls to ensure the verification of compliance with feed and food law sets out requirements with which Member States must comply when delivering feed controls. This guidance explains how these requirements apply to Competent Authorities.

If by complying with this guidance, DAERA considers that public health or food or feed safety is likely to be compromised, it must discuss the matter with the FSA at the earliest opportunity and before any decision is taken.

DAERA is strongly advised to consult its own legal department when considering formal enforcement action.

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.

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

Reference to sections 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.

The Guidance also introduces the principle of earned recognition at all steps of feed production chain and sets a minimum inspection frequency. It is acknowledged that DAERA, as the enforcement authority, may schedule inspections at a greater frequency where it is determined that this is necessary e.g. to meet the requirements of DAERA legislation or to support cross border trade.

It is also recognised that as a Competent Authority for official feed controls DAERA has other responsibility for official controls at feed establishments under The Veterinary Medicines Regulations 2013 and The Transmissible Spongiform Encephalopathies Regulations (Northern Ireland) 2010.



# **1 Administration**

## **1.1 Feed Authority Matters**

This section deals with liaison arrangements between DAERA 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.

### **1.1.1 Duties Of Feed Authorities**

In Northern Ireland DAERA enforces both non-medicated feeding stuffs legislation and that relating to veterinary medicines or specified products (i.e. certain quasi-medicinal additives). DAERA, 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 Veterinary Medicines Directorate (VMD), has responsibility for enforcement of legislation relating to feed materials which contain veterinary medicines or specified products.

### **1.1.2 Liaison Between Feed Authorities**

DAERA feed officials should ensure that effective liaison arrangements are in place with VMD and local authorities through the Local Government Association (LGA). DAERA should send an officer at an appropriate level of seniority to represent it on the Animal Feed Law Enforcement Liaison Group.

### **1.1.3 Co-Ordination Of Guidance, Enforcement And The Home Authority Principle**

The co-ordination of DAERA 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 DAERA gives guidance or takes enforcement action in relation to feed businesses which have a home authority it should consider whether there is a 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. The FSA endorses the Home Authority Principle. DAERA should where possible seek to follow its provisions although it is not bound to do so.

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

## **1.2 Competency Of Officers**

This section concerns the competency of officers who are authorised to carry out official controls to verify compliance with feed law<sup>1</sup>.

### **1.2.1 Application Of Qualification And Competency Requirements**

This section does not apply to staff who do not have direct operational responsibility for DAERA'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 DAERA 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.

DAERA should maintain 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 Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016 and the Official Feed and Food Controls Regulations (Northern Ireland) 2009<sup>2</sup>, 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.

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<sup>1</sup> Article 6 Regulation (EC) No 882/2004

<sup>2</sup> The Official Feed and Food Control Regulations (Northern Ireland) 2009 SR 2009 No. 427

DAERA 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.

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 DAERA or the 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. DAERA 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 Communities for the purposes of Directive 89/48/EEC<sup>3</sup> (The Mutual Recognition of Professional Qualifications). DAERA should make enquiries with the relevant professional and awarding bodies if they have any doubts in this area before confirming an appointment.

DAERA should have a documented procedure that sets out the process to be followed in assessing the competence of the officer to undertake a specific official control duty prior to their authorisation.

DAERA should be satisfied and have documented evidence that officers meet the qualification and competency requirements for those duties for which an officer is to be authorised.

Authorisation of an officer to undertake a specific type of official feed control duty or role can only occur once DAERA is content that the officer meets and can evidence that they meet the appropriate competency requirements and any qualification requirement mentioned in 1.2.6.

Minimum competency requirements that officers must demonstrate before they can be authorised to undertake specific official feed control duties are set out in **ANNEX 1**: to this document.

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<sup>3</sup> 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)

An officer's authorisation is able to be extended as the officer gains the necessary competency and qualifications where these are required.

The following are ways in which an officer would be able to demonstrate they met the competence:

- academic qualifications;
- professional qualifications;
- post qualification courses that lead to an additional relevant qualification;
- training courses;
- details of employment history detailing functions undertaken, responsibility exercised and experience gained;
- details of official controls carried out under supervision by an appropriately authorised officer.

Officers may consider keeping a portfolio of evidence of qualifications and training.

### **1.2.2 New Appointments**

DAERA must not authorise new officers, or extend the duties of currently employed officers, unless they are competent in accordance with the relevant provisions of this section and they meet any relevant additional requirements relating to specific duties or enforcement responsibilities. See also 1.2.3 in relation to newly qualified officers.

### **1.2.3 Training**

DAERA must ensure that authorised officers receive relevant on-going training to ensure they remain fully compliant. The training programme in respect of any authorised officer should be informed by and address any areas identified where the officer's competence falls short of that required to perform their current role or to extend it to new areas of activity. Officers should apply all training received as part of their official feed control duties as soon as possible to reinforce the knowledge gained.

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.

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 revision training must address any deficiencies highlighted where the officer fails to meet the competences set out in the competence requirements applicable to their authorisation.

Officers that are newly qualified or are returning to feed law enforcement duties after an absence of more than three years must be subject to a period of structured training including supervised inspections until DAERA is satisfied that the officer has addressed any identified deficiencies against the competence requirements relevant to the officer's authorisation.

The FSA recognises the need for all officers to update or refresh their knowledge and competency to adapt to the changing circumstances they work

in and for officers who are starting out in feed law enforcement for the first time or officers returning to feed law enforcement after a break who need to develop their knowledge and competency. DAERA should ensure that authorised officers receive relevant structured on-going training based on the principles of continuing professional development.

The FSA provides an on-going programme of training for officers to help support the competency requirements in this guidance which can be found at:-

<http://www.food.gov.uk/enforcement/enforcetrainfund/>

### **1.2.3.1 Training Records**

DAERA should keep records of the relevant qualifications and training undertaken by their authorised officers, including temporary staff.

### **1.2.4 Contracted Or Temporary Staff**

DAERA should be satisfied that contracted or temporary enforcement staff meet the qualification and experience requirements set out in 1.2.6 and 1.2.7 that are relevant to the enforcement duties they are engaged to perform. This includes the training referred to in 1.2.3.

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

DAERA 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 DAERA in writing.

### **1.2.5 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 Feed (Sampling and Analysis and Specified Undesirable Substances) Regulations (Northern Ireland) 2010<sup>4</sup> and this guidance document should only be undertaken by officers meeting the relevant requirements described in 1.2.7. 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.

### **1.2.6 Specific Qualification And Competency Requirements**

DAERA 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

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<sup>4</sup> The Feed (Sampling and Analysis and Specified Undesirable Substances) Regulations (Northern Ireland) 2010 SR 2010 No. 323

place. This will exclude the inspection of activities which require approval under the terms of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016.

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 1.2.8).

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

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.

#### **1.2.6.1 Level One Qualifications**

DAERA officers must have the minimum entry level qualifications for Group Two Inspectors as laid down by DAERA Departmental HR.

In addition DAERA 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.

#### **1.2.6.2 Level Two Qualifications**

Officers must hold the qualifications outlined in 1.2.6.1 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 3:

#### **1.2.7 Experience**

DAERA should be able to demonstrate that its officers/inspectors are experienced, 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.

### **1.2.8 Service Of Emergency Prohibition Notices And Orders**

Feed business emergency prohibition notices under regulation 22 of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016 should, whenever possible, be signed by officers holding the qualifications outlined in 1.2.6.2 , 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.

### **1.2.9 Existing Feed Law Enforcement Officers**

DAERA 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 1.2.7 and must have received training in HACCP and other quality assurance techniques. They will be expected to obtain the necessary qualification detailed in 1.2.6 within five years of this guidance coming into effect.

### **1.2.10 Alternative Enforcement Strategies**

Officers undertaking alternative enforcement strategies are not required to meet the qualification requirements set out in this section, 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 two feed law enforcement officer qualified in accordance with this section, and decisions to take other enforcement action and/or intervene further must also be made by such an officer.

## **1.3 Conflicts of Interest**

Staff carrying out official controls must be free from any conflict of interest<sup>1</sup>.

### **1.3.1 Avoiding Potential Conflicts Of Interest**

DAERA 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 DAERA delegates an official control task, e.g. sampling to an independent third party (control body<sup>2</sup>) then DAERA must obtain proof that the control body is impartial and free from any conflict of interest as regard the tasks delegated to it.

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<sup>1</sup> Article 4.2 (b) and 4.4 Regulation (EC) No 882/2004

<sup>2</sup> See Article 2(5) of Regulation (EC) 882/2004



## **1.4 Feed Business Establishment Records**

This section requires DAERA to maintain up to date accurate records on all feed establishments in Northern Ireland. This data may be divulged for the purposes of ensuring public health and the effective enforcement of feed law.

### **1.4.1 Feed Business Establishment Records**

DAERA should maintain up to date records of feed business establishments which have been registered with them and feed business establishments which have been approved or conditionally approved by them. DAERA's establishment record files, which may be computer based, must be updated after each official control and must include the information as required and set out in this guidance.

The database should include a comprehensive record of:

- Registered feed business establishments;
- Establishments that are the decision-making base of feed businesses;
- Approved feed business establishments.

DAERA must maintain records which will enable them to produce a list under each activity carried out by feed business establishments it has registered.

DAERA 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.

### **1.4.2 Access To Information**

DAERA should liaise as necessary to ensure that information is made available to all authorities that require it in accordance with 1.1.2.

DAERA 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.

## **1.5 Registration/Approval Of Feed Business Establishments**

DAERA should maintain a register of approved and registered feed establishments<sup>3</sup> except for those which fall outside the scope of Regulation (EC) 183/2005 (see 1.5.2).

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

### **1.5.1 Exemptions**

Those activities currently outside the scope of Regulation (EC) 183/2005 which do not require establishments to be registered 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; ( i.e. the direct supply, by the producer of small quantities of primary products to the final consumer or to local retail establishments directly supplying to the final consumer;
- 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.

### **1.5.2 Registration Of Feed Business Establishments**

#### **1.5.2.1 Applications For Registration: General**

Under Article 31(1) (a) of Regulation (EC) 882/2004 the competent authorities, (which for the purposes of that Article in Northern Ireland are the Agency and DAERA), 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 Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016. The following paragraphs contain further procedures.

DAERA 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

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<sup>3</sup> Article 9(3) Regulation (EC) 183/2005

the EC 183/2005 Feed Hygiene Regulation and the application of HACCP principles as applicable. For Primary Producers Annex III will be relevant.

### **1.5.2.2 Registration Forms**

The feed business operator<sup>4</sup> is responsible for ensuring the application form has been properly completed. Where incomplete forms are received, DAERA 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 DAERA 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.

### **1.5.3 Approved Establishments**

#### **1.5.3.1 Enforcement Responsibilities**

DAERA is responsible for approvals at all feed establishments in Northern Ireland.

#### **1.5.3.2 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 Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016, and procedures for handling applications for approval are set out below. DAERA should ensure that they, and feed business operators, follow these procedures as appropriate. Any deviations from these procedures should be recorded and retained by DAERA.

#### **1.5.3.3 Applications For Approval: Handling**

Any application for approval from a feed business operator should be dealt with promptly. In order to ensure consistency, DAERA 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.

DAERA 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

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<sup>4</sup> EC Regulation 178/2002 Article 3

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 5.3). It is a matter for DAERA to decide at which stage of the application this information should be provided.

#### **1.5.3.4 Determination Of Applications For Approval**

##### **Pre-Approval Inspections**

Before reaching a decision on an application for approval DAERA 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. The on-site visit should take the form of a planned inspection of the establishment. The inspection should be conducted in accordance with, and cover, all aspects of the relevant inspection form for the business concerned (see 5.1.1) 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.

##### **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 (including modes of transport such as lorries or ships). To qualify for this exemption feed businesses must make a declaration to DAERA 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**:

#### **1.5.3.5 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 DAERA 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 follow-up inspection (see 5.1.3). 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.

### **1.5.3.6 Approval Number / Identification Mark**

DAERA 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 "GBNI" for Northern Ireland. The remaining digits are the national reference number, followed by a sequential but consecutive number of 1 to 9999.

### **1.5.3.7 Refusal Of Approval And Appeals**

If an establishment does not fully meet the requirements of Regulation (EC) 183/2005, DAERA should consider whether conditional approval is appropriate in the circumstances (see 1.5.3.5).

When DAERA has decided to refuse an application for approval it should notify the applicant in writing of the decision at the earliest opportunity. DAERA 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 court of summary jurisdiction where such an appeal may be made. Rights of appeal are provided for in regulation 13 of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016.

If DAERA 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 Section 4).

### **1.5.3.8 Notification Of Approval**

Once approval, or conditional approval, has been granted, DAERA 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, DAERA 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.

DAERA 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 2.4.2.

### **1.5.3.9 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 DAERA becomes

aware of any significant changes in, for example, the activities of an approved establishment, they should carry out an inspection and undertake re-approval where the ownership of the feed business establishment has changed. More information on the approval of feed business establishments following the change of feed business operator/activities can be found at:

<http://www.food.gov.uk/enforcement/sectorrules/opchange/>

#### **1.5.3.10 Fees**

In accordance with regulation 14 of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016, feed authorities must charge a statutory fee for approval, or amendments to approvals as specified in the schedules to the Regulations for approvals or amendments to approvals. DAERA may seek reimbursement of any laboratory analysis costs incurred in connection with assessment of the establishment prior to approval.

#### **1.5.3.11 Non-Approved Establishments Thought To Be Engaged In Activities Requiring Approval**

Where DAERA 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 4 for general guidance on enforcement.

### **1.5.4 Lists Of Feed Business Establishments**

#### **1.5.4.1 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.

#### **1.5.4.2 Separate List Of Registered/Approved Feed Business Establishments**

DAERA 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 DAERA's database:

- i. Name of the feed business;
- ii. Address of the feed business establishment;
- iii. Activity.

DAERA 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 DAERA's database:

- Identity (approval) number;
- Activity;
- Name or business name of the feed business;
- Address of the feed business;
- Relevant remarks.

DAERA 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 DAERA 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.

DAERA 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.

The list of approved feed business establishments in the UK can be found at:

<http://www.food.gov.uk/enforcement/sectorrules/feedapprove/feedpremisesregister>

## **1.6 Feed Incidents And Hazards**

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

A schematic representation of the process that DAERA should follow when dealing with a feed incident or hazard is included at **ANNEX 4**:

### **1.6.1 Feed Incidents / Feed Hazards**

#### **1.6.1.1 Feed Incident: Definition**

A “feed incident” occurs where there are concerns about actual or suspected threats to the safety or quality of feed that requires intervention to protect public health e.g. contamination of animal health in processing or environmental pollution incidents. A feed incident can be a relatively minor matter or a major feed hazard.

#### **1.6.1.2 Feed Hazard: Definition**

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

#### **1.6.1.3 Contingency Plan<sup>5</sup>**

DAERA should set up and implement a documented procedure for dealing with feed incidents. This procedure should refer to the systems/facilities by which DAERA ensures that Feed Alerts can be responded to outside normal working hours.

#### **1.6.1.4 Categories Of Feed Hazard**

DAERA 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 DAERA 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.

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

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<sup>5</sup> Article 4.2 (f) Regulation (EC) No 882/2004



### **1.6.1.5 Deliberate Contamination And Malicious Tampering**

Feed may be contaminated deliberately. If such an incident occurs, DAERA should follow the arrangements in this section, 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 DAERA, the Agency, police forces throughout the UK and if necessary, the National Criminal Intelligence Service will be involved in the investigation.

DAERA 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.

DAERA 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.

### **1.6.1.6 Action By DAERA – Feed Hazards**

Once a feed hazard has been identified, DAERA 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).

DAERA 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 **1.6.1.5**).

When DAERA 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 if necessary.

DAERA should also consider the use of other powers under relevant feed law as appropriate, relevant to the circumstances involved.

Localised feed hazards should be dealt with, in conjunction with other relevant agencies and need not be reported to the Agency. DAERA 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 DAERA to the Agency and other relevant agencies at the earliest opportunity and by the quickest available means and confirmed in writing using a copy of the incident report form at **ANNEX 5**. Contact details can be found in DAERA's Animal Feed Safety Incident Management Plan at <https://www.daera-ni.gov.uk/articles/animal-feed>

However, where DAERA becomes aware that a feed business operator has withdrawn feed from the market in accordance with Articles 15 and 20 of Regulation 178/2002<sup>6</sup> due to non-compliance with the feed safety requirements of that Regulation, DAERA should confirm that the Agency is also aware of the situation.

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

#### **1.6.1.7 Localised Feed Hazards – Media Relations**

In the event of a localised feed hazard, DAERA may issue a 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. DAERA should notify the Agency immediately if the feed business operator raises objections to the release of such information.

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<sup>6</sup> 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

#### **1.6.1.8 Action By The Feed Authority – Feed Incidents**

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

#### **1.6.1.9 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, an incident report which will form the basis of a RASFF notification must be completed and forwarded with the appropriate documentation (shipping note, health certificates, importer details, etc.) to the Agency's Incident Team at [incidents.ni@foodstandards.gsi.gov.uk](mailto:incidents.ni@foodstandards.gsi.gov.uk). FSA will complete the RASFF notification and forward it to the European Commission.

## **2 Communication**

This section deals with the effective and efficient co-ordination of official controls (including management of feed incidents) between Competent Authorities, Control Bodies, other government departments responsible for feed controls and co-operation between Member States.

### **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, DAERA should take account of the contents of its own publication scheme under the Freedom of Information Act<sup>7</sup>. 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.

### **2.2 Feed Alerts**

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.

#### **2.2.1 Responding To Feed Alerts**

DAERA 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 DAERA, 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;

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<sup>7</sup> Freedom of Information Act 2000

- 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 DAERA Offices out of hours, to allow an effective response to be made.

### **2.2.2 Facilities For Receiving Feed Alerts And Updates**

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

DAERA should advise the Agency of their email address and of any changes to these details at the earliest opportunity.

### **2.2.3 Out-Of-Hours Services**

DAERA 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.

### **2.2.4 Action By Feed Authorities**

DAERA should 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 DAERA proposes to take alternative actions, it should agree these with the Agency before implementing them. Where DAERA anticipates difficulties in complying with a request for action given in an alert, it should contact FSA in NI immediately.

### **2.2.5 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, DAERA must ensure that the local statement is accurate, relevant and consistent with the Agency statement.

If DAERA 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.

## **2.3 Agency Communications And Guidance**

DAERA should take appropriate action on Agency guidance on the effective enforcement of feed law.

### **2.3.1 Guidance Issued To DAERA**

The Agency will, from time to time, need to issue enforcement guidance or communicate with DAERA 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 section applies. They will be sequentially referenced and include details of any action required to be taken by DAERA.

DAERA 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.

### **2.3.2 Enforcement Consistency**

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

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

DAERA may also consider advice issued by other bodies e.g. National Agriculture Panel and the National Animal Feed Ports Panel.

## **2.4 Information To Be Supplied To The Agency**

This section 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; email addresses; and emergency telephone numbers.

### **2.4.1 Matters Relating To Feed Hazards**

DAERA 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).

### **2.4.2 Matters Relating To Registered/Approved Establishments**

DAERA should supply the Food Standards Agency with a complete copy of their register of feed establishments and list of approved feed establishments when requested by the Agency in order to fulfil the latter's duty to keep national lists of approved and registered establishments.

### **2.4.3 Matters Relating To The Delegation Of Tasks Related To Official Controls**

If DAERA is responsible for the delegation of specific tasks to independent third parties (control bodies) it should provide the Agency with details of the control body and the tasks delegated to it.

### **2.4.4 Matters Relating To Liaison Arrangements With Other Member States**

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

### **2.4.5 Email Addresses**

DAERA should notify the Agency of its email address and notify any changes to these details (see 2.2.2).

### **2.4.6 Emergency Telephone Numbers**

DAERA should notify the Agency of emergency telephone numbers for contact outside normal office hours and notify any changes to these details (see 2.2.3).

#### **2.4.7 Feed Business Prohibition Order Made Against A Person**

See 7.2.1.7 and 7.2.1.8 for further details.



## **2.5 Liaison With Other Member States**

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 Competent Authorities in different Member States.

Trans-border matters that may have policy implications and matters relating to outbreaks of feed-borne illness and feed hazards are dealt with by the Agency. DAERA 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.

### **2.5.1 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 DAERA and feed control authorities in other Member States.

### **2.5.2 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 EU policy matters are at issue.
- Where repeated non-compliance has been identified in connection with different batches, lots or consignments from the same source.

### **2.5.3 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 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.

#### **2.5.4 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
- 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.

DAERA should seek advice from the Agency, if there is doubt as to the appropriate procedure for dealing with a particular trans-border matter.

#### **2.5.5 Enquiries To Other Member States**

DAERA 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 directly. The Agency can provide assistance in identifying the relevant liaison body or authority if necessary.

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

#### **2.5.6 Enquiries From Other Member States**

DAERA 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.

### **2.5.7 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 to 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”.

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

There will be circumstances in dealing with communications when confidentiality, data protection and human rights issues arise. In such circumstances, DAERA should take account of the contents of its own publication scheme under the Freedom of Information Act and ensure that any release of information is compatible with national legislation including that relating to Data Protection. DAERA 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.

### 3 Organisation Of Official Controls

This section deals with general obligations with regard to the organisation of official controls, control activities, methods and techniques.

#### 3.1 Frequency Of Official Controls<sup>15</sup>

DAERA shall ensure inspections are carried out regularly, on a risk basis and with appropriate frequency, no less than as set out in the Animal Feed Law Inspection Rating Scheme at **ANNEX 6**: in this document.

It is acknowledged that DAERA, as the enforcement authority, may schedule inspections at a greater frequency where it is determined that this is necessary e.g. to meet the requirements of DAERA legislation or to support cross border trade.

Inspection risk-ratings determine the interval that should elapse between one planned inspection of an individual feed establishment and the next.

The inspection risk-ratings of a feed business should be assessed or re-assessed at the conclusion of every planned inspection in accordance with **ANNEX 6**: Advice on amendments to inspection risk-ratings may also be notified to DAERA by the FSA e.g. when an assurance scheme loses its approval as referred to in **3.2**.

Inspection risk-ratings may be informed by an inspection plan, where one is in place. For example, an authority's work to assess management processes and procedures could inform their confidence in management as part of the risk rating process.

Inspection ratings should not be re-assessed at visits other than inspections which are part of DAERA's planned programme of 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 DAERA's control.

#### 3.2 Earned Recognition<sup>16</sup>

Feed business operators who demonstrably maintain high standards of feed safety by taking appropriate steps to comply with the law, may have these standards recognised by the DAERA when determining the frequency of their official controls for feed hygiene and therefore earn recognition.

Earned recognition for the purposes of this guidance is a reduction in the frequency at which inspections are delivered and taking account of compliance history, risk and/or individual steps a business takes to ensure compliance.

It is recognised that DAERA may be undertaking additional official controls at feed establishments including veterinary medicine, TSE, sampling and follow up visits as well as surveys and investigations.

In those instances where the activity being undertaken in a particular sector is nominally risk-rated as low, the guidance allows for the possibility of alternative enforcement strategies (AES). Earned recognition aims to reduce the burden on compliant businesses whilst concentrating enforcement activity at those businesses which do not comply with legal requirements.

The frequency of delivering official controls is not prescribed by regulation, however, under EU Regulation 882/2004, Article 3, Member States must consider a number of

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<sup>15</sup> Article 3.1 Regulation (EC) No 882/2004

<sup>16</sup> Article 3.1 (c) Regulation (EC) No 882/2004

parameters when determining the frequency of delivery to ensure controls are carried out on a risk basis and with appropriate frequency. These parameters take into account risk associated with feed and business activity; record of compliance; the reliability of any own checks and any information that might indicate non-compliance.

The Feed Risk-rating Scheme and general approach to earned recognition in this section has been designed with these requirements in mind. In this guidance the Feed Risk-Rating Scheme has been designed to better recognise feed business operators 'own checks'. Whilst there is no definition of 'own checks' in EU Regulation 882/2004, the FSA (in consultation with other Government Agencies and the European Commission) is of the opinion that a feed business operator who is a compliant member of an assurance scheme whose standards require compliance with feed law and include independent third party audit of members establishments to verify compliance, can be used as the basis for certain feed establishments to qualify for earned recognition. These assurance schemes are referred to as being 'approved' in this guidance.

Such recognition of current compliance levels and management controls may be applied to all feed business operators depending on whether a Feed Business Operator is a member of an approved assurance scheme or not. This section of the guidance provides further advice on the approach.

The application and effect of earned recognition on the frequency of inspections is described in **A6.2**:

This guidance describes two approaches as to how a feed business may qualify for earned recognition:

- a business which is not a member of an assurance scheme but demonstrates broad compliance; or
- a business which is a member of an approved assurance scheme and demonstrates satisfactory or broad compliance.

Feed business operators that qualify for earned recognition by being members of an approved assurance scheme may receive the lowest frequencies of inspections. The process and criteria by which an assurance scheme obtains 'approved' status is set out in a flow chart at 3.6.1. The frequencies are shown in 3.8.1: Impact of Earned Recognition.

The difference in the inspection frequency for businesses that are not members of assurance schemes and those who are members of an approved assurance scheme, is that the latter are subject to annual certification audits through membership of an FSA approved scheme.

### **3.2.1 Earned Recognition Through Membership Of An Assurance Scheme**

The criteria by which an assurance scheme can be approved as one whose members can take advantage of earned recognition are detailed in this guidance together with a current list of approved assurance schemes.

The list of approved assurance schemes will be kept under regular review and published by the FSA. The list will be kept up to date and included in **ANNEX 11**: of this guidance.

The frequency of audits or inspections at an individual feed business establishment whose operator is a member of an approved assurance scheme may be reduced as set out in **ANNEX 6**: until such time as:

- the assurance scheme is no longer approved by the FSA;

- the feed business operator is no longer a member of the approved assurance scheme or has been suspended;
- DAERA becomes aware of a serious non-compliance; or
- a significant change of activity takes place which is outside the scope of the business operator's membership of the assurance scheme.

### **3.2.2 Earned Recognition By Demonstrating Broad Compliance**

Earned recognition is also available to feed business operators who are not members of an approved assurance scheme but are found to be broadly compliant with feed law.

The frequency of official controls may be determined by DAERA as described in **3.3** and **ANNEX 6**: until such time as:

- DAERA becomes aware of a serious non-compliance;
- a significant change of activity at the operator's feed business establishment takes place; or
- ownership of the feed business establishment to which earned recognition applies changes.

Earned recognition can also be lost where DAERA has any other concern that would suggest an establishment may not comply with relevant feed law e.g. intelligence from other enforcement agencies which suggest the requirements of feed law might not be being met. Where this is the case then this should be reflected in the assessment of confidence in management and level of compliance rating as set out in **ANNEX 6**.

## **3.3 Alternative Enforcement Strategy (AES)**

DAERA should develop an AES to explain how it will conduct official controls at premises where the use of AES is indicated by **A6.2**:

An AES may consist of one or more of the following activities:

- questionnaires;
- surveys;
- project based inspections;
- customer complaint response;
- intelligence gathering visits;
- random percentage of premises subject to inspection.

Where an AES activity is undertaken by staff who do not meet the competency requirements referred to in 1.2 then the programme of controls should be overseen by the Lead Feed Officer to determine if further follow-up action is required at individual feed business establishments.

The use of AES at establishments which have earned recognition because they are broadly compliant but are not a member of an assurance scheme can enable enforcement authorities to focus attention on those businesses which present the greatest risk to consumer safety and/or which are failing to meet their statutory obligations.

The use of AES can also assist in maintaining contact with low-risk feed businesses to enable advice and information to be provided as appropriate. It can also provide a

mechanism for topic based coaching and education as businesses are able to request further feed safety information that may highlight a training need.

DAERA should determine the exact nature of its AES, which should be documented. The use of AES at individual establishments should be alternated with an inspection visit (an official control), at the frequency required by this guidance until such time as the business loses earned recognition.

Earned recognition is available to businesses which are assessed as 'broadly compliant', but who are not members of a recognised industry assurance scheme. This guidance describes the circumstances that will enable DAERA to implement earned recognition through the use of an Alternative Enforcement Strategy. This guidance refers to premises that are at least broadly compliant as qualifying for AES. If at any time DAERA finds that the business is no longer broadly compliant earned recognition may be removed until such time as the business is re assessed and can demonstrate a record of 'broad compliance'. See **A6.2**: in this guidance.

A business may approach DAERA on the basis that it believes it qualifies for earned recognition. DAERA may consider the requirements of the Guidance and notify the business as to whether it qualifies for earned recognition or not. Should a dispute arise, this will be dealt with under DAERA's complaints procedure. If a business is found to meet the criteria as described in this guidance, earned recognition may be taken into account.

### 3.4 Points Of Entry

DAERA should monitor consignments of all materials entering ports which originate from outside of the EU and are intended for use in animal feed. Controls at points of entry include carrying out systematic documentary checks, random identity checks and sampling for analysis as appropriate<sup>17</sup>.

Official controls should be proportionate and risk-based. Where no specific frequency of checking is specified in the legislation, priority should be given to identifying all consignments of feed entering a point of entry and its country of origin. The frequency of other types of official controls should be informed by:

- history of compliance for a given material;
- history of compliance by a given importer;
- the quantity of consignments entering the port (particularly if material has not been seen before or only infrequently); and,
- National enforcement priorities.

DAERA should liaise with relevant Port Health Authorities to share information, particularly in relation to feed which might be coming through points of entry. It should be remembered that a wide range of materials can be used in animal feed many of which can also be used in food or have other industrial uses. Where the intended use of a consignment is in doubt, enquiries should be made with importers, shipping agents, and inland authorities where businesses using the materials are based. This is particularly important in helping to prevent materials not intended for feed use from entering the feed chain.

DAERA should monitor consignments of animal feed to ensure that products which are required to enter the EU via designated points of entry have done so and have undergone the necessary official controls at those points of entry.

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<sup>17</sup> Articles 15 and 16 Regulation (EC) 882/2004 on the official control of feed and food

Whilst this information is primarily aimed at official controls at points of entry it should be remembered that inland controls also have an important role to play in monitoring the compliance of materials which originate from outside of the EU and the exchange of intelligence and findings between points of entry and inland checks on those importing feed and the products imported is a key element to a robust system of official controls. More information can be found at:

[http://food.gov.uk/enforcement/enforcework/enforce\\_authorities/resourcepack/](http://food.gov.uk/enforcement/enforcework/enforce_authorities/resourcepack/)

Import controls were further harmonised at EU level by Regulation (EC) No. 882/2004 on official controls and the requirements (at Articles 15 to 25) extend to feeds not already covered by Directive 97/78/EC (POAO Veterinary Checks regime). The controls on imported POAO (Products of Animal Origin) are carried out by DAERA officials.

### **3.4.1 Authorisation**

Officers who are involved in the delivery of import controls should meet the relevant competencies applicable to their duties as set out in **ANNEX 1**: of this guidance, before they can be authorised. Where officers are involved in the sampling of feed this will also include the competency on sampling. The work on import controls should be overseen by a 'Lead Officer' who meets the relevant competence and qualification requirements.

### **3.4.2 Routine Official Controls At Points Of Entry**

Imported feed should be subjected to risk based checks. OFFC Regulation 882/2004 requires systematic documentary checks, random identity checks and where appropriate physical checks. A systematic documentary check does not imply 100% checking of commercial documents but there should be risk based planned arrangements in place. However, documents required to accompany any consignment by feed law, such as under emergency control decisions, are likely to require 100% checking. Physical checks might include: checks on the feed itself, checks on the means of transport, checks on the packaging and analysis or any other check necessary to verify compliance with EU feed safety requirements. Such checks may also take into account any guarantees that the Competent Authority of the third country has given and which have been assessed by the Commission. The arrangements and follow up actions should be set out in relevant service policies and procedures.

Physical checks should be carried out under appropriate conditions inclusive of standards of hygiene and at a place with access to appropriate control facilities allowing investigations to be conducted properly. Samples should be handled in such a way as to guarantee both their legal and analytical validity.

Checks should be informed by:

- statutory requirements for documentary checks and associated sampling laid down in relevant emergency control decisions and emergency control regulations;
- guidance on the risks associated with different types of feed safety issues;
- knowledge of the product e.g. new or unusual;
- any requirements following a Feed Alert or RASFF notification;
- the history of compliance for the product, country of origin and exporter/importer;
- the controls that the feed business importing the feed has carried out;
- adequacy or sufficiency of documentation e.g. discrepancies which need further investigation; and



- suspicion of non-compliance.

Checks may also be influenced by information received from enforcement authorities regarding non-compliant feed or from other authorities or the port operator who may have concerns about a consignment.

Checks on imported feed should also take into account any guidance issued by the FSA. Such guidance may cover feeds for which specific documentary checking regimes have been laid down or feeds with restricted points of entry and/or testing regimes laid down in Commission Decisions or Regulations. Competent Authorities with points of entry which are not designated to handle certain FNAO (food not of animal origin) products subject to Emergency Control Decisions may wish to ensure relevant port operators, local HMRC, or agents/importers are aware of any restrictions. Arrangements should also be in place to deal with any such consignments which may arrive at the point of entry.

### **3.4.3 EU Regulation 669/2009 On High-Risk Feed**

Since 25 January 2010 imports of certain feed and food of non-animal origin, from certain non-EU countries, that are considered to be 'high-risk' can only enter the UK through specific ports and airports approved as Designated Points of Entry (DPEs) where official controls will be carried out. A 'high-risk' product is feed or food that is either a known, or an emerging, risk to public health. This may be due to the presence of contaminants or undesirable substances such as aflatoxins,

A list of the 'high-risk' products, country of origin and the frequency of checks can be found at Annex I of Commission Regulation (EC) 669/2009, as last amended by Commission Implementing Regulation (EU) 618/2013 of 26 June 2013. This Annex is updated approximately every six months.

DAERA should be aware of those feeds currently included in Annex 1 of the Regulation in order that they can be sure that consignments have entered via appropriate points of entry and undergone the appropriate checks. More information on the requirements of the Regulation (including a list of DPEs) which is published on the FSA website at:

[http://www.food.gov.uk/business-industry/imports/banned\\_restricted/highrisknonpao](http://www.food.gov.uk/business-industry/imports/banned_restricted/highrisknonpao)

### **3.4.4 Controls At Small Points Of Entry**

The FSA has produced guidance for Competent Authorities on official controls at smaller points of entry which is published on the FSA website at:

<https://www.food.gov.uk/sites/default/files/multimedia/pdfs/smaller-seaports-airports.pdf>

## **3.4.5 Role Of The Central Competent Authority And The Competent Authorities**

### **3.4.5.1 Food Standards Agency**

It is the FSA's role as the central competent authority to assess individual assurance schemes which have applied for 'approved' status. This will be done using the criteria set out in 3.5 below.

When the FSA is confident that an assurance scheme meets the criteria a Memorandum of Understanding (MoU) will be agreed by the FSA with the assurance scheme owners, which details:

- the relevant scheme standard for which earned recognition has been awarded.
- any limitations to the scope of earned recognition awarded.
- arrangements which permit the FSA to regularly review the approved status of the scheme.
- the expected frequency of inspection for members of the scheme.
- how Competent Authorities can access the membership details of the assurance scheme.

The FSA will publish in **ANNEX 11**: of this document all those assurance schemes which currently have approved status, together with a copy of the relevant MoU.

The FSA will review and verify the approved status of assurance schemes on a regular basis, using information provided by the assurance schemes and competent authorities together with other relevant intelligence e.g. RASSF notifications. The FSA will agree actions to be taken by an assurance scheme where the general standards of compliance by its members are causing concern. This does not affect the role of DAERA in ensuring that individual establishments take corrective action to deal with non-compliance or their role in removing earned recognition from such an establishment if it fails to attain a minimum level of compliance.

### 3.4.5.2 Competent Authorities

It is the DAERA's role to assess compliance of all feed business operators with feed law. In doing this DAERA will be able to:

- assess whether feed businesses which are not members of an approved assurance scheme can be awarded earned recognition or have it removed if they are found not to be broadly compliant.
- assess whether individual feed businesses which have earned recognition as a member of an approved assured scheme is satisfactory or broadly complaint and can retain its reduced level of inspection.
- ensure that any non-compliance is rectified in a timely way.

When the FSA has approved an assurance scheme DAERA may adjust the frequency of inspection of all members of the assurance scheme in their area to that outlined by this guidance and published by the FSA. Feed businesses that are subject to on-going enforcement or are known not to be satisfactory should not qualify for earned recognition until risk rated at the next programmed inspection and found to meet qualifying criteria as detailed in this guidance.

When DAERA becomes aware of an issue that will affect a feed business' earned recognition status and this business is a member of an approved assurance scheme, this should be notified to FSA in NI as soon as possible using the earned recognition exception report form at: **ANNEX 11**: and sent to the mail box at [Executive.Support@foodstandards.gsi.gov.uk](mailto:Executive.Support@foodstandards.gsi.gov.uk) This information is important in helping the FSA carry out its verification role of approved assurance schemes.

Where earned recognition has been obtained by virtue of membership of an approved assurance scheme, inspections by DAERA should not coincide with the assurance scheme audit. If officers wish to witness an assurance scheme audit this should be arranged to take place at an establishment outside of its enforcement area. This is to avoid any conflict of interest and to ensure independence of the official controls.

## 3.5 Criteria For The Approval Of Assurance Scheme

To be approved an industry scheme must meet FSA key requirements and criteria in the following areas:

### 3.5.1 Governance And Standard Setting

The FSA will ensure the industry scheme and standards cover applicable legislative requirements, and will consider the following aspects of governance surrounding the establishment and setting of standards:

- **Governance:** The role and governance of the standard setting body will be clearly defined within the scheme and include representatives of all relevant stakeholders;
- **Standards:** There will be a clearly defined processes for developing standards, with access to expertise and experience in relation to the sector to which the standards relates;
- **Legislation:** Processes will be in place to ensure standards are reviewed and developed in line with legislative changes;
- **Risk based:** A risk based approach to standard setting will be used drawing upon HACCP or an equivalent risk assessment process that identifies feed safety hazards and controls.

The FSA will ensure that industry schemes describe compliance as well as processes for assessment and review, particularly:

- the scheme will provide guidance on interpretation and assessment of compliance and how non-conformities with standards are dealt with;
- systems will be in place to monitor and adjust scheme requirements to ensure they achieve acceptable standards of compliance;
- the scheme will have an appropriate mechanism for the development and review of inspection criteria, with the ability of relevant stakeholders, including central Competent Authorities, to contribute to this.

### 3.5.2 Standard Mapping

The FSA will map scheme standards to ensure they encompass legislation applicable to the feed sector the scheme identifies with. The FSA will consider standards against requirements in the following legislative measures (as amended from time to time):

- Directive 2002/32 on Undesirable Substances in Animal Feed;
- Regulation (EC) No. 178/2002 on the Principles of Feed and Food Law.
- Regulation (EC) No. 1829/2003 on Genetically Modified Food and Feed;
- Regulation (EC) No.1831/2003 on Feed Additives;
- Regulation (EC) No.767/2009 on the Marketing and Use of Feed; and
- Regulation (EC) No.183/2005 on Feed Hygiene (as amended by Commission Regulation 225/2012 on feed oils and fats);

If the FSA subsequently identifies that a scheme fails to cover any new legislative requirements remedial action will be taken by the assurance scheme to ensure that approved status is not suspended or removed.

### **3.5.3 Certification Process**

The Certification Body will have processes that meet the following criteria:

- be UKAS accredited or equivalent having EN45011 accreditation;
- promotes quality management, including clearly defined management structure, processes for monitoring audits and the objective collection and recording of evidence as part of the certification process;
- the certification process is reviewed at least annually to ensure it is operating effectively and in accordance with the requirements of the assurance scheme;
- non-conformances are tracked, closed off or otherwise addressed subject to the schemes requirements;
- the competence / performance of assessors are monitored;
- those responsible for certification are kept up to date with developments in standards and guidance for interpretation of standards; and
- the certification decision making process is clear, transparent, proportional, consistent and documented.

### **3.5.4 Assessment By Third Party Auditors Of Assurance Scheme Members**

The FSA will ensure the following:

- the process includes assessment of compliance with feed law.
- the assessment process will be underpinned with guidance;
- the assessment will be carried out by inspectors who are impartial, competent and have relevant sector knowledge;
- frequency of assessments will be no less than the minimum set for the relevant sector required by the guidance;
- assessment will review all the standards set by the scheme applicable to the business;
- comprehensive records of assessment findings will be maintained; and
- audits should be unannounced or at short notice.

### **3.5.5 Assessor Authorisation / Competence**

When reviewing the certification process, the FSA will expect the assurance scheme owners to have defined systems in place to ensure the certification body has:

- criteria for appointing and authorising assessors including reference to professional qualifications, auditing skills, relevant experience and arrangements for ensuring on-going competency; and
- induction and continued learning to enable assessors to demonstrate a clear understanding of scheme requirements procedures and guidance for interpretation of standards and how non conformities are handled.

### **3.5.6 Data Management**

The provision of information particularly from the assurance scheme to the FSA and Competent Authorities is essential and the following will be required:

- information is made available to determine membership of the scheme, last certification date, the month that the next certification audit will take place and that such data is kept up to date;
- processes are in place to ensure the FSA and DAERA are informed quickly about members that are suspended from the scheme or where assessors have doubts that a member can manage or control risks as a result of repeat non conformities;
- processes are established to ensure that the FSA and DAERA are informed immediately where an immediate threat to public health or animal health or welfare is identified;
- an agreed process between the FSA and the assurance scheme to review planned and actual assessments;
- an agreed process is established between the FSA and the assurance scheme to review non- conformance data to look at support that could be offered by the scheme / FSA;
- establishment of effective processes for communication of alerts, between the FSA, DAERA and the assurance scheme; and
- the assurance scheme establishes a process to notify the FSA of any changes to the scheme with particular reference to standards that reflect legislative requirements.

### **3.6 Continued Monitoring Of Approved Assurance Schemes**

Once the FSA has approved an assurance scheme, steps will be taken to ensure continuing confidence in the scheme through verification. The verification process will enable the FSA to be assured that the scheme continues to deliver high standards, good governance and impartiality that lead to approved status. The inspections and audits of feed business establishments which are approved will form an essential element in this process and enforcement data provided to the Agency and other intelligence from official controls carried out by the Competent Authorities will be key sources of information.

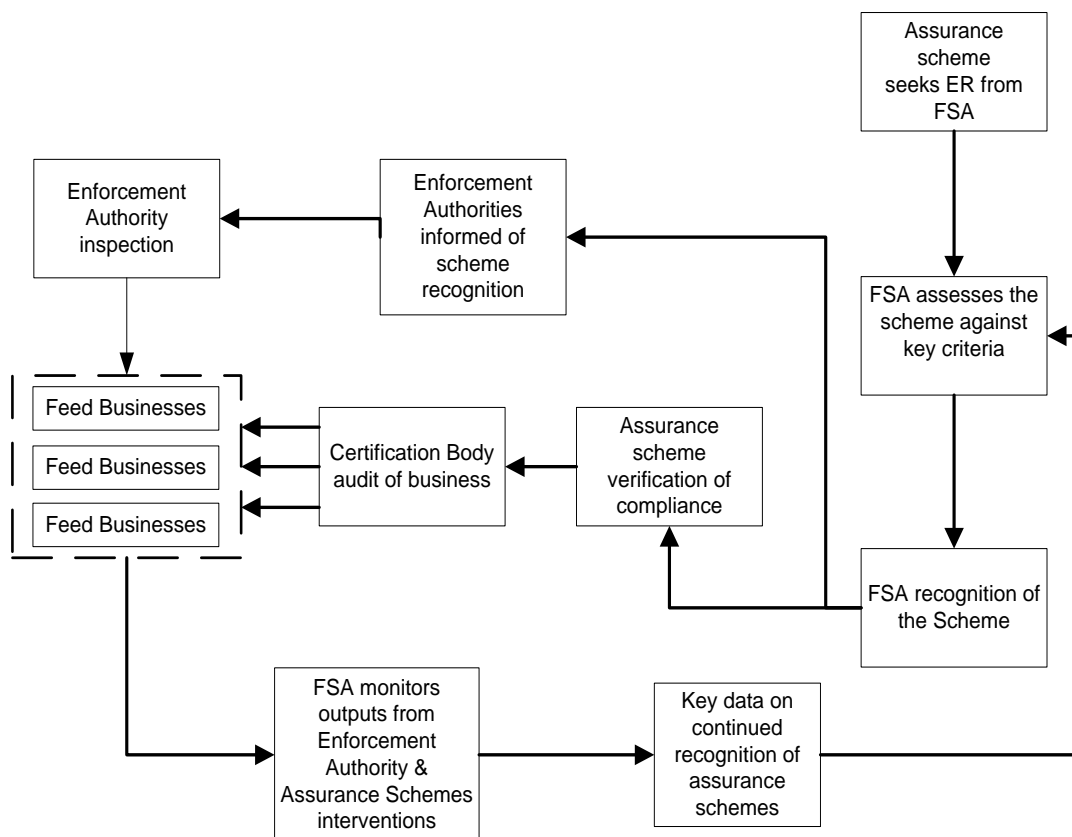
This on-going positive verification will enable the FSA and Competent Authorities to have continued confidence in the approved assurance scheme. Verification will also allow the FSA to intervene should the scheme fail to meet criteria that lead to approved status. The FSA will work with the assurance scheme to ensure FSA criteria for approval is met, but ultimately the FSA can remove approved status. Should the FSA take this step it will liaise with bodies representing Competent Authorities and issue advice as to what adjustments will be made to the risk rating / visit frequency for those businesses concerned.

The FSA on a regular basis will review the following:

- the assurance scheme against the earned recognition requirements, criteria referred to in **A6.2:** and the MoU;
- agreed and up to date data is exchanged between the FSA, Competent Authorities and the assurance scheme;
- levels of compliance, non-conformities and rectification timescales;
- contact details are maintained for the FSA, Competent Authorities and the assurance scheme;
- membership information is made available to Competent Authorities, including businesses that have left or joined the scheme;
- the assurance scheme and certification body maintain a plan of work to ensure assessments are delivered in line with schemes requirements;

- work with the assurance scheme to understand the type and frequency of non-conformities found to inform the support that both the FSA, Competent Authorities and assurance scheme can provide;
- assess compliance through DAERA inspections;
- verify audit performance through the assurance scheme;
- check the quality of audits through direct assessment with the assurance scheme and through Competent Authorities undertaking relevant sample checks of qualifying businesses.
- the criteria that lead to approved status being awarded, to ensure assurance schemes continue to meet such criteria.

### 3.6.1 Process For Gaining Earned Recognition And UK Verification Process



### 3.6.2 On-Going Internal Governance Arrangements

To support the implementation of feed earned recognition the internal governance arrangements will ensure:

- a continuing connection between operational implementation and strategic development of earned recognition within the Agency;
- the decision making process for approval, continuing approval or termination of approval is fair, consistent, robust and evidence based;
- a system of accountability exists to define responsibilities for approval and monitoring of earned recognition;

- earned recognition continues to support the FSA's Strategic Plan and the system continues to support the delivery of official feed controls.

### **3.7 Circumstances Where A Feed Business Establishment Operating To An Approved Assurance Scheme Standard Can Lose Earned Recognition**

#### **3.7.1 Suspension Of A Member**

When a business which is a member of a recognised assurance scheme is suspended by the assurance scheme, the FSA will be notified immediately. This will enable the FSA to track suspensions and enquire as to what action DAERA has taken to deal with the business. All Competent Authorities will have access to assurance scheme data bases to track membership and suspensions.

#### **3.7.2 Membership Is Removed**

The circumstances under which a business leaves an approved assurance scheme will dictate what action DAERA should take. Businesses that are non-compliant with scheme standards will usually be suspended prior to removal of membership. In such circumstances DAERA should aim to inspect the business as soon as possible and re risk rate the business.

Businesses may choose to leave an assurance scheme as membership no longer benefits them. DAERA should visit such businesses, inspect and re-risk rate them in accordance with this guidance.

#### **3.7.3 Removal Of Earned Recognition By The Competent Authority**

This guidance provides circumstances in which the removal of earned recognition would be appropriate and includes the authority becoming aware of a serious non-compliance or poor history of compliance associated with the business.

DAERA will become aware of non-compliances through visiting businesses as part of delivering official controls or in response to complaints from the public or information from other agencies that have cause to visit the business.

From time to time DAERA may find minor non compliances when auditing a feed business that qualifies for earned recognition. Providing the matter is not subject to enforcement sanctions and can be rectified immediately or within a reasonable timescale of being identified, earned recognition should not be removed. DAERA will need to revisit and check that the matter has been resolved.

Examples of minor non-compliance which might be permitted for a "compliant" business could include:

- failure to complete records in full on occasion;
- minor hygiene breaches such as unclean hopper, water trough, etc. but evident that it is cleaned from time to time;
- minor pest control matters (in view of the environment, e.g. birds in shed), but there is a pest control system in place and action has been taken to minimise or eliminate contamination;
- chemicals stored in feed areas (but in sealed/closed containers).

Examples of a serious non-compliance which would lead to an increase in the establishment's risk-rating score leading to loss of earned recognition include:

- non-compliances requiring the use of formal enforcement powers e.g. improvement notice;
- an imminent risk to public health through the consumption of food from animals which have received contaminated feed;
- the welfare of food producing animals is threatened through the use of contaminated feed;
- serious infestation of pests (one which affects the welfare of animals or the safety of feed/food stocks) with no pest control system in place;
- serious breaches of hygiene such as unclean equipment which indicates no cleaning for some considerable time;
- controls to prevent cross contamination (e.g. segregation of medicated and non-medicated feed) are inadequate;
- lack of feed traceability;
- a significant change of activity, e.g. which is outside of the scope of the assurance scheme standard or involves a farmer who begins manufacture of compound feed for supply to other feed business operators.

(\*Note this is not an exhaustive list)

### **3.8 Impact Of Earned Recognition And Alternative Enforcement Strategies On Feed Establishments**

The table at 3.8.1 indicates the expected effect of the intervention risk-rating scheme on various types of establishments and indicates whether earned recognition through an approved assurance scheme or AES can be considered.



### 3.8.1 Impact Of Earned Recognition

Business Description	Potential Approval/ Registration Codes Applicable to the Business for illustrative purposes only	Poor Compliance  Frequency of inspections Years	Varying Compliance  Frequency of inspections Years	Satisfactory Compliance  Frequency of inspections Years	Broad Compliance or better  Frequency of inspections Years / AES	Earned Recognition for Members of Approved Assurance Schemes  Frequency of inspections years / % annual inspection sample
Arable Farm	R14	3	4	5	AES	1%
Co-Product Producer	R12	1	1	2	4	5
Distributor	All approved codes plus R1,R2,R3,R5, R7	2	4	5	AES	2%
Importer	Not applicable					
Livestock Farms	R13	3	4	5	AES	1%
Manufacturer of additives or of feed using additives	All Approved Codes plus R1, R2, R3 to R4, R6	1	1	2	3	4
Mobile Mixer	R4	1	1	2	4	5
On-Farm Mixer	R10	1	1	2	4	5
On-Farm Mixer	R11	3	4	5	AES	1%
Stores	R9	2	3	5	AES	2%
Supplier of Surplus Food	R7	2	4	5	AES	2%
Transporter	R8	2	4	5	AES	2%

Please see the link below for list of approval and registration activities:-

<http://food.gov.uk/business-industry/guidancenotes/hygguid/approvregfeedguidance>

\*Please note that for the purpose of the Animal Feed Law Inspection Rating scheme in **ANNEX 6**: of this guidance 'Other businesses' may include bespoke small scale activities for example very small pet food producers producing 100kg of pet food per annum.

## 4 General Enforcement

### 4.1 Approach To Enforcement

This section lists reference materials of which DAERA should take account. It requires DAERA 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 should be made in all communications with feed businesses. Where significant non-compliance is identified, 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.

#### 4.1.1 Enforcement Information

DAERA 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 Practice<sup>18</sup> where appropriate; guidance issued by the Agency and LGA, relevant industry codes of practice and appropriate technical literature.

#### 4.1.2 Reasonableness, Proportionality And Consistency

DAERA 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 or significant non-compliance is identified, 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, DAERA should take account of the following:

- The Principles of good enforcement as laid down in The Enforcement Concordat<sup>19</sup>
- Code for Crown Prosecutors;
- Regulators Code, where applicable

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<sup>18</sup> 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

<sup>19</sup> The Enforcement Concordat can be accessed at the following link, <http://bre.berr.gov.uk/regulation/documents/pst/pdf/concord.pdf>

- DAERA's Enforcement Policy.

#### **4.1.3 Feed Law Enforcement Procedure**

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

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

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

DAERA's feed law Enforcement may be part of a generic policy, or combined with other enforcement policies, providing the applicability of the Procedure to the enforcement of feed law is clear and unambiguous.

Authorised officers should implement their feed law Enforcement Procedure, which should reflect all the factors set out in 4.1.2

Departures from the Procedure 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. DAERA 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.

#### **4.1.4 Communication With Multi-Site Feed Businesses**

Direct communications between DAERA 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.

#### **4.1.5 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 DAERA should be accurate and reflect current practice. DAERA should be prepared to discuss letters, circulars, etc with any feed business operator to whom they have been sent.

#### **4.1.6 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 Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016 permits an authorised officer to enter premises to undertake official controls and to take with them such other persons as they consider necessary. This would include, for example, an assistant or expert.

The same regulation permits:

- inspection of material which appears to be feed;
- inspection of packaging and labelling;
- inspection of plant and equipment, including vehicles;
- sampling of materials which appear to be feed; and
- inspection of records including those held electronically.

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 Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016, the Official Feed and Food Controls Regulations (Northern Ireland) 2009 and this Guidance are not observed, evidence obtained during an investigation may be compromised.

#### **4.1.7 Informal Approach**

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

Any subsequent correspondence from DAERA 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 4.1.4 and 4.1.5. This should be discussed and, if possible, agreed with the feed business operator.

#### **4.1.8 Prosecution In NI**

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

Before deciding whether a prosecution should be taken DAERA 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 Prosecutors<sup>20</sup>.

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.

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);

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<sup>20</sup> The Code for Prosecutors can be accessed at this link  
<http://www.ppsni.gov.uk/Code-for-Prosecutors-5017.html>

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, in accordance with the principles of Home Office Circular 016/2008 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.

## 5 Inspections

### 5.1 Inspections

This section defines the types of inspections which DAERA 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.

#### 5.1.1 Initial Inspection Of A New Establishment Or Change Of Feed Business Operator

This paragraph does not apply to establishments at the level of primary production except those which indicate an activity that would require them to comply with the requirements of Annex II of Regulation (EC) 1831/2003.

DAERA must make use of information supplied to it by feed business operators in connection with the registration or application for approval of their feed business establishments in accordance with Article 31 of Regulation (EC) No 853/2004, in order to determine when to carry out an initial inspection.

In the case of an approved establishment having changed ownership since 1 January 2006 which has not been reapproved, this business must be prioritised for re-approval<sup>21</sup>. Subsequent changes in the ownership of such businesses must result in re-approval as detailed at 1.5.3.9 in this guidance.

New feed business establishments that come to the attention of DAERA for the first time must be subject to an initial inspection following which risk-rating(s) for the establishment should be determined.

An officer carrying out an initial inspection of a new feed establishment should:

- establish the scope of the business's activities 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 contractors, feed business operators and their employees;
- determine whether it is necessary to collect samples of raw materials, ingredients, additives, intermediate products, and finished products for analysis;
- identify any actual or potential breaches of feed law and, if appropriate, gather and preserve evidence; and
- determine relevant enforcement action and communicate to the feed business operator an intention to carry out such action.

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<sup>21</sup> Allan Rich Seafoods v Lincoln Magistrates Court



### 5.1.2 Planned Inspections – General

DAERA should 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 **Error! Reference source not found.** and **ANNEX 6**:

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 planned inspection or a follow-up inspection.

Where possible the inspection delivered at a feed establishment must be undertaken without prior notification. The general principle regarding pre-notification of an inspection or audit is set out in Regulation (EC) No 882/2004 which states in Article 3(2) that:

*“Official controls shall be carried out without prior warning, except in cases such as audits where prior notification of the feed or food business operator is necessary. Official controls may also be carried out on an ad hoc basis”.*

There will, however, be circumstances when it is advantageous to give advance notice, particularly when the purpose of an inspection is to see a particular process in operation or examine records which are only available if the proprietor of the feed business is present. In such cases no more than 48 hours' notice of the intended visit can be given to the feed business operator. Authorised officers must exercise discretion in this area guided by the overriding aim of ensuring compliance with feed legislation.

All feed businesses should receive unannounced inspections and sampling visits and announced official controls must be the exception.

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

A planned 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 **5.2.2**). A serious breach of animal feed law before the next planned inspection would not preclude an earlier inspection taking place which replaces that planned. A planned inspection may also be undertaken when information received indicates a serious breach of animal feed law.

DAERA may develop and use inspection forms, which will enable recording of the inspections i.e. what was examined and whether or not it complies with legislative requirements. The forms should include all the elements of an inspection that are appropriate to each type of business and also could be used to report findings of inspections to feed business operators, including remedial actions which are required to rectify non-compliances.

An officer carrying out a planned 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 exceed maximum permitted levels or exceed action thresholds<sup>22</sup> 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 planned inspection, provided it includes the activities set out above.

Subsequent visits to discuss aspects of feed safety management procedures based on the HACCP principles will continue to be considered to be a follow-up inspection (the fourth bullet of 5.1.3 below refers).

Feed businesses that fail to comply with significant statutory requirements must be subject to appropriate enforcement action and revisit(s) where compliance cannot be assessed by other means.

Revisits should focus on the contraventions identified at the last planned programmed inspection and ensure that they have been remedied before deciding that no further action is required.

The timing of the revisit will be determined by the severity of the non-compliances identified.

Such a revisit should, whenever practicable, be undertaken by the officer who undertook the original audit or inspection.

### **5.1.3 Follow-Up Inspections - General**

A follow-up inspection is any other visit to a feed business that is not a planned 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;

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<sup>22</sup> 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. 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.

- Visits to investigate complaints;
- Visits to discuss aspects of feed safety management procedures based on HACCP principles;

#### **5.1.3.1 Businesses**

DAERA 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) 882/2004 (see 1.5) in order to determine when to carry out a planned or follow-up inspection.

DAERA'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.

#### **5.1.3.2 Early Inspection**

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

- 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.

#### **5.1.3.3 Need To Re-Schedule Planned Inspections**

Circumstances may arise that require DAERA to re-schedule their planned 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 2.2.1 require DAERA to take specific action. DAERA 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 DAERA is necessary to protect animal or public health.

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

#### **5.1.4 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 planned 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.

#### **5.1.5 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 planned 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.

Also refer to 5.3 for additional requirements in relation to the inspection programme for approved establishments.

#### **5.1.6 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 planned inspections once their low risk rating has been confirmed by a planned inspection of the premises and is in compliance with the provisions of relevant feed law legislation (see 3.3 and **ANNEX 6**).

However, planned 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 DAERA which may require documents *i.e.* labels, quality and feed safety management system plans (such as HACCP) to be forwarded to the enforcement body.

## **5.2 The Inspection**

### **5.2.1 Inspections – General**

Planned inspections should be based on the relevant DAERA inspection form for the business concerned (See **5.1.1**).

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 planned inspection.

The inspection process should begin with a review of the information held on record by DAERA 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 planned 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 planned 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 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 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.

## 5.2.2 Planned Feed Hygiene Inspections

(See also 5.1.1)

### 5.2.2.1 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) 1831/2003 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 planned 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) 1831/2003 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 1774/2002;
- 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.

### **5.2.3 Planned Feed Composition Inspections - Scope**

(See also **5.1.1**)

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 planned 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.



## **5.2.4 Follow-Up Inspections – Feed Hygiene And Feed Composition**

(See also **5.1.3**)

Feed businesses demonstrating significant non-compliance with statutory requirements must be subject to appropriate enforcement action and follow-up 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;

Follow-up 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 follow-up 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.

DAERA's approach to follow-up inspections should be part of their documented Enforcement Policy (see **4.1.3**).

### **5.2.4.1 Clothing And Equipment**

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

DAERA 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.

DAERA 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.

### **5.3 Additional Requirements Concerning Inspection Of Approved Premises**

This section requires DAERA 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.

#### **5.3.1 General Requirements**

DAERA 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 1.5**).

#### **5.3.2 Planned Inspections**

Planned inspections of establishments subject to approval under Regulation (EC) 183/2005 should be carried out in accordance with **5.1** and **5.2**.

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.

## 5.4 Action Following Inspection

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

### 5.4.1 Post-inspection Reports

The outcome of a planned inspection or audit 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 7**: which may be included in a post-inspection letter that sets out the measures to be taken to secure compliance.

Results of analysis on samples should similarly be reported to the feed business operator. The outcome of other official controls e.g. inspection of consignments at points of entry should also be reported to the feed business operator responsible for the consignment unless the check was of a monitoring nature designed to decide if further controls were required. E.g. manifest checks.

Follow-up inspections should be reported in writing by 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.

### 5.4.2 Inspection Record Files

DAERA'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; and in respect of establishments inspected for feed hygiene purposes;
- an assessment of the business progress in meeting 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;
- details of enforcement action;
- The existence and assessment of any documented quality system;
- Details of other businesses that produce or import for the business.

#### **5.4.3 Retention Of Establishment Record Files**

Records relating to interventions shall be retained in the establishment file for at least six years, unless required for longer retention because of litigation, by DAERA's document management policy or instruction by the Agency.

## **5.5 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. DAERA should have regard to the general advice on enforcement contained in this guidance document in relation to their imported feed enforcement control arrangements.

## **6 Sampling And Analysis**

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. DAERA's Sampling Policy and Programme should cover all types of feed law enforcement work undertaken.

### **6.1 Objectives Of Feed Sampling**

The main objectives of feed sampling should be borne in mind when setting up sampling programmes, and these objectives below may help to formulate priorities for sampling activity.

#### **6.1.1 Protecting Health**

The most important objective of feed sampling is to protect animal and public health. A significant proportion of sampling activity undertaken will, in some way, have a bearing on this wide-reaching objective. Specifically, sampling to detect naturally occurring toxins, contaminants, use of unsuitable ingredients, excessive addition of additives or additives not approved for the use intended or banned from use in animal feed.

#### **6.1.2 Detecting Fraudulent Activities**

In terms of animal feed such activity is likely to cause potential health concerns when it is linked to the diversion of product not intended for use as animal feed e.g. the use of 'technical grade' calcium carbonate containing high levels of heavy metals. Another example is the use addition of melamine to feed for animals to alter the apparent protein content of feed. This can lead to the death of animals with potential consequences for public health.

#### **6.1.3 Compliance With Labelling Requirements**

Information on feed labels is essential to enable feed business operators throughout the feed chain to make appropriate/best use of the material they use either to manufacture feed or use as feed. This information is also often critical in ensuring that the feed is provided to the correct species/age of animal and provided in quantities which does not affect the health of the animal or animal products or have adverse implications for human health/traceability.

#### **6.1.4 Providing Advice To Feed Business Operators**

Notifying feed business operators of sampling results can highlight issues that they were not aware of, thus allowing them to take prompt action. Similarly, enforcement sampling alerts industry that products are being monitored for the purpose of consumer protection and legal compliance.

### **6.1.5 Promoting Fair Trade And Deterring Bad Practice**

Legitimate businesses need assurance they will not be undermined by competitors who cut corners or commit fraud. Businesses and consumers alike need to know where they stand. It is, therefore, important that feed law is effective and is enforced efficiently and consistently. Fair and effective enforcement helps honest and diligent feed businesses and is supported by industry as a whole.

## **6.2 A Planned Approach To Feed Sampling**

DAERA should have in place a programme for the majority of sampling that it intends to carry out during the year. This planned sampling should take into account local concerns as well as wider issues and can generally be set some time in advance.

A sampling programme should be risk based (see below), and the planned inspection programme for the year should be considered together to ensure, where appropriate, that sampling and inspection programmes can be effectively integrated. Sampling will want to take place more frequently at premises of high-risk feed business operators than at others, but as well as the risk associated with the premises, consideration of higher risk products which may be found at otherwise lower risk premises e.g. feed additives used in animal feed at stores or distribution facilities.

### **6.2.1 What To Sample**

DAERA will have a good idea of what is required to be included in a sampling programme. DAERA should also refer to the National Feed Enforcement Priorities that are circulated annually by FSA.

Feed liaison groups and Agricultural Analysts can also be a useful source of information as can information passed on from other enforcement bodies e.g. Competent Authorities at points of entry and agencies such as the Veterinary Medicines Directorate. Sampling programmes should be planned to avoid feeds that are already being looked at on a wider basis. Using information from the UK Food Surveillance System (UKFSS) can be helpful in this regard and the FSA would encourage all Competent Authorities to make use of the system to make the most effective use of sampling resources. More information on UKFSS can be found at:

<http://www.food.gov.uk/enforcement/monitoring/fss/>

Imported feed makes up 40 per cent of the feed used in the UK. Sampling imported feed then becomes a key mechanism to ensure the safety and quality of feed and food entering the UK from countries outside of the EU. All Competent Authorities with responsibility for points of entry should include provision in their programmes to sample products at points of entry on a risk basis. In addition, all Competent Authorities should give priority to the sampling and analysis of product, particularly additives and feed materials originating from outside the EU to assess its compliance with EU safety requirements.

### **6.2.2 Local Issues**

Competent Authorities will want to deal with known or emerging local concerns and the Agricultural Analyst will be able to advise on these. In addition, sampling will be determined by the profile of feed business operators in the Competent Authorities area which may include such diverse businesses as additive manufacturers, mineral extractors, surplus food processors, importers and feed stores.

### **6.2.3 When To Sample**

The frequency of visits and subsequently any samples taken will mainly be determined by the risk assessment given for individual premises and the products used. It makes sense to tie in sampling programmes with inspection programmes wherever possible. For instance, if DAERA is the enforcement authority for any feed premises which deals in unusual products, that may act as wide distribution centres either within the UK or internationally, it will probably want to sample products from these premises more frequently than others.

There may be seasonal factors associated with some businesses, such as seasonal variations in the imports they receive.

Some businesses will not work to normal office hours and may require sampling visits outside of normal working hours e.g. importers.

### **6.2.4 Where To Sample**

Choosing where to sample is closely linked with risk associated with a feed business and the product. In general, feeding stuffs should be sampled as far back along the supply chain as possible. In the case of feed materials and feed additives this will enable an assessment to take place of compliance before dilution of possible undesirable substances (contaminants) can come into effect. It should also be remembered that many feed materials are fed directly to livestock. Normally, a compound feed should be sampled at premises where it was manufactured unless there is reason to do otherwise e.g. the feed is the subject of a complaint.

Only a small amount of imported animal feed can normally be sampled at points of entry. This is particularly true of loose bulk materials which are difficult to sample effectively at many points of entry. Authorities inland have an important part to play in the monitoring of feed materials and additives originating from outside the EU. Consideration should be given to including checks of feed materials and additives at feed businesses, especially those which store such products and/or use them as part of a manufacturing process.

### **6.2.5 Planning For Unexpected Events**

Whilst it is possible for DAERA to prepare a plan for the majority of the samples it takes, not all sampling can be planned in advance.



There will need to be contingency plans in the sampling programme to deal with sudden changes in priorities which may arise in response to:

- complaints;
- feed hazard warning and feed suspected of contamination;
- Rapid Alert System Food and Feed (RASFF);
- additional national surveillance programmes;
- new businesses;
- new products or manufacturing practices in existing businesses;
- observation during inspections.

### **6.2.6 Risk Based Sampling**

Article 3 of Regulation (EC) 882/2004 on the official feed and food, requires all official control activities, including sampling, to be risk based. For the purposes of this document, 'risk' means the likelihood of feed being detrimental to the health of animals or humans, and the extent/severity of such harm. For a sampling programme to be effective, programmes should consider the risks presented by different types of feeding stuffs and associated materials.

An effective sampling programme should take into account the types of feed businesses present, the nature of the feed handled, the size of the business and the procedures adopted by the feed business to ensure compliance with legislation. Consideration should be given to the following:

- whether DAERA is the authority for any feed premises that deal in unusual feed?
- are there feed manufacturers in the area?
- are there any distribution centres which deliver feed to a wide area?
- what type of feed materials/feed additives do feed business operators (e.g. feed manufacturers, and importers) use in the area?
- what is the compliance history related to individual feed business operators?
- do feed business operators use materials which have been subject of RASFF notifications or other incidents?
- do national sampling programmes highlight any feed types which relate to specific premises in the area?

In addition consideration should be given to the following risk-related issues for all samples taken:

- the severity of the effect of any given fault with the feed;
- the likelihood of the occurrence of the fault;
- the consumption pattern applicable to the feed;
- the degree of distribution;

- the degree of control and monitoring exercised by the manufacturer for all potential faults;
- the stage in the production and distribution chain at which the problem can occur or could be more easily detected;
- the compliance history of a feed business;
- emerging national, European and wider international concerns;
- local consumer and business concerns.

### **6.2.7 Level Of Sampling**

Sampling activity is monitored and assessed as part of the FSA's monitoring and audit arrangements under the Framework Agreement and to meet EU legislative requirements. When the FSA audits a Competent Authority, checks are likely to be undertaken on the level of sampling carried out and whether this is risk based.

Routine sampling should be considered by DAERA as part of the inspection process. In addition, the FSA provides sampling grants primarily targeted at feed imported from outside of the EU which individual authorities or groups of authorities can bid for. More information about these grants can be found at:

<http://www.food.gov.uk/multimedia/pdfs/enforcement/enfe10003.pdf>

This guidance does not set sampling levels for UK Competent Authorities. The FSA provides information annually on priorities for enforcement authorities. These indicate the products and analytes which should be included within sampling programmes in authorities where appropriate feed business operators using, storing or importing these products exist. Sampling programmes should take account of these national priorities in addition to locally identified priorities together with the profile of feed business establishments and quantities of feeding stuffs to determine an appropriate level and range of sampling for a given area.

**Table 1: Examples of Undesirable Substances (Contaminants) In Feedingstuffs**

	<b>Minerals/Additives</b>	<b>Substance/Hazard</b>
a.	Copper Chelate	Dioxin-like PCBs
b.	Copper Sulphate	Dioxins-like PCBs
c.	Tagetes (Red colouring for feed)	Dioxins
d.	Sepiolite	Lead
e.	Monocalcium phosphate	For the presence of fluorine and heavy metals
f.	Dicalcium phosphate	For the presence of heavy metals including cadmium
g.	Dicalcium phosphate	For the presence of heavy metals including arsenic
h.	Choline Chloride	Melamine
i.	Zinc oxide	For the presence of other heavy metals (e.g. cadmium)
j.	Manganese (manganous oxide/manganic oxide)	For the presence of other heavy metals (e.g. cadmium).
k.	Trace elements belonging to the functional group of compounds of trace elements referred to in Annex I, 3 b) of Regulation (EC) No 1831/2003	For the presence of undesirable substances (heavy metals)
	<b>Other feeding stuffs</b>	<b>Substance/Hazard</b>
a.	Soya and soya products	Unauthorised GM and mycotoxins
b.	Groundnuts	Aflatoxin B1
c.	Feed Premixtures	Dioxins and level of ingredients
d.	Maize and maize products	Unauthorised GM, and mycotoxins
e.	High protein products originating from China, intended for use as animal feed, other than milk, milk products, soy, soya products and ammonium bicarbonate	For the presence of melamine

### 6.3 Sampling Policy And Sampling Programme

DAERA should have an animal feed sampling policy which sets out its general approach to feed sampling. The policy should detail factors on which the 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.

DAERA should also prepare a feed sampling programme which details its intended feed sampling priorities. The programme should take account of the number, type and risk-ratings of the feed businesses, and the type of feed produced in the area and the need to ensure that the provisions of feed law are enforced. The sampling programme may be prepared in consultation with relevant bodies as appropriate. The sampling policy and programme should also take account of the FSA national feed priorities that are issued annually. The sampling programme should not be published.

### 6.4 Requests For Information From Manufacturers Or Importers

DAERA 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.

## 6.5 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 DAERA 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 must be dealt with in accordance with Article 11 of Regulation 882/2004 on the official control of feed and food and the Feed (Sampling and Analysis and Specified Undesirable Substances) Regulations 2010. These regulations contain various provisions for the administration of Regulation ( EC) No. 152/2009<sup>1</sup> on sampling. 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.

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

DAERA 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/enforcement/monitoring/samplingresources/guidance/>

Sampling apparatus must comprise of materials which cannot contaminate the feeding stuff that is to be sampled. Unless there is a good reason to the contrary, the sampling apparatus for solid feeding stuffs should be taken from among the following items:

- a) a flat-bottomed shovel with vertical sides, usually stainless steel or non-ferrous metal;

no further specifications are made by the regulations but the edges of the shovel should prevent spillage and retain a fair representation of the feeding stuff being sampled.

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<sup>1</sup> Regulation ( EC) No. 152/2009 as amended by Regulation ( EC) No.691/2013

- b) a sampling spear with dimensions appropriate to the characteristics of the sampled portion in all respects, including dimensions of the container and particle size of the feeding stuff;

no further specifications are made by the regulations but an ad hoc Working Group set up by the then Ministry of Agriculture Fisheries and Food in 1981 to investigate the difficulties associated with bulk sampling made recommendations concerning the suitable dimensions of spears.

sampling spears should not be used if the material is in a package or container containing less than 50 kg and, prior to taking the sample, the manufacturer objects to the use of such a device on the ground that the material is unsuitable.

- c) mechanical apparatus which, if used for the purpose of sampling a feeding stuff being physically moved at the time the sample is taken (e.g. loading or unloading), must be capable of taking samples right across the flow of the product;

the device therefore must be capable of taking a sweep through a complete cross-section of the material, or must be wide enough to accept the entire cross-section.

- d) apparatus designed to divide the sample into approximately equal parts for taking incremental samples, and for the preparation of reduced and final samples;

the regulations do not specify the particular type of apparatus that must be employed but the riffle and rotary sample divider would be suitable, as well as a sample divider that sub-divides in itself to give one sample at the end.

### **6.5.1 Samples For Analysis (Agriculture Act 1970 Or The Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016)**

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. DAERA shall appoint all such laboratories.

Officers must work with importers, HM Revenue and Customs, Port (Health) Authorities and DAERA Portal Inspectors to establish sampling points at points of entry. Enforcement bodies must make arrangements with the Agricultural Analyst and point 4 appointed laboratories<sup>2</sup> 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.

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<sup>2</sup> 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.

### **6.5.2 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.

### **6.5.3 Notification Of Results (Analysis)**

Where a certificate of analysis indicating that the feedstuff does not comply with legal requirements has been received, DAERA should refer to and implement any relevant provisions of 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 DAERA's Feed Contingency Plan implemented as appropriate.

## **7 Enforcement Sanctions And Penalties**

### **7.1 Feed Business Improvement Notices**

This section deals with the use of a feed business improvement notices under Regulation 22 of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016.

A model form for use in connection with Regulation 22 of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016 can be found at **ANNEX 8**.

#### **7.1.1 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 Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016;
- Where the authorised officer has reason to believe that an informal approach will not be successful.

#### **7.1.2 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.

## **7.2 Prohibition Procedures**

(see also 1.2.8)

This section deals first with the use of feed business emergency prohibition procedures under regulation 26 of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016 and then feed business prohibition orders under regulation 25.

Model forms for use in connection with regulations 25 and 26 of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016 can be found at **ANNEX 8**.

### **7.2.1 Use Of Emergency Feed Business Prohibition Orders (Regulation 22)**

Unless voluntary procedures (see 7.2.1.6) 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 Court of summary jurisdiction for an emergency prohibition order.

#### **7.2.1.1 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.

#### **7.2.1.2 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.

#### **7.2.1.3 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.

#### **7.2.1.4 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.

#### **7.2.1.5 Health Risk Condition No Longer Exists: Certificate (Regulation 21(7) And Regulation 22(9))**

In respect of feed business prohibition orders DAERA 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, DAERA must determine the position as soon as is reasonably practicable and within a period of no longer than fourteen days.

#### **7.2.1.6 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, DAERA 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

#### **7.2.1.7 Action When A Feed Business Prohibition Order Has Been Made Against A Person (Regulation 21(4))**

DAERA 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.

Where there is an appeal and the Order is confirmed, the information should be supplied at that point.

#### **7.2.1.8 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.

DAERA 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.

## 7.3 Detention And Seizure

### 7.3.1 Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016 Regulation 28

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 8**.

### 7.3.2 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.

### 7.3.3 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 32/2002<sup>25</sup>

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

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<sup>25</sup> 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 Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016.

107/2013 has been implemented in national law by the Animal Feed Regulations 2010

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.

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.

Arrangements should be made for that Competent Authority to take steps to ensure the processing or treatment is carried out, including the service of a Detention of Feed notice if appropriate.

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.

DAERA 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.

### **7.3.4 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 lay magistrate. The notification may also be given to the owner of the feed.

#### **7.3.4.1 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 DAERA'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.

### **7.3.5 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.

### **7.3.6 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.

DAERA should seek assurances as to the means of disposal of the feed. The owner of the feed should inform DAERA of the time, place and method of destruction or disposal of the feed.

DAERA may make arrangements for monitoring the feed until it can be dealt with in the appropriate manner.

Under voluntary procedures the owner of the feed will be responsible for the expenses of destruction or disposal of the feed.

### **7.3.7 Destruction Or Disposal Of Feed**

DAERA is responsible for ensuring the destruction of feed that has been seized, 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.

DAERA 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, DAERA 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 should be obtained and kept on file for any feed that has been disposed of by a licensed waste disposal contractor under these arrangements.

## **7.4 Enforcement Options In Establishments Subject To Registration/ Approval Under Regulation (EC) 183/2005**

In addition to the enforcement powers detailed above, authorised officers have other powers available to them under the Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016 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 8 and 10 of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016.

### **7.4.1 Suspension / Revocation Of Registration Or Approval - General**

DAERA 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, DAERA 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.

#### **7.4.1.1 Suspension Of Registration Or Approval/Conditional Approval**

DAERA 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. DAERA should request that any guarantee regarding future production made by a feed business operator in accordance with this Article is made in writing, although DAERA should be aware that they cannot insist on this as no requirement exists in law to provide such guarantees in writing.

#### **7.4.1.2 Revocation Of Registration Or Approval**

DAERA 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 7.4.1.3), 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 DAERA 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.



#### **7.4.1.3 Notifications Of Suspension/Revocation Of Registration Or Approval**

Notice of suspension or revocation must be given in accordance with regulations 8 and 10 of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016, respectively. Model documents of notification can be found at **ANNEX 8**: 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 12 of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016.

Copies of notifications should be retained on DAERA's files. DAERA should also notify the Agency when an establishment's registration or approval or conditional approval has been suspended or withdrawn (see 2.4.2).

#### **7.4.1.4 Appeals Against Suspension Or Withdrawal Of Approval/Registration**

DAERA should bear in mind that regulation 12 of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016 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 DAERA 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.

## **7.5 Enforcement Options With Regard To Feed Materials Imported From Third Countries**

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.

### **7.5.1 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, DAERA should inform the FSANI Incidents Branch. It should use the rapid alert system form for this purpose (see 1.6.1.9).

### **7.5.2 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.

#### **7.5.2.1 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.

#### **7.5.2.2 Re-Dispatch Of Consignments**

DAERA 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.

### **7.5.3 Appeals Against Action Taken Under Article 19 To 21 Of Regulation (EC) 882/2004**

The importer must be given DAERA'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 DAERA's decision provided by Official Feed and Food Controls Regulations (Northern Ireland) 2009. Appeals against the notice must be made within one month of the notice being issued.

# ANNEX 1: Competency Of Officers

## A1.1: Introduction

The competence statements reflect the competence that officers need to demonstrate in order to be authorised to undertake specific official control duties.

Unless otherwise stated, officers will be required to provide evidence that they meet all the requirements of a particular competence in order to be authorised to undertake that particular official control duty.

## A1.2: Competency Requirements

The following is the list of competency requirements against which officers will need to provide evidence to demonstrate that they comply in order to undertake the type of official control or perform the role mentioned.

No.	Title
1	Lead Feed Officers
2	Inspection of Feed Establishments at Primary Production (including those which incorporate additives into feed for their own use)
3	Inspecting Feed Establishments Required to Comply with the Feed Hygiene Requirements other than those at Primary Production
4	Official Controls at Points of Entry
5	Sampling of Animal Feed
6	Use of Enforcement Powers

### A1.3: Lead Feed Officer

No		<u>Statement of Competence</u>
I	Local and Specialist Knowledge	<ul style="list-style-type: none"> <li>• Has knowledge and understanding of the nature and type of businesses that operate in the authority's area.</li> <li>• Understands the common hazards and risks associated with the feed processes and technologies in operation at establishments within the authority's area and can apply appropriate control measures.</li> <li>• Identifies hazards that can occur, applying an understanding of hazard identification techniques where relevant.</li> <li>• Explain, and be able to apply, the principles of effective risk management to the relevant feed establishments.</li> <li>• Understands proportionate application of feed law requirements to establishments taking account the size of their operation.</li> </ul>
ii	Legislation and centrally issued Guidance	<ul style="list-style-type: none"> <li>• Understands relevant EU and National legislation on feed and can advise appropriately on their application, as required, to other staff responsible for the delivery of official controls and feed business operators.</li> <li>• Understands, interprets and applies the Framework Agreement on Food Law Enforcement with Local Authorities and the Feed Law Enforcement Guidance Document, appropriately, ensuring that these are incorporated into the delivery of official controls.</li> </ul>
iii	Partnership and Cooperation	<ul style="list-style-type: none"> <li>• Ensures that effective liaison is in place with other agencies responsible for the enforcement of feed and food law in the Competent Authority's area.</li> <li>• Understands the liaison arrangements put in place by the central Competent Authorities with feed assurance schemes and ensures they can be used by officers in co-ordinating the delivery of official controls.</li> </ul>
iv	Planning of an Official Control Programme	<ul style="list-style-type: none"> <li>• Can appropriately apply national and local priorities to the profile of feed business establishments and points of entry in the authorities when planning a programme of official feed controls.</li> </ul>
v	Consistency of Official Control delivery	<ul style="list-style-type: none"> <li>• Co-ordinates consistent delivery of official controls within the authority and between other Competent Authorities.</li> <li>• Understands the role of Home Authorities and Primary Authorities in co-ordinating the delivery of official controls and ensures it is applied by the authority.</li> </ul>
vi	Training	<ul style="list-style-type: none"> <li>• Can identify skill or knowledge gaps in officers delivering official feed controls.</li> <li>• Can identify appropriate training and opportunities for continuing professional development.</li> </ul>
vii	Contingency Planning	<ul style="list-style-type: none"> <li>• Understands the process of raising and managing feed incidents as set out in this Guidance.</li> <li>• Understands how local contingency arrangements apply to the management of serious feed related incidents.</li> </ul>

**A1.4: Inspection of Feed Establishments at Primary Production  
(including those which incorporate additives into feed for their own use)**

<b>No</b>		<b>Statement of Competence</b>
<b>I</b>	Recitals and general requirements of Regulation (EC) 183/2005 on Feed Hygiene	An understanding of the purpose of feed hygiene requirements and how they apply to different types and sizes of feed business operators at primary production.
<b>ii</b>	Guides to Good Practice	An appreciation of the different routes by which guides to good practice can be introduced and knowledge of those which are available, relevant to individual officers area of authorisation, and how they have been incorporated into assurance scheme standards, where appropriate.
<b>iii</b>	Registration and Approval	Understands the application of registration to feed establishments at primary production, including the application of approval by the Veterinary Medicines Directorate.
<b>iv</b>	Regulation (EC) 183/2005 on Feed Hygiene Annex I and III	Understands the hygiene requirement applied to the production of primary products, storage and use of feed on farm, including the mixing of feed with complementary feeds.
<b>iv</b>	Regulation (EC) 183/2005 on Feed Hygiene Annex II – Requirements for feed businesses	<p>Understands the circumstances in which primary producers become subject to hygiene requirements applicable to feed establishments requiring to have in place feed safety management systems (FSMS) based on the principles of HACCP, including the role of other agencies in enforcing these requirements at primary production.</p> <p>Understands the proportionate application of FSMS based on the principles of HACCP taking into account the activity and the size of the business.</p> <p>The circumstances where the activity is sufficiently complex to require the involvement of an officer authorised to inspect feed establishments which are required to have a FSMS.</p> <p>Inspection skills which test compliance with feed law requirements.</p>
<b>v</b>	Other relevant legislation which all feed produced, distributed or used in the EU must comply.	<p>Officers will understand EU legislation relevant to the composition of feeding stuffs, controls on the presence of contaminants appropriate to the use/production of feed at primary production:</p> <ul style="list-style-type: none"> <li>• Labelling, marketing and use of feed – particularly those provisions relating to banned substances in feed;</li> <li>• Restrictions on the presence of undesirable substances in feed;</li> <li>• The application of animal by-products legislation and other legal requirements prohibiting certain products being used in animal feed and the role of other enforcement agencies in enforcing the requirements.</li> </ul>

## A1.5: Inspecting Feed Establishments Required to Comply with the Feed Hygiene Requirements other than those at Primary Production

No	Sub Task	Statement of Competence
I	Recitals and general requirements of Regulation (EC) 183/2005 on feed hygiene.	An understanding of the purpose of the feed hygiene requirements and how it applies to different types and size of feed business operator.
ii	Guides to Good Practice	An appreciation of the different routes by which guides can be introduced and knowledge of those which are available, relevant to individual officers area of authorisation, and how they have been incorporated into assurance scheme standards, where appropriate.
iii	Registration and Approval	Application of approval and registration to all types of feed establishments including the differences between approvals carried out by the Veterinary Medicines Directorate and those by the authority.
iv	Annex II – Requirements for feed businesses	<p>Understanding of the following appropriate to the type of establishments in which authorised officers are responsible for undertaking official controls:</p> <ul style="list-style-type: none"> <li>▪ The principles of HACCP as applied to the animal feed industry.</li> <li>▪ A detailed understanding of Annex II of Regulation 183/2005.</li> <li>▪ The role of assurance schemes across the feed industry with particular focus on those which operate at feed business establishments for which an officer is responsible.</li> <li>▪ An understanding of the proportionate application of the Annex II requirements taking into account the activity and the size of the business.</li> <li>▪ Ability to assess the effectiveness of feed safety management systems to ensure that risks associated with all aspects of the business' processes connected to the production or handling of feed have been considered and effective measures taken to monitor and control critical control points.</li> <li>▪ Inspection skills which test compliance with feed law requirements.</li> </ul> <p>Where applicable to an officer's duties the following sector specific knowledge will be required to carry out controls at the following types of establishment:</p> <p><u>Food producers placing co-products into the feed chain</u></p> <ul style="list-style-type: none"> <li>▪ Types of co-product and food businesses involved in their production;</li> <li>▪ Typical methods of production of co-products;</li> <li>▪ Typical hazards associated with the production of co-products;</li> <li>▪ Ways in which the design of facilities and equipment help prevent cross contamination and facilitate cleaning;</li> <li>▪ Products prohibited from use in animal feed which are</li> </ul>

<b>No</b>	<b>Sub Task</b>	<b>Statement of Competence</b>
		<p>commonly used as ingredients or processing aids in food production.</p> <p><u>Food producers and retailers placing surplus food into the feed chain</u></p> <ul style="list-style-type: none"> <li>▪ Types of food which are typically added to the feed chain;</li> <li>▪ The role of surplus food processors entering the feed chain;</li> <li>▪ Typical systems used to avoid contamination of surplus food intended for feed.</li> </ul> <p><u>Manufacturers of feed and feed additives, including mobile mixers</u></p> <ul style="list-style-type: none"> <li>▪ Types of product produced for various species of animal as relevant to the officer's area of responsibility;</li> <li>▪ Types of feed materials and other additives used for inclusion in compound feed and the manufacture of additives;</li> <li>▪ Methods of production relevant to the type of feed/feed additive being manufactured;</li> <li>▪ Hazards associated with the materials used in the manufacture of feed or feed additives;</li> <li>▪ Hazards associated with potential cross contamination of feed during handling and manufacturing;</li> <li>▪ Typical feed safety management systems and the use of procedures and pre-requisites;</li> <li>▪ Testing of feed to ensure mixing achieves homogeneity.</li> </ul>
V	Other relevant EU legislation and knowledge of EU feed law requirements.	<p>Officers will understand EU legislation relevant to the composition of feeding stuffs, controls on the presence of contaminants and the authorisation of certain additives. This includes understanding how the legislation applies to establishments in which authorised officers are responsible for undertaking official controls:</p> <ul style="list-style-type: none"> <li>• Labelling, marketing and use of feed – particularly those provisions relating to banned substances in feed;</li> <li>• Restrictions on the presence of undesirable substances in feed;</li> <li>• The contaminants common to various types of feed material and feed additives originating from outside of the EU;</li> <li>• Requirements for the authorisation, use and labelling of additives in feed, including the authorisation procedure, categories and functional groups of additives, and labelling and packaging requirements;</li> <li>• Knowledge of additives in use outside the EU which are not authorised for use within the EU;</li> <li>• Legislative requirements on the use of fats and oils in feed;</li> <li>• Legislative requirements on the use and labelling of genetically modified feed materials, including compound feeds which incorporate these types of feed materials;</li> <li>• Knowledge of safeguard measures applicable to feed imported from outside the EU.</li> </ul>



No	Sub Task	Statement of Competence
		<ul style="list-style-type: none"> <li>The application of animal by-products legislation and other legal requirements prohibiting certain products being used in animal feed and the role of other agencies in enforcing the requirements.</li> </ul>

### A1.6: Official Controls at points of entry

No	Sub Task	Knowledge/skills
I	<p>The European Union is an economic and political partnership between countries who have signed up to the treaty which includes the 'single market' that allows goods to trade freely between Member States.</p>	<p>All officers will be required to understand the principles of European law and structures in order to be able to effectively apply controls at the border. This includes:-</p> <ul style="list-style-type: none"> <li>The EU legal structure, its membership and that of European Economic Association (EEA) and how the two interact in terms of cross border trade;</li> <li>The general framework of EU law on feed, in particular Regulation 178/2002 laying down the general principles of food law;</li> <li>Regulation (EC) No 882/2004 Chapter V-Official Controls on the Introduction of feed and food from third countries;</li> <li>Specific feed controls on imported feed originating from outside the EU (safeguard measures) currently in effect;</li> <li>Regulation (EU) 669/2009, as amended on higher-risk material;</li> <li>The EU Rapid Alert Food and Feed System (RASSF) and how it operates, its use in monitoring imported feed and the role of Competent Authorities in updating the system with information on feed found not to meet EU requirements.</li> <li>Emergency import controls on feed and food may be affected by Declaration issued by the FSA.</li> </ul>
II	<p>Relevant EU legislation which all feed produced, distributed or used in the EU must comply with.</p>	<p>Officers will understand EU legislation relevant to the composition of feeding stuffs, controls on the presence of contaminants and the authorisation of certain additives. This includes:</p> <ul style="list-style-type: none"> <li>Labelling, marketing and use of feed – particularly those provisions relating to banned substances in feed;</li> <li>Restrictions on the presence of undesirable substances in feed;</li> <li>The contaminants common to various types of feed material and feed additives originating from outside of the EU;</li> <li>Requirements on the authorisation, use and labelling of additives in feed, including the authorisation procedure, categories and functional groups of additives, and labelling and packaging requirements;</li> <li>Knowledge of additives in use outside of the EU which are not authorised for use within the EU.</li> </ul>

<u>No</u>	<u>Sub Task</u>	<u>Knowledge/skills</u>
III	Operating an effective import control system at a point of entry.	<p>Officers will have an understanding of the typical information available which enables them to identify consignments of feed entering the port of entry and the enforcement powers available to access this information and deal with consignments which are found to be non-compliant with EU requirements. This will include:</p> <ul style="list-style-type: none"> <li>• Knowledge of the Port Operator responsible for point of entry for which authorisation is required;</li> <li>• Knowledge of the Importers and Shipping Agents using the point of entry and the type of feed materials being imported and the countries of origin from which they are dispatched;</li> <li>• The effective use of manifest/shipping information available to identify relevant consignments of feed, including database information;</li> <li>• The origin and nature of the feed and other relevant imports;</li> <li>• Sources of information and intelligence which would inform checks at the point of entry;</li> <li>• The authorities sampling policy and programme;</li> <li>• Facilities and mechanisms available at the port for the safe inspection of consignments;</li> <li>• The Competent Authorities, Port Operator and other relevant feed business operators policies and procedures relating to health and safety;</li> <li>• The work of other Agencies at the port, including the Port Health Authority and AHVLA.</li> </ul>

## A1.7: Sampling of Animal Feed

No	Sub Task	Knowledge/skills
I	Regulation (EU) 152/2009 as amended on the sampling of animal feed	<p>An officer must understand:</p> <ul style="list-style-type: none"> <li>• Any advice or direction given on sampling priorities whether locally or centrally;</li> <li>• The procedures for sampling animal feeding stuffs of different types and as set out in the Regulation.</li> <li>• The types of equipment required to carry out sampling and their appropriate use;</li> <li>• The most appropriate methods of sampling for the type and quantity of various feeding stuffs;</li> <li>• The nature of constituents and undesirable substances to be tested for, their distribution within feed and the different approaches to sampling required;</li> <li>• Safe working practices and the authority's own health and safety requirements;</li> <li>• Methods and practices operated at local feed business establishments;</li> <li>• Understand procedures and have practical experience of preparing samples including submission to an Agricultural Analyst, complying with requirements to provide feed business operators with portions of the sample and the retention of a reference sample;</li> <li>• The role of the Agricultural Analyst underpinning scientific assessment of feed safety, standards, labelling and in optimising the use of analytical testing;</li> <li>• The Government Chemist and its role in disputes;</li> <li>• Knowledge of the most appropriate methods for storing samples.</li> </ul>
II	Other relevant EU legislation and knowledge of EU feed law requirements	<p>Officers will understand the following EU requirements as they apply to the products they are required to sample and the analyses to be undertaken:</p> <ul style="list-style-type: none"> <li>• Labelling, marketing and use of feed – particularly those provisions relating to banned substances in feed so far as they affect an officer's ability to sample feed effectively;</li> <li>• EU legislation laying down the methods of sampling and analysis for the official control of feed as regards the presence of genetically modified material for which an authorisation procedure is pending or the authorisation of which has expired;</li> <li>• EU legislation establishing harmonised methods of sampling for the official control of pesticide residues in and on products of plant and animal origin.</li> </ul>

## A1.8: Use of Enforcement Powers

No	Sub Task	Knowledge/skills
I	Understanding the use of enforcement to achieve compliance and the powers available.	<p>All officers must understand the following commensurate to the type of activity they are authorised to enforce and the powers they are authorised to use:</p> <ul style="list-style-type: none"> <li>• Limits of their own authorisation including differences between their authorisation and other officers;</li> <li>• Powers to enter premises to inspect feed, processes and records under all relevant EU and National legislation on animal feed and the procedures involved;</li> <li>• Proportionate and progressive use of enforcement powers to achieve compliance with feed law in a timely manner;</li> <li>• Appropriate use of informal methods of enforcement e.g. warning letters;</li> <li>• Use of powers to issue improvement notices and the procedures involved;</li> <li>• Use of emergency prohibition notices and orders and the procedures involved;</li> <li>• Use of powers to detain and seize feed and the procedures involved;</li> <li>• Suspension and removal of feed registration and approval and the procedures involved;</li> <li>• Powers to sample, seize, detain and remove imported feed not complying with EU law from the feed chain;</li> <li>• National legislation applicable to the use of formal enforcement powers, including those relating to the use of investigatory powers and interview of suspected defendants.</li> </ul>
II	Other relevant EU legislation and skills of EU feed law requirements	<p>All officers are required to understand</p> <ul style="list-style-type: none"> <li>• The general framework of EU law on feed, in particular Regulation 178/2002 laying down the general principles of food law as it applies to the duties on feed business operators to produce feed compliant with EU requirements and the actions required of them in certain circumstances;</li> <li>• Regulation (EC) 882/2004 on the official control of feed and food as it applies to the delivery by officers of official controls;</li> <li>• The system of feed alerts and reporting of feed hazards operated by the FSA;</li> <li>• Sufficient skills for the investigation and reporting of offences.</li> </ul>

## ANNEX 2:

### Glossary Of Terms Used In This Guidance

Additives	Feed additives means substances, micro- organisms or preparations, other than feed material and premixtures, which are intentionally added to feed or water in order to perform, in particular, one or more of the functions mentioned in Article 5 (3) of EC Regulation 1831/2003.
Agency	Food Standards Agency
Agricultural analyst	Has the meaning as defined in section 66(1) of the Agriculture Act 1970.
Animal Feed	Defined in Article 3.4 of 178/2002 to mean any substance or product, including additives, whether processed, partially processed or unprocessed, intended to be used for oral to food or non-food producing feeding to animals.
Approved Premises	An establishment must be approved under Regulation (EU) 183/2005 if it manufactures, markets or uses certain specified feeds.
Audit	A systematic and independent examination to determine whether activities and related results comply with planned arrangements and whether these arrangements are implemented effectively and are suitable to achieve objectives.
Authorised Officers	Means a person (whether or not an officer of the Competent Authority) who is authorised by the Competent Authority, either generally or specifically to act in relation to matters arising under the Hygiene Regulations.
Central Competent Authority	Has the meaning set out in Regulation 882/2004 and in the UK is the Food Standards Agency.
Co Products	Materials intentionally generated as part of the food and drink manufacturing process  <i>e.g. residues of soya bean from the extraction of oils, and vegetable trimmings (e.g. carrot tops and potato skins), brewers and distillers grains.</i>
Competent	Means meeting the requirements of the competency framework set out in 1.2 and <b>ANNEX 1</b> : of this guidance commensurate with the level of work undertaken.
Competent Authority	Has the meaning set out in Regulation 2 (1) The Official Feed and Food Controls Regulations (Northern Ireland) 2009. (Statutory definition)
Complementary 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 feed	A compound mixture of feed materials, and sometimes additives, which supplies the total dietary needs of an animal (i.e. the daily ration).
Compliant	Conforming with the requirements of the law.
Compound Feeds	Means a mixture of at least two feed materials, whether or not containing feed additives for oral animal feeding.
Conditional Approval	Has the meaning set out in Article 31(2)(d) of Regulation (EC) No. 882/2004.
Continuing Professional Development	The means by which members of a profession maintain improve and broaden their knowledge and skills and develop the qualities required in their professional lives.
Earned recognition	Feed Business Operators who demonstrably maintain high standards of feed safety by taking appropriate steps to comply with the law, may have these standards recognised by the Competent Authority when determining the frequency of their official controls and therefore earn recognition.
EU	European Union.
Enforcing Authority	Means the body identified as having the duty to enforce under regulation 20 of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016.
Establishment	“Establishment” defined in EU law as a ‘unit of a feed business’, does not simply mean “premises”, but is directly linked to the business occupying the establishment (“establishment denotes both premises and the manner in which those premises are being used by the feed business operator”).
Export	Means the action of sending or transporting a commodity outside the UK.
Feed Alert	The method by which the FSA informs LAs about feed hazards and advises of specific action to be taken.
Feed Business	Means any undertaking whether for profit or not and whether public or private, carrying out any operation of production, manufacture, processing, storage, transport or distribution of feed including any producer producing, processing or storing feed for feeding animals on his own holding.(Statutory definition)
Feed Business Operator	Means any natural or legal person responsible for ensuring that the requirements of the relevant legislation are met within the feed business under their control.(Statutory definition)
Feed Hazard	A biological, chemical or physical agent in feed capable of causing adverse effect to public health.
Feed Incident	Where there are concerns about actual or suspected threats to the safety or quality of feed that requires intervention to protect public health e.g. contamination of animal health in processing or environmental pollution incidents.

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. Feed materials are primarily used to meet an animal's nutritional needs for example energy, dietary fibres, nutrients and minerals.
Formal Action	Means the taking of action against a feed business operator as set out in the legislation for example the service of a statutory notice to remedy non-compliance with legal requirements, the issuing of a Simple Caution or the institution of legal proceedings for breaches of legal requirements.
Formal Notice	Means a notice as defined in the various Acts of Parliament or statutory instruments relating to feed law.
FSA	Food Standards Agency.
Full approval	Has the meaning set out in Article 31(2)(d) of Regulation (EC) No 882/2004.
Home Authority	Means the authority where the relevant decision making base of an enterprise is located.
Import	Means the action of bringing in goods and/or services from another country.
Informal Action	Means bringing to the attention of a feed business operator and giving advice on non-compliances with feed law in order that any non-compliance can be quickly remedied.
Inspection	An inspection would form part of an investigation of any aspect of feed in order to verify that such aspect(s) comply with the legal requirements of feed and food law and animal health and welfare rules.
Investigation	Means the examination of any aspect of feed in order to verify that such aspect(s) comply with the legal requirements of feed and food law and animal health and welfare rules.
Lead Feed Officer	Means the Authorised Officer, appointed by the Authority in relation to feed who demonstrates the requirements, set out in the competency framework set out in 1.2 and <b>ANNEX 1</b> : of this guidance and has the necessary experience in relation to the complexity, nature and types of feed business within the authority's area to be able to advise other officers where necessary.
Local Authority	Has the meaning set out in Section 1 of the Local Government Act 1972.
Medicated feeding stuff	Contains a veterinary medical product which can only be supplied to a keeper of animals on prescription.
Monitoring	Means conducting a planned sequence of observations or measurements with a view to obtaining an overview of the state of compliance with feed law.

Non – Compliant	Means a failure to comply with one or more the requirements of feed law.
Official Controls	Has the meaning set out in Article 2 (1) of Regulation (EC) No. 882/2004.
Originating Authority	An authority in whose area a decentralised enterprise produces good and services.
Penalty	The punishment imposed by a court on conviction for an offence under feed legislation.
Port Health Authority	Has the meaning set out in Section 2 of the Public Health (Control of Diseases) Act 1984.
Premises	Includes any establishments as well as fixed locations, this includes vehicles, ships, aircraft and other movable structures.
Primary Authority	Has the meaning set out in Section 25 of the Regulatory Enforcement and Sanctions Act 2008 as amended.
Primary Production (Feed)	Means the production of agricultural products including, in particular, growing, harvesting of feed which do not undergo any other operation following their harvest, collection, capture, apart from simple, physical treatment as defined in Regulation (EC) No. 185/2005.
Registration Authority	Means the authority in whose area the feed business establishment is located.
Regulatory Function	Has the meaning set out in Section 32 (2) of the Legislative and Regulatory Reform Act 2006.
Regulatory Services	Means Environmental Health, Trading Standards and Licensing as set out in “National Enforcement Priorities for Local Authority Regulatory Services”. March 2007 (Rogers Review).
Risk Rating Category	The Risk Category attributed to a premises following an inspection and scoring of the premises in accordance with the Inspection Rating Scheme and used to determine the frequency of inspection of the premises.
Sampling	Means taking feed or any other substance (including from the environment) relevant to the production, processing and distribution of feed or food or to the health of animals, in order to verify through analysis compliance with feed or food law or animal health rules.
Specified feed additives	Substances routinely added to animal feeding stuffs without prescription for the prevention of coccidiosis or histomoniasis or to favourably affect the growth of animals.
Standards	Means rules or principles defined in feed law that are used as the basis for judgment against.
Surplus foods	This includes out of date products, products that do not meet the required specification, or are otherwise surplus to the requirements of food and drink businesses including retailers. This may include bakery, confectionary, dairy or oil products.



Surveillance	Means a careful observation of one or more food businesses, or food business operators or their activities.
Third Country	A country outside the EU or European Economic Area.
Third Party Assurance	Independent verification of business compliance against a predetermined standard which has been endorsed by the Food Standards Agency as being equivalent to /complying with the requirements for food law.
Verification	Means the checking, by examination and the consideration of objective evidence, whether specified requirements have been fulfilled.
Veterinary Medicines	Any substance or combination of substances presented as having properties for treating or preventing diseases in animals.

## Glossary Of Abbreviations Used In This Guidance

AFBI	Agri Food and Biosciences Institute
BIP	Border Inspection Post
DAERA	Department of Agriculture, Environment and Rural Affairs
DEFRA	Department for Environment, Food and Rural Affairs
EEA	European Economic Area
EHO	Environmental Health Office
EU	European Union
FSA in NI	Food Standards Agency in 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
PHA	Port Health Authority
TSI	Trading Standards Institute
TSO	Trading Standards Officer
UKAS	United Kingdom Accreditation Service

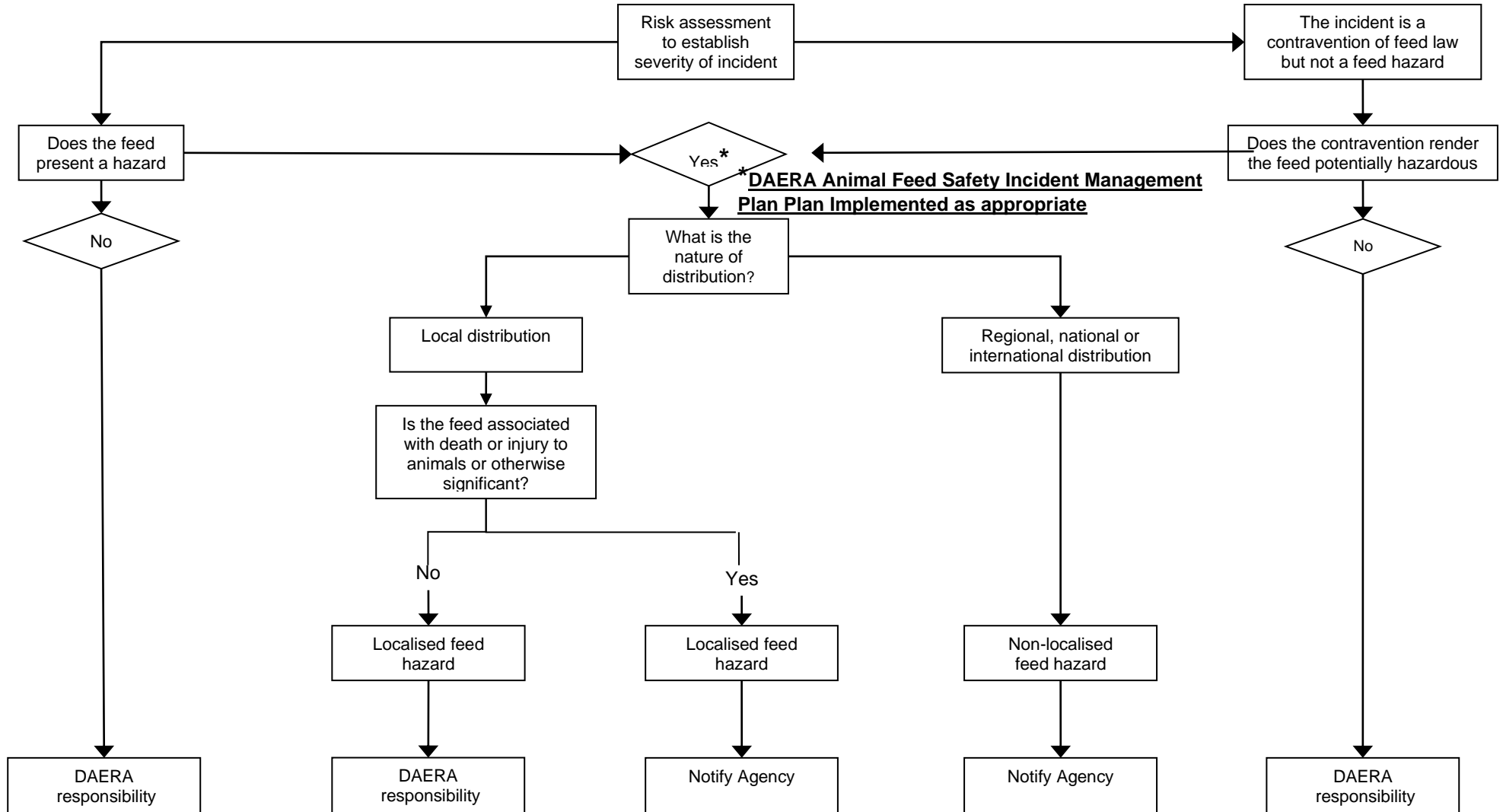
## ANNEX 3: HACCP Evaluation Competencies

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

DAERA should 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 **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 4: Feed Incident Flow Diagram



## ANNEX 5: Feed Incident Report Form (DAERA)

### 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:

<b>1. CONTACT INFORMATION</b>	
Notifying Local Authority or Organisation	
Contact details	
Home Authority and contact details (if different to above)	
Brief Description of incident	
Date and time of notification of incident by notifying local authority	
Initial Information received by:	
<b><u>2. PRODUCT DETAILS</u></b>	
Type of feed e.g compound, feed material, premixture, additive	
Inclusion rate in the final feed (if appropriate)	
If feed fed directly, feeding rates i.e quantity of product fed to animals per day/percentage of product in total diet of animal	
Species of animal for which feed intended.	
Age/sex/status of animal e.g layer or broiler, dairy or beef	
Product Name (if applicable)	

Identification of lot (Batch Number)	
Expiry dates (if applicable)	
Medicine records (if applicable)	
Any other relevant product details	
<b><u>3. ORIGIN DETAILS</u></b>	
Name & Address of manufacturer/supplier of feed	
Contact details	
Date of Import (if relevant)	
Contact details of Importer (if relevant)	
Is the importer/manufacturer/retailer aware of the incident? If so what measures have they put in place to deal with it.	

<b>4. SAMPLING DETAILS</b>	
Type of sample (formal/informal)	
Details of location and method of sampling, including quantities taken (include sampling plan if available)	
Analyte(s) found	
Results of analysis (levels found)	
Method of analysis (also limits of detection and variation)	
<b>5. DISTRIBUTION DETAILS</b>	
Where was the feed first placed on the market?	
Has the feed been used? If so, detail number and species/type of animal  <i>(Continue on a separate sheet if necessary)</i>	
Any details of further distribution available – quantities/areas/establishments/intermediaries including other Member States and third countries if applicable	

<p>Has clinical illness occurred in animals? If so include details of type of illness as well as numbers and species of animals affected.</p>	
<p>Have any potentially affected products entered the food chain, (meat, eggs, milk etc)</p>	
<p>Has clinical illness occurred in humans? If so include details of type of illness as well as numbers of consumers affected.</p>	
<p><b>6. WHAT ENFORCEMENT ACTION HAS BEEN TAKEN?</b>  e.g. relevant parties been informed, been advised on appropriate action, samples taken for analysis, seizures etc  <b>COPIES OF ANALYTICAL RESULTS AND STATUTORY NOTICES TO BE SENT WITH THIS REPORT FORM TO THE FSA</b></p>	
<p><b>7. IS THERE MEDIA INTEREST?</b>  If there has been a press release please send to the FSA with this form</p>	
<p><b>8. ANY FURTHER RELEVANT INFORMATION</b></p>	

Signed:

Date:

Job Title:

**If this incident is deemed to be significantly serious, this information must be sent by the IMT chairperson to the Incidents NI and Primary Production mailboxes. If this information is being sent outside normal working hours, please contact the FSA 'out of hours number' to alert the agency that an Animal Feedingstuffs Incident Report Form has been forwarded. 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.**

**E MAIL: [incidents.ni@foodstandards.gsi.gov.uk](mailto:incidents.ni@foodstandards.gsi.gov.uk)**

**CC : [Executive.Support@foodstandards.gsi.gov.uk](mailto:Executive.Support@foodstandards.gsi.gov.uk)**

**FSA out-of-hours telephone number: 078 8447 3022**



## **ANNEX 6:**

### **Animal Feed Law Inspection Rating Scheme**

#### **A6.1: Basic Principles**

- i. DAERA should use the risk assessment criteria in this Annex, to determine their planned animal feed law inspection programmes. These programmes of inspection should include all types of feed business establishments within DAERA's enforcement area.
- ii. On-farm inspection at the level of primary production is not included in this rating scheme, except for on-farm mixers producing compound animal feed with the inclusion of additives or premixtures. These farms have the Registration Activity R10 and must comply with Annex II of the Feed Hygiene Regulation and apply HACCP to their mixing operations.
- iii. This inspection risk-rating 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 planned 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 DAERA 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. However, implementing an inspection programme which includes only establishments that are rated as high risk is also not acceptable.
- viii. The minimum inspection frequencies described should not be regarded as strict and absolute. However, planned inspections should be completed no more than three months after the due date, apart from circumstances outside the control of DAERA such as business closures (see **ANNEX 6**).

## **A6.2: Earned Recognition**

- i. With the exception of those circumstances given in xi below, feed businesses obtain earned recognition when they are broadly compliant. Where this is the case the risk-rating given in the guidance will be further reduced in line with the table in 3.8.1 of this guidance.
- ii. If a business that qualified for earned recognition through demonstrating a broad compliance and is not a member of an approved assurance scheme loses its earned recognition status, the business must be informed.
- iii. Where a feed business establishment is assessed as achieving at least satisfactory levels of compliance and is also a member of an approved assurance scheme, the risk-rating may also be further reduced in line with the table in 3.8.1 of this guidance.
- iv. An assurance scheme which appears in **ANNEX 11**: of this guidance has been assessed by the FSA and is considered to be an approved assurance scheme for the purposes of this risk-rating scheme.
- v. Feed business establishments which belong to an approved assurance scheme but which are found not to have satisfactory levels of compliance during a planned inspection will have their risk-rating increased accordingly unless the non-compliances identified are minor and can be rectified immediately or within a reasonable timescale of being identified.
- vi. If a feed business which is a member of an approved assurance scheme is no longer achieving satisfactory levels of compliance, it will lose its earned recognition status and the business must be informed of this.
- vii. If DAERA decides to remove earned recognition from a feed business that is a member of an approved assurance scheme then the FSA must be informed.
- viii. The outcome of inspections at establishments which are operating to an approved assurance scheme provides important evidence and enables the FSA to monitor the performance of such schemes.
- ix. In some instances described in 3.8.1 of this guidance, earned recognition takes the form of AES. In these circumstances an AES must be followed at the next planned intervention by an inspection. If this inspection shows that the establishment is broadly compliant then the next planned intervention can be an AES.

### **Low-Risk Activities**

- x. Businesses scoring 45 points or less overall need not be subject to planned inspections once they have received a planned 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 5.1.6).
- xi. Such “low-risk” businesses must, however, be subject to an alternative enforcement strategy not less than once in any 5-year period.

- xii. Compliant farms that are not included in the Animal Feed Law Scoring System should be subject to inspection at a 1% frequency for quality assured farms and 10% for non-quality assured farms.
- xiii. If DAERA decides not to subject “low-risk” businesses to planned inspections it should set out its alternative enforcement strategies for maintaining surveillance of such businesses in their Enforcement Policy.
- xiv. It is not intended to preclude inspections of such businesses where inspection is DAERA’s preferred surveillance option, in which case the minimum frequency of inspection is determined by the inspection rating.

### A6.3: Definitions

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

Business	Definition
Arable Farm	A primary production establishment that produces crops of which some or all are put into the feed chain.
Co-product Producer	Food business which, in manufacturing food, intentionally places a fraction of the material produced into the feed chain.
Distributor	Wholesaler or retailer of feed or feed products.
Importer	A business which is responsible for bringing feed or feed products into the UK whether from another Member State or outside of the EU.
Livestock Farm	A business which keeps food producing animals which are, or whose products are, intended to be placed into the food chain.
On-farm mixer	A primary producer who mixes feeds using compound feeds containing additives, or mixes additives or premixtures (i.e. not contained in a compound feed) with other feeds, for the consumption of his/her own livestock.
Manufacturer	Feed compounder/blender which processes feed <sup>1</sup> with or without the inclusion of feed additives or produces feed products <sup>2</sup> .
Mobile mixer	Feed business which mixes or blends compound feeds on behalf of a farmer on the premises of the farm whether or not some or all of the material is supplied by the user of the feed.
Store	Feed business establishment which stores feed or feed products for other feed business operators.
Supplier of Surplus Food	Food manufacturer or retailer which places food originally intended for human consumption into the feed chain.
Transporter	Feed business which moves feed or feed products from one place to another.

<sup>1</sup> Feed includes compound feeds, feed materials and pet foods

<sup>2</sup> Feed products include additives and premixtures

## A6.4: The Animal Feed Law Scoring System

### A6.4.1: The Potential Risk

#### A6.4.1.1: 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"> <li>• <b>Manufacturers</b> of nutritional additives including vitamins, pro-vitamins, trace elements, amino acids (including their salts and analogues), and urea and derivatives.</li> <li>• <b>Manufacturers</b> of additives: enzyme and micro-organisms which act as digestibility enhancers, gut flora stabilisers and substances which favourably affect the environment.</li> <li>• <b>Manufacturers</b> of antioxidants with maximum permitted limits, colourant additives: carotenoids and xantophylls.</li> <li>• <b>Manufacturers</b> of proteins obtained from micro-organisms belonging to groups of bacteria, yeast, algae and lower fungi.</li> <li>• <b>Manufacturers</b> of premixtures, additives with maximum limits and novel protein products.</li> <li>• <b>Manufacturers</b> of other additives used in feeds.</li> <li>• <b>Manufacturers</b> of compound feed which do not contain additives but are manufactured to be placed on the market .</li> <li>• <b>Manufacturers</b> or packers of compound feed which include additives, including mobile mixers.</li> <li>• <b>Importers</b> of all feedingstuffs originating from outside the EU</li> </ul>
20	<ul style="list-style-type: none"> <li>• Manufacturers of compound feed which do not contain additives but are manufactured to be placed on the market, including mobile mixers.</li> <li>• Mobile Mixers of animal feeds with or without the inclusion of feed additives.</li> <li>• Manufacturer of feed materials including co-products.</li> <li>• Co Product Producer, food business which in manufacturing food intentionally places a fraction of the material produced into the feed chain.</li> </ul>
10	<ul style="list-style-type: none"> <li>• On-Farm Mixer producing compound animal feed by the inclusion of additives or premixtures, but not complementary feed.</li> <li>• Distributors of feed and feed products.</li> <li>• Supplier of Surplus Food, manufacturer or retailer which places food originally intended for human consumption into the feed chain.</li> </ul>

Score	Guidance on the Scoring System
5	<ul style="list-style-type: none"><li>• Transporters of feed who also carry products other than feed, including surplus food.</li><li>• Any other business not included in the categories above</li><li>• Stores of feed and feed products.</li></ul>

Score:	
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### A6.4.1.2: 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	<p><b>Manufacturers</b> of nutritional additives including vitamins, pro-vitamins, trace elements, amino acids (including their salts and analogues), and urea and derivatives.</p> <p><b>Manufacturers</b> of additives: enzyme and micro-organisms which act as digestibility enhancers, gut flora stabilisers and substances which favourably affect the environment.</p> <p><b>Manufacturers</b> of antioxidants with maximum permitted limits, colourant additives: carotenoids and xanthophyll's.</p> <p><b>Manufacturers</b> of proteins obtained from micro-organisms belonging to groups of bacteria, yeast, algae and lower fungi.</p> <p><b>Manufacturers</b> of premixtures, additives with maximum limits and novel protein products.</p> <p><b>Manufacturers</b> of other additives used in feeds.</p> <p><b>Manufacturer</b> of feed materials.</p> <p><b>Manufacturers</b> of compound feed which do not contain additives but are manufactured to be placed on the market.</p> <p><b>Manufacturers</b> or packers of compound feed which include additives, <b>including mobile mixers.</b></p> <p><b>Importers</b> of all feedingstuffs originating from outside the EU.</p> <p><b>Mobile Mixers</b> of animal feeds with or without the inclusion of feed additives.</p> <p><b>Co Product Producer</b>, food business which in manufacturing food intentionally places a fraction of the material produced into the feed chain.</p>
20	<p>Manufacturers and Importers dealing in a limited range of products which contain additives.</p> <p>Supplier of Surplus Food who place surplus food into the feed chain where products not permitted for use as feed are kept/used.</p> <p>Transporter of feed who also carry products other than feed, including surplus food.</p>

Score	Guidance on the Scoring System
10	<p>On-Farm Mixing producing compound animal feed by the inclusion of additives or premixtures, but not complementary feed.</p> <p>Suppliers of Surplus Food other than manufacturers who place surplus food into the feed chain where products not permitted for use with all animals are kept/used.</p> <p>Transporter of feed who carries feed only</p> <p>Stores of feed and feed products.</p>
5	Distributors and any other business not included in the categories above.

Score:	<input type="text"/>
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#### A6.4.1.3: 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
20	<p>Manufacturers of nutritional additives including vitamins, pro-vitamins, trace elements, amino acids (including their salts and analogues), and urea and derivatives.</p> <p>Manufacturers of additives: enzyme and micro-organisms which act as digestibility enhancers, gut flora stabilisers and substances which favourably affect the environment.</p> <p>Manufacturers of antioxidants with maximum permitted limits, colourant additives: carotenoids and xanthophyll's.</p> <p>Manufacturers of proteins obtained from micro-organisms belonging to groups of bacteria, yeast, algae and lower fungi.</p> <p>Manufacturers of premixtures, additives with maximum limits and novel protein products.</p> <p>Manufacturers of other additives used in feeds.</p> <p>Manufacturer of feed materials.</p> <p>Manufacturers of compound feed which do not contain additives but are manufactured to be placed on the market.</p> <p>Manufacturers or packers of compound feed which include additives, including mobile mixers.</p> <p>Mobile Mixers of animal feeds with or without the inclusion of feed additives.</p>
10	Co Product Producer, food business which in manufacturing food

Score	Guidance on the Scoring System
	<p>intentionally places a fraction of the material produced into the feed chain.</p> <p>Suppliers of Surplus Food who place surplus food into the feed chain where products not permitted for use as feed are kept/used.</p> <p>Transporters of feed who also carry other products.</p>
5	<p>On-Farm Mixer producing compound animal feed by the inclusion of additives or premixtures, but not complementary feed.</p> <p>Stores and Distributors of feed and feed products</p> <p>Suppliers of Surplus Food other than manufacturers who place surplus food into the feed chain where products not permitted for use with all animals are kept/used.</p>
0	<p>Importer and any other business not included in the categories above.</p>

<b>Score:</b>	
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#### A6.4.1.4: 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	<p>Manufacturers of nutritional additives including vitamins, pro-vitamins, trace elements, amino acids (including their salts and analogues), and urea and derivatives.</p> <p>Manufacturers of additives: enzyme and micro-organisms which act as digestibility enhancers, gut flora stabilisers and substances which favourably affect the environment.</p> <p>Manufacturers of antioxidants with maximum permitted limits, colourant additives: carotenoids and xanthophyll's.</p> <p>Manufacturers of proteins obtained from micro-organisms belonging to groups of bacteria, yeast, algae and lower fungi.</p> <p>Manufacturers of premixtures, additives with maximum limits and novel protein products.</p> <p>Manufacturers of other additives used in feeds.</p> <p>Manufacturer of feed materials.</p> <p>Manufacturers of compound feed which do not contain additives but are manufactured to be placed on the market.</p> <p>Manufacturers or packers of compound feed which include additives.</p> <p>Importers of all feedingstuffs originating from outside the EU.</p> <p>Mobile Mixers of animal feeds with or without the inclusion of feed additives.</p> <p>Co Product Producers, food businesses which in manufacturing food intentionally places a fraction of the material produced into the feed chain, which is traded outside the region.</p> <p>Importers and Stores, and Transporters of feed that is traded outside of their region.</p>
10	<p>Manufacturers, Importers, Stores and Transporters of feed whose trade does not extend beyond a region e.g. Distributors/wholesaler; small-scale local manufacturer.</p> <p>Mobile Mixers of animal feeds with or without the inclusion of feed additives.</p> <p>Co Product Producers which is not traded outside the region.</p>
5	<p>Distributors of feed and feed products.</p> <p>On-Farm Mixer producing compound animal feed by the inclusion of additives or premixtures, but not complementary feed.</p> <p>Suppliers of Surplus Food which is put into feed chain where products not permitted for use with all animals are kept/used.</p>
0	<p>Any other business not included in the categories above.</p>

<b>Score:</b>	
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#### A6.4.1.5: 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 standards produced by assurance schemes should be considered.

<b>100</b>	Poor Compliance	No evidence of feed safety management/documented procedures. Significant hazards not understood and no effective controls in place. Staff not suitably supervised, instructed and/or trained and no appreciation of feed hazards or controls. Poor track record.
<b>70</b>	Varying Compliance	Feed safety management/documented procedures inappropriate or inadequate. Significant hazards not fully understood and not all controls in place. Significant improvements in feed safety procedures/implementation of controls required. Some staff not suitably supervised, instructed and/or trained. Varying track record.
<b>42</b>	Satisfactory Compliance	Generally satisfactory feed safety controls in place. All significant hazards understood and controls in place. Feed safety management records appropriate and are generally maintained but some deficiencies/gaps identified. Staff generally suitably supervised, instructed and/or trained but there may be some minor issues. Satisfactory track record.
<b>21</b>	Broad Compliance or Better	Feed safety management/procedures in place. Hazards understood, properly controlled, managed and reviewed. Feed safety management records appropriate and are generally maintained. Staff suitably supervised, instructed and/or trained with good staff knowledge and new staff receiving induction training. Good track record.
<b>0</b>	A Minimum of Satisfactory Compliance and member of an FSA Recognised Assurance Scheme	Business qualifies for earned recognition through being a compliant member of an approved industry feed assurance scheme.

<b>Score:</b>	
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#### A6.4.1.6: Inspection Frequencies

Category	Points Range	Minimum Inspection Frequency
A	147 to 200	at least every 12 months
B	122 to 146	at least every 24 months
C	106 to 121	at least every 36 months
D	85-105	at least every 48 months
E	0-84	at least every 60 months

## **ANNEX 7: Feed Business Establishment / Feed Premises Inspection Report**

**A report containing the following information should be provided to the feed business operator / feed business proprietor following each planned 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/registration activity code:

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 required by the feed business operator to rectify non-compliance;

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

Signature of inspecting officer:

Designation of inspecting officer

Contact details of inspecting officer:

Signature of the feed business operators representative;

Contact details of a senior officer/contact in case of dispute;

Date:

DAERA contact details:

## ANNEX 8:

### 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 Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016 are provided below.

Location	Model Form	For Use In Connection With
<b>A8.1:</b>	Feed Business Improvement Notice	Article 17
<b>A8.2:</b>	Feed Business Emergency Prohibition Notice	Article 22
<b>A8.3:</b>	Detention Notice	Article 25
<b>A8.4:</b>	Certificate of Withdrawal of Detention Notice	Article 25
<b>A8.6:</b>	Seizure Notice	Article 25
<b>A8.7:</b>	Certification That Health Risk Condition No Longer Exists	Articles 21(6) & 22(8)
<b>A8.8:</b>	Notice of Suspension of Registration/Approval	Article 9
<b>A8.9:</b>	Notice of Revocation of Registration/Approval	Article 11

## A8.1: Model Form 1 – Feed Business Improvement Notice

Authority: .....

The Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016  
Regulation 22

### 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.

## **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 Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016 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 23 of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016, 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.

**A8.2: Model Form 2 – Feed Business Emergency Prohibition Notice**

**Authority:** .....

**The Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016 Regulation 26**

**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.**



## 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 25(2) of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016 as applied by Regulation 26(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.

### A8.3: Model Form 3 - Detention Notice

Authority: .....

**The Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations  
(Northern Ireland) 2016 - Regulation 28  
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.**

## **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.

**A8.4: Model Form 4 – Certificate of Withdrawal of Detention Notice**

Authority: .....

**Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations  
(Northern Ireland) 2016 - Regulation 28  
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.**

## **A8.5: 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 28(6) of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016.

**A8.6: Model Form 5 – Seizure Notice**

Authority: .....

**Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations  
(Northern Ireland) 2016 – Regulation 28  
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.**

## A8.7: Model Form 6 - Certification that Health Risk Condition No Longer Exists

Authority: .....

**The Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016 - Regulations 25(6) & 26(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.**

## **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]



## A8.8: Model Form 7 - NOTICE OF SUSPENSION REGISTRATION/APPROVAL

Authority: .....

### The Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016 - Regulation 8

#### 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: .....

## Model Form 7 - NOTICE OF SUSPENSION REGISTRATION/APPROVAL (Reverse)

### Right of Appeal.

Take notice that under Regulation (12) of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016 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.**

## Model Form 7 - NOTICE OF SUSPENSION OF REGISTRATION/APPROVAL (SCHEDULE)

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

## A8.9: Model Form 8 - NOTICE OF REVOCATION OF REGISTRATION/APPROVAL

Authority: .....

### The Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016 - Regulation 10

#### 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: .....

## Model Form 8 - NOTICE OF REVOCATION OF REGISTRATION/APPROVAL (REVERSE)

### Right of Appeal

Take notice that under Regulation (12) of the Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016 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.**

## Model Form 8 - NOTICE OF REVOCATION OF REGISTRATION/APPROVAL (SCHEDULE)

Column 1 Relevant/essential conditions/duties not being complied with	Column 2 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 Animal Feed (Hygiene, Sampling, etc. and Enforcement) Regulations (Northern Ireland) 2016 and could result in prosecution.

# ANNEX 9:

## 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: DAERA Agri Food Inspection Branch  
Room 1018  
Dundonald House  
Upper Newtownards Road  
Belfast  
BT4 3SB

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	Activity description	Notes
R1	Manufacture and/or placing on the market <sup>1</sup> 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 <sup>1</sup> 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 <sup>1</sup> 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 <sup>1</sup> 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>

<sup>1</sup> 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.



	<b>Farms</b>		
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).

<sup>1</sup> 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 10:

### 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
	<i>Manufacture and/or placing<sup>1</sup> on the market of certain feed additives</i>		
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).
	<i>Manufacture and/or placing<sup>1</sup> on the market of premixtures containing certain feed additives<sup>(1)</sup></i>		
A7	Manufacture and/or placing on the market of premixtures containing vitamins A and D.		
A8	Manufacture and/or placing on the market <sup>1</sup> of premixtures containing copper and selenium.		
A9	Manufacture of compound feedingstuffs containing premixtures prepared from antibiotics, coccidiostats and other medicinal substances & growth promoters.		
A10	Producing, for the exclusive requirements of its holding, compound feedingstuffs containing premixtures which include		

<sup>1</sup> 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.

	additives referred to in A9.		
A11	Manufacturing and placing on the market, for feed use, products derived from vegetable oils and blended fats		Feed business establishments carrying out any of the activities referred to in point 10 of the Section headed "Facilities and Equipment" in Annex II to Regulation 183/2005 (as amended by Commission Regulation 225/2012)

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## **ANNEX 11: LIST OF FSA APPROVED ASSURANCE SCHEMES**

The MOU recognises the following **Red Tractor Assurance schemes** as approved schemes for earned recognition:

- **Beef & Lamb,**
- **Dairy,**
- **Crops and Sugar Beet,**
- **Pigs and Poultry (all schemes)**
- **Fresh Produce Standards**

The MOU recognises the following **Agricultural Industries Confederation schemes** for earned recognition.

- **Universal Feed Assurance Scheme (UFAS)**
- **Feed Materials Assurance Scheme (FEMAS)**
- **Trade Assurance Scheme for Combinable Crops (TASCC)**

The MOU recognises the following Livestock & Meat Commission scheme for earned recognition.

**The Northern Ireland Beef & Lamb Farm Quality Assurance Scheme (NIBL FQAS)**

Effective from **24 August 2016**

# ANNEX 12: Earned Recognition Exception Report

## FSA Earned Recognition Exception Report for DAERA

Reporting Officer

Telephone

Email

Date

Name of Business Inspected

Address of Business Inspected

Industry scheme to which the business is affiliated

Summary of the contraventions found (including legislative reference as appropriate) and what action DAERA has taken or intends to take against the business.

DAERA to confirm that earned recognition has been removed from the business, assigned a new risk rating and the business informed about the loss of earned recognition.

Please email completed forms to: [Executive.Support@foodstandards.gsi.gov.uk](mailto:Executive.Support@foodstandards.gsi.gov.uk)

Copy to: [animalfeed@foodstandards.gov.uk](mailto:animalfeed@foodstandards.gov.uk)

**Please Note:** This form complies with the Data Protection Principles Schedule 1 of the Data Protection Act 1998. The purpose of this form is for FSA monitoring purposes only between the FSA and DAERA

