

EXPLANATORY MEMORANDUM TO THE FEEDING STUFFS (WALES) (AMENDMENT) REGULATIONS 2008

This explanatory memorandum has been prepared by the Food Standards Agency and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

Description

1. This instrument transposes Commission Directive 2008/4/EC, which makes two minor amendments to Part B of the Annex to Commission Directive 94/39/EC that sets out certain conditions applicable to “feedingstuffs for particular nutritional purposes”. The amendments concern the addition of two new essential nutritional characteristics for feeds that can be promoted for the reduction of the risk of milk fever.

Matters of special interest to the Subordinate Legislative Committee

2. None.

Legislative Background

3. The powers enabling this instrument to be made are contained in section 2(2) of the European Communities Act 1972. The Welsh Ministers are designated for the purpose of section 2(2) by virtue of the European Communities (Designation) (No.2) Order 2005 (SI 2005/1971) (which function has been transferred to them by virtue of paragraphs 28 and 30 of Schedule 11 to the Government of Wales Act 2006), in respect of measures relating to feed produced for or fed to food producing animals. .

Purpose and Intended Effect of the Legislation

4. These Regulations amend in Wales Schedule 7 to the Feeding Stuffs (Wales) Regulations 2006. It is a relatively minor technical amendment concerning feedingstuffs for particular nutritional purposes (also known as dietetic feeds). These are non-medicinal feeds intended to meet the nutritional requirements of farmed livestock, pet animals and horses whose metabolism may be permanently or temporarily impaired. One particular nutritional purpose is the reduction of the risk of milk fever. Milk fever, or hypocalcaemia, is a condition of dairy cows, especially in the first few days of lactation. During this period some dairy cows may find it difficult to adapt to large amounts of calcium being released from the body, resulting in malfunction of the nervous system followed rapidly by death if not treated promptly.
5. Commission Directive 94/39/EC requires that the composition of dietetic feeds must be capable of achieving the particular nutritional purposes for which they are intended and have one or more of the “essential nutritional characteristics” listed in the Annex of the Directive. Commission Directive 2008/4/EC adds two further essential nutritional characteristics to the category of dietetic feeds permitted to be marketed to reduce the risk of milk fever. These characteristics are “high level of zeolite (synthetic sodium aluminium silicate)” and “high level of calcium in the form of highly available salts”.
6. The European Food Safety Authority (EFSA) published Opinions on the reduction of risk of milk fever in cows in relation to zeolite on 8 December 2004 and on feeds containing a high level of calcium on 12 June 2007. EFSA advised that feeds with two additional essential nutritional characteristics, “high level of zeolite (synthetic sodium aluminium silicate)” and “high level of calcium in the form of highly available salts”, would be effective in reducing the risk of milk fever in dairy cows. EFSA also

concluded that under the specified conditions of use, these feeds would not represent a significant risk to animal and human health or to the environment. Following a detailed discussion by Member States in the Standing Committee on the Food Chain and Animal Health (SCoFCAH) in September 2007, EFSA's Opinions were adopted in October 2007 and Commission Directive 2008/4/EC of 9 January 2008 implementing the amendments in EC feed law was subsequently published in the Official Journal (L Series, 10.1.2008, page 4). Commission Directive 2008/4/EC was amended by a Corrigendum which corrected the implementation deadline from 24 June to 30 July 2008 (OJ No. L22, 25.1.2008, p.21).

Implementation

7. It is intended these Regulations will come into force on 30 July 2008. Separate but parallel legislation are being made in Scotland, England and Northern Ireland.
8. This relatively short deadline was specified by the EC so that businesses can take advantage of the revised provisions as soon as possible. Implementation of these Regulations would fulfil the UK's obligations under the EC Treaty. Failure to implement these Regulations in Wales by the coming into force date of 30 July would lead to inconsistency in UK law.

Consultation

9. The public consultation ran for a period of six weeks between March and April 2008. This shortened period of consultation was set so that businesses could take advantage of the revised provisions as soon as possible and enable the UK to meet the EC deadline for transposition of 30 July 2008. The consultation involved a range of stakeholders including industry trade associations, enforcement bodies, professional associations, consumer groups and others. No responses were received in Wales. Two responses were received to the consultation in England. Neither of these were substantive or commented on the draft Regulations themselves. No changes to the draft Regulations were therefore considered necessary.

Regulatory Impact Assessment

10. A Regulatory Impact Assessment is not considered necessary as the regulations will impose no additional costs on the feed industry or feed purchasers. It will also be beneficial to the agricultural industry (particularly dairy farmers) and to animal health, because it will provide the livestock and feed sectors with additional options to help prevent the onset of milk fever. This point was raised with stakeholders as part of the public consultation on the measure, and none disagreed.