

## Environment Planning and Countryside Committee

**Date: Thursday 16 February 2006**

**Time: 9:30-12:30**

### **THE OFFICIAL FEED AND FOOD CONTROLS (WALES) REGULATIONS 2006**

#### **Purpose**

To bring the above regulations to the attention of the Environment, Planning and Countryside Committee, and to explain the effect of the regulations.

#### **Background**

The Official Feed and Food Controls (Wales) Regulations 2005 (SI 2005/3454 (W.247)) were approved by the National Assembly for Wales on 23 November 2005 and came into force on 1 January 2006. These Regulations gave effect to certain aspects of EU Regulation 882/2004 on official controls, which set out a framework of requirements for the authorities in Member States that have responsibility for monitoring and enforcing compliance with feed and food law by businesses. The Minister for Health and Social Services wrote to the Chair of the Environment, Planning and Countryside Committee on 3 November notifying of the 2005 regulations and their effect. A copy of the letter is attached at Annex 1.

The purpose of the Official Feed and Food Controls (Wales) Regulations 2006 is to give effect to a number of new Commission transitional and implementing measures made under EC Regulation 882/2004. The 2006 Regulations will revoke and replace the Official Feed and Food Controls (Wales) Regulations 2005 so that all the legal measures are contained in a single consolidated text. It was not possible to include all these measures in the 2005 Regulations because the Commission transitional and implementing measures were not published in the Official Journal of the European Communities until 22<sup>nd</sup> December.

In addition, two policy issues that were raised after the first set of Regulations were made need to be corrected by the new 2006 Regulations. 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.

The changes made by the 2006 Regulations represent minor technical and legal points. Parallel legislation is already in force in England, Scotland and Northern Ireland.

## **Consultation**

Full public consultation on the revisions to the Official Feed and Food Controls Regulations concluded on 13 December 2005. The consultation package was sent to around 100 interested parties in Wales, and over 1000 across the UK as a whole. No substantive responses were received in any part of the UK. This was not unexpected, as the changes made by the Official Feed and Food Control (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.

## **Financial Implications**

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

## **Press and Publicity**

Interested parties have been and will continue to be kept informed on the progress of the Official Feed and Food Controls (Wales) Regulations. In addition, regular briefings and updates on the application of the EU Official Feed and Food Controls Regulation are published on Food Standards Agency's website.

## **Compliance**

The National Assembly for Wales has power to make these Regulations by virtue of sections 16(1), 17(2) and 48(1) of the Food Safety Act 1990 (functions under which were transferred to it by the National Assembly for Wales (Transfer of Functions) Order 1999, as well as by virtue of being designated, pursuant to section 2(2) of the European Communities Act 1972, for the purpose of implementing Community obligations with regards to matters relating to food and the common agricultural policy under the European Communities (Designation) (No.2) Order 2005 (SI 2005/1971) and with regards to measures in the veterinary field for the protection of the public health under the European Communities (Designation) (No.4) Order 2003 (SI 2003/1246). There are no issues of regularity or propriety arising from the drafting of these Regulations.

## **Food Standards Agency Wales**

**February 2006**

**Brian Gibbons AM/AC**

**Minister for Health and Social Services**

**Gweinidog dros lechyd a Gwasanaethau Cymdeithasol**

Our ref:

Your ref:

Alun Ffred Jones AM

Chair, Environment, Planning and Countryside Committee

National Assembly for Wales

Cardiff Bay

Cardiff CF99 1NA

3 November 2005

I am writing to update you on the proposed Official Feed and Food Controls (Wales) Regulations 2005, which are shortly to come before the National Assembly for Wales for consideration.

These Wales Regulations will give effect to EU Regulation 882/2004 on official controls, which was adopted in April 2004. Most of its provisions apply from 1 January 2006 and the others from 1 January 2007. In essence, the Regulation sets out a framework of requirements for the authorities in Member States (the competent authorities) that are responsible for monitoring and enforcing compliance of businesses with feed and food law as well as with animal health and animal welfare rules (i.e. for undertaking official controls). This includes new harmonised rules for controls of feed and food of non-animal origin (non-POAO) imported from third countries.

The aim of the EU Regulation is to create a more comprehensive and integrated, risk-based, 'farm to fork' approach to official controls. It does so by consolidating and extending existing legislative requirements. The objective is to improve the consistency and effectiveness of controls across the EU and, as a consequence, raise standards of food safety and consumer protection.

The Food Standards Agency (FSA) has responsibility for application in respect of the feed (with its implications for food safety) and food elements of the EU Regulation and is taking this forward in two phases to correspond to the 2006 and 2007 application dates. The Assembly Department for Environment, Planning and Countryside, working with Defra and the other devolved Agriculture Departments, has responsibility for the animal health and welfare elements.

The provisions of the EU Regulation will apply directly in Member States. Most of these consolidate existing requirements such that enforcement arrangements in the UK for feed and food are generally already consistent with these. However, some updating is needed. Additionally, some elements of the EU Regulation are new and arrangements must be put in place to ensure that the UK complies with these. The domestic regulations will designate the competent authorities that are responsible for organising and undertaking official feed and food controls in Wales. They will also provide the legal powers needed by these authorities to enable them to meet the obligations set out for them in the EU Regulation, in particular on monitoring, auditing and reporting of enforcement activity. And they will provide for the enforcement of new rules on checks of non-POAO feed and food imported from outside the Community and to provide effective penalties for businesses failing to comply with these.

Consultation was carried out on the draft Statutory Instrument, a draft partial Regulatory Appraisal, and associated guidance in Wales (and in England, Scotland and Northern Ireland) between March and June 2005. No substantive responses were received in Wales, but the responses received across the UK have been carefully considered by the Agency, and changes to the Statutory Instrument have been made where appropriate. It is intended that the Official Feed and Food Controls (Wales) Regulations 2005 should come into force on 1 January 2006 in line with the EU deadline, subject to approval by the National Assembly for Wales in Plenary, scheduled for 22 November 2005.

**Brian Gibbons AM/AC**