

## POLICY NOTE

### THE OFFICIAL FEED AND FOOD CONTROLS (MISCELLANEOUS AMENDMENTS) (SCOTLAND) REGULATIONS 2019

SSI 2019/407

The above instrument was made in exercise of the powers conferred by section 2(2) and paragraph 1A of schedule 2 of the European Communities Act 1972 and all other powers enabling them to do so. The instrument is subject to negative procedure.

#### **Purpose of the instrument**

To amend existing domestic food and feed law to provide for the execution and enforcement, in Scotland, of the food and feed elements of the new EU Official Controls Regulation and associated tertiary legislation, which apply from 14 December 2019.

#### **Policy Objectives**

The instrument provides for the execution and enforcement, in Scotland, of the food and feed elements of Commission Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (“Official Controls Regulation or OCR”) and the relevant associated tertiary legislation.

The instrument amends:

- The Coffee Extracts and Chicory Extracts Scotland Regulations 2001
- The Feed (Hygiene and Enforcement) (Scotland) Regulations 2005;
- The Food Hygiene (Scotland) Regulations 2006;
- The Fishery Products (Official Controls Charges) (Scotland) Regulations 2007;
- The Meat (Official Controls Charges) (Scotland) Regulations 2009;
- The Official Feed and Food Controls (Scotland) Regulations 2009;
- The Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010;
- The Plastic Kitchenware (Conditions on Imports from China) (Scotland) Regulations 2011; and
- The Food Safety (Sampling and Qualifications) (Scotland) Regulations 2013.

The OCR is directly applicable in domestic law and takes effect on 14 December 2019. The OCR addresses official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products. The OCR is an overarching piece of legislation that sets operational standards for the performance of official controls and other official activities by competent authorities across the EU. The provisions of the OCR will repeal and replace existing legislation integral to official control activities carried out by the FSS and local authorities in Scotland. This includes Regulation (EC) 882/2004 regarding official controls performed to verify compliance with feed and food law, and Regulation (EC) 854/2004 on official controls on products of animal origin intended for human consumption.

The legal framework created by the OCR allows members of the single market to be sure that the competent authorities in other Member States are conducting controls in a suitably rigorous and impartial fashion. The legislation cuts across aspects of the agri-food chain, such as import controls and laboratories, as well as different commodities, such as live animals, plants and food of animal origin.

The OCR also provides for a number of empowerments enabling the European Commission to adopt tertiary legislation specifying more detailed rules and implementing measures for the performance of official controls and other official activities.

The EU official controls regime is integral to the activities of Food Standards Scotland (FSS) as the national competent authority responsible for the delivery of official food and feed controls in Scotland, and the activities of food and feed law enforcement authorities. Therefore it is important to ensure Scottish domestic food and feed law is updated to reflect these legislative changes.

## **Consultation**

To comply with the requirements of Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, FSS carried out a public consultation in relation to FSS's areas of responsibility only between 27 September to 25 October 2019. Five responses were received in Scotland from food businesses and associations. All respondents agreed affected sectors had been identified and no objections were received to the harmonised approach to official controls.

## **Impact Assessments**

A [Business and Regulatory Impact Assessment \(BRIA\)](#) has been completed on the implementation, approach and assessment of impacts in Scotland to provide for the execution and enforcement of the food and feed safety elements of Regulation (EU) 2017/625. Most of the provisions of OCR clarify and simplify existing requirements and aim to provide a more risk-based approach to official controls, and the impacts on competent authorities, enforcement authorities and businesses is not significant. The amendments to domestic legislation will ensure that competent authorities continue to have the necessary powers to undertake checks required by the OCR and that sanctions for non-compliance with food and feed law remain in place and are operable in Scotland from 14 December 2019.

## **Financial Effects**

Any financial impacts on competent and enforcement authorities arising from the required amendments to the existing domestic legislation are low, as the changes update existing references to reflect OCR and associated tertiary legislation.

Food Standards Scotland  
28 November 2019