

EXPLANATORY MEMORANDUM TO

The Animal By-Products (Enforcement) (Amendment) Regulations (Northern Ireland) 2014

S.R No 184

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Agriculture and Rural Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under section 2(2) of the European Communities Act 1972 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. These Regulations require the staining of certain animal by-products by food business operators. The Regulations amend the Animal By-Product (Enforcement) Regulations (Northern Ireland) 2011 and revoke the Animal By-Products (Identification) Regulations (Northern Ireland) 1999.
- 2.2. This matter was brought to the attention of the Executive under paragraph 2.4 of the Ministerial Code as it engages the responsibilities of the Minister of Health, Social Services and Public Safety. The Food Standards Agency in Northern Ireland has agreed these proposals and recommended this change to the Minister of Health, Social Services and Public Safety who has noted this recommendation.

3. Background

- 3.1. Permanent staining is considered to be a practical visible way to identify animal by-products (ABPs). Staining ensures that ABPs are identified and separated from offal and meat intended for human consumption and makes illegal diversion of ABPs into the food chain more difficult.
- 3.2. The Animal By-Products Identification Regulations (Northern Ireland) 1999 were introduced by the Department of Agriculture and Rural Development under the Food Safety (NI) Order 1991 to help combat fraud in the meat industry by requiring food business operators to stain specified ABPs. They were deemed necessary because at the time it was considered that the EU legislation covering ABPs did not contain sufficient controls to protect public health.
- 3.3. Following the BSE crisis and the 2001 Foot and Mouth Disease outbreak, the EU introduced Council Regulation (EC) No 1774/2002 to provide more stringent and comprehensive controls on ABPs. Council Regulation (EC) No 1774/2002 was subsequently replaced by Council Regulation (EC) No 1069/2009 which includes provisions on storage, segregation and labelling of ABPs, as well as providing for staining provisions of ABP material at collection centres. These regulations are currently enforced here by DARD and District Councils through the Animal By-Products (Enforcement) Regulations (Northern Ireland) 2011.

- 3.4. With the introduction of Council Regulation (EC) No 1069/2009 there was a duplication of provisions and a conflict of terminology contained in the Animal By-Product (Identification) Regulations (Northern Ireland) 1999 and the Animal By-Product (Enforcement) Regulations (Northern Ireland) 2011. The amendments made by these Regulations resolve the conflict and provisions for staining requirements for animal by-products are now only included in the Animal By-Products (Enforcement) Regulations (Northern Ireland) 2011.
- 3.5. Although no new offences have been introduced as a result of these Regulations, failure to comply with the staining provision will now be an offence under the Animal By-Product (Enforcement) Regulations (Northern Ireland) 2011. Officials in the Department of Justice have been consulted and they are content.

4. Consultation

- 4.1. Between 12 October 2012 and 4 January 2013, DARD and FSA NI carried out a 12 week consultation on a review of the identification regulations. The consultation sought views on a proposal to streamline the legislation, as well as on the need to retain the staining requirement for ABPs. The consultation also sought proposals for the use of alternative dyes that would give equal protection to public health.
- 4.2. There were four responses to the consultation which had no comments to offer in relation to the review, nor were there any comments or suggestions as to alternative dyes. However, when DARD and FSA had previously asked if the staining provisions should be retained (as part of the wider consultation on the enforcement regulations in September 2010), stakeholders expressed support for retaining these controls.
- 4.3. At its meeting on 19 March 2013, the Agriculture and Rural Development Committee supported the proposal to revoke the Animal By-Products (Identification) Regulations (Northern Ireland) 1999, and transfer the staining provisions to the new enforcement regulations.

5. Equality Impact

- 5.1. An Equality and Human Rights Screening Template was completed and screened out. The new Regulations will apply to industry irrespective of any association with Section 75 groups. The Department considers that this will not result in any equality differentials amongst Section 75 groups.

6. Regulatory Impact

- 6.1. An Impact Assessment (IA) accompanied the consultation which identified sectors affected, benefits and cost of the options. The proposal to revoke the identification regulations and include all the ABP requirements within a single piece of legislation will be more coherent and easier for operators to follow and is in line with the Better Regulation principles.

7. Financial Implications

- 7.1. There is only a small one-off familiarisation cost to industry.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Regulations are deemed to comply with Section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. Not Applicable

10. Parity or Replicatory Measure

- 10.1. In Britain, DEFRA have reviewed their equivalent legislation and are also revoking their Identification Regulations and amending their Enforcement Regulations to include provisions for staning requirements for food business operators.
- 10.2. There has not been a similar review in the ROI as their legislation is structured differently.

11. Additional Information

- 11.1. Not applicable