

SL(6)291 – The Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022

Background and Purpose

The Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022 make amendments to subordinate legislation, which apply in relation to Wales, in the fields of food and feed safety and hygiene.

In particular, these Regulations:

- correct deficiencies in Welsh domestic legislation relating to food and feed hygiene and safety, removing cross-references to EU Directives and transposing certain Annexes to those Directives into domestic legislation;
- correct references within Welsh domestic legislation defining enforcement authorities in relation to animal feed.

Procedure

Affirmative.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

Technical Scrutiny

The following points are identified for reporting under Standing Order 21.2 in respect of this instrument:

- 1. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.**

In the preamble on page 5, the European Union (Withdrawal) Act 2018 is incorrectly referred to as the European Union (Withdrawal) Act 2020 [*emphasis added*].

- 2. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.**

Regulation 2(4)(b) amends regulation 12(2) of the Materials and Articles in Contact with Food (Wales) Regulations 2012.

Prior to being amended, the relevant wording in the provision read:

*"...substances listed in the **first part** of Annex II and subject to the restrictions set out in that **part**." [*emphasis added*]*



Following the amendment the provision reads:

*"...substances listed in **table 1** of Schedule 6 and subject to the restrictions set out in that **part.**" [emphasis added]*

Given that the table in Schedule 6 is not split into parts (as opposed to Annex II which is), the remaining reference to "part" left in regulation 2(4)(b) should be replaced with "table".

3. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts.

In regulation 3(2)(a)(ii), in the Welsh text, the corresponding English definition was included in brackets and italics of the existing definition of "*Rheoliadau'r UE*".

However, the amendment made by regulation 3(2)(a)(ii) does not amend the English definition that appears in brackets and italics after the amended definition in the Welsh text. As a result, the new amended Welsh definition will still have the original English definition in brackets afterwards ("*the EU Regulations*") rather than the new English definition ("*the retained EU Regulations*"). This will confuse rather than aid the reader by linking the new Welsh definition with the old English definition.

4. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts.

In regulation 3(8), in the Welsh text, the description of the amendment fails to precisely identify where to insert the new text - it states that the new text should be inserted after "*Rheoliadau'r UE*" [emphasis added] in regulation 19(2) of the 2013 Regulations.

However, it should say "*Reoliadau'r UE*" [emphasis added] as the words appear in a mutated form in paragraph (2) of regulation 19. The (unmutated) words "*Rheoliadau'r UE*" do not appear anywhere in regulation 19(2) of the 2013 Regulations.

5. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts.

In Schedule 3, in Table 1 in the new Schedule 1B, in the Welsh text, "*feed materials*" has been incorrectly translated as "*deunyddiau blawd*" [emphasis added] which means "*meal materials*" in each place the words corresponding to "*seaweed meal and feed materials derived from seaweed*" appear in the second column for entry no. 1, Arsenic.

The correct translation for "*feed materials*" is "*deunyddiau bwyd anifeiliaid*" [emphasis added] as found elsewhere in that Table, and in the existing regulation 15(7)(c) of the Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016.



Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Welsh Government response

A Welsh Government response is required.

Legal Advisers

Legislation, Justice and Constitution Committee

29 November 2022



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee