

EXPLANATORY MEMORANDUM TO
THE OFFICIAL FEED AND FOOD CONTROLS REGULATIONS
(NORTHERN IRELAND) 2009

SR 2009 No.427

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department of Health Social Services and Public Safety to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under by section 2(2) of and paragraph 1A of Schedule 2 to the European Communities Act 1972 and is subject to the negative resolution procedure.
- 1.3 The Rule is due to come into operation on 25th January 2010.

2. Purpose

- 2.1 This Rule provides for the execution and enforcement, in Northern Ireland of the feed and food elements of Regulation (EC) No.882/2004 on official feed and food, animal health and animal welfare controls (“Regulation 882/2004”) and Regulation (EC) No.669/2009 implementing Regulation (EC) No.882/2004 of the European Parliament and of the Council as regards the increased level of official controls on imports of certain feed and food of non-animal origin and amending Decision 2006/504 (“Regulation 669/2009”). It designates the competent authorities and creates relevant offences and penalties. In particular, it provides for the execution and enforcement of new rules on official controls of high-risk non-products of animal origin (non-

POAO) feed and food from third countries, which are imported into the Community. It revokes and replaces the Official Feed and Food Controls Regulations (Northern Ireland) 2007 (S.R. 2007 No. 482).

3. Background

What is being done and why

- 3.1 Regulation 882/2004 aims to ensure consistency and effectiveness of official controls, performed to ensure the verification of compliance with feed and food legislation (as well as animal health and welfare), across the EU. Therefore, more generally, it aims to provide a greater degree of food safety and consumer protection.
- 3.2 Certain feed and food of non-animal origin imported into the Community represent a known or emerging risk (“high-risk”) to public health. The establishment of a framework for import controls of these products will help to improve public health protection by ensuring better targeting of controls and more effective management of risks.
- 3.3 In line with the provisions of Article 15(5) of Regulation 882/2004, the Commission has now developed EU-harmonised rules for import controls on “high-risk” feed and food of non-animal origin. These rules will be applied by means of Regulation 669/2009, which will enter into force on 25 January 2010.
- 3.4 The principal purpose of introducing the Official Feed and Food Controls Regulations (Northern Ireland) 2009 and replacing S.R. 2007 No. 482 is to give effect to the provisions of Regulation 669/2009, as well as aspects of the feed and food elements of Regulation 882/2004.

3.5 The new S.R. addresses the issue explained below under the heading “Legislative Context” and revokes and re-enacts existing legislation.

4. Matters of Special Interest to the Health Committee

4.1 None.

5. Legislative Context

5.1 Article 15(5) of Regulation 882/2004 provides for the Commission to establish a list of “high-risk” non-POAO feed and food from third countries that is imported into the Community and to detail the frequency and nature of the controls that must take place. It also provides for establishing a system of fees for these controls. The Commission exercised these powers to adopt Regulation 669/2009 which applies from 25th January 2010.

5.2 The Rule gives effect, in Northern Ireland, to those elements of Regulation 882/2004 and Regulation 669/2009 for which a domestic legal basis is needed. The Rule will revoke and re-enact with changes the Official Feed and Food Controls Regulations (Northern Ireland) 2007 (S.R. 2007 No. 482). The new elements of the Rule primarily provide for the execution and enforcement of new rules on official controls of high-risk feed and food of non-POAO imported from third countries.

6. Consultation

6.1 The Food Standards Agency Northern Ireland conducted a shortened 8-week consultation, which ran from 16th September to 8th November 2009 with parallel consultations undertaken in England, Scotland and Wales. The shortened consultation was to enable the Regulations to come into operation on 25th January 2010 as this is the date from which Regulation 669/2009 applies.

- 6.2 Around 800 interested parties throughout the UK (82 in Northern Ireland) have been consulted on these draft Regulations, the associated Impact Assessment and Guidance Notes for enforcement officers and food business operators. A total of 16 responses (2 in Northern Ireland) were received, including from stakeholder organisations. The majority of comments related to the Guidance Notes and Impact Assessment.
- 6.3 In general, stakeholders accepted the principle that the updated Regulations will enhance feed and food controls at EU borders and will provide additional consumer protection. However, concerns were expressed in relation to the criteria that will be used to review the list of high-risk products. Other concerns related to the additional cost to industry to cover controls charges and damage and/or loss of products that may occur, pending outcomes of controls. The Agency has given careful consideration to these concerns and has revised the guidance where appropriate. In future discussions with the Commission the Agency will try to ensure that the criteria, to be established for reviewing the list of high-risk products, are transparent and proportionate to the risk.

7. Guidance

- 7.1 Guidance Notes, to accompany this legislation, have been produced for food business operators and enforcement authorities. The Guidance Notes are being reviewed following the comments received from stakeholders and will be published on the Agency's website before the Regulations come into operation.

8. Position in Great Britain

- 8.1 This rule applies in Northern Ireland.
- 8.2 Equivalent instruments have been proposed in England, Scotland and Wales.

9. Equality Impact

9.1 The FSA do not envisage an impact

10. Regulatory Impact

10.1 A final Impact Assessment (which outlines the situation in GB but substantially reflects the position in NI) is attached to this memorandum. It mainly relates to the new provisions for import controls on “high-risk” non-POAO. The impact on the public sector will be negligible. The cost associated with the increased level of official controls will be charged to the relevant business. Therefore it would not represent an on-going cost increase to competent authorities.

10.2

Rural areas and members of the ethnic communities, or of any particular racial group are unaffected by these proposals. Charities and voluntary organisations are unaffected by these proposals.

11. Financial Implications

11.1 Not applicable

12. Section 24 of the Northern Ireland Act 1998

12.1 The FSA do not envisage an impact.

13. EU Implications

13.1 Failure to implement this new legislation would result in infraction procedures against the UK from the EU

14. Additional Information

14.1 Not applicable.

15. Contact

15.1 If you require any further information in relation to this rule you can contact Danielle Gamble, at the FSANI (tel: 028 9041 7705 or e-mail: danielle.gamble@foodstandards.gsi.gov.uk)