

# FOOD STANDARDS AGENCY NORTHERN IRELAND CONSULTATION

## Title: The Animal Feed (Basic Safety Standards) Regulations (Northern Ireland) 2018

### CONSULTATION SUMMARY PAGE

<b>Date launched:</b>	<b>2 October 2017</b>	<b>Closing date:</b>	<b>13 November 2017</b>
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#### Who will this consultation be of most interest to?

Producers and users of animal feedingstuffs in Northern Ireland.  
 Enforcement officers responsible for the enforcement of the Regulations in this sector.

#### What is the subject of this consultation?

The draft Animal Feed (Basic Safety Standards) Regulations (Northern Ireland) 2018 provide for the provisions of a revised EU Basic Safety Standards Directive laying down basic safety standards for the protection against the dangers arising from exposure to ionising radiation as it applies to animal feed. In particular -

- prohibit the intentional addition of radioactive substances in the production of animal feedingstuffs;
- prohibit the import or export of animal feedingstuffs to which radioactive substances have been intentionally added during production; and
- provide the accompanying enforcement powers to deal with non-compliance.

#### What is the purpose of this consultation?

To give stakeholders the opportunity to comment on the draft Regulations and to ascertain whether our assumption that the introduction of the Regulations will be cost-neutral is correct.

#### Responses to this consultation should be sent to:

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**FOOD STANDARDS AGENCY IN NI**  
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<b>Impact Assessment included?</b>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/> See Annex A for reason.
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# The Animal Feed (Basic Safety Standards) Regulations (Northern Ireland) 2018

## DETAIL OF CONSULTATION

### Key proposal(s):

- To prohibit the intentional addition of radioactive substances in the production of animal feedingstuffs.
- To prohibit the import or export of animal feedingstuffs to which radioactive substances have, during production, been intentionally added.
- To refer to existing enforcement mechanisms providing appropriate sanctions for breach of the Regulations.

### Details

1. Directive 2013/59/EURATOM lays down basic safety standards for protection against the dangers arising from exposure to ionising radiation. The provision relating to animal feed is Article 21(1) which states:  
*“Member States shall prohibit the deliberate addition of radioactive substances in the production of foodstuffs, animal feedingstuffs, and cosmetics, and shall prohibit the import or export of such products.”*
2. The proposed regulation provides for the transposition of the requirement as it relates to animal feedingstuffs into law in Northern Ireland and includes reference to existing enforcement mechanisms and provisions.

### Background

3. The 2013 Basic Safety Standards Directive (2013 BSSD) consolidates and updates existing Euratom radiation safety legislation. The new Directive takes account of developments in the recommendations and standards issued by the International Commission on Radiological Protection and the International Atomic Energy Agency. Its scope includes medical, occupational and public radiation exposures and it provides for three different types of exposure situation:
  - Existing public exposure situations, including the management of legacy radioactive contaminated land and exposure to naturally occurring radon gas in homes;
  - Planned exposure situations, in relation to authorised activities involving radioactive substances, for example for power generation or healthcare; and

- Emergency exposure situations that could arise for example following an accident.
4. Within these sections the Directive also includes a requirement specifically prohibiting the addition of radioactive substances in the production of foodstuffs, animal feedingstuffs and cosmetics.
  5. Consideration of the need to amend food law to implement this Article concluded that there was already adequate protection afforded by the Food Safety (Northern Ireland) Order 1991 - in particular paragraphs 7 (rendering food injurious to health) and 14 (selling food not of the nature or substance or quality demanded). However, it was considered that a transposition of the Directive was required for animal feedingstuffs.

### **Impact Assessment**

6. The FSA is not aware that the feed industry currently adds radioactive materials to animal feedingstuffs at any stage and therefore does not consider that there will be any costs incurred in the implementation of the Regulations, either by Government, enforcement authorities or the feed industry.
7. Enforcement sanctions will be consistent with those provided to enforcement authorities by existing animal feed Regulations.
8. Therefore it is considered that an Impact Assessment will not be required.

### **Information we are seeking in this consultation:**

**Q1.** We would welcome your comments on the proposal to specifically prohibit the intentional addition of radioactive substances to animal feedingstuffs during their production and prohibit the import or export of animal feedingstuffs to which radioactive substances have been intentionally added during their production

**Q2.** We would welcome any comments on the proposed enforcement provisions.

**Q3.** We would welcome your comments on the conclusion that the proposals will not cause additional costs to the feed industry or to enforcement authorities.

### **Consultation Process**

9. The purpose of this consultation is to provide interested parties with the opportunity to comment on, and express their opinions on the proposed new legislation as it

relates to animal feed and to ensure our assumption that the Regulations will be cost-neutral is correct.

### **Consumer engagement**

10. A Consumer representative is included on the list of interested parties.

### **Groups affected**

11. All producers of animal feed may potentially be affected by the proposed change. The proposal will also affect enforcement bodies and others with an interest in animal feed.

### **Responses**

12. **Responses are required by close 13 November 2017.** 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 in Northern Ireland for participating in this public consultation.

Yours sincerely,



**Hayley Atcheson**  
**Executive Support Unit**  
**FSA in NI**

### **Enclosed**

**Annex A: Standard Consultation Information**

**Annex B: Draft Statutory Rule**

**Annex C: List of interested parties**

## Publication of personal data and confidentiality of responses

1. In accordance with the FSA principle of openness we shall keep a copy of the completed consultation and responses, to be made available to the public on receipt of a request to the [FSA Consultation Coordinator](#) (020 7276 8308). The FSA will publish a summary of responses, which may include your full name. Disclosure of any other personal data would be made only upon request for the full consultation responses. If you do not want this information to be released, please complete and return the Publication of Personal Data form, which is on the website at <http://www.food.gov.uk/multimedia/worddocs/dataprotection.doc> Return of this form does not mean that we will treat your response to the consultation as confidential, just your personal data.
3. In accordance with the provisions of Freedom of Information Act 2000/Environmental Information Regulations 2004, all information contained in your response may be subject to publication or disclosure. If you consider that some of the information provided in your response should not be disclosed, you should indicate the information concerned, request that it is not disclosed and explain what harm you consider would result from disclosure. The final decision on whether the information should be withheld rests with the FSA. However, we will take into account your views when making this decision.
4. Any automatic confidentiality disclaimer generated by your IT system will not be considered as such a request unless you specifically include a request, with an explanation, in the main text of your response.

### Further information

5. A list of interested parties to whom this letter is being sent appears in Annex C. Please feel free to pass this document to any other interested parties, or send us their full contact details and we will arrange for a copy to be sent to them direct.
6. Please contact us if you require this consultation in an alternative format such as Braille or large print.
7. This consultation has been prepared in accordance with HM Government consultation principles<sup>1</sup>.

<sup>1</sup> <http://www.bis.gov.uk/policies/bre/consultation-guidance>

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 STATUTORY RULES OF NORTHERN IRELAND
 

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2018 No.

## AGRICULTURE

 The Animal Feed (Basic Safety Standards) Regulations  
 (Northern Ireland) 2018

*Made* - - - -

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*Coming into operation* - -

*February 2018*

The Department of Health<sup>(2)</sup> being a department designated for the purposes of section 2(2) of the European Communities Act 1972<sup>(3)</sup> in relation to measures relating to food (including drink) including the primary production of food<sup>(4)</sup> makes the following Regulations in exercise of the powers conferred by sections 66(1), 74A(1) and 84 of the Agriculture Act 1970<sup>(5)</sup>, as read with regulation 14 of the Food Standards Act 1999 (Transitional and Consequential Provisions and Savings) Regulations (Northern Ireland) 2000<sup>(6)</sup>, and section 2(2) of the European Communities Act 1972.

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<sup>(7)</sup> or, in the case of provisions relating to feed for food-producing animals, of section 84 of the Agriculture Act 1970.

**Title, application and commencement**

1. These Regulations may be cited as the Animal Feed (Basic Safety Standards) Regulations (Northern Ireland) 2018 and come into operation on [XX February 2018].

**Interpretation**

2.—(1) In these Regulations—

(2) “DAERA” means the Department of Agriculture, Environment and Rural Affairs<sup>(8)</sup>;

(3) “radioactive substance” means any substance that contains one or more radionuclides the activity concentration of which cannot be disregarded from a radiation protection point of view;

<sup>(2)</sup> Formerly the Department of Health, Social Services and Public Safety; see 2016 c.5 (N.I.), section 1

<sup>(3)</sup> 1972 c.68

<sup>(4)</sup> S.I.2003/2901

<sup>(5)</sup> 1970 c.40; sections 66(1) and 84 are modified in their application to Northern Ireland by section 86 of the Act and were amended by S.R. 2004 No. 506; section 66(1) was also amended by S.R. 2010 No. 323; section 74A was inserted by paragraph 6 of Schedule 4 to the European Communities Act 1972 (c. 68)

<sup>(6)</sup> S.R. 2000 No. 78

<sup>(7)</sup> OJ No. L31, 1.2.2002, p.1, as last amended by Regulation (EC) No. 652/2014 of the European Parliament and of the Council (OJ No. L189, 27.6.2014, p.1)

<sup>(8)</sup> Formerly the Department of Agriculture and Rural Development see 2016 c. 5 (N.I.), section 1

(4) “Regulation 178/2002” means 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; and

(5) “ Regulation 767/2009” means Regulation (EC) No 767/2009 of the European Parliament and of the Council of 13 July 2009 on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC<sup>(9)</sup>.

(6) For the purpose of these Regulations, “importation” and “exportation” have the same meanings as they have for the purposes of the Customs and Excise Management Act 1979<sup>(10)</sup>, and “import” and “export” shall be construed accordingly.

(7) Except as provided in paragraph (1) and (2), any expression used in these Regulations, Regulation 178/2002, Regulation 767/2009 has the meaning in these Regulations that it bears in Regulation 178/2002, Regulation 767/2009, as the case may be.

(8) The Interpretation Act (Northern Ireland) 1954<sup>(11)</sup> shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

### **Prohibition of practices**

3. A person must not intentionally add a radioactive substance in the production of animal feed.

4. A person must not import or export any animal feed in respect of which a radioactive substance has been intentionally added in the production of that feed.

### **Offences and penalties**

5. Any person who contravenes regulation 3 or regulation 4 is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding three months, or both.

### **Enforcement**

6. It is the duty of DAERA to enforce these Regulations.

### **Amendment of the Animal Feed (Hygiene, Sampling etc. and Enforcement) Regulations (Northern Ireland) 2016**

7.—(1) The Animal Feed (Hygiene, Sampling etc. and Enforcement) Regulations (Northern Ireland) 2016<sup>(12)</sup> are amended in accordance with paragraph (2).

(2) In Schedule 1 (specified feed law), after the entry for “The Animal Feed (Hygiene, Sampling etc. and Enforcement) Regulations (Northern Ireland) 2016”, insert—

“The Animal Feed (Basic Safety Standards) Regulations (Northern Ireland) 2018”.

8. Amendment of the Official Feed and Food Controls Regulations (Northern Ireland) 2009.

9.—(1) The Official Feed and Food Controls Regulations (Northern Ireland) 2009<sup>(13)</sup> are amended in accordance with paragraph (2).

(2) In Schedule 2 (definition of relevant feed law), after paragraph (f), insert the following paragraph—

“(g) the Animal Feed (Basic Safety Standards) Regulations (Northern Ireland) 2018.”.

<sup>(9)</sup> OJ No. L229, 1.9.2009, p. 1. This Regulation was last amended by Commission Regulation (EC) No. 939/2010 (OJ No. L277, 21.10.2010, p. 4

<sup>(10)</sup> 1979 c. 2

<sup>(11)</sup> 1954 c.33 (NI)

<sup>(12)</sup> S.R. 2016 No. 5

<sup>(13)</sup> S.R. 2009 No. 427, amended by S.R. 2011 No. 48 and S.R 2014 No. 286

Sealed with the official seal of the Department of Health on [XXXX 2018]



*A name*  
A senior officer of the Department of Health



## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision

## **Annex C**

### **LIST OF INTERESTED PARTIES**

AFBI, Chief Executive  
Agriculture & Environmental Science Division – Feed Analysts  
Barnett – Hall  
Dairy UK  
DAERA, AfIB, Animal Feed  
DAERA, Chief Veterinary Officer  
Eurofins Ltd  
Food Safety Authority of Ireland  
Food Safety Promotion Board  
Food Technology Services, Loughry  
General Consumer Council for NI  
Livestock and Meat Commission  
Moy Park  
NI Agricultural Producers' Association  
NI Grain Trade Association  
NI Meat Exporter's Association  
Northern Ireland Food Advisory Committee  
Precision Liquids  
Public Analyst  
Queens University  
Ulster Farmers Union  
W&R Barnett Ltd