

**Statutory Instruments.**

**S.I. No. 242 of 2005.**

**EUROPEAN COMMUNITIES (FEED ADDITIVES)  
REGULATIONS 2005**

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**European Communities (Feed Additives) Regulations 2005**

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**S.I. No. 242 of 2005**

**European Communities (Feed Additives) Regulations 2005**

I, Mary Coughlan, Minister for Agriculture and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) for the purpose of giving effect to Regulation (EC) No. 1831/2003 of the European Parliament and of the Council of 22 September 2003<sup>1</sup>, and Council

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<sup>1</sup> O.J. No. L 268 of 18.10.2003, p. 29.

Directive 70/524/EEC of 23 November 1970<sup>2</sup> as amended by Council Directive 96/51/EC of 23 July 1996<sup>3</sup> hereby make the following regulations-

### **Citation**

1. These Regulations may be cited as the European Communities (Feed Additives) Regulations 2005.

### **Interpretation**

- 2.(1) In these Regulations-

“authorised officer” means-

- (a) an authorised officer appointed under the European Communities (Animal Nutrition Inspections) Regulations 2003 (S.I. No. 238 of 2003),
- (b) a person appointed under Regulation 11,
- (c) a member of the Garda Siochana, or
- (d) an officer of Customs and Excise;

“European Regulation” means Regulation (EC) No. 1831/2003 of the European Parliament and of the Council of 22 September 2003 and Council Directive 70/524/EEC of 23 November 1970 as amended by Council Directive 96/51/EC of 23 July 1996;

“Minister” means the Minister for Agriculture and Food;

“premises” includes land with or without buildings, a vehicle (including a ship, hovercraft, aircraft and offshore installation (being an offshore installation within the meaning assigned to it by section 2 (1) of the Safety, Health and Welfare (Offshore Installations) Act 1987) (No. 18 of 1987), railway wagon, container or other thing used in connection with, or ancillary to, a thing aforesaid;

“Regulations of 1999” means the European Communities (Additives in Feedingstuffs) Regulations 1999 (S.I. No. 398 of 1999).

- (2) In these Regulations, a reference to a Regulation or Schedule is to a Regulation of, or Schedule to, these Regulations unless it is indicated that a reference to some other Regulation or Schedule is intended and a reference to a paragraph or a subparagraph is a reference to the paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

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<sup>2</sup> O.J. No. L 270 of 14.12.1970, p. 1.

<sup>3</sup> O.J. No. L 235 of 17.9.1996, p. 39.

- (3) A word or expression that is used in the European Regulation and that is also used in these Regulations has, in these Regulations, the same meaning as it has in the European Regulation.

### **Prohibition**

3.(1) Subject to Regulation 4, a person shall not-

- (a) manufacture a feed additive,
- (b) have a feed additive or a feedingstuff into which a feed additive has been incorporated in his or her possession or under his or her control,
- (c) have an animal, to which has been fed a feed additive or a feedingstuff into which a feed additive has been incorporated, in his or her possession or under his or her control,
- (d) slaughter, sell or supply an animal to which subparagraph (c) relates,
- (e) sell or supply the meat of an animal to which subparagraph (c) relates, or
- (f) have the meat or other product of an animal to which subparagraph (c) relates in his or her possession or under his or her control,

unless the feed additive is covered by an authorisation granted in accordance with the European Regulation and the authorisation and the European Regulation is complied with in respect of the feed additive.

(2) Notwithstanding paragraph (1), from 1 January 2006, a person shall not-

- (a) manufacture a feed additive that consists of or contains an antibiotic,
- (b) incorporate a feed additive that consists of or contains an antibiotic into a feedingstuff,
- (c) place on the market a feed additive or feedingstuff to which either paragraph (a) or (b) applies,
- (d) have a feed additive or a feedingstuff into which a feed additive that consists of or contains an antibiotic has been incorporated in his or her possession or under his or her control, or
- (e) have an animal, to which has been fed a feed additive that consists of or contains an antibiotic or a feedingstuff into which

a feed additive that consists of or contains an antibiotic has been incorporated, in his or her possession or under his or her control.

- (3) In paragraph (2), a reference to an antibiotic does not refer to a coccidiostat or histomonostat that is incorporated in a feed additive placed on the market in accordance with the European Regulation, including an authorisation granted under the European Regulation, or a Regulation cited in the Schedule.

### **Current authorisations**

- 4.(1) Notwithstanding Regulation 3 (1), a feed additive or a feedingstuff into which a feed additive is incorporated that, before 18 October 2004, was placed on the market in accordance with the Regulations of 1999 may be placed on the market in accordance with the European Regulation for so long as -
- (a) Article 10 of the European Regulation is complied with in respect of the feed additive, and
  - (b) the community authorisation issued in respect of the feed additive in accordance with Council Directive 70/524/EEC of 23 November 1970<sup>2</sup> is complied with.
- (2) A community authorisation to which paragraph (1)(b) refers is, subject to compliance with paragraph (1), considered to be an authorisation granted under the European Regulation.

### **Scientific research**

- 5.(1) A person shall not carry out an experiment for scientific purposes to which Article 3(2) of the European Regulation applies other than under and in accordance with an authorisation granted for the purposes of that provision (“research authorisation”).
- (2) The Minister may grant a research authorisation, attach conditions thereto, revoke or vary a condition, revoke a research authorisation or refuse an application.
  - (3) An application for a research authorisation shall be in a form and contain any particular that the Minister may require.
  - (4) The Minister shall not consider an application for a research application unless the application is accompanied by the fee (if any) specified by the Minister.
  - (5) The Minister may specify a fee in respect of an application for a research authorisation.

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<sup>2</sup> O.J. No. L 270 of 14.12.1970, p.1.

- (6) The Public Offices Fees Act 1879 does not apply to a fee under this Regulation.

### **Use of certain feed additives**

- 6.(1) A person shall not use a feed additive named in a Regulation or a Directive cited in the Schedule other than under and in accordance with the Regulation in which the feed additive is named.
- (2) A person shall not present for slaughter or slaughter an animal to which a feed additive named in a Regulation or a Directive cited in the Schedule or feedingstuff that consists of or contains the feed additive has been administered, unless the withdrawal period in respect thereof (if any) set out in that Regulation or Directive has elapsed.
- (3) A person shall not process, have in his or her possession, place on the market or otherwise deal with the meat or other product of an animal to which paragraph (2) refers.
- (4) A person shall not feed a feed additive named in a Regulation or Directive cited in the Schedule or a feedingstuff containing the feed additive to an animal or class or species of animal not named in that Regulation or Directive.

### **Putting Feedingstuffs incorporating additives into circulation**

- 7.(1) A person shall not put feedingstuffs incorporating the additives belonging to the groups listed below into circulation unless the following particulars which must be clearly visible, readily legible and indelible are given on the package, container or a label affixed thereto -
- (a) for antibiotics, coccidiostats and other medicinal substances and growth promoters -
- (i) the specific name given to the additive upon authorisation,
  - (ii) the active substance level,
  - (iii) the expiry date of the guarantee of that level or storage life from the date of manufacture, and
  - (iv) the approval number assigned to the establishment in accordance with Council Directive 95/69/EC<sup>4</sup>;
- (b) for substances having antioxidant effect -
- (i) in the case of pet foods the use of the words “with antioxidant” followed by the specific name given to the additive upon authorisation, or
  - (ii) in the case of compound feedingstuffs other than pets foods the specific name given to the additive upon authorisation;

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<sup>4</sup> O.J. No. L332, 30.12.1995, p.15

- (c) for colorants, including pigments provided that these are used for the coloration of feedingstuffs or animal products -
  - (i) in the case of pet foods the use of the words “colorant” or “coloured with” followed by the specific name given to the additive upon authorisation, or
  - (ii) in the case of compound feedingstuffs other than pet foods the specific name given to the additive upon authorisation;
  
- (d) for vitamin E -
  - (i) the specific name given to the additive upon authorisation,
  - (ii) the alpha-tocopherol level, and
  - (iii) the expiry date of the guarantee of that level or storage life from the date of manufacture;
  
- (e) for vitamins A and D -
  - (i) the specific name given to the additive upon authorisation,
  - (ii) the active substance level, and
  - (iii) the expiry date of the guarantee of that level or storage life from the date of manufacture;
  
- (f) for copper -
  - (i) the specific name given to the additive upon authorisation, and
  - (ii) the level expressed in Cu;
  
- (g) for preserving agents -
  - (i) in the case of pet foods the use of the words “preservation” or “preserved with” followed by the specific name given to the additive upon authorisation, or
  - (ii) in the case of compound feedingstuffs other than pet foods the specific name given to the additive upon authorisation;
  
- (h) for enzymes -
  - (i) the specific name of the active component or components according to their enzymatic activity in accordance with the authorisation given,
  - (ii) the identification number according to the International Union of Biochemistry,
  - (iii) the activity units (activity units per kg or activity unit per litre),
  - (iv) the additive’s EC registration number,
  - (v) the expiry date of the guarantee or the storage life from the date of manufacture, and
  - (vi) where applicable, an indication of any particular significant characteristics due to the manufacturing process, in accordance with the provisions concerning labelling in the authorisation of the additive;
  
- (i) for micro-organisms -
  - (i) the identification of the strain(s) in accordance with the authorisation given,
  - (ii) the number of colony-forming units (CFU/kg),
  - (iii) the file number of the strain(s),
  - (iv) the EC registration number of the additive,

- (v) the expiry date of the guarantee or the storage life from the date of manufacture, and
  - (vi) where applicable, an indication of any particular significant characteristics due to the manufacturing process, in accordance with the provisions concerning labelling in the authorisation of the additive.
- (2) In addition to the particulars provided for in paragraph (1), the person responsible for the labelling particulars must ensure that any particulars concerning their proper use, which are laid down in the Community authorisation for the additive, appear on the package or the container or on a label affixed thereto.
- (3) The presence of trace elements other than copper and of vitamins other than vitamins A, D and E, provitamins and additives having a similar effect may be indicated if the amounts of these substances can be determined by official methods of analysis or failing this, by valid scientific methods of analysis. In such cases the following details shall be given -
- (a) for trace elements other than copper -
    - (i) the specific name of the additive in accordance with the authorisation given, and
    - (ii) the level of the various elements;
  - (b) for vitamins other than A, D and E, provitamins and substances having a similar chemical effect -
    - (i) the specific name of the additive in accordance with the authorisation given,
    - (ii) the active substance level, and
    - (iii) the expiry date of the guarantee of that level or the storage life from the date of manufacture.
- (4) (a) The details specified in paragraphs (1), (2) and (3) must be printed close to the particulars which have to appear on the package, container or the label affixed thereto in accordance with Community rules on feedingstuffs.
- (b) Where a level or a quantity is stated pursuant to paragraphs (1) to (3), such statements shall refer to the amount of additive incorporated in the feedingstuff.
- (c) The details of additives may be accompanied by the EC registration number of the additive or the trade name where those particulars are not required by virtue of paragraph (1).

### **Expiry of the guarantee or storage life**

8. Where, pursuant to Regulation 7, the expiry date of the guarantee or storage life from the date of manufacture of several additives belonging to the same group or different groups has to be stated, a single date of guarantee or a single

reference to the storage life from the date of manufacture may be indicated for all the additives; provided that the date mentioned shall be that which is the earliest of each of these dates.

### **Distribution documents**

- 9.(1) Where feedingstuffs are distributed by road tankers or similar vehicles or in bulk the details provided for in Regulation 7 shall be given in a document accompanying the feedingstuff.
- (2) Where small quantities of feedingstuffs that are intended for the end-user are involved, it shall be sufficient for the details provided for in Regulation 7 of these Regulations to be conveyed to the purchaser by a special notice.

### **Packaging for pet foods**

10. In the case of pet foods containing colorants, preservatives or substances having antioxidant effects and put in packages having a net weight of not more than 10 kilograms, it shall be sufficient that the particulars to be shown on a package bear the words “coloured with” or “preserved with” or “with antioxidant” as appropriate followed by the words “EC additives” provided that –
  - (a) The package, container or label bears a reference number by means of which the feedingstuff may be identified, and
  - (b) The manufacturer gives on request the specific name or names of the additive or additives used.

### **Authorised officers**

11. (1) The Minister may, by instrument in writing, appoint such and so many persons as he or she thinks fit to be authorised officers for the purposes of some or all of the functions conferred by these Regulations and the European Regulation as may be specified in the instrument.
- (2) The Minister may terminate the appointment of an authorised officer whether or not the appointment was for a fixed period.
- (3) An appointment as an authorised officer ceases-
  - (a) if it is terminated pursuant to paragraph (2),
  - (b) if it is for a fixed period, on the expiry of that period, or
  - (c) if the person appointed is an officer of the Minister, an officer of Customs and Excise or a member of the Garda Síochána upon the person ceasing to be such an officer or member.

- (4) Nothing in paragraph (3) is to be construed so as to prevent the Minister, from reappointing as an authorised officer a person to whom that paragraph relates.
- (5) An authorised officer appointed under this Regulation or the European Communities (Animal Nutrition Inspections) Regulations 2003 (S.I. No. 238 of 2003) shall produce his or her warrant of appointment as such officer, and a member of the Garda Síochána or Officer of Customs and Excise (not in uniform) shall produce evidence that he or she is such a member or officer, if requested by a person affected.

### **Powers of authorised officers**

12.(1) An authorised officer or an expert employed by or acting on the authority of the Commission of the European Communities accompanied by an authorised officer, if the authorised officer has reasonable cause to suspect that -

- (a) a feed additive is present or may be present on a premises,
- (b) a feed additive is or has been incorporated into a feedingstuff, processed, stored or otherwise dealt with on a premises,
- (c) a feed additive has been or may have been fed to an animal on the premises,
- (d) a premises has been used for a purpose specified in the European Regulation or is ancillary to a premises used for a purpose so specified, or
- (e) a contravention of the European Regulation or of a Regulation cited in the Schedule or an offence under these Regulations is being or has been committed on the premises,

may enter the premises and the authorised officer may—

- (i) examine or inspect a feed additive or feedingstuff that he or she suspects may contain a feed additive,
- (ii) examine or inspect an animal to which a feed additive or feedingstuff containing the feed additive may have been fed,
- (iii) take, without payment, samples, as he or she may reasonably require and carry out or cause to be carried out on the samples such tests, analyses, examinations or inspections as he or she considers necessary or expedient,
- (iv) carry out or cause to be carried out measurements, examinations, tests or inspections of the premises or any part thereof

and any equipment, plant, machinery or other article, substance or liquid as he or she considers necessary or expedient,

- (v) search the premises,
- (vi) require a person (who shall comply with the requirement) to give his or her name and address and information or produce any book, certificate, document or other record as the authorised officer considers necessary or expedient,
- (vii) examine and take copies of, or extracts from, a thing referred to in subparagraph (vi),
- (viii) seize and detain a thing referred to in this Regulation or other thing that he or she has reasonable cause to suspect may be evidence of a contravention of the European Regulation or a Regulation cited in the Schedule or of an offence under these Regulations,
- (ix) seize and detain a feed additive, feedingstuff that consists of or contains a feed additive or other thing,
- (x) seize and detain an animal to which subparagraph (ii) refers or the meat or other product of the animal,
- (xi) require the production of any document or thing relating to a feed additive, feedingstuff that consists of or contains a feed additive, animal to which paragraph (ii) refers or the meat or other product of the animal,
- (xii) retain any such document or thing (for so long as is necessary),
- (xiii) give directions to, or require information of, a person regarding a premises, feed additive, feedingstuff that consists of or contains a feed additive, animal, meat or other product of an animal as he or she considers necessary,
- (xiv) require of a person the ownership, identity and origin of the feed additive, feedingstuff containing the feed additive, animal, meat or other product of the animal, or

- (xv) mark or otherwise identify the feed additive, feedingstuff containing a feed additive, animal, meat or other product of the animal or a sample taken under subparagraph (iii).
- (2) An authorised officer shall not enter, other than with the consent of the occupier, a private dwelling, unless he or she has obtained a search warrant under Regulation 13 other than if he or she has reasonable cause to suspect that, before a search warrant could be sought in relation to the dwelling under that Regulation, anything to which paragraph (1) relates is being or is likely to be destroyed or disposed of.
- (3) An authorised officer may use reasonable force, if necessary, in the exercise of his or her powers under this Regulation.
- (4) An authorised officer when exercising any powers under this Regulation may be accompanied by other persons and may take with him or her, or those persons may take with them, any equipment or materials to assist the officer in the exercise of those powers.
- (5) An authorised officer shall not be liable in any proceedings for anything done in the purported exercise of his or her powers under this Regulation if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.
- (6) Without prejudice to the generality of paragraph (1), a direction or requirement of an authorised officer may include conditions prohibiting, restricting or otherwise controlling the use, processing or movement of a feed additive, feedingstuff containing a feed additive, animal, meat or other product of the animal as may be specified by the authorised officer
- (7) If a member of the Garda Síochána has reasonable cause to suspect that a person has committed an offence under these Regulations, the member may without warrant arrest the person.

### **Search warrant**

- 13(1) If a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for suspecting-
- (a) that there is on a premises a feed additive, feedingstuff containing a feed additive, an animal to which a feed additive or feedingstuff containing a feed additive has been or may have been fed or the meat or other product of such animal, or
  - (b) there is evidence of a contravention of the European Regulation or a Regulation cited in the Schedule or an offence under these Regulations therein or thereon,

the judge may issue a search warrant.

- (2) A search warrant issued under this Regulation shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers, members of the Garda Síochána and officers of Customs and Excise as the named officer thinks necessary, at any time or times, within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter (if necessary by force) the premises named in the warrant.
- (3) If a premises is entered pursuant to a warrant issued under this Regulation, an authorised officer so entering may exercise all or any of the powers conferred on an authorised officer under these Regulations.

### **Disposal notice**

14. (1) Without prejudice to the power of an authorised officer to give a direction or make a requirement under Regulation 12, if an authorised officer is of the opinion that –

- (a) a feed additive or feedingstuff containing a feed additive has been or may be introduced into the State, moved, used, fed to an animal or is to be exported from the State other than under and in accordance with an authorisation issued under the European Regulation or in contravention of a Regulation cited in the Schedule or these Regulations,
- (b) an animal has been fed a feed additive or feedingstuff containing a feed additive other than under and in accordance with an authorisation,
- (c) meat or another animal product is derived from an animal to which subparagraph (b) refers, or
- (d) measures should be taken, in respect of a feed additive, feedingstuff containing a feed additive, animal, meat or other animal product to protect human or animal health,

he or she may serve or cause to be served on the owner or person who appears to be in charge, possession or control of the feed additive, feedingstuff containing a feed additive, animal, meat or other animal product a notice (“disposal notice”) stating that opinion and directing that –

- (i) a feed additive, feedingstuff containing a feed additive, animal, meat or other animal product be kept in such premises as the officer shall specify in the notice,
- (ii) such alterations be made to the premises in which a feed additive or feedingstuff containing a feed additive is located as the officer shall specify in the notice,

- (iii) a feed additive, feedingstuff containing a feed additive, animal, meat or animal product be treated, destroyed or disposed of in such manner as the officer shall specify in the notice, or
  - (iv) a feed additive, feedingstuff containing a feed additive, animal, meat or animal product be removed from the State in such manner (if any) as may be specified
- (2) A person, including the master, captain, owner or operator of a vessel or aircraft shall comply with a disposal notice or a requirement of a disposal notice unless and until the notice is annulled under paragraph (10).
- (3) A requirement contained in a disposal notice shall specify a time limit within which the notice is to be complied with.
- (4) A requirement specified in a disposal notice (in this paragraph referred to as “the earlier disposal notice”) may be amended or withdrawn by a further notice in writing and the earlier disposal notice shall have effect subject to such amendment or withdrawal.
- (5) A disposal notice, whether amended under paragraph (4) or not, may require the owner or person in charge of a feed additive or feedingstuff containing a feed additive to choose between one or more of the requirements specified in the disposal notice and that person shall comply with the requirement that he or she chooses.
- (6) (a) A disposal notice shall, subject to subparagraph (b), be addressed to the person concerned by name, and may be served on or given to the person in one of the following ways –
  - (i) by delivering it to the person,
  - (ii) by leaving it at the address at which the person ordinarily resides or, in a case where an address for service has been furnished, at that address,
  - (iii) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case where an address for service has been furnished, at that address, or
  - (iv) if the address at which the person ordinarily resides cannot be ascertained by reasonable enquiry and the disposal notice relates to a premises, by delivering it to some person over 16 years of age resident or employed on the premises or by affixing it in a conspicuous position on or near the premises.
- (b) If a disposal notice is to be served on or given to a person who is the owner or occupier of a premises and the name of the person cannot be

ascertained by reasonable enquiry, it may be addressed to the person by using the words the owner, the occupier or, as the case may require, such other designation as the authorised officer considers appropriate.

- (c) A person shall not at any time within 6 months after a disposal notice is affixed under paragraph (6)(a)(iv) remove damage or deface the notice without lawful authority.
  - (d) For the purposes of this Regulation, a company within the meaning of the Companies Acts 1963 to 1990, is deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.
- (7) A person affected by a disposal notice may, within 7 days of service of the disposal notice, apply to the Judge of the District Court having jurisdiction in the District Court District where the subject of the notice is situated or to the Judge of the District Court having jurisdiction in the District Court District where the person ordinarily resides on the grounds that the disposal notice or any term of the disposal notice is not reasonable, having regard to these Regulations (in this Regulation referred to as “an appeal”).
  - (8) An appeal may be heard at any sitting of the District Court within the appropriate District Court Area.
  - (9) Notice of an appeal, which shall contain a statement of the grounds upon which it is alleged that the disposal notice or any term of the disposal notice is unreasonable having regard to these Regulations, shall be served on the Minister at least 48 hours prior to the hearing of the appeal and a copy thereof shall be lodged with the appropriate District Court Clerk.
  - (10) On the hearing of an appeal, a Judge of the District Court may confirm, with or without modification, or annul a disposal notice.
  - (11) A person, including a person on whom a disposal notice is served, shall not-
    - (a) pending the determination of an appeal, deal with a feed additive or feedingstuff containing a feed additive to which a disposal notice relates other than under and in accordance with the notice, or
    - (b) after such appeal, deal with a feed additive or feedingstuff containing a feed additive to which a disposal notice relates other than under and in accordance with the disposal notice or disposal notice as modified, as the case may be.
  - (12) If –
    - (a) a person, by act or omission, fails to comply, whether within the time specified therein or otherwise, with a disposal notice (including a disposal notice modified in accordance with paragraph (10)), or

- (b) an authorised officer has reasonable cause to suspect –
  - (i) that a disposal notice (including a disposal notice modified in accordance with paragraph (10)) is not or will not be complied with, or
  - (ii) pending the determination of an appeal, feed additive or feedingstuff containing a feed additive to which the disposal notice relates is or will not be dealt with in accordance with paragraph (11),

an authorised officer may seize and detain the feed additive, feedingstuff containing a feed additive, animal, meat or other product of the animal and sell or dispose of it in a manner that the authorised officer considers appropriate.

- (13) Subject to paragraph (15), the proceeds of the sale or disposal of a feed additive or feedingstuff containing a feed additive under paragraph (12) shall be paid to the owner of the feed additive or feedingstuff containing a feed additive as soon as may be after such sale or disposal and after a person has satisfied the Minister that he or she is the owner or otherwise entitled to the proceeds of the sale or disposal.
- (14) The costs of seizure, sale or disposal of a feed additive, feedingstuff containing a feed additive, animal, meat or other product of an animal under this Regulation shall be recoverable by the Minister as a simple contract debt in a court of competent jurisdiction.
- (15) The costs of any action required by a disposal notice shall be borne by the owner of the feed additive, feedingstuff containing a feed additive, animal, meat or other product of an animal to which such notice relates.

## **Forgery**

- 15.(1) A person shall not forge or utter knowing it to be forged –
  - (a) a register purporting to be established and maintained under the European Regulation or a document purporting to be an extract therefrom (hereafter in this Regulation referred to as "a forged register"), or
  - (b) a research authorisation, a disposal notice, a requirement or direction of an authorised officer under Regulation 12 (if the requirement or direction is in writing), certificate or other document purporting to be issued, granted or given under these Regulations (hereafter in this Regulation referred to as "a forged document").

- (2) A person shall not alter with intent to defraud or deceive, or utter knowing it to be so altered -
- (a) a register established and maintained under the European Regulation or an extract therefrom (hereafter in this Regulation referred to as "an altered register"), or
  - (b) a research authorisation, a disposal notice, a requirement or direction of an authorised officer under Regulation 12 (if the requirement or direction is in writing), certificate or other document issued, granted or given under these Regulations (hereafter in this Regulation referred to as "an altered document"),
- (3) A person shall not have, without lawful authority, in his or her possession or under his or her control a forged register, a forged document, an altered register or an altered document.

### **Obstruction etc**

16. A person shall not -
- (a) obstruct or impede an authorised officer in the performance of his or her duties,
  - (b) without lawful excuse, refuse or fail to comply with a requirement or direction of an authorised officer,
  - (c) tamper with a feed additive, animal feedingstuff containing a feed additive, animal, meat or other product of an animal to which a feed additive or product containing a feed additive has been fed or a sample taken under Regulation 12,
  - (d) tamper with or obliterate a mark or identification made in accordance with Regulation 12,
  - (e) give information to an authorised officer that the person knows to be false or misleading in a material respect, or
  - (f) fail to comply with a disposal notice or a requirement or condition of a disposal notice including a disposal notice varied under Regulation 14(10) .

### **Offences**

- 17.(1) A person who contravenes-
- (a) a requirement of the European Regulation,
  - (b) a Regulation cited in the Schedule, or

- (c) Regulation 3(1), 3(2), 4(1), 5(1), 6, 7, 8, 9, 10, 14(2), 14(6)(c), 14(11), 15, 16 or 18(3),

is guilty of an offence and is liable, on conviction, to a fine not exceeding €3,000 or to a term of imprisonment not exceeding 6 months or to both such fine and such imprisonment.

- (2) An offence under these Regulations may be prosecuted by the Minister.
- (3) If an offence under these Regulations has been committed by a body corporate and it is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in any such capacity, that person, as well as the body corporate, is guilty of an offence and is liable to be proceeded against and punished as if guilty of the first-mentioned offence.
- (4) If the affairs of a body corporate are managed by its members, paragraph (3) applies in relation to the acts and defaults of a member in connection with functions of management as if such a member were a director or manager of the body corporate.

#### **Forfeiture of feed additive etc.**

18. (1) If a person is found guilty of an offence under these Regulations, the Minister may apply to the appropriate Court for an order that a feed additive, animal feedingstuff containing the feed additive, animal, meat, other product or a thing to which the said offence relates is forfeited to the Minister and the Court shall grant such application unless-
- (a) the feed additive, animal feedingstuff containing the feed additive, animal, meat, other product or a thing to which the said offence relates has been dealt with in accordance with a disposal notice, or
- (b) in the opinion of the Court, it would be unjust to do so.
- (2) If on hearing an application under paragraph (1) in respect of a feed additive, feedingstuff containing a feed additive, animal, meat, other animal product or other thing that has not been dealt with in accordance with a disposal notice, if the Court does not order it forfeited to the Minister, the Court may make such directions in respect of it that the Court considers desirable or necessary for the protection of human or animal health or the environment.
- (3) A person shall comply with a direction under paragraph (2).

#### **Evidential burden**

19. In proceedings for an offence consisting of a contravention of the European Regulation, a Regulation cited in the Schedule or these Regulations, the onus

of proving the grant or issue of the authorisation covering a feed additive or a condition of the authorisation is on the defendant.

### **Certificate**

20.(1) In proceedings for an offence under these Regulations, a certificate purported to be signed by a person employed at a laboratory where a sample taken under these Regulations is analysed stating the capacity in which the person is employed and stating one or more of the following-

- (a) that the person received a sample,
- (b) that, for such period as is specified in the certificate, the person had the sample in his or her possession,
- (c) that the person gave the sample to such other person as is specified in the certificate, or
- (d) the person carried out any procedure for the purpose of detecting, in the sample, a feed additive or that the sample contained such feed additive or amount of such feed additive as is specified in the certificate,

shall (without proof of the signature of the person or that he or she is employed at the laboratory), unless the contrary is proved, be evidence of the matters stated in the certificate.

(2) In proceedings for an offence under these Regulations, the court may, if it considers that the interests of justice so require, direct that oral evidence of the matters stated in the certificate under this Regulation be given, and the court may, for the purpose of receiving oral evidence, adjourn the proceedings to a later date.

### **Fixed penalty notice**

21.(1) If an authorised officer has reasonable grounds for believing that a person is committing or has committed an offence under these Regulations or a contravention of a Regulation cited in the Schedule or the European Regulation, he or she may serve a notice in writing on that person stating that –

- (a) the person is alleged to have committed the offence or contravention,
- (b) the person may during the period of 28 days from the date of the notice make to the Minister a payment of €100 accompanied by the notice, and
- (c) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) If notice is given under paragraph (1) –

- (a) The person to whom the notice applies may, during the period specified in the notice, make to the Minister at the address specified in the notice the payment specified in the notice accompanied by the notice.
  - (b) The Minister shall receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it.
  - (c) A prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.
- (3) In a prosecution for an offence under Regulation 17 the onus of proving that a payment pursuant to a notice under this regulation has been made lies on the defendant.

### **Disposal of monies**

22. Monies received by the Minister under Regulation 5 or 21 shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance.

### **Revocations**

- 23.(1) The Regulations of 1999, the European Communities (Additives in Feedingstuffs) (Amendment) Regulations 2000 (S.I. No. 186 of 2000) and the European Communities (Additives in Feedingstuffs) (Amendment) Regulations 2003 (S.I. No. 461 of 2003), are revoked.
- (2) A reference in any enactment (including a statutory instrument made under a power conferred by the enactment) to a Regulation revoked by paragraph (1) or by the Regulations of 1999 is considered to be, and have effect as if the reference is, a reference to these Regulations.

## Schedule

Type	Number	Date	Reference
Commission Directive	84/443/EEC	26/7/84	O.J. L 245, 14. 09. 1984, p. 21
Commission Directive	88/485/EEC	26/7/88	O.J. L 239, 30. 08. 1988, p. 36
Commission Directive	89/520/EEC	6/9/89	O.J. L 270, 19. 09. 1989, p. 13
Commission Directive	90/439/EEC	24/7/90	O.J. L 227, 21. 08. 1990, p. 33
Commission Directive	91/248/EEC	12/4/91	O.J. L 124, 18.5.91, p 1
Commission Directive	91/249/EEC	19/4/91	O.J. L 124, 18.5.91, p 43
Commission Directive	91/336/EEC	10/6/91	O.J. L 185, 11.7.91, p 31
Commission Directive	91/508/EEC	9/9/91	O.J. L 271, 27.9.91, p 67
Commission Directive	91/620/EEC	22/11/91	O.J. L 334, 5.12.91, p 62
Commission Directive	92/64/EEC	13/7/92	O.J. L 221, 6.8.92, p 51
Commission Directive	92/99/EEC	17/11/92	O.J. L 350, 1.12.92, p 83
Commission Directive	92/113/EEC	16/12/92	O.J. L 16, 25.1.93, p 2
Commission Directive	93/26/EEC	4/6/93	O.J. L 179, 22. 07. 1993, p. 2
Commission Directive	93/27/EEC	4/6/93	O.J. L 179, 22.7.93, p 5
Commission Directive	93/55/EEC	25/6/93	O.J. L 206, 18.8.93, p 11
Commission Directive	93/107/EC	26/11/93	O.J. L 299, 4.12.93, p 44
Commission Directive	94/17/EC	22/4/94	O.J. L 105, 26.4.94, p 19
Commission Directive	94/41/EC	18/7/94	O.J. L 209, 12.8.94, p 18
Commission Directive	94/50/EC	31/10/94	O.J. L 297, 18.11.94, p 27
Commission Directive	94/77/EC	20/12/94	O.J. L 350, 31.12.94, p 113
Commission Directive	95/37/EC	18/7/95	O.J. L 172, 22.7.95, p 21
Commission Directive	95/55/EC	31/10/95	O.J. L 263, 4.11.95, p. 18
Commission Directive	96/7/EC	21/2/96	O.J. L 51, 1.3.96, p. 45
Commission Directive	96/66/EC	14/10/96	O.J. L 272, 25.10.96, p. 32
Commission Directive	97/6/EC	30/1/97	O.J. L 35, 5.2.97, p. 11
Council Directive	97/40/EC	25/6/97	O.J. L 180, 9.7.97, p. 21
Commission Directive	97/72/EC	15/12/97	O.J. L 351, 23. 12. 97, p55
Commission Directive	98/19/EC	18/3/98	O.J. L 96, 28. 3. 1998, p. 39
Commission Regulation	1436/98	3/7/98	O.J. L 191, 7. 7. 1998, p. 15
Commission Regulation	2316/98	26/10/98	O.J. L 289, 28. 10. 1998, p. 4
Commission Regulation	2374/98	3/11/98	O.J. L 295, 4. 11. 1998, p. 3
Council Regulation	2821/98	17/12/98	O.J. L 351, 29. 12. 1998, p. 4

Commission Regulation	2785/98	22/12/98	O.J. L 347, 23. 12. 1998, p. 21
Commission Regulation	2786/98	22/12/98	O.J. L 347, 23. 12. 1998, p. 25
Commission Regulation	2788/98	22/12/98	O.J. L 347, 23. 12. 1998, p. 31
Commission Regulation	45/1999	11/1/99	O.J. L 6, 12. 1. 1999, p. 3
Commission Regulation	639/1999	25/3/99	O.J. L 82, 26. 3. 1999, p. 6
Commission Regulation	866/1999	26/4/99	O.J. L 108, 27. 4. 1999, p. 21
Commission Regulation	1245/1999	16/6/99	O.J. L 150, 17. 6. 1999, p. 15
Commission Regulation	1411/1999	29/7/99	O.J. L 164, 30. 6. 1999, p. 56
Commission Regulation	1636/1999	26/7/99	O.J. L 194, 27. 7. 1999, p. 17
Commission Regulation	2293/1999	14/10/99	O.J. L 284, 6. 11. 1999, p. 1
Commission Regulation	2430/1999	16/11/99	O.J. L 296, 17. 11. 1999, p. 3
Commission Regulation	2439/1999	17/11/99	O.J. L 297, 18. 11. 1999, p. 8
Commission Regulation	2562/1999	3/12/99	O.J. L 310, 4. 12. 1999, p. 11
Commission Regulation	2690/1999	17/12/99	O.J. L 326, 18. 12. 1999, p. 33
Commission Regulation	654/00	29/3/00	O.J. L 79, 30. 3. 2000, p. 26
Commission Regulation	739/00	7/4/00	O.J. L 87, 8. 4. 2000, p. 14
Commission Regulation	1353/00	26/6/00	O.J. L 155, 28. 6. 2000, p. 15
Commission Regulation	1887/00	6/9/00	O.J. L 227, 7. 9. 2000, p. 13
Commission Regulation	2437/00	3/11/00	O.J. L 280, 4. 11. 2000, p. 28
Commission Regulation	2697/00	27/11/00	O. J. L 319, 16. 12. 2000 p. 1
Commission Regulation	418/2001	1/3/01	O. J. L 62, 2. 3. 2001, p. 3
Commission Regulation	937/2001	11/5/01	O. J. L 130, 12. 5. 2001, p. 25
Commission Regulation	2200/2001	17/10/01	O.J. L 299, 15. 11. 2001, p. 1
Commission Regulation	2205/2001	14/11/01	O.J. L 297, 15. 11. 2001, p. 3
Commission Regulation	2380/2001/EC	5/12/01	O. J. L 321, 6. 12. 2001, p. 18
Commission Regulation	1041/2002/EC	14/6/02	O. J. L 157, 15. 6. 02, p. 41
Commission Regulation	1252/2002/EC	11/7/02	O. J. L 183, 11. 7. 2002, p. 10
Commission Regulation	1756/2002/EC	23/9/02	O. J. L 265, 3. 10. 2002, p. 1
Commission Regulation	162/2003/EC	30/1/03	O.J. L 26, 31. 1. 03, p. 3
Commission Regulation	261/2003/EC	12/2/03	O.J. L 37, 13. 2. 03, p. 12
Commission Regulation	316/2003/EC	19/2/03	O.J. L 46, 20. 2. 03, p. 15
Commission Regulation	355/2003/EC	20/2/03	O.J. L 53, 28. 2. 03, p. 1
Commission Regulation	666/2003/EC	11/4/03	O.J. L 96, 12. 4. 03, p. 11
Commission Regulation	668/2003/EC	11/4/03	O.J. L 96, 12. 4. 03, p. 14
Commission Regulation	676/2003/EC	14/4/03	O.J. L 97, 15. 4. 03, p. 29
Commission Regulation	871/2003EC	20/5/03	O.J. L 125, 21. 5. 03, p. 3
Commission Regulation	877/2003/EC	21/5/03	O.J. L 126, 22. 5. 03, p. 24
Commission Directive	2003/7/EC	24/1/03	O.J. L 22, 25. 1. 03, p. 28

Commission Regulation	1334/2003/EC	25/7/03	O.J. L 187, 26. 7. 03, p. 11
Commission Regulation	1801/2003	15/10/03	O. J. L. 264, 15. 10. 2003, p. 16
Commission Regulation	1847/2003	21/10/03	O. J. L. 269, 21. 10. 2003, p. 3
Commission Regulation	1852/2003	22/10/03	O. J. L. 271, 22. 10. 2003, p. 13
Commission Directive	2003/104/EC	12/11/03	O. J. L. 295, 13.11. 2003, p. 83
Commission Regulation	2112/2003	2/12/03	O. J. L. 317, 2. 12. 2003, p. 22
Commission Regulation	2154/2003	11/12/03	O. J. L. 324, 11. 12. 2003, p. 11
Commission Regulation	277/2004	18/2/04	O. J. L. 47, 18. 2. 2004, p. 20
Commission Regulation	278/2004	18/2/04	O. J. L. 47, 18. 2. 2004, p. 22
Commission Regulation	490/2004	17/3/04	O. J. L. 79, 17. 3. 2004, p. 23
Commission Regulation	879/2004	30/4/04	O. J. L. 162, 30. 4. 2004, p. 65
Commission Regulation	880/2004	30/4/04	O. J. L. 162, 30. 4. 2004, p. 68
Commission Regulation	1259/2004	9/7/04	O. J. L. 239, 9. 7. 2004, p. 8
Commission Regulation	1288/2004	15/7/04	O. J. L. 243, 15. 7. 2004, p. 10
Commission Regulation	1289/2004	15/7/04	O. J. L. 243, 15. 7. 2004, p. 15
Commission Regulation	1332/2004	21/7/04	O. J. L. 243, 21. 7. 2004, p. 8
Commission Regulation	1333/2004	21/7/04	O. J. L. 243, 21. 7. 2004, p. 11
Commission Regulation	1356/2004	27/7/04	O. J. L. 251, 27. 7. 2004, p. 6
Commission Regulation	1455/2004	17/8/04	O. J. L. 269, 17. 8. 2004, p. 14
Commission Regulation	1453/2004	17/8/04	O. J. L. 269, 17. 8. 2004, p. 3
Commission Regulation	1463/2004	18/8/04	O. J. L. 270, 18. 8. 2004, p. 5
Commission Regulation	1464/2004	18/8/04	O. J. L. 270, 18. 8. 2004, p. 8
Commission Regulation	1465/2004	18/8/04	O. J. L. 270, 18. 8. 2004, p. 11
Commission Regulation	1800/2004	16/10/04	O. J. L. 317, 16. 10. 2004, p. 37
Commission Regulation	2148/2004	17/12/04	O. J. L. 370, 17. 12. 2004, p. 24
Commission Regulation	255/2005	16/2/05	O. J. L. 45, 16. 2. 2005, p. 3
Commission Regulation	358/2005	3/3/05	O. J. L. 57, 3. 3. 2005, p. 3
Commission Regulation	600/2005	19/4/05	O. J. L. 99, 19. 5. 2005, p. 5

**GIVEN** under my Official Seal,  
12<sup>th</sup> May 2005

L.S.

Mary Coughlan  
Minister for Agriculture and Food

**Explanatory Note**

*(This note is not part of the Instrument and does not purport to be a legal interpretation).*

These Regulations give effect to the provisions of Regulation (EC) No 1831/2003 of the European Parliament and of the Council of the 22 September 2003 on additives for feedingstuffs and Council Directive 70/524/EEC of 23 November 1970 as amended by Council Directive 96/51/EC of 23 July 1996 on compound feedingstuffs containing additives.

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