EXECUTIVE NOTE

The Feeding Stuffs (Scotland) Amendment Regulations 2009 (S.S.I 2009/21)

The above instrument was made in exercise of the powers conferred by sections 66(1), 68(1), 69(1), 74A and 84 of the Agriculture Act 1970. The instrument is subject to negative resolution procedure.

Policy Objectives

1. This instrument transposes two EC measures (see attached PDF documents) relating to animal feedingstuffs by amending the Feeding Stuffs (Scotland) Regulations 2005. Commission Directive 2008/76/EC of 25 July 2008 makes amendments to existing maximum permitted levels for certain undesirable substances in animal feed. Commission Directive 2008/82/EC of 30 July 2008 concerns an amendment to an existing entry for feedingstuffs for particular nutritional purposes (also known as dietetic feeds) for the support of renal function in case of chronic renal insufficiency in adult cats.

Consultation

2. A public consultation in Scotland ran for a period of six weeks from 20 October to 28 November 2008. This relatively short deadline for comments was specified so that businesses could take advantage of both the revised provisions as soon as possible and in order to meet the EC deadline for transposition of Directive 2008/82 of no later than 20 February 2009. The consultation involved a range of stakeholders including from industry, enforcement bodies, consumer groups and others. No responses were received.

3. Three responses were received to the public consultation in England that are relevant to Scottish interests. Two of the respondents specifically commented on Directive 2008/76/EC, particularly the revised maximum permitted level for fluorine in fish feed. One of those respondents, representing the feed manufacturing industry said that the revised limit reflected an increase in the use of marine crustaceans (such as marine krill in fish feed) and therefore welcomed this development. The other of the two respondents, a professional association representing Trading Standards professionals in the UK, said that it welcomed the revised level as it reflected current practice and controls used by feed businesses. A third body, responsible for overseeing local authority enforcement and related services in the UK, confirmed that the measures would not create a significant increase in enforcement costs.

4. In the public consultation, stakeholders were asked to comment on the potential impact of the proposed measures, although it was considered that the Regulations are unlikely to impose any new or additional costs on business or on those responsible for the enforcement of feed legislation. Also, it is considered that the measures will be of benefit to pet food manufacturers and pet owners. These considerations were confirmed by the outcome of the public consultation. Therefore a regulatory impact assessment has not been drawn up.

Financial Effects

5. A regulatory impact assessment has not been produced for this instrument (as explained in paragraph 4). No impact on the private, public or voluntary sectors is forseen.

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THE FEEDING STUFFS (SCOTLAND) AMENDMENT REGULATIONS 2009 ("THE REGULATIONS")

TRANSPOSITION NOTE FOR COMMISSION DIRECTIVE 2008/76/EC AMENDING ANNEX I TO DIRECTIVE 2002/32/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON UNDESIRABLE SUBSTANCES IN ANIMAL FEED ("THE DIRECTIVE")

The Regulations give effect to the Directive by further amending the Feeding Stuffs (Scotland) Regulations 2005 (S.S.I. 2005/605) ("the 2005 Regulations"). The 2005 Regulations provide for enforcement and administration of Regulation (EC) No. 1831/2003, transpose Commission Directive 2004/116/EC and provide continued implementation of Council Directive 70/524/EEC, Council Directive 79/373/EEC, Council Directive 82/471/EEC, Commission Directive 82/475/EEC, Council Directive 93/74/EEC, Commission Directive 94/39/EC, Council Directive 96/25/EC, Directive 2002/32/EC, Commission Decision 2004/217/EC and Commission Directive 2008/38/EC.

The following table demonstrates how each relevant provision of the Directive has been given effect in the Regulations:

Article	**Implementation**
Article 1 and Annex: Article 1 and the Annex to the Directive amend Annex I to Directive 2002/32/EC.	This Article and the Annex are implemented by way of amendments to Schedule 5 to the 2005 Regulations. Paragraph 1 of the Annex is transposed by regulation 3(a) of the Regulations, which amends Chapter A of Schedule 5. Paragraph 2 is transposed by regulation 3(b)(ii) which amends Chapter C of Schedule 5 as regards weed seeds etc. Paragraph 3 is transposed by regulation 3(c) which amends Chapter D of Schedule 5. Paragraph 4 is transposed by regulation 3(b)(i), which removes entries for apricots, bitter almond and camelina from Chapter C of Schedule 5.

Article 2 Article 2 requires Member States to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive by 1 April 2009 at the latest.	The regulations come into force on 20 February 2009.

THE FEEDING STUFFS (SCOTLAND) AMENDMENT REGULATIONS 2009 ("THE REGULATIONS")

TRANSPOSITION NOTE FOR COMMISSION DIRECTIVE 2008/82/EC AMENDING DIRECTIVE 2008/38/EC AS REGARDS FEEDINGSTUFFS INTENDED FOR THE SUPPORT OF THE RENAL FUNCTION IN CASE OF CHRONIC RENAL INSUFFICIENCY ("THE DIRECTIVE")

The Regulations give effect to the Directive by further amending the Feeding Stuffs (Scotland) Regulations 2005 (S.S.I. 2005/605) ("the 2005 Regulations"). The 2005 Regulations provide for enforcement and administration of Regulation (EC) No. 1831/2003, transpose Commission Directive 2004/116/EC and provide continued implementation of Council Directive 70/524/EEC, Council Directive 79/373/EEC, Council Directive 82/471/EEC, Commission Directive 82/475/EEC, Council Directive 93/74/EEC, Commission Directive 94/39/EC, Council Directive 96/25/EC, Directive 2002/32/EC, Commission Decision 2004/217/EC and Commission Directive 2008/38/EC.

The following table demonstrates how each relevant provision of the Directive has been given effect in the Regulations:

Article	**Implementation**
Article 1 and Annex: Article 1 and the Annex to the Directive amend Annex I to Directive 2008/38/EC.	This Article is implemented by Regulation 4 and the Schedule, which amend Schedule 7 of the principal 2005 Regulations as regards the support of renal function.
Article 2 Article 2 requires Member States to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive by 20 February 2009 at the latest.	The coming into force date of 20 February has the effect of meeting this obligation.