



Cynulliad Cenedlaethol Cymru
The National Assembly for Wales

ADRODDIAD GAN Y PWYLLGOR DEDDFAU

LEGISLATION COMMITTEE REPORT

DRAFFT

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The Specified Risk Material (Amendment) (Wales) Regulations 2001

Background

These Regulations which have been made under the executive procedure seek to make further amendments to both the Specified Risk Material Regulations 1997 (SI 1997/2965) and the Specified Risk Material Order 1997 (SI 1997/2964).

The Specified Risk Material (Amendment) (England) (No.2) Regulations 2001 (SI 2001/2672) have made similar amendments to the 1997 Regulations and the Specified Risk Material (Amendment) (England) Order 2001 (SI 2001/2650) has made similar amendments to the 1997 Order. Both of these SI's came into force on 13th August 2001.

Standing Order 11.5

The following points have been identified and drawn to the attention of the relevant officials. It is understood that, in consequence, it is proposed to make a replacement set of Regulations under section 2(2) of the European Communities Act 1972. Before reporting to the Assembly on the present Regulations, however, the Committee needs to formally notify the relevant Assembly Minister of the points which have been identified as reportable points, in accordance with SO 11.4.

Enabling Powers

The Regulations are stated to be made under the Food Safety Act 1990 and the Animal Health Act 1981. The Food Safety Act powers relate to the amendments which are made

to the 1997 Regulations. The Animal Health Act powers relate to the amendments which are intended to be made to the 1997 Order.

The powers which are cited in relation to the Animal Health Act are, however, order making powers, not regulation making powers. Thus since the statutory instrument which has been made comprises regulations, it is not within the enabling powers of the 1981 Act.

Additionally, it is to be noted that the order making powers under the Animal Health Act, as transferred to the Assembly, continue to be subject to the requirement that such orders be made jointly with the Minister of Agriculture.

Additional Matters

Attention is also drawn to the following matters so that consideration can be given to them in the drafting of the new regulations.

Regulation 2(9)

There are two “Minister” references in the inserted Regulation 6 (paragraphs (1) and (4)). It is queried whether these should be Assembly references.

Regulation 3(5)

The list of countries is in alphabetical order except for Uruguay.

Regulation 3(9)

- It is queried whether the references to paragraphs (2A) and (2) should be, respectively, (3A) and (3).
- It seems that the opening wording of (3A) should follow the general format of (2A) as inserted for England.
- There are gender specific references in sub-paragraph (b) of the inserted wording.
- It is queried whether paragraph (b) of the inserted wording should include at the end the additional bracketed wording which appears in the equivalent England provision.

Regulation 3(10)

The same point arises as mentioned above in relation to Regulation 3(5).

Regulation 24 of the 1997 Regulations

Amendments to Regulation 24 have been made for England by SI 2001/817.

Corresponding amendments do not appear to have been made for Wales. It is queried whether such amendments should now be made.

Explanatory Note – paragraph 8

‘ddeunydd’ should be ‘deunydd’ in the Welsh text.

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