

ANIMAL FEED

SUMMARY OF CURRENT LEGISLATION

This summary is intended only as an outline guide to the legislation, and should not be regarded as comprehensive or definitive. It should be read in conjunction with, and not as a substitute for, the legislation itself.

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

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

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

There is other feed-related legislation which is not summarised here and for which other Government departments are responsible -- for example, measures on animal by-products and the control of transmissible spongiform encephalopathies, which are the responsibility of Animal Health, or veterinary medicines legislation, which is the responsibility of the Veterinary Medicines Directorate. These organisations -- both under the control of the Secretary of State for the Environment, Food and Rural Affairs -- should be contacted for advice on the provisions of this legislation.

PART 1 -- PRIMARY LEGISLATION

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

THE AGRICULTURE ACT 1970

Part IV of this Act formerly regulated the preparation and sale of animal feeding stuffs, although many of its provisions have now been disapplied because they repeated, overlapped or conflicted with the requirements of European Regulation 767/2009 on the placing on the market and the use of feed. (Further details of this measure are given in Part 3, covering EU measures which apply directly.) Those provisions of Part IV which still apply concern the sampling and analysis of feeding stuffs and the control and enforcement of these rules by the relevant authorities.

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

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

THE EUROPEAN COMMUNITIES ACT 1972

Section 2(2) of this Act provides the legal powers to make secondary legislation (see below) to fulfill the UK's EU obligations. It can be used on its own as a general power, but Parliamentary scrutiny committees prefer to see its use restricted to those instances where powers under the Agriculture Act 1970 are considered insufficient to implement those obligations.

PART 2 -- PRINCIPAL SECONDARY LEGISLATION

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

The Regulations listed in this Part are the main items of secondary legislation governing the composition, marketing and labelling of animal feeding stuffs and which fall within the remit of the Animal Feed Branch of the Food Standards Agency. This Part also covers legislation concerned with enforcement of animal feed law.

THE ANIMAL FEED (ENGLAND) REGULATIONS 2010 (S.I. 2010 No 2503)

This is the principal secondary legislation dealing with composition, marketing and labelling made under Part IV of the Agriculture Act 1970 and section 2(2) of the European Communities Act 1972. It replaced the Feeding Stuff Regulations 2005, which transposed a number of European Directives and Decisions on aspects of the marketing, labelling and composition of animal feed. Five of these measures have been replaced by a single, directly applicable measure, European Regulation 767/2009 on the placing on the market and the use of feed. (Further details of this measure are given in Part 3, covering EU measures which apply directly.)

The Animal Feed (England) Regulations 2010 apply only to England -- there is separate but parallel legislation for Scotland, Wales and Northern Ireland -- and provide for the enforcement of the European Regulation by linking certain of its provisions to the powers of local authority enforcement officers. The Regulations also re-enact those measures which are not covered by Regulation 767/2009 -- namely, the maximum permitted levels for undesirable substances; the authorisation and labelling of feed additives; the list of particular nutritional purposes for which dietetic feeds may be promoted; and the list of categories for the labelling of compound pet food -- and make the references to their technical annexes

ambulatory so that any amendments made to them can take effect without a need for amendments to UK national Regulations.

The Animal Feed (England) Regulations 2010 also designate competent authorities for the enforcement of Regulation 767/2009; increase the penalties for breaches of labelling and compositional requirements to bring them into line with those in the Feed (Hygiene and Enforcement) (England) Regulations 2005; and make consequential changes to the Agriculture Act 1970 to disapply or amend those of its provisions which repeat, conflict or overlap with those of Regulation 767/2009.

THE GENETICALLY MODIFIED ANIMAL FEED (ENGLAND) REGULATIONS 2004 (S.I. 2004 No 2334)

These Regulations provide for the enforcement of the feed-related provisions of European Regulation 1829/2003 on genetically modified food and feed, by linking them to penalties for non-compliance and the powers of enforcement officers to seize products and issue notices. Further information about the EU Regulation is given in Part 3, covering EU measures which apply directly.

THE FEED (HYGIENE AND ENFORCEMENT) (ENGLAND) REGULATIONS 2005 (S.I. 2005 No 3280)

These Regulations provide for the enforcement in England of the feed-related Articles of European Regulation 178/2002 on the general principles of food and feed law and European Regulation 183/2005 laying down the requirements for feed hygiene. (More details of the scope and content of the two EC Regulations are given in Part 3, covering EU measures which apply directly.) The Feed (Hygiene and Enforcement) Regulations also consolidate and update the powers of feed enforcement authorities, to bring them into closer parity with those available to food authorities in accordance with the requirements of European Regulation 882/2004 on official feed and food controls.

THE FEED (SAMPLING AND ANALYSIS AND SPECIFIED UNDESIRABLE SUBSTANCES) (ENGLAND) REGULATIONS 2010 (S.I. 2010 No 2280)

That part of these Regulations which concern sampling and analysis provides for the application and administration of European Regulation 152/2009 laying down the methods of sampling and analysis for the official control of feed. Further information about this measure is given in Part 3, covering EU measures which apply directly.

PART 3 -- DIRECTLY APPLICABLE EU LEGISLATION

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

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

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

Enforcement of the feed-related aspects of this Regulation in England is provided for by the Feed (Hygiene and Enforcement) (England) Regulations 2005.

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

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

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

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

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

The Regulation also specifies the information which must appear on additive and premixture labels, and reclassified as additives a number of bioproteins in order to bring them within its scope. It covers zootechnical additives, some categories of which are the responsibility of the Veterinary Medicines Directorate (VMD), and required the use of antibiotic additives other than coccidiostats and histomonostats to be phased out by 31 December 2005.

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

This consolidated and extended existing EU legislation on official feed and food controls, setting out the general principles and enabling powers for carrying out official controls and specifying the approach to be adopted by Member States' enforcement authorities for checking businesses' compliance with feed and food law

and EU animal health and welfare rules. It also contains provisions for the financing of these controls, and covers the action that may be taken in cases of breaches of applicable legislation. The Regulation also sets out the approach that the European Commission will take to check that national control systems and enforcement bodies in Member States and third countries comply with its specific requirements.

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

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

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

Farmers feeding animals producing food for human consumption have to follow a code of good practice, and arable farms growing crops for feed use have to comply with standards relating to primary production.

COMMISSION REGULATION 152/2009 LAYING DOWN THE METHODS OF SAMPLING AND ANALYSIS FOR THE OFFICIAL CONTROL OF FEED

This Regulation replaced and consolidated several Directives on sampling and analysis, some of which dated back for over thirty years and had been amended on numerous occasions. The Annexes to the Regulation set out the detailed procedures which must be followed when analysing animal feed for a range of specified analytes or substances.

Consolidation also provided an opportunity to delete 17 harmonised methods of analysis either because they were considered to be no longer fit for purpose or because it was thought restrictive to specify the method to be used when there is a range of techniques available.

EUROPEAN PARLIAMENT AND COUNCIL REGULATION 767/2009 ON THE PLACING ON THE MARKET AND THE USE OF FEED

This Regulation replaced and consolidated five separate Directives and Decisions on the marketing and labelling of feed materials and compound feeds, including dietetic feeds. Among other things, it

- extends the feed safety principles of feed law to feed for non-food-producing animals, to ensure consistent application of feed hygiene and traceability measures;
- tightens controls on products with high levels of additives by setting a demarcation between complementary feeds and premixtures;
- requires scientific substantiation for claims for a feed's composition or function;
- requires the labelling of contaminated feed being sent for cleaning or detoxification to prevent its diversion back into the feed chain;
- introduces a procedure for submissions for the approval of new nutritional purposes;
- abolishes the previous requirements both for the percentage declaration of the ingredients of compound feed and for a dossier assessment of new bioproteins; and
- introduces a Catalogue of feed materials and Codes of Practice for good labelling, two voluntary measures which will achieve the same harmonised results as at present but without the need for prescriptive legislation.

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