

# SL(5)175 – The Animal Feed (Basic Safety Standards) (Wales) Regulations 2018

## Background and Purpose

---

These Regulations transpose in Wales, in relation to animal feed, Article 21 of Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom.

The Regulations:

- prohibit the intentional addition of a radioactive substance in the production of animal feed;
- prohibit the import or export of any animal feed to which a radioactive substance has been intentionally added during production;
- provide for it to be an offence to fail to comply with the prohibitions set out in the Regulations; and
- contain obligations regarding enforcement of the Regulations and technical amendments concerning monitoring and enforcement.

## Procedure

---

Negative.

## Technical Scrutiny

---

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

## Merits Scrutiny

---

One point is identified for reporting under Standing Order 21.3 in respect of this instrument, in that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly (Standing Order 21.3(ii)).

These Regulations are made under section 2(2) of the European Communities Act 1972 in combination with enabling powers contained in the Agriculture Act 1970. The 1972 Act gives a discretion as to whether the negative procedure or the affirmative procedure should apply to these Regulations, whereas the 1970 Act requires the negative procedure. The negative procedure has been chosen, which seems appropriate given:

1. the combination of powers referred to; and
2. that the Regulations do not involve substantial government expenditure.

## Implications arising from exiting the European Union

---

The following analysis is based on the European Union (Withdrawal) Bill ("the Bill") as introduced in the House of Lords on 18 January 2018.



1. These Regulations form part of “EU-derived domestic legislation” under clause 2 of the Bill, therefore these Regulations will be retained as domestic law and will continue to have effect in Wales on and after exit day. The Bill gives the Welsh Ministers power to modify these Regulations in order to deal with deficiencies arising from EU withdrawal, subject to certain limitations (for example, the Welsh Ministers will not be able to use this power to do something that is inconsistent with modifications to “retained direct EU legislation” made by UK Ministers under the Bill).
2. The Regulations define “feed” by reference to EU legislation, i.e. EU Regulation 178/2002 which lays down the general principles and requirements of food law, establishes the European Food Safety Authority and lays down procedures in matters of food safety. Under the European Union (Withdrawal) Bill (as currently drafted) that EU Regulation will be frozen and will form part of retained EU law on exit day. The EU Regulation will be within the body of retained EU law that only the UK Ministers and the UK Parliament can amend, so UK Ministers or the UK Parliament will be able to change the meaning of “feed”. Neither the National Assembly for Wales nor the Welsh Ministers will be given any powers to amend any element of the EU Regulation in its application in Wales.

## Government Response

---

No government response is required.

### **Legal Advisers**

**Constitutional and Legislative Affairs Committee**

**25 January 2018**

