

## **POLICY NOTE**

### **The Food and Feed Safety (Fukushima Restrictions) (Scotland) Revocation Regulations 2022**

#### **SSI 2022/166**

The above instrument was made in exercise of the powers conferred by section Articles 53 and 57(a) of retained Regulation (EC) No. 178/2002 of the European Parliament and the Council on laying down the general principles and requirements of food law and laying down procedures in matters of food safety. The instrument is subject to negative procedure.

#### **Summary Box**

<p>The Food and Feed Safety (Fukushima Restrictions) (Scotland) Revocation Regulations 2022 will revoke retained Commission Implementing Regulation (EU) 2016/6 imposing special conditions governing the import of feed and food originating or consigned from Japan following the accident at the Fukushima nuclear power station. These Regulations also revoke Declaration OFFC 2019/S/003 which was made in terms of regulation 35 of the Official Feed and Food Controls (Scotland) Regulations 2009 and which also imposed controls on the import of certain food and feed from Japan as a result of the Fukushima nuclear accident.</p>
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#### **Policy Objectives**

The instrument is required to give legislative effect to the Minister's decision with respect to the outcome of a review of retained Regulation (EU) 2016/6 which imposes special conditions governing the import of food and feed from Japan following the 2011 nuclear accident.

The Regulation includes the requirement to review the controls to ensure they remain proportionate to protect public health. Following the UK's exit from the EU, this Regulation was retained in Great Britain (GB) along with the requirement for the appropriate authority to review these controls. The appropriate authority are Ministers in Scotland. Food Standards Scotland (FSS) has undertaken the review under its function of developing policy and providing advice relating to matters connected with food safety as provided in Section 3 of The Food (Scotland) Act 2015. The review has followed the risk analysis process established by FSS and the Food Standards Agency (FSA), including an assessment of the risk to public health from consuming Japanese food imported into the UK, if the maximum levels on radiocaesium for food imported from Japan are removed. The conclusion of the risk assessment is that the removal of the maximum levels on radiocaesium for imported food and feed from Japan would result in a negligible increase in dose and a high certainty that the associated risk to consumers is negligible.

The decision of the future of the controls in Scotland rests entirely with the Scottish Ministers and the outcome of that decision is the focus of this Scottish Statutory Instrument (SSI). This SSI will revoke Regulation 2016/6, removing the existing enhanced controls on food and feed which specifically apply to contamination as a result of the Fukushima nuclear accident. This instrument will apply to Scotland only. Not progressing this SSI would mean that the Minister's decision would have no legal effect.

In addition, this SSI will revoke declaration OFFC 2019/S/003. This declaration was made under Regulation 35 of the Official Food and Feed Controls (Scotland) Regulations 2009

(OFFC). Regulation 35 was revoked by regulation 3(2) of the Food and Feed (EU) Exit (Scotland) (Amendments) Regulations 2020, with a savings provision made under regulation 3(4). This states that notwithstanding the revocation of regulation 35, any declaration made under regulation 35 that applies immediately before the revocation comes into force, continues to have effect as if it were made under Article 53 of Regulation 178/2002. Therefore it is appropriate that revocation of the declaration be by way of Scottish Statutory Instrument.

### **Consultation**

To comply with the requirements of Article 9 of retained Regulation (EC) 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law and laying down procedures in matters of food safety, there has been open and transparent public consultation during the preparation and evaluation of this SSI.

A nine-week public consultation was launched on 10 December 2021 and closed on 11 February 2022. We asked for comments from industry, enforcement authorities, consumers and other interested stakeholders on our risk management options. The FSS preferred option was the removal of the existing enhanced controls in line with the outcome of the risk assessment which indicates that this would represent a negligible increase in dose and high certainty that the associated risk to UK consumers is negligible.

FSS received one response from a Scottish local authority supporting the removal of the controls based on the risk assessment showing a negligible risk to consumers. While this is a small number of responses, this reflects the very small size of the market represented by the foods under these controls. The response did not alter the FSS view. The FSA launched a separate, parallel consultation for England and Wales and received a total of 8 responses. Responses received by FSA did not provide evidence that contradict or challenge the conclusions of our risk assessment concerning the impact on risk to GB consumers if these enhanced controls are removed. Discussions were held on a four-nation basis, in line with the provisional Food and Feed Safety and Hygiene Common Framework, to address any devolved concerns and ensure alignment. The views of FSS and the FSA in England and Wales were agreed on.

A list of those FSS consulted, with the exception of private individuals, and who agreed to the release of this information is attached to the consultation page published on [Citizen Space](#).

### **Impact Assessment**

FSS and FSA risk assessors have produced [a risk assessment](#). The conclusion of the risk assessment is that the removal of the 100 Bq/kg maximum level on radiocaesium for imported Japanese food would result in a negligible increase in dose and a high certainty that the associated risk to UK consumers is negligible. The risk assessment has been independently reviewed by the Committee on Medical Aspects of Radiation in the Environment (COMARE), a scientific advisory committee of the Department of Health and Social Care. COMARE agreed with the findings of the risk assessment.

### **Financial Effects**

A UK-wide Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. The Net Benefit (Present Value) of removing controls is estimated to be £0.018m (low estimate £0.002m, high estimate £0.034m). Other key non-monetised benefits include perishability savings (a reduction in products spoiling at port while official controls take place)

and trade facilitation. During the public consultation, no evidence was presented to alter this impact assessment.

Food Standards Scotland  
6 May 2022