
STATUTORY INSTRUMENTS

2010 No. 2503

AGRICULTURE, ENGLAND

The Animal Feed (England) Regulations 2010

Made - - - - *13th October 2010*
Laid before Parliament *19th October 2010*
Coming into force - - *23rd November 2010*

The Secretary of State makes the following Regulations in exercise of the powers conferred on him by sections 66(1), 68(1), 74A(1), (2) and (4) and 84 of the Agriculture Act 1970⁽¹⁾, as read with regulation 14 of the Food Standards Act 1999 (Transitional and Consequential Provisions and Savings) (England and Wales) Regulations 2000⁽²⁾.

In so far as these Regulations cannot be made under the powers in the Agriculture Act 1970 specified above, the Secretary of State makes these Regulations in exercise of his powers as a Minister designated for the purposes of section 2(2) of the European Communities Act 1972⁽³⁾ in relation to the common agricultural policy of the European Community⁽⁴⁾, measures in the veterinary and phytosanitary fields for the protection of public health⁽⁵⁾ and measures relating to feed produced for or fed to food-producing animals⁽⁶⁾, 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 Secretary of State that it is expedient for references to the Annexes to the EU instruments mentioned in regulation 2(3) to be construed as references to those Annexes as they may be amended from time to time.

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

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- (1) 1970 c.40. Section 66(1) contains definitions of the expressions “the Ministers”, “prescribed” and “regulations”. The definition of “the Ministers” was amended by the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I. 1978/272), Schedule 5, paragraph 1. Functions of “the Ministers”, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672 and subsequently transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (2006 c.32). Those functions, so far as exercisable in relation to Scotland, were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (1998 c. 46). By virtue of S.I. 1999/3141, functions of the Secretaries of State for Wales and Scotland previously exercisable in relation to England ceased to be so exercisable and were transferred to the Minister of Agriculture, Fisheries and Food. Functions of the Minister of Agriculture were transferred to the Secretary of State by the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I.2002/794). Section 74A was inserted by the European Communities Act 1972 (1972 c. 68), Schedule 4, paragraph 6. Sections 66(1) and 84 were amended by S.I. 2004/3254. Section 66(1) was also amended by S.I. 2010/2280.
- (2) S.I. 2000/656.
- (3) 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 amended by Part 1 of Schedule 1 to the European Union (Amendment) Act 2008 (2008 c.7).
- (4) S.I. 1972/1811, amended by S.I. 2002/794.
- (5) S.I. 1999/2027.
- (6) S.I. 2003/2901.

food safety⁽⁷⁾ or, in the case of provisions relating to feed for non food-producing animals, of section 84(1) of the Agriculture Act 1970.

PART 1

Introductory and general

Title, application and commencement

1. These Regulations may be cited as the Animal Feed (England) Regulations 2010, apply in relation to England only and come into force on 23rd November 2010.

Interpretation and scope

2.—(1) In these Regulations —

“the Act” means the Agriculture Act 1970;

“Directive 82/475” means Commission Directive [82/475/EEC](#) laying down the categories of feed materials which may be used for the purposes of labelling compound feedingstuffs for pet animals⁽⁸⁾;

“Directive 2002/32” means Directive [2002/32/EC](#) of the European Parliament and of the Council on undesirable substances in animal feed⁽⁹⁾;

“Regulation 1831/2003” means Regulation (EC) No. [1831/2003](#) of the European Parliament and of the Council on additives for use in animal nutrition⁽¹⁰⁾;

“Directive 2008/38” means Commission Directive [2008/38/EC](#) establishing a list of intended uses of animal feedingstuffs for particular nutritional purposes⁽¹¹⁾;

“Regulation 767/2009” means Regulation (EC) No. [767/2009](#) of the European Parliament and of the Council on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No [1831/2003](#) and repealing Council Directive [79/373/EEC](#), Commission Directive [80/511/EEC](#), Council Directives [82/471/EEC](#), [83/228/EEC](#), [93/74/EEC](#), [93/113/EC](#) and [96/25/EC](#) and Commission Decision [2004/217/EC](#)⁽¹²⁾;

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“feed authority” means an authority identified in section 67(1) of the Act as having the duty to enforce Part IV of the Act within its area or district as the case may be.

(2) Any expression used in these Regulations and in Regulation 1831/2003 or Regulation 767/2009 has the meaning in these Regulations that it bears in the Regulation concerned.

(7) 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).

(8) OJ No. L213, 21.7.1982, p.27. This Directive was last amended by Commission Directive [98/67/EC](#) (OJ No. L261, 24.9.1998, p.10).

(9) OJ No. L140, 30.5.2002, p.10. This Directive was last amended by Commission Directive 2010/6/EU (OJ No. L37, 10.2.2010, p.29).

(10) OJ No. L268, 18.10.2003, p. 29. This Regulation was last amended by Regulation (EC) No. [767/2009](#).

(11) OJ No. L62, 6.3.2008, p.9. This Directive was last amended by Commission Directive 2008/82 (OJ No. L202, 31.7.2008, p.48).

(12) OJ No. L229, 1.9.2009, p.1. This Regulation was last amended by [Commission Regulation \(EC\) No. 568/2010](#) (OJ No. L163, 30.6.2010, p.30).

[^{F2}(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.]

(4) These Regulations do not apply to any feed additive in category (d) or (e) of Article 6(1) of Regulation 1831/2003, with the exception of those in the functional groups listed in paragraph 4(a), (b) and (c) of Annex 1 to that Regulation(13).

- F1** Words in reg. 2(1) omitted (17.1.2014) by virtue of [The Feed \(Hygiene and Enforcement\) and the Animal Feed \(England\) \(Amendment\) Regulations 2013 \(S.I. 2013/3133\)](#), regs. 1, **3(2)(a)**
- F2** Reg. 2(3) substituted (17.1.2014) by [The Feed \(Hygiene and Enforcement\) and the Animal Feed \(England\) \(Amendment\) Regulations 2013 \(S.I. 2013/3133\)](#), regs. 1, **3(2)(b)**

PART 2

Marketing and use of feed

Interpretation of this Part and Schedule 1

^{F3}3.

- F3** Reg. 3 revoked (6.4.2015) by [The Animal Feed \(Composition, Marketing and Use\) \(England\) Regulations 2015 \(S.I. 2015/255\)](#), reg. 1, **Sch. 2**

Enforcement of requirements of Regulation 767/2009

^{F4}4.

- F4** Reg. 4 revoked (6.4.2015) by [The Animal Feed \(Composition, Marketing and Use\) \(England\) Regulations 2015 \(S.I. 2015/255\)](#), reg. 1, **Sch. 2**

Competent authorities for the purposes of Regulation 767/2009

^{F5}5.

- F5** Reg. 5 revoked (6.4.2015) by [The Animal Feed \(Composition, Marketing and Use\) \(England\) Regulations 2015 \(S.I. 2015/255\)](#), reg. 1, **Sch. 2**

PART 3

Feed additives

Interpretation of this Part

^{F6}6.

(13) Categories (d) and (e) of Article 6(1) comprise respectively zootechnical additives, and coccidiostats and histomonostats. Functional groups listed in paragraphs 4(a), (b) and (c) of Annex I comprise preservatives, antioxidants and emulsifiers.

*Changes to legislation: There are currently no known outstanding effects for the
The Animal Feed (England) Regulations 2010. (See end of Document for details)*

F6 Reg. 6 revoked (6.4.2015) by [The Animal Feed \(Composition, Marketing and Use\) \(England\) Regulations 2015 \(S.I. 2015/255\)](#), reg. 1, **Sch. 2**

Enforcement of requirements of Regulation 1831/2003

F7.

F7 Reg. 7 revoked (6.4.2015) by [The Animal Feed \(Composition, Marketing and Use\) \(England\) Regulations 2015 \(S.I. 2015/255\)](#), reg. 1, **Sch. 2**

PART 4

Undesirable substances in feed

Interpretation of this Part

F8.

F8 Reg. 8 revoked (6.4.2015) by [The Animal Feed \(Composition, Marketing and Use\) \(England\) Regulations 2015 \(S.I. 2015/255\)](#), reg. 1, **Sch. 2**

Control of animal feeds containing undesirable substances

F9.

F9 Reg. 9 revoked (6.4.2015) by [The Animal Feed \(Composition, Marketing and Use\) \(England\) Regulations 2015 \(S.I. 2015/255\)](#), reg. 1, **Sch. 2**

PART 5

Feeds for particular nutritional purposes

Interpretation of this Part

F10.

F10 Reg. 10 revoked (6.4.2015) by [The Animal Feed \(Composition, Marketing and Use\) \(England\) Regulations 2015 \(S.I. 2015/255\)](#), reg. 1, **Sch. 2**

Control of feed intended for particular nutritional purposes

F11.

F11 Reg. 11 revoked (6.4.2015) by [The Animal Feed \(Composition, Marketing and Use\) \(England\) Regulations 2015 \(S.I. 2015/255\)](#), reg. 1, **Sch. 2**

PART 6

Administration and enforcement

Penalties for offences under these Regulations

^{F12}12.

F12 Reg. 12 revoked (6.4.2015) by [The Animal Feed \(Composition, Marketing and Use\) \(England\) Regulations 2015 \(S.I. 2015/255\)](#), reg. 1, [Sch. 2](#)

Duties to enforce

^{F13}13.

F13 Reg. 13 revoked (6.4.2015) by [The Animal Feed \(Composition, Marketing and Use\) \(England\) Regulations 2015 \(S.I. 2015/255\)](#), reg. 1, [Sch. 2](#)

PART 7

Amendments and modifications of the Agriculture Act 1970

Amendments and modifications of the Agriculture Act 1970

14.—(1) The Act is amended or modified, as the case may be, in accordance with paragraphs (2) to (9).

(2) In section 66 (interpretation of Part IV) —

(a) in subsection (1), after the definition of Regulation [\(EC\) No 178/2002](#) insert the following definitions —

““Regulation [\(EC\) No 1831/2003](#)” means Regulation [\(EC\) No 1831/2003](#) of the European Parliament and of the Council on additives for use in animal nutrition;

“Regulation [\(EC\) No 767/2009](#)” means Regulation [\(EC\) No 767/2009](#) of the European Parliament and of the Council on the placing on the market and use of feed, amending European Parliament and Council Regulation [\(EC\) No 1831/2003](#) and repealing Council Directive [79/373/EEC](#), Commission Directive [80/511/EEC](#), Council Directives [82/471/EEC](#), [83/228/EEC](#), [93/74/EEC](#), [93/113/EC](#) and [96/25/EC](#) and Commission Decision [2004/217/EC](#)”; and

(b) for subsection (2) substitute the following —

“(2) For the purposes of this Part of this Act material shall be treated as sold for use as a fertiliser or feeding stuff whether it is sold to be so used by itself or as an ingredient in something which is to be so used.”.

(3) In section 68 (duty of seller to give statutory statement) —

(a) after subsection (5) insert the following subsection —

“(5A) Nothing in subsections (1) to (5) applies to anyone to whom the requirements of Article 16 of Regulation [\(EC\) No 1831/2003](#) (labelling and packaging of feed additives and premixtures) or of Chapter 4 of Regulation [\(EC\) No 767/2009](#) (labelling, presentation and packaging) apply.”;

- (b) after subsection (6) add the following subsection —
 - “(7) Failure to comply with the labelling requirements of Article 16 of Regulation (EC) No 1831/2003 or of Chapter 4 of Regulation (EC) No 767/2009 shall not invalidate a contract of sale, but such labelling shall, regardless of any contract or notice to the contrary, have effect as a warranty by the person who gives it that the particulars contained in it are correct.”.
- (4) In section 69 (marking of material prepared for sale), in subsection (1) omit the words “or feeding stuff”.
- (5) In section 70 (use of names or expressions with prescribed meanings) —
 - (a) subsection (1)(a) in so far as it applies in relation to feeding stuffs shall apply as if the expression “under Regulation (EC) No 767/2009” were substituted for the expression “by regulations made for the purposes of this section”; and
 - (b) after subsection (5) add the following subsection —
 - “(6) Nothing in subsections (2) to (4) of this section shall apply to anyone to whom the labelling requirements of Regulation (EC) No 767/2009 apply.”.
- (6) In section 71 (particulars to be given of certain attributes if claimed to be present) —
 - (a) subsection (4) in so far as it applies in relation to feeding stuffs shall apply as if —
 - (i) the expression “the requirements of Article 13 of Regulation (EC) No 767/2009” were substituted for the expression “subsection (1) of this section”; and
 - (ii) “that Article” were substituted for “that subsection”;
 - (b) after subsection (5) add the following subsection —
 - “(6) Nothing in subsections (1) to (3) of this section shall apply to anyone to whom Article 13 (claims) of Regulation (EC) No 767/2009 applies.”.
- (7) Sections 73 and 73A shall cease to have effect.
- (8) In section 74 (limits of variation) after subsection (2) add the following subsection —
 - “(3) Nothing in subsection (2) shall apply to anyone to whom Article 11.5 and Annex IV (permitted tolerances) of Regulation (EC) No 767/2009 applies.”.
- (9) In section 74A, subsection (3) shall not apply to regulations concerning feed.

PART 8

Amendments to Regulations

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

^{F14}15.

F14 Reg. 15 revoked (6.4.2015) by The Animal Feed (Composition, Marketing and Use) (England) Regulations 2015 (S.I. 2015/255), reg. 1, Sch. 2

Amendment of the Official Feed and Food Controls (England) Regulations 2009

^{F15}16.

Changes to legislation: There are currently no known outstanding effects for the
The Animal Feed (England) Regulations 2010. (See end of Document for details)

F15 Reg. 16 revoked (6.4.2015) by The Animal Feed (Composition, Marketing and Use) (England) Regulations 2015 (S.I. 2015/255), reg. 1, **Sch. 2**

Revocations

^{F16}**17.**

F16 Reg. 17 revoked (6.4.2015) by The Animal Feed (Composition, Marketing and Use) (England) Regulations 2015 (S.I. 2015/255), reg. 1, **Sch. 2**

Signed by authority of the Secretary of State for Health

Anne Milton
Parliamentary Under-Secretary of State,
Department of Health

Changes to legislation: There are currently no known outstanding effects for the *The Animal Feed (England) Regulations 2010*. (See end of Document for details)

^{F17}SCHEDULE 1

Regulation 4(1)

Specified Provisions of Regulation 767/2009

F17 Sch. 1 revoked (6.4.2015) by [The Animal Feed \(Composition, Marketing and Use\) \(England\) Regulations 2015 \(S.I. 2015/255\)](#), reg. 1, **Sch. 2**

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^{F18}SCHEDULE 2

Regulation 17

F18 Sch. 2 revoked (6.4.2015) by [The Animal Feed \(Composition, Marketing and Use\) \(England\) Regulations 2015 \(S.I. 2015/255\)](#), reg. 1, **Sch. 2**

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations, which apply in relation to England only —
 - (a) revoke the Feeding Stuffs (England) Regulations 2005 as amended and re-enact certain of their provisions;
 - (b) provide for the execution and enforcement of the comprehensive new EU Regulation on the marketing and use of feed detailed in paragraph 2, and for the continuing enforcement of the EU Regulation on feed additives mentioned in paragraph 3;
 - (c) maintain the implementation of EU Directives concerning dietetic feeds and contaminants in feed;
 - (d) prescribe offences and penalties for breaches of the Regulations;
 - (e) make amendments and modifications to Part IV of the Agriculture Act 1970; and
 - (f) amend certain other Regulations.

2. In Part 2, these Regulations provide for the execution of Regulation (EC) No. 767/2009 of the European Parliament and of the Council on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No. 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC (OJNo. L229, 1.9.2009, p.1) (*regulations 3-5 and Schedule 1*). References in regulation 4(2) to the Annex to Directive 82/475 and in Schedule 1 to the Annex to Regulation 242/2010 or the Annexes to Regulation 767/2009 are references to those Annexes as they may be amended from time to time (*regulation 2(3)*).

3. In Part 3, the Regulations provide for the continuing enforcement of Regulation (EC) No. 1831/2003 of the European Parliament and of the Council on additives for use in animal nutrition (OJ No. L268, 18.10.2003, p.29) (*regulations 6 and 7*).

4. In Part 4, the Regulations implement Directive 2002/32/EC of the European Parliament and of the Council on undesirable substances in animal feed (OJ No. L140, 30.5.2002, p.10) (*regulations 8 and 9*). Directive 2002/32 has already been amended a number of times, and any reference to an Annex to this Directive is a reference to that Annex as it may be further amended from time to time (*regulation 2(3)*).

5. In Part 5, the Regulations implement Commission Directive 2008/38/EC establishing a list of intended uses of animal feedingstuffs for particular nutritional purposes (OJ No. L62, 6.3.2008, p.9), (*regulations 10 and 11*). Any reference to an Annex to this Directive is a reference to that Annex as it may be amended from time to time (*regulation 2(3)*).

6. Part 6 of these Regulations makes provision for a breach of specified requirements to constitute an offence, sets out the maximum penalty applicable on conviction for such an offence and fixes local feed authorities with the duty to enforce these Regulations and the EU Regulations mentioned above (*regulations 12 and 13*).

7. In Part 7, the Regulations make amendments or modifications to the Agriculture Act 1970 where the relevant sections of the Act would otherwise duplicate, gloss or be incompatible with provisions of Regulation 767/2009 (*regulation 14*).

8. In Part 8, the Regulations make consequential amendments to the Food (Hygiene and Enforcement) (England) Regulations 2005 and the Official Feed and Food Controls (England) Regulations 2009 (*regulations 15 and 16*).

9. A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Animal Feed Branch of the Food Standards Agency, Aviation House, 125 Kingsway, London WC2B 6NH and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

Changes to legislation:

There are currently no known outstanding effects for the The Animal Feed (England) Regulations 2010.