

2013 No. 3207 (W. 317)

AGRICULTURE, WALES

**The Feed (Hygiene and
Enforcement) and the Animal Feed
(Wales) (Amendment) Regulations
2013**

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations provide for the execution and enforcement of Commission Regulation (EU) No. 225/2012 amending Annex II to Regulation (EC) No. 183/2005 of the European Parliament and of the Council as regards the approval of establishments placing on the market, for feed use, products derived from vegetable oils and blended fats and as regards the specific requirements for production, storage, transport and dioxin testing of oils, fats and products derived thereof (OJ No. L77, 16.3.2012, p.1) (“Regulation 225/2012”).

2. These Regulations amend the Feed (Hygiene and Enforcement) (Wales) Regulations 2005 (S.I. 2005/3368 (W.265)) by —

- (a) re-stating the definition of Regulation (EC) No 183/2005 so that, by virtue of section 20A of the Interpretation Act 1978, it includes the amendments made by Regulation 225/2012 (*regulation 2(2)*);
- (b) providing that any reference in S.I. 2005/3280 to an Annex to Regulation (EC) No 183/2005 is to be construed as a reference to that Annex as it may be amended from time to time (*regulation 2(3)*);
- (c) designating the competent authorities for the purposes of enforcing certain provisions of Regulation 225/2012 (*regulation 2(4)*); and
- (d) providing for the fee to be paid for approval of specified establishments (*regulation 2(5) and Schedule 1*).

3. These Regulations also amend the Animal Feed (Wales) Regulations 2010 (S.I. 2010/2652 (W.220)) by —

- (a) removing references to an EU instrument which has been repealed (*regulation 3(2)*); and
- (b) clarifying the drafting of enforcement provisions relating to Regulation (EC) No 767/2009 of the European Parliament and of the Council on the placing on the market and use of feed (OJ No. L229, 1.9.2009, p.1) (*regulation 3(3) and (4) and Schedule 2*).

4. The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Food Standards Agency at Food Standards Agency Wales, 11th Floor, Southgate House, Wood Street, Cardiff, CF10 1EW.

2013 No. 3207 (W. 317)

AGRICULTURE, WALES

**The Feed (Hygiene and
Enforcement) and the Animal Feed
(Wales) (Amendment) Regulations
2013**

Made 18 December 2013

Laid before the National Assembly for Wales
19 December 2013

Coming into force 12 January 2014

The Welsh Ministers make the following Regulations in exercise of the powers conferred on them by section 2(2) of and paragraph 1A of Schedule 2 to the European Communities Act 1972⁽¹⁾.

The Welsh Ministers are designated for the purposes of that section in relation to measures relating to the common agricultural policy of the European Union⁽²⁾, measures in the veterinary and phytosanitary fields for the protection of public health⁽³⁾ and measures relating to feed produced for or fed to food-producing animals⁽⁴⁾, as read with paragraph 1A of Schedule 2 to that Act.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Welsh Ministers that it is expedient for references to the Annexes to the EU instrument mentioned in regulation 2(3) and 3(2)(b) to be construed as references to those Annexes as they may be amended from time to time.

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- (1) 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (2006 c.51) and has been amended by section 3(3) of and the Schedule to the European Union (Amendment) Act 2008 (2008 c.7).
- (2) S.I. 2010/2690.
- (3) S.I. 2008/1792.
- (4) S.I. 2005/1971.

There has been open and transparent public consultation during the preparation of these Regulations in accordance with the requirements of Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety⁽¹⁾.

Title and commencement

1. The title of these Regulations is the Feed (Hygiene and Enforcement) and the Animal Feed (Wales) (Amendment) Regulations 2013, they apply in relation to Wales and come into force on 12 January 2014.

Amendment of the Feed (Hygiene and Enforcement) (Wales) Regulations 2005

2.—(1) The Feed (Hygiene and Enforcement) (Wales) Regulations 2005⁽²⁾ are amended in accordance with paragraphs (2) to (5).

(2) In paragraph (1) of regulation 2 (interpretation), for the definition of “Regulation 183/2005” substitute the following definition —

““Regulation 183/2005” (*“Rheoliad 183/2004”*) means Regulation (EC) No. 183/2005 of 12 January 2005 laying down requirements for feed hygiene⁽³⁾.”

(3) After paragraph (4) of regulation 2, add the following paragraph —

“(5) Any reference in these Regulations to an Annex to Regulation 183/2005 is a reference to that Annex as it may be amended from time to time.”

(4) For regulation 4 (competent authorities) substitute the following regulation —

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- (1) OJ No. L31, 1.2.2002, p.1, as last amended by Regulation (EC) No. 596/2009 of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468 with regard to the regulatory procedure with scrutiny: adaptation to the regulatory procedure with scrutiny – Part Four (OJ No. L188, 18.7.2009, p.14).
- (2) S.I. 2005/3368. This instrument has been amended by S.I. 2006/3256 (W.296), S.I. 2009/3376 (W.298), S.I. 2010/2287 (W.199) and S.I. 2010/2652 (W.220).
- (3) This Regulation was last amended by Commission Regulation (EU) No. 225/2012 amending Annex II to Regulation (EC) No. 183/2005 of the European Parliament and of the Council as regards the approval of establishments placing on the market, for feed use, products derived from vegetable oils and blended fats and as regards the specific requirements for production, storage, transport and dioxin testing of oils, fats and products derived thereof (OJ No. L L77, 16.3.2012, p.1).

“4.—(1) The competent authorities for the purposes of the Articles of Regulation 183/2005 are —

- (a) in respect of Articles 9(1) and (3), 18(3), 20(2), 21(1) and 22(2)(b), the Agency and the enforcement authority;
- (b) in respect of Articles 7, 9(2), 10, 13, 14, 15, 16, 17, 18(1),(2) and (4) and 19(2), the enforcement authority; and
- (c) in respect of Article 19(1), the Agency.

(2) The competent authorities for the purposes of the section headed “Dioxin Monitoring” in Annex II to Regulation 183/2005 are —

- (a) in respect of paragraph 2(e), the enforcement authority; and
- (b) in respect of paragraph 7, the enforcement authority and the Agency.

(5) For the content of Schedule 2 (fees payable for approvals) substitute the content of Schedule 1 to these Regulations.

Amendment of the Animal Feed (Wales) Regulations 2010

3.—(1) The Animal Feed (Wales) Regulations 2010(1) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2 (interpretation and scope) —

- (a) in paragraph (1), omit the definition of Regulation 242/2010; and
- (b) for paragraph (3) substitute the following paragraph —

“(3) Any reference to an Annex to Directive 82/475, Directive 2002/32, Directive 2008/38 or Regulation 767/2009 is a reference to that Annex as it may be amended from time to time.”

(3) For paragraph (1) of regulation 4 (enforcement of requirements of Regulation 767/2009), substitute the following paragraph —

“4.—(1) Subject to the transitional provisions contained in Article 32, any person who —

- (a) contravenes or fails to comply with the provisions of Regulation 767/2009 specified in Schedule 1; or
- (b) places on the market or uses any feed that fails to comply with Article 6(1) or 8,

(1) S.I. 2010/2652 (W.220).

is guilty of an offence.”.

(4) For the content of Schedule 1 (specified provisions of Regulation 767/2009) substitute the content of Schedule 2 to these Regulations.

Mark Drakeford

Minister for Health and Social Services, one of the
Welsh Ministers

18 December 2013

SCHEDULE 1 Regulation 2(5)

“SCHEDULE 2
FEES PAYABLE FOR
APPROVALS

<i>Activity requiring approval of establishment</i>	<i>Fee (£)</i>
Manufacture only, or manufacture and placing on the market, of substances referred to in Article 10(1)(a) or (b) of Regulation 183/2005 other than those feed additives specified in regulation 2(3), or of premixtures of such additives	451.00
Placing on the market of substances referred to in Article 10(1)(a) or (b) of Regulation 183/2005 other than those feed additives specified in regulation 2(3), or of premixtures of such additives	226.00
Any of the activities referred to at Point 10 of the Section headed “Facilities and Equipment” in Annex II to Regulation 183/2005	451.00”

SCHEDULE 2 Regulation 3(4)

“SCHEDULE 1 Regulation 4(1)

Specified Provisions of Regulation 767/2009

<i>Specified provision</i>	<i>Subject matter</i>
Article 4(1)&(2), as read with Article 4(3) and Annex I	General safety and other requirements to be met when feed is placed on the market or used
Article 5(1)	Extension of requirements in relation to feed for food-producing animals in other legislation to apply to feed for non food-producing animals
Article 5(2), as read with Article 12(1),(2)&(3)	Obligation on person responsible for labelling to make information available to competent authority
Article 9	Controls on the marketing of feeds for particular nutritional purposes
Article 11, as read with Article 12(1),(2)&(3), Annexes II & IV and the Catalogue of feed materials	Rules and principles governing the labelling and presentation of feed
Article 12(4)&(5)	Duty of feed business operators to act with due care to help ensure compliance with labelling requirements and to ensure transmission of mandatory labelling particulars throughout the food chain.
Article 13(1), as read with Article 12(1),(2)&(3)	General conditions on making a claim about the characteristics or functions of a feed on the labelling or presentation of it
Article 13(2)&(3), as read with Article 12(1),(2)&(3)	Special conditions applying to claims concerning optimisation of the nutrition and support or protection of the physiological conditions
Article 14(1)&(2), as read with Article 12(1),(2)&(3)	Requirements for the presentation of the mandatory labelling particulars

Article 15, as read with Article 12(1),(2)&(3), Annex VI and VII and Article 21	General mandatory labelling requirements for feed materials and compound feeds
Article 16, as read with Articles 12(1),(2)&(3) and 21, Annex II and V and the Catalogue of feed materials	Specific labelling requirements for feed materials
Article 17(1)&(2), as read with Articles 12(1),(2)&(3) and 21 and Annex II, VI & VII	Specific labelling requirements for compound feeds
Article 18, as read with Article 12(1),(2)&(3)	Additional labelling requirements for feed for particular nutritional purposes (dietetic feeds)
Article 19, as read with Article 12(1),(2)&(3)	Additional labelling requirements for pet food
Article 20(1), as read with Article 12(1),(2)&(3) and Annex VIII	Additional requirements for labelling of non-compliant feed, such as that containing contaminated materials
Article 23	Requirements relating to the packaging and sealing of feed materials and compound feeds for placing on the market
Article 24(5)	Requirement that if the name of a feed material listed in the Catalogue of feed materials is used, all relevant provisions of the Catalogue must be complied with
Article 24(6)	Obligation on a person who first places on the market a feed material not listed in the Catalogue of feed materials to notify its use
Article 25(4)	Requirement that if use of the Community Codes of good labelling practice is indicated on labelling, all relevant provisions of the Codes must be complied with.”