

## **EXPLANATORY MEMORANDUM**

### **FEEDING STUFFS (SAMPLING AND ANALYSIS) (AMENDMENT) (ENGLAND) REGULATIONS 2004 No.2146**

1. This explanatory memorandum has been prepared by the Food Standards Agency and is laid before Parliament by Command of Her Majesty.

#### **2. Description**

2.1 This instrument implements an EU measure on the identification by microscopy of ingredients of animal origin in animal feeds. The measure replaces previous guidelines on this subject and reflects technical advances which now permit the identification of very small quantities (less than 0.1%) of animal material. The new measure also specifies the procedures to be followed in conducting the analysis and calculating the results, which replace the optional methods used previously.

#### **3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

#### **4. Legislative Background**

4.1 The Feeding Stuffs (Sampling and Analysis) Regulations 1999 (as amended) implement harmonised EC directives on the sampling and analysis of animal feeds. They establish the procedures to be followed in taking representative samples and the methods of analysis for particular substances, and lay down the minimum qualifications for those undertaking this work.

4.2 Commission Directive 98/88/EC first established guidelines for the microscopic identification of ingredients of animal origin in animal feeds and was implemented in the Feeding Stuffs (Sampling and Analysis) Regulations 1999. The provisions described at paragraph 2.1 above are set out in Commission Directive 2003/126/EC and replace Commission Directive 98/88/EC. It is therefore necessary to make the consequential amendment to the Feeding Stuffs (Sampling and Analysis) Regulations 1999.

#### **5. Extent**

5.1 This instrument applies to England. Separate but parallel legislation is expected for Scotland, Wales and Northern Ireland.

#### **6. European Convention on Human Rights**

6.1 Not applicable.

#### **7. Policy Background**

7.1 It is important that measures are in place to check compliance with prohibitions on the use of animal material in feeds. These controls were introduced to help protect consumers of animal products in relation to transmissible spongiform encephalopathies (TSEs). It is therefore also important that there are consistent and widely applied procedures for the sampling and analysis of feeds to detect products of animal origin.

7.2 Compared with the existing method, the new EC method reflects technical advances in methods of detection and will improve the identification of small amounts of animal material (less than 0.1%) in feeds. The existing method was optional and in practice this resulted in wide variations in the results obtained. The new method should ensure a harmonised approach throughout the EU, which should improve determination rates.

## 8. **Impact**

8.1 Defra's Veterinary Laboratories Agency (VLA) is responsible for analysing samples of feed as part of a surveillance programme to verify compliance with TSE controls, and it is already using the new method. Local authority Trading Standards Departments are responsible for the enforcement of animal feed legislation and appoint agricultural analysts to carry out analyses of animal feed samples.

8.2 The Food Standards Agency consulted stakeholders on the draft Regulations. This indicated that the measure would have little effect on feed businesses (e.g., feed manufacturers). The organisation representing agricultural analysts indicated that although investment in new equipment would be unlikely, there could be a need for analysts to be trained in the new procedures.

8.3 A Regulatory Impact Assessment, which provides more details on the measure, is attached to this memorandum.

## 9. **Contact**

Joseph Nicholas or Gail Jones at the Food Standards Agency (telephone: 020-7276-8462 or 020-7276-8469) (e-mail: joseph.nicholas@foodstandards.gsi.gov.uk or gail.jones@foodstandards.gsi.gov.uk) can answer any queries regarding the instrument.

## TRANSPOSITION TABLE

<b>Commission Directive 2003/126/EC of 23 December 2003 on the analytical method for the determination of constituents of animal origin for the official control of feedingstuffs (OJ No L339, 24.12.2003, P. 78)</b>			
<b>Article</b>	<b>Purpose</b>	<b>Implementation</b>	<b>Responsibility</b>
Article 1	To require that analysis for ingredients of animal origin be carried out in accordance with the methodology and procedures laid down in the Annex to the Directive.	Regulation 2(2) amending regulation 6(3)(b)(ii) of the Feeding Stuffs (Sampling and Analysis) Regulations 1999 to substitute reference to the methodology and procedures laid down in the Annex to the Directive for the previous reference to Directive 98/88/EC.	S of S for Health through implementing Regulations.
Article 3	To repeal Directive 98/88/EC laying down the previous requirements for analysis of ingredients of animal origin.		
Annex	To provide amended methodology and procedures for the analysis of ingredients of animal origin.		