

POLICY NOTE

THE ANIMAL FEED (SCOTLAND) AMENDMENT REGULATIONS 2017

SSI 2017/38

1. Description

1.1 The above Instrument is made by the Scottish Ministers in exercise of the powers conferred by sections 74A(1), (2) and (4) and 84 of Agriculture Act 1970 (a) section 2(2) of, and paragraph 1(A) of Schedule 2 to the European Communities Act 1972 (b) and all other powers enabling them to do so. The Regulations (hereafter referred to as the Instrument) are subject to negative resolution procedure.

2. Policy Objective

2.1 The main purpose of the Instrument is to amend (regulations 2 and 7) of the Animal Feed (Scotland) Regulations 2010 (S.S.I. 2010/373) to take into account of the provisions in Commission Regulation (EU) 2015/327 which amends Commission Regulation (EC) 1831/2003 as regards requirements for placing on the market and conditions of use for additives consisting of preparations.

3. Matters of special interest to the delegated powers and law reform Committee

3.1 Regulation 2015/327 came into force on the 23 March 2015 and is applicable across the EU in all member states. The Committee may wish to be aware that there are no enforcement issues associated with the execution of these provisions in Scotland. The impact to feed businesses in Scotland is minimal as the additives mentioned are not manufactured in Scotland. In addition, Regulation 2015/327 puts in place transitional arrangements for products placed on the market before 23 March 2017 so that these may continue to be used until existing stocks are exhausted.

4. Policy Background

4.1 Regulation (EC) 1831/2003 (the 2003 Regulation) on additives for use in animal nutrition, lays down rules governing the supervision and labelling of feed additives and pre-mixtures in order to provide the basis for the assurance of a high level of protection of human health, animal health, environment and users' and consumers' interests in relation to feed additives, whilst ensuring the effective functioning of the internal market.

4.2 Some additives authorised under the 2003 Regulation are 'preparations', which means that the active additive has been mixed with technological additives or other substances which are not themselves intended to have a function in the feed. Regulation 2015/327 brings more transparency and clarity when placing additive preparations on the market, without affecting intellectual property rights relating to the composition of pre-mixtures containing such additives.

4.3 The Instrument is necessary to provide enforcement powers to underpin the European Legislation and to enforce the labelling provisions.

5. Legislative Context

5.1 Amendments to the Animal Feed (Scotland) Regulations 2010 include:

- substitution of regulation 2 (interpretation and scope) in order to update the definition of the 2003 Regulation to include the reference to Regulation (EU) 2015/2294 as regards the establishment of a new functional group of feed additives,
- insertion of reference to the 2003 Regulation in order to bring future amendments to this Regulation within scope of the Animal Feed (Scotland) Regulations 2010,
- provision of certain offences contravening the 2003 Regulation (as amended as described in paragraphs 5.2 to 5.4) subject to transitional arrangements set out in Article 2 of Regulation 2015/327 for products placed on the market before 23 March 2017 to continue to be used until existing stocks are exhausted.

5.2 Commission Regulation 2015/327 Article 1:

- amends Annex III, regarding specific labelling requirements for certain additives and for pre-mixtures, and additional labelling and information requirements for certain additives consisting of preparations and pre-mixtures containing such preparations.
- amends Annex IV, the following points are added to Annex IV: additional labelling and information requirements for certain additives consisting of preparations and pre-mixtures containing such preparations.
- amends Annex IV, the following points are added to Annex IV: Technological additives or other substances or products contained in additives consisting of preparations shall only modify the physico-chemical characteristics of the active substance of the preparation and shall be used in accordance with their conditions of authorisation where such provisions are provided for; and physico-chemical and biological compatibility between the components of the preparations shall be ensured in relation to the effects desired.

5.3 Commission Regulation 2015/327 Article 2:

- provides a transitional provision allowing additives consisting of preparations and pre-mixtures produced and labelled in accordance with the 2003 Regulation before 23 March 2017 and continue to be placed on the market and used until stocks are exhausted.

5.4 Commission Regulation 2015/2294 Article 1:

- amends point 1 of Annex I, the following point (n) is added on 'Hygiene condition enhancers': substances or, when applicable, microorganisms which favourably affect the hygiene characteristics of feed by reducing a specific microbiological contamination.

5.5 Commission Regulation (EU) 2015/327 and Regulation (EU) 2015/2294 are available on the Europa website at;

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015R0327&from=EN>

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015R2294&from=EN>

6. Consultation

6.1 Throughout June and August 2015, Food Standards Scotland consulted with a range of stakeholders in Scotland on the development of the EU Regulations including: the enforcement bodies, Scottish Government officials in Animal Health and Welfare, individual feed businesses and trade bodies such as the Agricultural Industries Confederation. During this consultation the UK trade bodies confirmed that the financial impact to feed businesses in Scotland were minimal and that the Regulations would not have a negative impact.

6.2 In May 2016, Food Standards Scotland carried out a 12 week formal consultation on the draft Statutory Instrument: The Animal Feed (Scotland) Amendment Regulations 2017. In March 2016, Scottish Ministers were made aware of the forthcoming consultation and that no Partial Business and Regulatory Impact Assessment would be prepared. During the consultation, Scottish stakeholders were asked to consider whether an full impact assessment would be required and also to consider the costs associated with; one-off familiarisation, dissemination of legislation and one-off costs associated with the mandatory requirements for the labelling provision of EU 2015/327. At the time no written responses were received.

6.3 To further establish any impact to Scottish industry, Food Standards Scotland contacted various feed stakeholders who all agreed that the costs from the EU Regulations were minimal. Food Standards Scotland identified three feed businesses in Scotland who occasionally purchased these additives from England, Europe and other global manufacturers and these businesses explained that the product received already complied with the labelling requirements and had done since 2015. Food Standards Scotland were advised that the feed industry collaborate closely with the enforcement bodies and the trade bodies to ensure that any feed additive placed on the market in Scotland is correctly labelled.

7 Other Administrations

7.1 The Instrument applies to Scotland only however similar legislation will be introduced in the other UK countries.

8 Impact Assessment

8.1 As outlined above, prior to the consultation Scottish Ministers were made aware that there was no Business Regulatory Impact Assessment prepared with this Instrument as the impact and financial effects were confirmed by industry as being minimal. Furthermore the transitional arrangements in Regulation 2015/327 will allow industry to continue to place products on the market until 23 March 2017 allowing existing stocks to be exhausted. There are no additional costs envisaged to local authorities enforcing feed law, as they will continue to check product labels for compliance. The other aspects of the Instrument are technical in nature and introduce no new financial burdens.

9 Regulating small businesses

9.1 The Instrument will apply to all feed establishments placing on the market a specific type of feed additives and preparations. In Scotland, there are no manufacturers of this type of feed additive or preparations. Food Standards Scotland have identified three businesses who occasionally repackage and re-label compound feeds containing these feed additives,

however as members of trade bodies, in 2015 these businesses revised and updated their labels and data sheets to include this relatively small labelling change and as a result already comply with the requirements of the EU Regulations.

10 Monitoring

10.1 Food Standards Scotland will work with the enforcement authorities where problems or infringements of legislation arise. The effectiveness of this Instrument will be monitored by Food Standards Scotland by feedback from industry and enforcement authorities.

Contact

Claire Moni
Food Standards Scotland
Pilgrim House
Old Ford Road
Aberdeen
AB11 5RL

Telephone: 01224 285158

Email: Claire.Moni@fss.scot