

EXPLANATORY MEMORANDUM TO TRANSMISSIBLE SPONGIFORM ENCEPHALOPATHIES (WALES) (AMENDMENT) REGULATIONS 2009

This Explanatory Memorandum has been prepared by the Office of the Chief Veterinary Officer, Rural Affairs Department and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

Description

1. The Transmissible Spongiform Encephalopathies (Wales) (Amendment) Regulations 2009 amend the Welsh text of the existing Transmissible Spongiform Encephalopathies (Wales) Regulations 2008 (S.I. 2008/3154 (W.282)), "the principal TSE Regulations".

Matters of special interest to the Subordinate Legislation Committee

2. At its meeting on 20th January 2009, the Subordinate Legislation Committee (SLC) requested that the following reporting points were addressed in the Welsh text of the principal TSE Regulations (SLC230 refers):
 - in regulation 15(1)(c) replace "sydd ag" with "a chanddo yn ei feddiant, neu i gyflenwr," and after the third time "anifeiliaid" appears, delete "yn ei feddiant";
 - in paragraph 5(6) of Schedule 3 replace "rheoliad" with "paragraff";
 - in paragraph 3(2) of Schedule 6 replace "(d)" with "(ch)".

Legislative Background

3. The amendment Regulation is to be made using the negative resolution procedure.
4. Welsh Ministers have the power to make the legislation by virtue of their designation in relation to the implementation of EC law in veterinary and phytosanitary fields for the protection of public health (S.I. 1792/2008).

Purpose and intended effect of the legislation

5. The Transmissible Spongiform Encephalopathies (Wales) Regulations 2008 provide the necessary powers to administer and enforce the provisions of Regulation (EC) 999/2001, as amended, concerning the prevention, control and eradication of BSE and other TSEs relating to cattle, sheep and goats.
6. The purpose of the amendment Regulation is to correct errors in the Welsh text of the principal TSE Regulations to address the reporting points identified by the SLC.

Implementation

7. Failure to implement the amendment Regulation would mean that there is inconsistency between the English and Welsh text of the principal TSE Regulations. In particular, in the English text of the principal Regulations, regulation 15(1)(c) provides that an inspector may serve a notice upon the

person in possession of or the supplier of animal food that contains animal protein. Failure to comply with such a notice is an offence. The Welsh text omits the word “supplier”. Therefore, there is a risk that if an inspector serves a notice upon a supplier pursuant to regulation 15(1)(c), the supplier could argue that the notice is ultra vires/invalid because of the inconsistency between the English and Welsh text.

Consultation

8. There is no requirement to consult on these amendments to the Welsh text. A 12 week public consultation was carried out on the principal TSE Regulations.

Regulatory Impact Assessment

9. A Regulatory Impact Assessment has not been carried out on the amendment Regulation, as its purpose is solely to correct the Welsh text of the principal TSE Regulations. A partial Regulatory Impact Assessment was carried out on the principal TSE Regulations.