

**EXPLANATORY MEMORANDUM TO THE
FEEDING STUFFS (ESTABLISHMENTS AND INTERMEDIARIES)
(AMENDMENT) (ENGLAND) REGULATIONS 2005**

2005 No. 557

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 These Regulations implement certain provisions of Council Decision 98/728/EC concerning a European Community system of fees in the animal feed sector.

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

3.1 None

4. **Legislative Background**

4.1 Council Directive 95/69/EC introduced a system for the approval or registration of establishments and intermediaries (premises) that manufacture, market or use certain feed additives (e.g. vitamins and trace elements) or protein products (e.g. amino acids). Most of the provisions of this Directive were implemented in the UK in the Feeding Stuffs (Establishments and Intermediaries) Regulations 1999. The legislation is enforced by trading standards departments of local authorities. Decision 98/728/EC requires Member States to charge feed businesses for the costs of approving establishments and intermediaries according to the criteria set out in Directive 95/69/EC.

4.2 The Feeding Stuffs (Establishments and Intermediaries) Regulations 1999 require amendment in order to set the levels of fees that local authorities may charge for the approval of premises and to make the associated arrangements. These changes are being given effect in England by the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (England) Regulations 2005.

5. **Extent**

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

6. **European Convention on Human Rights**

6.1 The Parliamentary Under Secretary of State, Melanie Johnson MP, has made the following statement regarding Human Rights:

In my view the provisions of the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (England) Regulations 2005 are compatible with the Convention rights.

7. Policy background

7.1 Premises covered by the scope of Directive 95/69/EC have to comply with standards relating to equipment, quality control, personnel, storage and record keeping. Generally, premises subject to approval are those carrying out high risk activities. Approval requires prior inspection of the premises concerned before the relevant activities can commence, while registration involves placing premises on a list with follow-up check.

7.2 Council Decision 98/728/EC requires local authorities to recoup the additional costs associated with the approval of premises. A list of those costs permitted to be recouped are set out in Annex B of the Decision (e.g. staff costs, travel).

7.3 The Food Standards Agency consulted one hundred and eighty three stakeholder organisations, including the feed industry and small businesses in England, on the draft of these Regulations between 13 October 2004 and 5 January 2005. Four responses were received.

7.4 Respondents did not contest the proposition made in the consultation that compliance costs would not be significant. Local authorities are mainly responsible for categories of premises subject to registration and it is estimated that there may only be five applications for approval per annum. Most premises subject to approval are those that make, sell or use zootechnical feed additives, which are subject to separate Regulations made by Defra¹.

7.5 Implementation of the measure is overdue (the coming into force date of Decision 98/728/EC was 30 June 2000). However, the measure has only minor implications for the UK, none of which relate to feed or food safety. Priority has been given to the implementation of other EC feed measures with feed/food safety implications.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no significant impact on business, charities or voluntary bodies.

9. Contact for further information

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¹ The Feedingstuffs (Zootechnical Products) Regulations 1999 (as amended) (S.I. 1999 No.1871)

