

REGULATORY APPRAISAL

AGRICULTURE, WALES

FOOD, WALES

THE OFFICIAL FEED AND FOOD CONTROLS (WALES) REGULATIONS 2006

Background

1. EC Regulation 882/2004 on official feed and food, animal health and animal welfare controls was adopted in April 2004. It is concerned with the arrangements within the European Community for the enforcement of feed and food law and animal health and animal welfare rules. It specifies the general approach that must be taken, and the principles that must be adopted, by the competent authorities in Member States that have responsibility for monitoring and enforcing feed and food law and animal health and welfare rules. Most of the provisions in 882/2004 apply across the EU from 1 January 2006, with the remainder applying from 1 January 2007.
2. The Official Feed and Food Controls (Wales) Regulations 2005 (No.3254 (W.247), which came into force on 1 January 2006, gave effect to those provisions of 882/2004 which applied from 1 January 2006.

Purpose and intended effect of the measure

3. The purpose of these Regulations is to give effect to a number of new Commission transitional and implementing measures made under EC Regulation 882/2004. These measures were not published in the Official Journal of the European Communities until 22 December 2005, and could not therefore be included in the Official Feed and Food Controls Regulations 2005. These Regulations will revoke and replace the Official Feed and Food Controls (Wales) Regulations 2005. The remade Regulations will also reflect changes in other domestic legislation that are referred to in the Official Feed and Food Controls (Wales) Regulations 2005.
4. In addition to the above, two policy issues that were raised after the first set of Regulations were made, needed to be corrected by the new set of Regulations.
5. These are as follows:
 - the right of food business operators to continue to use establishments pending appeal is extended to decisions by the enforcement authority to refuse approval as well as decisions to withdraw approval; and

- the definition of ‘relevant feed law’ in Schedule 2 is corrected to include the Feed (Corn Gluten Feed and Brewers Grains) (Emergency Control) (Wales) Regulations 2005.

6. In the main, these amendments represent minor technical and legal points, which will have little or no practical effect.

Risk assessment

7. The risk of not making these Regulations is that there will be no reference to the Commission implementing and transitional measures in domestic legislation. There would then be a risk of challenge from the European Commission following inspection by its Food and Veterinary Office of UK arrangements and their compliance with the requirements of the EU legislation.

Options

8. In respect of this legislation the ‘Do Nothing’ option is not an option as it could 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 recommended.

Benefits

9. The changes made by the Official Feed and Food Controls (Wales) Regulations 2006 will have the benefit of ensuring that the Commission implementing and transitional measures are properly referred to in law. The measures will themselves be given effect at national level by means of administrative action rather than by legal instrument, but the definitions of Community legislation used in the SI must be updated such that they refer to the new Commission Regulations. The 2006 Regulations will also update references to other domestic legislation.

10. In addition, the right of food business operators to continue to use establishments pending appeal will be extended to decisions by the enforcement authority to refuse approval as well as decisions to withdraw approval.

Costs

11. There are no additional financial implications for the Assembly arising out of the making of these Regulations.

12. The changes made by the Official Feed and Food Controls (Wales) Regulations 2006 represent minor technical and legal points, which have little or no practical effect. The Regulations do not introduce any new costs for businesses, for enforcers, or for the voluntary sector.

Competition Assessment

13. The changes made by the Official Feed and Food Control (Wales) Regulations 2006 represent minor technical and legal points, which will have little or no practical effect. As such they will not have a negative effect on competition.

Consultation

With Stakeholders

14. Full public consultation on the revisions to the Official Feed and Food Controls Regulations began on 20 September and concluded on 13 December 2005. The consultation package was sent to around 100 interested parties in Wales (a list of consultees is attached at Annex A) and over 1000 across the UK as a whole. No substantive responses were received in any part of the UK.

With Subject Committee

15. The Regulations were notified to the Health and Social Services Committee on 19 January 2006 via the list of forthcoming legislation (HSS(2)-01-06 (p3b): FSA 8 (06)). The Regulations were not identified for detailed scrutiny.

Review

16. The European Commission is to undertake a review of the application of EU Regulation 882/2004 within three years. The UK will feed into this and will review the SI and any other application measures as part of that. In addition, under the EU Regulation it is also a requirement for each Member State to prepare a single, integrated, 'multi-annual', national control plan. This will describe the control structure and the measures in place to apply the requirements set out in the EU Regulation. Each Member State must then update the plan annually and report to the Commission on its implementation. This will also provide the basis to review the effectiveness of the application measures put in place in Wales (and throughout the UK) including the Official Feed and Food Controls (Wales) Regulations 2006

Summary

17. Regulations will ensure that domestic legislation includes appropriate references to Commission implementing and transitional measures. The changes made are of a minor and technical nature and introduce no new or significant costs for enforcement authorities or feed and food businesses.

ANNEX A – list of interested parties

Abergavenny Fine Foods

ADAS Wales

Alderwicks Soft Drinks

All Wales Dietetic Advisory Committee

Arfon Meat Company

B. Sidoli & Sons Ltd

Bar and Restaurant Foods Ltd

Berwyn Bakery

Biotrace Limited

Brecon Beacons Natural Waters

Brookfield Foods Limited

Cardiff Chamber of Commerce

Cardiff Scientific Services

Carmarthen Water Ltd

Celtic Dimensions

Cerist Natural Mineral Water Co

Chartered Institute of Environmental Health in Wales

Clark's Original Pies

Countryside Council for Wales

Crystal Falls

Dairy Strategy Group

Decantae Mineral Water

Dee Dairy Services

Eurofins Scientific

Farmers' Union of Wales

Federation of Small Businesses (North Wales)

Federation of Small Businesses (South Wales)

Food Centre for Wales

G C Hahn & Co Ltd

Good Food Distributors

Gower Spring Water Co

Guild of Welsh Lamb and Beef Suppliers

Halo Foods Ltd

Headland Foods

Hybu Cig Cymru

Iceland Frozen Foods

Kwik Save Group Ltd

LACORS (Welsh Officer)

Lewis Bros

Meridian Foods

Montgomery Spring Water Co

National Farmers Union (Wales)

National Federation of Womens Institutes – Wales

PB Gelatins UK Ltd

Pembrokeshire Spring Water Co

Peters Food Service Ltd

Powys Food Futures Group

Prince's Gate Spring Water

Procheck Food Safety Ltd

Public Analyst's Laboratory - Carmarthen

Rachel's Dairy

Radnor Hills Natural Mineral Water Co

Red Star BioProducts

RHM Frozen Foods Limited

Ruddock & Sherratt

Severn Trent Laboratories

South Caernarfon Creameries Ltd

Stork MPS (Meat Processing Systems)

Swansea Bay Port Health Authority

T/A Source Foods

The Association of Public Analysts

The Speciality Sauce Co. Ltd

Tillery Valley Foods Ltd

Tovali Ltd

Ty Nant Spring Water

Wales Centre for Health

Wales Tourist Board

WDA Agri-Food Development

Welsh Assembly Government

Welsh Beekeepers Association

Welsh Consumer Council

Welsh Food Advisory Committee

Welsh Food Alliance

Welsh Food Laboratories

Welsh Food Microbiological Forum

Welsh Food Promotions

Welsh Lamb and Beef Promotions

Welsh Local Government Association

Woodward Food Service

Zorba Foods

Directors of Public Protection at the 22 Welsh Local authorities