
WELSH STATUTORY INSTRUMENTS

2020 No. 1381 (W. 307)

AGRICULTURE, WALES

The Animal Feed (Particular Nutritional Purposes and Miscellaneous Amendments) (Wales) Regulations 2020

<i>Made</i>	- - - -	<i>30 November 2020</i>
<i>Laid before Senedd Cymru</i>		<i>2 December 2020</i>
<i>Coming into force</i>	- -	<i>25 December 2020</i>

The Welsh Ministers make these Regulations in exercise of the powers conferred on them by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(1).

The Welsh Ministers are designated for the purposes of measures relating to feed produced for or fed to food producing animals(2), measures in the veterinary and phytosanitary fields for the protection of public health(3), and measures in relation to the common agricultural policy of the European Union(4).

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972, and it appears to the Welsh Ministers that it is expedient for references to the EU instruments mentioned in regulation 2(3) of the Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016(5) (as amended by these Regulations) and regulation 2(5) of the Animal Feed (Hygiene, Sampling etc and Enforcement) (Wales) Regulations 2016(6) (as amended by these Regulations) to be construed as references to those EU instruments as amended from time to time.

-
- (1) [1972 c.68](#). The European Communities Act 1972 (“the 1972 Act”) was repealed by section 1 of the European Union (Withdrawal) Act 2018 ([c.16](#)) (“the 2018 Act”) with effect from exit day. “Exit day” is defined in section 20 of the 2018 Act as 31 January 2020 at 11pm. Despite that repeal the 1972 Act continues to have effect with modifications until IP completion day, by virtue of section 1A of the 2018 Act. Section 1A was inserted by section 1 of the European Union (Withdrawal Agreement) Act 2020 ([c.1](#)) (“the 2020 Act”). “IP completion day” is defined in section 1A as being 31 December 2020 at 11pm (the meaning given in section 39 of the 2020 Act). Section 2(2) of the 1972 Act was also previously amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 ([c.51](#)) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 ([c.7](#)). Paragraph 1A of Schedule 2 to the 1972 Act was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 and [S.I. 2007/1388](#).
- (2) [S.I. 2005/1971](#), amended by [S.I. 2005/2766](#). The functions conferred on the National Assembly for Wales by this designation are transferred to the Welsh Ministers by virtue of section 162 of, and paragraphs 28 and 30 of Schedule 11 to, the Government of Wales Act 2006 ([c.32](#)). The designation does not extend to measures concerning feed containing medicinal products (including growth regulators) or medicinal products when destined for use in feed except provision concerning digestibility enhancers, gut flora stabilisers, or substances which favourably affect the environment. [S.I. 2005/1971](#) is prospectively revoked by [S.I. 2018/1011](#) from implementation period completion day.
- (3) [S.I. 2008/1792](#), which is prospectively revoked by [S.I. 2018/1011](#) from implementation period completion day.
- (4) [S.I. 2010/2690](#). The designation does not extend to making provision in respect of feed that contains medicinal products destined for use in feed, except provision concerning substances that favourably affect the environment, digestibility enhancers, or gut flora stabilisers. [S.I. 2010/2690](#) is prospectively revoked by [S.I. 2018/1011](#) from implementation period completion day.
- (5) [S.I. 2016/386](#), amended by [S.I. 2018/806](#).
- (6) [S.I. 2016/387](#), amended by [S.I. 2019/1482](#).

There has been open and transparent public consultation during the preparation of these Regulations in accordance with the requirements of Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety⁽⁷⁾.

Title and commencement

1. The title of these Regulations is the Animal Feed (Particular Nutritional Purposes and Miscellaneous Amendments) (Wales) Regulations 2020 and they come into force on 25 December 2020.

The Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016

2.—(1) The Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016⁽⁸⁾ are amended as follows.

(2) In regulation 2 (interpretation and scope)—

(a) in paragraph (1)—

(i) omit the definition of “Directive 2008/38”;

(ii) in the appropriate place insert—

““Regulation 2020/354” (“*Rheoliad 2020/354*”) means Commission Regulation (EU) 2020/354 establishing a list of intended uses of feed intended for particular nutritional purposes and repealing Directive 2008/38/EC⁽⁹⁾,”

(b) for paragraph (3) substitute—

“(3) Any reference in these Regulations to an EU instrument defined in paragraph (1) is a reference to that EU instrument as it may be amended from time to time.”

(3) For Part 7 (implementation of Directive 2008/38) substitute—

“Part 7

Enforcement of Regulation 2020/354

Interpretation of this Part

16. In this Part any reference to a numbered Article is a reference to the Article so numbered in Regulation 2020/354.

Offence of failing to comply with Article 1 of Regulation 2020/354

17. A person who contravenes or fails to comply with Article 1 (conditions on marketing), as read with Article 2 (derogation for feed which complies with the provisions of Directive 2008/38/EC) and Article 3 (transitional provision for feed labelled before 25 March 2022 in accordance with the rules applicable before 25 March 2020) commits an offence.”

(7) OJ No. L31, 1.2.2002, p.1, as last amended by Regulation (EU) 2019/1243 of the European Parliament and of the Council (OJ No. L198, 25.7.2019, p.241).

(8) S.I. 2016/386 (W.120), amended by S.I. 2018/806 (W.162).

(9) OJ No. L67, 5.3.2020, p.1.

(4) In regulation 18 (penalties for offences under these regulations), in paragraph (1), for “17(1)” substitute “17”.

(5) In regulation 19 (duties to enforce), after “Regulation 767/2009” insert “, Regulation 2020/354”.

The Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations 2016

3.—(1) The Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations 2016⁽¹⁰⁾ are amended as follows.

(2) In regulation 2 (interpretation and scope), for paragraph (5) substitute—

“(5) Any reference in these Regulations to an EU Regulation specified in Schedule 1 is a reference to that EU Regulation as it may be amended from time to time.”

(3) In Schedule 1 (specified feed law), in the table, in the appropriate place add the following entry—

“Commission Regulation (EU) 2020/354 establishing a list of intended uses of feed intended for particular nutritional purposes and repealing [Directive 2008/38/EC](#)⁽¹¹⁾

30 November 2020

Eluned Morgan
Minister for Mental Health, Wellbeing and
Welsh Language, one of the Welsh Ministers

⁽¹⁰⁾ S.I. 2016/387 (W. 121), amended by S.I. 2018/40 (W. 12), 2018/806 (W. 162) and 2019/1482 (W. 266).

⁽¹¹⁾ OJ No. L67, 5.3.2020, p.1.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to legislation in the field of feed safety and hygiene to provide for the execution and enforcement of Commission Regulation (EU) 2020/354 establishing a list of intended uses of feed intended for particular nutritional purposes and repealing [Directive 2008/38/EC](#) (OJ No. L67, 5.3.2020, p.1.).

Regulation 2 amends the Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016 ([S.I. 2016/386 \(W.120\)](#)), removing references to the repealed [Directive 2008/38/EC](#) and providing for enforcement of the new Regulation (EU) 2020/354. Regulation 2(2)(c) updates the references in those Regulations to specified EU instruments.

Regulation 3 amends the Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations 2016 ([S.I. 2016/387 \(W. 121\)](#)), to add Regulation (EU) 2020/354 to the list of legislation that is defined as “specified feed law” for the purposes of those Regulations. Regulation 3(2) updates references in those Regulations to specified EU instruments.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.