



Implementation of regulations on the uses of animal feed intended for particular nutritional purposes (in England)

Consultation seeking stakeholders' views on the implementation of Regulations establishing a list of intended uses of animal feed intended for particular nutritional purposes (PARNUTS) in England.

Launch date: 02 October 2020

Respond by: 13 November 2020

This consultation will be of most interest to

- Local authority and port health authority food and feed enforcement officers. Feed businesses that produce, supply or use animal feed.

Consultation subject

Proposal to draft regulations to provide for the implementation of Regulation (EU) 2020/354 on establishing a list of intended uses of animal feed intended for particular nutritional purposes and repealing Directive 2008/38/EC in England.

Purpose of the consultation

To seek comments from industry, enforcement authorities, and other interested stakeholders on the proposals to draft regulations to provide for the enforcement of Regulation (EU) 2020/354 in England.

How to respond

Responses to this consultation should be sent to:

Email: AnimalFeed1@food.gov.uk Alison Asquith Food Safety Policy Animal Feed Team	Postal address:
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Details of consultation

Introduction

1. Feed intended for particular nutritional purposes, also known as dietetic feed, is feed that which can satisfy a particular nutritional purpose because of its composition or its manufacturing process, which clearly distinguishes it from ordinary feed.
2. The placing on the market and use of animal feed is regulated by Regulation (EC) 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 (EC) 767/2009. Examples of intended uses include ‘the reduction of copper in the liver’ and ‘reduction of excessive bodyweight’.
3. The proposed Regulations will provide for the execution and enforcement of the new EU Regulation 2020/354 and repeal provisions that implemented Directive 2008/38EC. The FSA has identified no significant change to the requirements for business, or in the regulatory approach undertaken. Transitional measures are provided for which will allow product labelled before 25 March 2022 under the present rules to be used up. The purpose of the EU Regulation is to enable the list of intended uses to be more easily kept up to date and to add clarity to them.

Main proposals

4. The proposal being considered is to draft regulations to provide for the execution and enforcement of Regulation (EU) 2020/354 in England.

Detailed Proposals

5. Animal feed intended for particular nutritional purposes, also known as dietetic feed, is feed that which can satisfy a particular nutritional purpose because of its composition or its manufacturing process, which clearly distinguishes it from ordinary feed.

6. The list of intended uses of feed intended for particular nutritional purposes is currently contained in Commission Directive 2008/38/EC which also established the general provisions for feed intended for particular nutritional purposes. This Directive is being repealed and the list included in Regulation (EU) 2020/354. This will make it easier to keep the list up to date.
7. Articles 11 to 17 of Regulation (EC) No 767/2009 established new principles and rules for the placing on the market of animal 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) 767/2009, including whether the specific composition of the feed concerned fulfils the respective particular intended nutritional purpose.
8. Commission Regulation (EU) 2020/354 repeals and replaces Directive 2008/38/EC 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.
9. According to Article 1 in Commission Regulation (EU) 2020/354, 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.
10. According to Article 2, animal 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 in that Directive 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.
11. 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.
12. 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.

Enforcement

13. The proposed regulations allow for the execution and enforcement of Commission Regulation (EU) 2020/354 in England.
14. The proposed regulations providing for the execution and enforcement of Commission Regulation (EU) 2020/354 follow the same approach to enforcement as is taken with Directive 2008/38/EC in the Animal Feed (Composition, Marketing and Use) (England) Regulations 2015 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.

EU Transition Period

15. 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 Transition Period ends on 31 December 2020. The coming-into-force 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.

Impacts

16. The proposed Regulations 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.
17. Whilst the legislation has changed from an EU Directive to a EU Regulation, the FSA has identified no significant change to the requirements for business, or in the regulatory approach undertaken. Transitional measures are provided for which will allow product labelled before 25 March 2022 under the present rules to be used up. The FSA therefore anticipate that the proposed Regulations will introduce no significant impacts other than a small familiarisation cost.
18. 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

19. 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.

20. 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.

21. 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.

22. The FSA in Wales and Northern Ireland 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,

Alison Asquith
Animal Feed Team
Food Safety Policy

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

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: List of interested parties

FSA Internal

Director of Policy
Head of Food Safety Policy
Head of Animal Feed Policy
Head of Feed Additive Policy
Animal Feed Policy Advisors
Animal Feed Additive Advisors
Head of Feed Delivery
Feed Delivery Advisors
Better Regulation and Sustainability Team
FSA Legal Services
Comms
FSA in Northern Ireland
FSA in Wales
FSS

External

Agricultural Industries Confederation (AIC)
Animal and Plant Health Agency (APHA)
Association of Port Heath Authorities
Association of Public Analysts
Assured Food Standards (Red Tractor)
Better Regulation Delivery Office (BRDO)
Brewing, Food and Beverage Industry Suppliers
British Association of Feed Supplement and Additive Manufacturers (BAFSAM)
British Association of Green Crop Driers
British Egg Council
British Equestrian Trade Association
British Free Range Egg Producers Association
British Goat Society
British Institute of Agricultural Consultants
British Pig Association
British Poultry Council
British Retail Consortium
British Trout Association
Chartered Institute of Environmental Health (CIEH)
Country Land and Business Association
Dairy UK
Department of Environment, Food and Rural Affairs (Defra)
Department of Health (DH)
European Feed Manufacturers' Federation (FEFAC)
Europe Pet Food Industry trade body (FEDIAF)
FEDIOL
Food Chain and Biomass Renewables Association (FABRA)
Food and Drink Federation (FDF)
Health and Safety Executive
National Association of Agricultural Contractors
National Association of British and Irish Millers
National Beef Association
National Farmers Union (NFU)

National Sheep Association
National Trading Standards
Pet Food Manufacturers Association
Royal Association of British Dairy Farmers
Seed Crushers and Oil Processors Association
Society of Feed Technologists
The Grain and Feed Trade Association (GAFTA)
Trading Standards Institute (TSI)
United Kingdom Former Food Processors Association
UK Association of Fish Meal Manufacturers
Veterinary Medicines Directorate
Which?
Women's Food and Farming Union