

**EXPLANATORY MEMORANDUM TO
THE FEEDING STUFFS (ENGLAND) (AMENDMENT) REGULATIONS 2008**

2008 No. 1523

1. This explanatory memorandum has been prepared by the Food Standards Agency and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This instrument transposes Commission Directive 2008/4/EC, which makes two minor amendments to Part B of the Annex to Commission Directive 94/39/EC that sets out certain conditions applicable to “feedingstuffs for particular nutritional purposes”. The amendments concern the addition of two new essential nutritional characteristics for feeds that can be promoted for the reduction of the risk of milk fever.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 These Regulations amend Schedule 7 to the Feeding Stuffs (England) Regulations 2005. It is a relatively minor technical amendment concerning feedingstuffs for particular nutritional purposes (also known as dietetic feeds). These are non-medicinal feeds intended to meet the nutritional requirements of farmed livestock, pet animals and horses whose metabolism may be permanently or temporarily impaired. One particular nutritional purpose is the reduction of the risk of milk fever. Milk fever, or hypocalcaemia, is a condition of dairy cows, especially in the first few days of lactation. During this period some dairy cows may find it difficult to adapt to large amounts of calcium being released from the body, resulting in malfunction of the nervous system followed rapidly by death if not treated promptly.

4.2 Commission Directive 94/39/EC requires that the composition of dietetic feeds must be capable of achieving the particular nutritional purposes for which they are intended and have one or more of the “essential nutritional characteristics” listed in the Annex of the Directive. Commission Directive 2008/4/EC adds two further essential nutritional characteristics to the category of dietetic feeds permitted to be marketed to reduce the risk of milk fever. These characteristics are “high level of zeolite (synthetic sodium aluminium silicate)” and “high level of calcium in the form of highly available salts”.

4.3 Commission Directive 2008/4/EC was amended by a Corrigendum which corrected the implementation deadline from 24 June to 30 July 2008 (OJ No. L22, 25.1.2008, p.21).

5. Territorial Extent and Application

5.1 This instrument applies to England. Separate but parallel legislation will be made for Scotland, Wales and Northern Ireland.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, a statement is not required.

7. Policy background

Policy

7.1 The European Food Safety Authority (EFSA) published Opinions on the reduction of risk of milk fever in cows in relation to zeolite on 8 December 2004 and on feeds containing a high level of calcium on 12 June 2007. EFSA advised that feeds with two additional essential nutritional characteristics, “high level of zeolite (synthetic sodium aluminium silicate)” and “high level of calcium in the form of highly available salts”, would be effective in reducing the risk of milk fever in dairy cows. EFSA also concluded that under the specified conditions of use, these feeds would not represent a significant risk to animal and human health or to the environment. Following a detailed discussion by Member States in the Standing Committee on the Food Chain and Animal Health (SCoFCAH) in September 2007, EFSA’s Opinions were adopted in October 2007 and Commission Directive 2008/4/EC of 9 January 2008 implementing the amendments in EC feed law was subsequently published in the Official Journal (L Series, 10.1.2008, page 4).

7.2 This Explanatory Memorandum, and the public consultation in England on the draft Regulations, is not accompanied by an Impact Assessment as it is considered that the measure is likely to have no additional costs to the feed industry and feed purchasers. It will also be beneficial to the agricultural industry (particularly dairy farmers) and to animal health, because it will provide the livestock and feed sectors with additional options to help prevent the onset of milk fever. This point was raised with stakeholders as part of the public consultation on the measure, and none disagreed.

Consultation

7.3 The public consultation in England ran for a period of six weeks between March and April 2008. This relatively short deadline for comments had been specified so that businesses could take advantage of the revised provisions as soon as possible and in order to meet the EC deadline for transposition of 30 July 2008. The consultation involved a range of stakeholders including industry trade associations, enforcement bodies, professional associations, consumer groups and others. Two responses were received, neither of which was substantive and did not comment on

the draft Regulations themselves. No changes to the draft Regulations were therefore considered necessary.

Guidance

7.4 The Food Standards Agency does not consider that guidance on the new measures is necessary as these provisions are self-explanatory and have already been subject to public consultation.

8. Impact

8.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

Tim Franck or Joseph Nicholas at the Food Standards Agency can answer queries regarding the instrument -- telephone: 020-7276-8471 or 020-7276-8462, or e-mail: tim.franck@foodstandards.gsi.gov.uk or joseph.nicholas@foodstandards.gsi.gov.uk.

TRANSPOSITION TABLE

Commission Directive 2008/4/EC of 9 January 2008 amending Directive 94/39/EC as regards feedingstuffs intended for the reduction of the risk of milk fever (OJ L Series, 10.1.2008, p. 4), as corrected by a Corrigendum (OJ No. L22, 25.1.2008, p.21)			
Article	Purpose	Implementation	Responsibility
Article 1	To amend the relevant entries in Part B of the Annex to Directive 94/39/EC	Regulation 2(2) of the Feeding Stuffs (England) (Amendment) Regulations 2008	S of S for Health through implementing Regulations
Annex	To insert amended entries for feedingstuffs for the reduction of the risk of milk fever	Schedule to the Feeding Stuffs (England) (Amendment) Regulations 2008	