

REGULATORY APPRAISAL

AGRICULTURE, WALES

THE FEEDING STUFFS (ESTABLISHMENTS AND INTERMEDIARIES) (AMENDMENT) (WALES) REGULATIONS 2005

Background

1. These Regulations transpose and implement, in Wales, Commission Decision 98/728/EC of 14 December 1998, which requires Member States to charge feed businesses for the costs of approving their premises under Directive 95/69/EC. This reflects the additional work involved in the approval of premises compared with registration.
2. Council Directive 95/69/EC introduced a system for the approval or registration of establishments and intermediaries (premises) that manufacture, market or use certain feed additives (e.g. vitamins and trace elements), or protein products (e.g. amino acids). Premises must comply with standards relating to equipment, quality control, personnel, storage and record keeping. Generally premises subject to approval are those carrying out higher risk activities. Approval requires prior inspection of the premises concerned before the relevant activity can commence, while registration involves placing premises on a list with follow up checks.
3. Most of the requirements of Council Directive 95/69/EC have been implemented in the UK by the Feedingstuffs (Establishments and Intermediaries) Regulations 1999 (as amended). However, the provisions of the Decision concerning the approval of premises carrying out activities relating to zootechnical activities (e.g. growth promoters) have been implemented through separate legislation made by the Department for Environment, Food and Rural Affairs (Defra) (The Feedingstuffs (Zootechnical Products) Regulation 1999 as amended (SI No. 1871.)).

Purpose and Intended Effect of the Measures

4. The Feeding Stuffs (Establishment and Intermediaries) (Amendment) (Wales) Regulations 2005 will transpose Decision 98/728/EC into domestic legislation and set fees for the approval of premises engaged in the various types of activities, identified in paragraph 2 above, that are subject to approval.

Risk Assessment

5. The proposed Regulations allow local authorities to recoup the additional costs associated with the approval of premises. Generally premises subject to approval are those carrying out high risk activities and have to comply with standards relating to equipment, quality control, personnel, storage and record keeping. If such premises were not subject to approval issues of public health and feed/food safety may arise.

Options

6. In respect of this legislation, the "Do nothing option" is not an option as it would lead ultimately to infraction proceedings against the National Assembly for Wales by the European Commission. Therefore, the "Make the legislation" option, to implement the changes required to comply with European legislation, is being implemented.

Benefits

7. There would appear to be no identifiable social, economic or environmental benefits or disadvantages arising from the full implementation of Decision 98/728/EC.

Costs

8. There are no financial implications for the Assembly from the making of these Regulations.
9. Only new businesses manufacturing and selling certain non zootechnical feed additives and pre-mixtures and protein products will be subject to fees under these Regulations and the Local Authorities Co-ordinators of Regulatory Services (LACORS) (the co-ordinating body for Local Authority Trading Standards Departments in England and Wales) estimate that there may only be about five new applications across England, Scotland and Wales per annum. The fees consist of a flat rate and are set at £226 for intermediaries or £451 for manufacturers.
10. Enforcement of this legislation is the responsibility of local authorities in Wales. LACORS and the Welsh Local Government Association were included in the consultation and invited to identify and comment on any additional costs they may envisage. No comments were made by either organisation to the exercise. It is not anticipated these proposals will impose any additional burdens. In fact the Regulations will allow local authorities to recoup the additional costs associated with the approval of premises.

Equality and Fairness

11. No issues of equity or fairness have been identified.

Consultation with Small Businesses (The Small Firms Impact Test)

12. The Federation of Small Businesses was included in the consultation on the draft Regulations but did not respond. The proposed measure will apply equally across all businesses that require approval and there is no indication that the charges will affect small businesses to a lesser or greater extent than medium sized or large ones.

Enforcement, Sanctions, Monitoring and Review

13. Enforcement of the Regulations is the responsibility of Local Authorities in Wales and the current arrangements will remain unchanged. The Food Standards Agency will monitor the impact of these proposals.

Consultation

With Stakeholders

14. The Food Standards Agency Wales carried out a consultation from 13 October 2004 to 5 January 2005. Forty-six stakeholders including LACORS, consumer and industry representative bodies and farming unions were invited to comment on the draft Regulations and any costs associated with the implementation of the Regulations (a full list of consultees is attached at Annex A).
15. Only one response was received in Wales from the Welsh Consumer Council who had no comment to make on this occasion. Parallel consultations were carried out in England, Scotland and Northern Ireland and nine responses were received UK wide. Five of these amounted to 'no comments' and the remaining responses including those from the Association of Public Analysts and LACORS did not raise any significant issues, but supported the provisions of the Regulations. Therefore no policy changes to the draft Regulations were identified as a consequence of the public consultation.

With Subject Committee

16. There has been no prior scrutiny of the proposed Regulations by the Health and Social Services Committee, but the Regulations were notified to the Committee via the list of forthcoming legislation on 6 October 2004 (HSS(2)-11-04 (p. 5b), item FSA No. 42(03)). The Regulations were not identified for detailed scrutiny.

Summary and Recommendations

17. The Food Standards Agency believes that the full implementation of the proposals will provide essential consumer health protection. Support for the adoption of these proposals is recommended.

Contact Point

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ANNEX A

LIST OF CONSULTEES

Contact	Organisation
Cate Barrow - Food Business Development Manager	ADAS Wales
Judith Nelson, Head of Feed Sector	Agricultural Industries Confederation (AIC)
Mr Richard Wood	British Retail Consortium
Mr M Williams	Cardiff Scientific Services
Glenn Jones	Carmarthenshire College
Mr Paul Handby, Development Co-ordinator	Chartered Institute of Environmental Health in Wales
General Manager	Cig Mon Group
Lowri Evans	Coleg Llysfasi Ruthin
Julian Salmon	Country Land and Business Owners Association
Dr John Taylor	Countryside Council for Wales
Mr Meilir Edwards	Denbighshire CC
Mr R A Ennion	Eurofins Scientific
Moss Jones - Company Secretary	Farm Assured Welsh Livestock
Mr Arwyn Owen, Director of Policy	Farmers' Union of Wales
Gwyn Evans, Chairman	Federation of Small Businesses (North Wales)
Gethin Williams, Chairman	Federation of Small Businesses (South Wales)
Alan Horine, Secretary	Guild of Welsh Lamb and Beef Suppliers
Gwyn Howells	Hybu Cig Cymru
David Nicholson	LACORS
Ms Susan Perkins	LACORS (Welsh Officer)
T E Johnson	Minton, Treharne & Davies Ltd
Mrs Mary James	National Farmers Union (Wales)
Simon Stuart	Pencoed College
Mr Jonathan Davies	Rhondda Cynon Taff CBC
Mr David Walters, Chief Executive	Royal Welsh Agricultural Society
Mr Lester Lewis	Society of Directors of Public Protection
Mr Tony Edwards	State Veterinary Service
Paul Lenartowicz - Vice President	The Association of Public Analysts
Tim Keohane - Secretary	Trading Standards Institute (Wales)
Delyth Murray Lines	Vale of Glamorgan Council
Helen Tongue- Chairperson	Wales and Border Counties Pig Breeders Association
Mrs Mair Stephens	Wales Assembly of Women
Lowri Jones	Wales Young Farmers' Club
Mr Arwyn Davies	WDA Agri-Food Development
Mr Wynfford James, Director	WDA Food Directorate
Ken Stebbings	Welsh Assembly Government

Norma Barry
Christine Carberry
Viv Sugar, Chair
Jean Sullivan
Mr Norman Biggs
Mr M Schuckman
Don Thomas - Managing Director
Ms Susan Perkins
Gillian Van Der Meer
Mrs T A Gwillim and Son

Welsh Assembly Government
Welsh Black Cattle Society
Welsh Consumer Council
Welsh Food Alliance
Welsh Food Laboratories
Welsh Food Promotions
Welsh Lamb and Beef Promotions
Welsh Local Government Association
Women's Food & Farming Union