

## **The Proposed Animal Feed (Miscellaneous Amendments) Regulations (Northern Ireland) 2020**

**Launch date: 02 October 2020**

**Respond by: 13 November 2020**

### **This consultation will be of most interest to**

Animal feed businesses, enforcement authorities, and other interested stakeholders, who may have an interest in the policy and legislation on feed intended for particular nutritional purposes (PARNUTS) in Northern Ireland.

### **Consultation subject**

The proposed Animal feed (Miscellaneous Amendments) Regulations (Northern Ireland) 2020 will enforce Regulation (EU) 2020/354 on establishing a list of intended uses of feed intended for particular nutritional purposes and repealing Directive 2008/38/EC in Northern Ireland.

### **Purpose of the consultation**

To seek comments from industry, enforcement authorities, and other interested stakeholders on the proposed Animal feed (Miscellaneous Amendments) Regulations (Northern Ireland) 2020.

### **How to respond**

Responses to this consultation should be sent to:

Email:	<a href="mailto:executive.support@food.gov.uk">executive.support@food.gov.uk</a>
Division/Branch:	Food Standards Agency in Northern Ireland Executive Support Unit
Postal address:	10a-c Clarendon Road, Belfast Co Antrim BT1 3GB

## Details of consultation

### Introduction

#### We welcome your comments on

1. The Food Standard Agency's proposal to draft a Statutory Rule for implementing and enforcing Regulation (EU) 2020/354 on establishing a list of intended uses of feed intended for particular nutritional purposes and repealing Directive 2008/38/EC in Northern Ireland.
2. The proposed Regulations will amend the existing [Animal Feed \(Composition, Marketing and Use\) Regulations \(Northern Ireland\) 2016](#) and [The Animal Feed \(Hygiene, Sampling etc. and Enforcement\) Regulations \(Northern Ireland\) 2016](#)

#### Background

3. Feed intended for particular nutritional purposes, also known as dietetic feed, is feed with a specific nutritional purpose that animals receive for their health. For example, to support the kidneys in the case of chronic kidney problems.
4. The placing on the market and use of feed is regulated by Regulation (EC) No 767/2009. In accordance with Article 9 of that Regulation, feed intended for particular nutritional purposes (dietetic feed) may only be marketed if its intended use is included in a list of intended uses established in accordance with Article 10 of Regulation 767/2009. Examples of intended uses include 'reducing copper in the liver' and 'reduction of excessive bodyweight'.
5. The list of intended uses of feed intended for particular nutritional purposes is currently contained in Commission Directive 2008/38/E which also established the general provisions for feed intended for particular nutritional purposes.
6. Articles 11 to 17 of Regulation (EC) No 767/2009 established new principles and rules for the placing on the market of feed, including labelling. As a consequence, several entries in the list of intended uses of feed intended for particular nutritional purposes contained in Directive 2008/38/EC became outdated, partially because of poor and overly general descriptions in the column 'Essential nutritional characteristics'. For such entries, it has been very difficult for the control authorities to verify compliance with the provisions of Regulation (EC) No 767/2009, including whether the specific composition of the feed concerned fulfils the respective particular intended nutritional purpose.
7. Commission Regulation (EU) 2020/354 repeals and replaces Directive 2008/38 and establishes a clearer list of intended uses of animal feeding stuffs for particular nutritional purposes by providing the necessary amendments to the provisions concerning the essential nutritional characteristics.

#### Commission Regulation (EU) 2020/354

8. According to Article 1, Feed intended for particular nutritional purposes may be marketed only if:
  - (a) The general provisions for feed intended for particular nutritional purposes laid down in Part A of the Annex to Regulation (EU) 2020/354 are complied with, and

- (b) Its intended use is included in Part B of the Annex of Regulation (EU) 2020/354 and the provisions of the respective entry are complied with.
9. By way of derogation from Article 1, feed intended for particular nutritional purposes which complies with the provisions of Directive 2008/38/EC may continue to be placed on the market, provided that an application for an intended use included therein has been submitted to the Commission in accordance with Article 10 of Regulation (EC) No 767/2009 before 25 March 2021 and until the Commission decides on the respective application.
  10. Feed intended for particular nutritional purposes which has been labelled before 25 March 2022 in accordance with the rules applicable before 25 March 2020 may continue to be placed on the market and used until the existing stocks are exhausted.
  11. The updated list of intended uses for feed intended for particular nutritional purposes is now included in Part B of the Annex of Regulation (EU) 2020/354.
  12. In accordance with Article 10 of Regulation (EC) No 767/2009, the particular nutritional purposes 'support of energy metabolism and of the muscle function in the case of rhabdomyolysis' and 'support in stressful situations, which will lead to the reduction of associated behaviour' have been added to the list of intended uses of feed intended for particular nutritional purposes.

## EU Transition Period

13. The UK left the European Union on 31 January 2020. As part of the Withdrawal Agreement, a transition period was negotiated in which EU legislation would continue to directly apply in the UK. The UK is set to leave the Transition Period on 31 December 2020. The coming-into-operation date of Regulation 2020/354 is 25 December 2020. As such, to comply with the requirements of the Withdrawal Agreement, Regulation (EU) 2020/354 will need to be implemented and enforced across the UK.

## Proposal

14. FSA propose to draft domestic Regulations, the Animal Feed (Miscellaneous Amendments) Regulations (Northern Ireland) 2020.
15. Not providing for the enforcement of Regulation (EU) 2020/354 would mean that there would be no enforcement mechanism in Northern Ireland in relation to the directly applicable European Regulation.

## Enforcement

16. The proposed regulations allow for the enforcement of Commission Regulation (EU) 2020/354 in Northern Ireland.
17. The proposed draft regulations for implementing Commission Regulation (EU) 2020/354 intend to follow the same approach to enforcement as is taken with Directive 2008/38/EC in the Animal Feed (Composition, Marketing and Use) Regulations (Northern Ireland) 2016 which is via a term of imprisonment not exceeding 3 months or to a fine not exceeding level 5 on the standard scale, or both.

## Impacts

18. The proposed Animal Feed (Miscellaneous Amendments) Regulations (Northern Ireland) 2020 are of an administrative nature as they implement the execution of powers and enforcement for the incoming EU Regulation and repeal those of Directive 2008/38/EC. The purpose of the proposed Regulation is to help ensure that the list of intended uses can be more easily kept up to date.
19. Due to the mechanical nature of this change, from a EU Directive to a EU Regulation, the FSA has not identified any material changes to the requirements on business with regard to the regulatory approach undertaken in relation to the requirements. The FSA therefore anticipate that the proposed Regulations will introduce no significant impacts other than a small familiarisation cost.
20. A formal regulatory impact assessment has therefore not been produced for this regulatory change. If, however, the consultation should bring to light any impact on enforcement bodies or industry which has not been anticipated, we will reassess the need for a regulatory impact assessment.

## Engagement and Consultation Process

21. A six-week public consultation is being launched to provide interested parties with an opportunity to comment on the proposed domestic legislation for Regulation (EU) 2020/354 and its associated impacts. The FSA anticipate that the impact on both businesses and enforcement authorities in familiarising themselves with these enforcement regulations will be negligible.
22. It is considered that a six-week consultation period is appropriate in these circumstances as these regulations provide enforcement for a directly applicable European Regulation with no national measures.
23. Any responses received as part of this consultation will be given careful consideration and a summary of the responses received will be published on our website within three months of the consultation closing.
24. The FSA in England and Wales are consulting separately on their respective national legislation, Food Standards Scotland (FSS) is preparing equivalent legislation for the execution of powers and enforcement in Scotland and will consult accordingly with their stakeholders.

## Questions asked in this consultation:

We would welcome stakeholder views on the proposed regulations and any impacts resulting from this proposed change? In particular:

1. Do you agree with our assessment of the impacts for this regulation? If you disagree:
2. How will implementation of these Regulations affect you or other stakeholders?
3. If you believe your business, or business in your area, would be affected by the regulations, please provide us with details of the impact and effects including any information on the number of feed businesses potentially affected, their location and ideally size in terms of the number of employees.

## Other relevant documents

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

[Regulation \(EC\) 767/2009 on the placing on the market and use of feed](#)

[Commission Directive 2008/38/EC of 5 March 2008 establishing a list of intended uses of animal feedingstuffs for particular nutritional purposes](#)

## Responses

Responses are required by close **13 November 2020**. Please state, in your response, whether you are responding as a private individual or on behalf of an organisation/company (including details of any stakeholders your organisation represents).

Thank you on behalf of the Food Standards Agency for participating in this public consultation.

Yours,



Gerard Smyth  
Operational Policy and Delivery  
Food Standards Agency in Northern Ireland

## Annex A: Standard Consultation Information

### Disclosure of the information you provide

Information provided in response to this consultation may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA) and the Environmental Information Regulations 2004). If you want information you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. Any automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding. The Food Standards Agency will be what is known as the 'Controller' of the personal data provided to us.

### Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

The Data Protection Act 2018 states that, as a government department, the Food Standards Agency may process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

### What we do with it

All the personal data we process is located on servers within the European Union. Our cloud based services have been procured through the government framework agreements and these services have been assessed against the national cyber security centre cloud security principles. No third parties have access to your personal data unless the law allows them to do so. The Food Standards Agency will sometimes share data with other government departments, public bodies, and organisations which perform public functions to assist them in the performance of their statutory duties or when it is in the public interest.

### What are your rights?

You have a right to see the information we hold on you by making a request in writing to the email address below. If at any point you believe the information we process on you is incorrect you can request to have it corrected. If you wish to raise a complaint on how we have handled your personal data, you can contact our Data Protection Officer who will investigate the matter.

If you are not satisfied with our response or believe we are processing your personal data not in accordance with the law you can complain to the Information Commissioner's Office (ICO) at <https://ico.org.uk>, or telephone 0303 123 1113.

Our Data Protection Officer in the FSA is the Information Management and Security Team Leader who can be contacted at the following email address:

[informationmanagement@food.gov.uk](mailto:informationmanagement@food.gov.uk)

## Further information

If you require a more accessible format of this document please send details to the named contact for responses to this consultation and your request will be considered. This consultation has been prepared in accordance with [HM Government consultation principles](#).

## **Annex B: Impact Assessment**

The Government's Code of Practice on Impact Assessments states that an Impact Assessment should normally be published alongside a formal consultation. We consider that the impact on both businesses and enforcement authorities of the proposed Regulations will be negligible. They will only provide enforcement for a directly applicable European Regulation with no national measures. If, however, the consultation should bring to light any impact on enforcement bodies or industry which has not been anticipated, we will reconsider the need for an Impact Assessment.



## Annex C: List of interested parties

Fane Valley Feeds  
Devenish Nutrition  
Premier Nutrition  
Pedro Pet Foods  
DAERA  
Livestock and Meat Commission NI  
John Thompson and Sons  
W&R Barnett  
Lesaffre  
Alltech  
Thomas Hutchinson & Sons Ltd  
Trouw Nutrition  
Moy Park  
Feedwell Animal Foods  
Favour Pet Foods  
Mackle Pet Foods  
McIlmoyle  
Nigta  
NIAPA  
NIMEA  
Provita  
Cefetra  
NIPHL (public health laboratory)  
Vet NI  
LFA Celtic  
Dale Farm  
Ulster University  
QUB  
DEFRA  
Dairy UK  
LGC group  
UFU  
United Feeds  
DSM  
FS Herron