

Rural Affairs, Islands and Natural Environment Committee

3rd Meeting, 2023 (Session 6), Wednesday, 1 February

Subordinate legislation

1. This paper supports the Committee's consideration of three Scottish statutory instruments (SSI) subject to the negative parliamentary procedure—
 - [Official Controls and Import Conditions \(Transitional Periods\) \(Miscellaneous Amendment\) \(Scotland\) Regulations 2022 \(SSI 2022/371\)](#);
 - [Red Rocks and Longay Marine Conservation Order 2022 \(SSI 2022/372\)](#); and
 - [Food and Feed \(Miscellaneous Amendments\) \(Scotland\) Regulations 2022 \(SSI 2022/373\)](#).
2. Further information relating to the negative parliamentary procedure is set out in paragraphs 27 and 28.

Official Controls and Import Conditions (Transitional Periods) (Miscellaneous Amendment) (Scotland) Regulations 2022 (SSI 2022/371)

3. The SSI was laid on 14 December 2022 and came into force on 1 January 2023. The deadline for subject committee consideration is 6 February 2022.
4. The regulations are made using powers conferred by Regulation (EU) 2017/625 and the Trade in Animals and Related Products (Scotland) Regulations 2012.
5. This instrument amends the Official Controls (Extension of Transitional Periods) Regulations 2021 and Commission Decision 2000/572/EC to extend the transitional periods for the import of animals and goods from certain third countries and territories until 31 January 2024.
6. Members will recall that the UK Government, with the consent of the Scottish Government, has implemented several extensions to the transitional staging period (TSP) which have postponed the normal requirements of sanitary and phytosanitary checks (SPS) on animals and goods imported from the EU and certain other countries and territories. Ahead of the end of the last extension (which expired on 31 December 2022), the [UK Government issued a written statement on 28 April 2022 to suspend further introduction of border controls until the end of 2023](#). The policy note states the extension to January 2023 was to avoid disruption over the busy Christmas and new year period and to allow the Scottish Government to continue to work with other UK administrations to finalise

and implement the target operating model. The [UK Government has indicated it will publish a draft Target Operating Model \(TOM\) in early 2023](#) (delayed from autumn 2022), setting out how it intends to deliver the 2025 Border Strategy, for consultation and that it aims to publish the final TOM later in early 2023.

7. The Scottish Government consulted key stakeholders regarding the extension of the TSP. 11 responses were received and the policy note states the majority of these agreed with the proposed changes.
8. More information on the instrument is set out in the policy note attached at **Annexe A**.
9. The DPLRC considered the instrument at its meeting on [10 January 2023](#) and agreed to draw the instrument to the Parliament's attention on the grounds that it had breached the requirements under the Interpretation and Legislative Reform (Scotland) Act 2010 for an instrument to be laid at least 28 days before it comes into force.
10. In correspondence with the Presiding Officer (**Annexe B**), the Scottish Government states that the intention was for this provision to be made via a UKSI but that, "due to numerous UK Government delays in agreeing policy, it has been decided to pursue separate Scottish legislation" at a late stage.

Red Rocks and Longay Marine Conservation Order 2022 (SSI 2022/372)

11. The SSI was laid on 15 December 2022 and comes into force on 9 February 2023. The deadline for subject committee consideration is 6 February 2022.
12. The regulations are made using powers conferred the Marine (Scotland) Act 2010.
13. This instrument prohibits certain activities in the Red Rocks and Longay Marine Protected Area (MPA) in order to provide permanent protection for flapper skate eggs and the egg laying habitat in order to help meet the conservation objectives of the MPA.
14. Flapper skate is a species of skate found in the north-east Atlantic. Its range has reduced significantly and catch rates have declined throughout the 20th century.
15. In 2021, approximately 100 flapper skate eggs were identified in the Inner Sound of Skye. As a result, the Red Rocks and Longay MPA was designated on an urgent basis and an urgent marine conservation order was made to further the conservation objectives for the MPA. The MPA was re-designated in December 2021 to extend the site boundary following the discovery of an estimated 725 further flapper skate eggs outside the original site boundary. The urgent marine conservation order was extended for up to a further year and a permanent MPA and marine conservation order were proposed.

16. The permanent MPA and order come into effect at the same time and would restrict activities which may adversely affect flapper skate and their eggs. This would include the deployment and use of all bottom contacting fishing gear, sea angling, aquaculture, anchorages and moorings, deposits on the seabed and marine infrastructure within the MPA. Scientific research activities may be authorised by a permit.
17. A public consultation on a permanent MPA took place between 1 February and 26 April 2022. 61 responses were received, with 57 in support of and only two opposed to a permanent MPA being designated. 55 out of 60 respondents also noted their support for the scientific evidence and 48 out of 60 agreed with the list of proposed protected features. 38 out of 58 also agreed with the list of prohibited activities included in the draft Order. After taking into account the representations received, the Scottish Government concluded that the proposal should remain unchanged.
18. More information on the instrument is set out in the policy note attached at **Annexe C**.
19. The DPLRC considered the instrument at its meeting on 10 January 2023 and agreed no points arose.

Food and Feed (Miscellaneous Amendments) (Scotland) Regulations 2022 (SSI 2022/373)

20. This SSI was laid on 15 December 2022 and comes into force on 9 February 2023. The deadline for subject committee consideration is 12 December 2022.
21. The regulations are made using powers conferred by Regulation (EC) No. 1831/2003 of the European Parliament and of the Council on additives for use in animal nutrition and the European Union (Withdrawal) Act 2018.
22. This instrument amends domestic legislation to address deficiencies related to EU exit in the areas of food contact materials, extraction solvents, animal feed and food information. It also makes minor miscellaneous amendments to the Feed Additives (Authorisations) (Scotland) Regulations 2022 and related Commission Implementing Regulations.
23. This Instrument amends several instruments relating to food and feed in order to reproduce the content of four Commission Directive Annexes into schedules of domestic legislation. The policy note states this is necessary as the cross references to the EU Directives are no longer relevant and that it would enable amendments to be made in the future and provide greater clarity for enforcement authorities and industry.
24. The policy note details the specific amendments, which it also states do not make any substantial policy changes.

25. More information on the instrument is set out in the policy note attached at **Annexe D**.

26. The DPLRC considered the instrument at its meeting on 10 January 2023 and agreed no points arose.

Parliamentary procedure – negative instruments

27. The negative parliamentary procedure is set out in Chapter 10 of the Parliament's Standing Orders. Instruments subject to the negative procedure come into force on a specified date and remain in force unless it is annulled by the Parliament. Thus, the Parliament does not need to agree to the instrument in order for it to come into force.

28. The Parliament may, however, and on the recommendation of the lead committee, recommend the instrument be annulled within 40 days of the instrument being laid. Any MSP may by motion propose to the lead committee that the committee recommends "that nothing further is to be done under the instrument". Any motion for annulment would be debated by the lead committee and a report made to Parliament.

For decision

29. The Committee is invited to note the instruments set out above.

**Rural Affairs, Islands and Natural Environment Committee clerks
January 2023**

Policy note

The Official Controls and Import Conditions (Transitional Periods) (Miscellaneous Amendment) (Scotland) Regulations 2022 (SSI 2022/371)

1. The above instrument is made in exercise of the powers conferred by:
 - (a) paragraph 2 of Annex 6 to 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;
 - (b) paragraph 10A(1) of schedule 2 of the Trade in Animals and Related Products (Scotland) Regulations 2012;
2. The instrument is subject to negative procedure.

Purpose of the instrument

3. The purpose of this instrument is to amend the Official Controls (Extension of Transitional Periods) Regulations 2021 (“the 2021 Regulations”) and Commission Decision 2000/572/EC, which lays down animal and public health and veterinary certification conditions for imports of meat preparations from third countries. The amendments extend transitional periods which apply in relation to the import of animals and goods which originate from certain third countries and territories.

Policy Objectives

4. The UK Government (with the consent of the Scottish Government) has implemented several extensions of the transitional staging period which has postponed the normal requirements of sanitary and phytosanitary checks (SPS) on animals and goods from the EU and certain other countries and territories under Regulation (EU) 2017/625 the Official Control Regulation (OCR) since they were originally due to be implemented in 2021.
5. The most recent extension was implemented legislatively by *The Official Controls (Extension of Transitional Periods) (Amendment) Regulations 2021*. This UK SI was made on 7 June 2022 and laid in the UK Parliament on 8 June 2022 and agreed by the Scottish Parliament in line with Scottish Parliament protocols.
6. *The Meat Preparations (Import Conditions) (Scotland) Amendment Regulations 2022* also implemented further extensions to the current suspension of the requirement for meat preparations imported into Scotland from EEA member states, the Faroe Islands, Greenland or Switzerland to be deep frozen at the plant of origin prior to import. This allowed imports of chilled meat preparations from

¹ [The Official Controls \(Extension of Transitional Periods\) \(Amendment\) Regulations 2022](#)

² [The Meat Preparations \(Import Conditions\) \(Scotland\) Amendment Regulations 2022](#)

those countries to Scotland to continue until 31 December 2022, in line with the extension of the end date of the transitional staging period made by *The Official Controls (Extension of Transitional Periods) (Amendment) Regulations 2021*³

7. The most recent extension expires on 31 December 2022, at which point the requirement for checks at border control posts under the OCR will come into effect, unless further legislation to extend the transitional staging period is made before then.
8. The UK Government issued a Written Statement on 28 April 2022, which set out the UK Government's intention to suspend further introduction of border controls until the end of 2023, and that the UK Government would be accelerating their programme to digitise Britain's borders. The statement also outlined that this re-envisioned approach would be presented in a UK Government-led Target Operating Model (TOM)⁴, in autumn 2022 with an implementation date by the end of 2023. The delays to the publication of the TOM have held up progress from UK Government on sharing drafts of a further UK wide SI extending the end of the TSP.
9. This SSI therefore further amends the original intended timetable with the transitional staging period extended until 31 January 2024 with the SPS checks scheduled to come into effect in January 2023 following this new timetable. Similarly, having regard to the animal health situation of the countries and territories concerned, the SSI also further permits the importation of meat preparations which have not been deep frozen from EEA states, the Faroe Islands, Greenland and Switzerland to continue from 1 January 2023 until 31 January 2024.
10. This SSI will mirror the extension period to be put in place by the Welsh and UK Government. The decision to extend the TSP to January 2024 is to avoid disruption over the busy Christmas and New Year period.
11. A further extension to the TSP will therefore allow the Scottish Government to continue to work with other UK Administrations to finalise and implement the TOM, to ensure a coherent, effective and efficient system of controls can be introduced, thereby enhancing biosecurity and minimising the impact on importers.

Consultation

12. In accordance with Article 144(7) of the OCR the Scottish Ministers consulted such bodies or persons as appeared to them to be representative of the interests likely to be substantially affected by these Regulations and such other bodies or persons as they considered appropriate. A short targeted consultation ran from 8 December 2022 to 12 December 2022 summarising the changes to be made by this instrument and inviting comments, in particular on the impact of revising the timeline for phased introduction of SPS checks, and on the potential impact if this instrument were not to be brought into force. The consultation was targeted at key stakeholders in the SPS sector, including representative trade and industry

³ [The Official Controls \(Extension of Transitional Periods\) \(Amendment\) Regulations 2022](#)

organisations, interest groups and port authorities. At the close of consultation, the Scottish Government had received 11 responses, the majority of which were in agreement with the Scottish Government's proposals.

13. Officials will continue to work closely with UKG and Devolved administrations on their approach to the extension to the end of the TSP to ensure consistency across all GB administrations.

Impact Assessments

14. Full impact assessments have not been prepared for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. There is expected to be no impact on business, charities or voluntary bodies.

Financial Effects

15. The Cabinet Secretary for Rural Affairs and Islands confirms that no BRIA is necessary, as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Agriculture and Rural Economy Directorate
13 December 2022

The Official Controls and Import Conditions (Transitional Periods) (Miscellaneous Amendment) (Scotland) Regulations 2022

Letter from the Scottish Government to the Presiding Officer, 14 December 2022

1. The Official Controls and Import Conditions (Transitional Periods) (Miscellaneous Amendment) (Scotland) Regulations 2022 was made by the Scottish Ministers in exercise of the powers conferred by paragraph 2 of Annex 6 to Regulation (EU) 2017/625⁴, and paragraph 10A(1) of schedule 2 of the Trade in Animals and Related Products (Scotland) Regulations 2012⁵. It is being laid before the Scottish Parliament today, 14 December and comes into force on 1 January 2023.
2. Section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 sets out that a negative SSI must be laid before the Scottish Parliament at least 28 days before the instrument comes into force. On this occasion, this has not been complied with and to meet the requirements of section 31(3) that Act, this letter explains why.
3. In order to bring the instrument into force on 1 January 2023, the Scottish Government has, on this occasion, been unable to lay this negative instrument before the Scottish Parliament at least 28 days before it comes into force.
4. The UK Government (with the consent of the Scottish Government) has implemented several extensions of the transitional staging period which has postponed the normal application of sanitary and phytosanitary checks (SPS) on animals and goods from the EU and certain other countries and territories under the Official Control Regulations (OCR) since they were originally due to be implemented in 2021. The most recent extension expires on 31 December 2022, at which point the requirement for checks at border control posts under the OCR will come into effect, unless legislation to once again extend the transitional staging period is made before then. Similarly, an exemption for meat preparations originating in certain countries and territories, from the import condition that they be deep frozen at the plant of origin expires on 31 December 2022. In order to continue the transitional staging period, and the exemption from the import condition for meat preparations this instrument must be brought into force on 1 January 2023.
5. It has not been possible to make and lay this instrument before now. The former UK Minister for Brexit Opportunities and Government Efficiency issued a [Written Statement](#) on 28 April 2022, which set out the UK Government's intention to

⁴ EUR 2017/625. Annex 6 was inserted by S.I. 2020/1481. The Scottish Ministers are the appropriate authority in relation to Scotland by virtue of Article 3(2A)(c)

⁵ S.S.I. 2012/177. Paragraph 10A of schedule 2 was inserted by S.S.I. 2021/138

suspend further introduction of border controls until the end of 2023, and that the UK Government would be accelerating their programme to digitise Britain's borders. In that statement the then Minister outlined the reenvisioned approach would be presented in a UK Government-led Target Operating Model, due for publication in the autumn and implemented by the end of 2023.

6. It had been anticipated that in order to implement an extension of the transitional staging period in line with the development and implementation of a Target Operating Model, that a UK Statutory Instrument would have been brought forward in good time for Parliamentary consideration. Due to numerous UK Government delays in agreeing policy it has been decided to pursue separate Scottish legislation. The UK Government agreed on 9 December 2022 to Scottish and Welsh Government proposals to extend the transitional staging period to 31 January 2024. On this basis the transitional staging period is being extended until 31 January 2024, in alignment with legislation that will be made by the other administrations in Great Britain.
7. It had also been planned that a Scottish Statutory Instrument would have been made in good time to extend the current suspension of the requirement for meat preparations imported from EEA member states, the Faroe Islands, Greenland or Switzerland to be made once the UKG position on the extension of the transitional staging period, and whether a similar suspension of the condition would be applied to meat preparations imported into England, was known. Having regard to the animal health situation in those countries and territories, we do not consider it necessary to impose that requirement. Again though due to repeated UK Government delays in clarifying policy this instrument is now being made at the earliest possible opportunity to ensure that the exemption from the import condition for meat preparations will continue to apply.
8. The Scottish Government is cognisant of the difficulties that breaching the 28 day rule poses in terms of Parliamentary scrutiny, and regret that on this occasion it has been impossible to comply with this requirement.

Policy note

The Red Rocks and Longay Marine Conservation Order 2022

SSI 2022/372

1. The Red Rocks and Longay Marine Conservation Order 2022 (“the Order”) is made by the Scottish Ministers in exercise of the powers conferred by sections 85(1)(a), (2) and (4), 86(1) and (3), 92(1) and (5) and 93(1) of the Marine (Scotland) Act 2010 (“the 2010 Act”) and all other powers enabling them to do so.

Policy Objectives

2. The purpose of this instrument is to prohibit certain activities in the Red Rocks and Longay Marine Protected Area (MPA), providing permanent protection for flapper skate eggs and egg laying habitat. This is in furtherance of the conservation objectives for the Red Rocks and Longay Marine Protected Area (“the MPA”). The permanent designation of the MPA takes effect on 09 February 2023.

Policy Background

3. Flapper skate (*Dipturus intermedius*) was historically abundant in the North-east Atlantic and widely distributed in the seas surrounding the British Isles. However its range has reduced significantly and catch rates declined throughout the 20th century. Currently, flapper skate distribution is known to encompass the southern coast of Norway, all Scottish coastlines, north-eastern England, the island of Ireland, northern France, Portugal and the Azores, with sites off the west coast of Scotland thought to be a stronghold for the species. Part of the common skate complex (along with blue skate), flapper skate is on the OSPAR Threatened and/or Declining Species and Habitats List and the list of Priority Marine Features⁶.
4. The Red Rocks and Longay MPA was first designated on 10 March 2021, following provision of advice from NatureScot regarding the discovery of flapper skate eggs in the Inner Sound of Skye. According to section 3 of the 2010 Act, Scottish Ministers must act in a way best calculated to further the achievement of sustainable development, including the improvement of the health of the Scottish Marine Area, when exercising any function that affects that Area under the Act. In 2021, having identified approximately 100 flapper skate eggs, Scottish Ministers determined there was a need to act in a way that helped recovery, and therefore improve the health of our seas. In accordance with section 77(1) of the 2010 Act, an MPA designated on an urgent basis can only be in place for up to

⁶ Priority Marine Features are species and habitats which have been identified as being of conservation importance to Scotland. Most are a subset of species and habitats identified on national, UK or international lists. For further information, see [Scotland’s National Marine Plan](#).

two years.

5. At the same time as the Red Rocks and Longay MPA was urgently designated, an urgent Marine Conservation Order (MCO) was made on 10 March 2021 to further the conservation objectives for the Red Rocks and Longay MPA. The MPA was re-designated in December 2021 to extend the site boundary due to discovery of an estimated 725 further flapper skate eggs outside the original site boundary, and the urgent MCO was revoked and replaced by The Red Rocks and Longay Urgent Marine Conservation (No 2) Order 2021 to make reference to the re-designated MPA, to further the conservation objectives for the MPA.
6. In accordance with section 88(2) of the 2010 Act, an MCO made on an urgent basis can only last for a maximum of one year. However, the Scottish Ministers may extend such an order for up to a further year by making an urgent continuation order in accordance with section 88(6) and (7) of the 2010 Act. If making an urgent continuation order, the Scottish Ministers must have published notice of their proposal to make a permanent MCO. On this basis, the Scottish Ministers extended the duration of the urgent MCO pursuant to Red Rocks and Longay Urgent Marine Conservation (No. 2) Order 2021 (Urgent Continuation) Order 2022 and published notice of their proposal to make a permanent MCO for Red Rocks and Longay. At the same time, the Scottish Ministers also published notice of their proposal to make a permanent MPA for Red Rocks and Longay.
7. Following the public consultation (as described further below) Scottish Ministers have determined that Red Rocks and Longay merits designation as a permanent MPA to protect flapper skate and their eggs and the Quaternary of Scotland geodiversity feature.
8. To further the conservation objectives for the permanent MPA, the Order has been made to restrict activities which may adversely affect flapper skate and their eggs, including deployment and use of all bottom contacting fishing gear, sea angling, aquaculture, anchorages and moorings, deposits on the seabed and marine infrastructure within the MPA. Flapper skate eggs are highly sensitive to disturbance and take around 18 months to hatch. The range in stages of egg development indicates the area has been used for egg-laying for at least two years which means the Order is considered necessary to ensure that the permanent MPA can achieve its conservation objectives.
9. Some activities that may otherwise be prohibited by the Order may be authorised to take place for the purposes of scientific research. The Order makes provision for those activities to be authorised by way of a permit, provided that Ministers are satisfied there is no significant risk of the activity hindering the achievement of the conservation objectives for the MPA.
10. The permanent MPA takes effect at the same time as the Order as it provides the boundary of the site and therefore defines the spatial extent of the measures contained in the Order.

Consultation

11. A public consultation on the case for making a permanent MPA took place between 01 February 2022 and 26 April 2022. At the same time, a draft of the Order was made available, and sent to stakeholders that could be interested in or affected by the making of the Order in accordance with section 87 of the 2010 Act.
12. A total of 61 responses were received to the consultation, with 57 in support of and only two opposed to a permanent MPA being designated . Those supporting the designation included individuals, environmental organisations and fishing industry. 55 out of 60 respondents also noted their support for the scientific evidence.
13. A majority of respondents, 48 out of 60, agreed with the list of proposed protected features. 38 out of 58 also agreed with the list of prohibited activities included in the draft Order. Those supporting the draft Order included individuals and environmental organisations.
14. Having taken into account the representations received, the Scottish Government concluded that the proposal should remain unchanged. The consultation analysis report has been published at:
<http://www.gov.scot/ISBN/9781804359129>.

Impact Assessments

15. A Business and Regulatory Impact Assessment (“BRIA”) has been carried out for the Order and has been provided as a separate document.
16. An Equality Impact Assessment and a full Islands Community Impact Assessment were not required.

Scottish Government
Directorate for Marine Scotland
07 December 2022

Policy note

The Food and Feed (Miscellaneous Amendments) (Scotland) Regulations 2022 SSI 2022/373

1. The above Instrument was made in exercise of the powers conferred by Articles 9(1), 13(6) and 18A(3) of Regulation (EC) No. 1831/2003 and conferred by paragraph 1(1) and (3) of Schedule 2 and paragraph 21(b) of Schedule 7 of the European Union (Withdrawal) Act 2018. The Instrument is subject to negative procedure.

Summary

2. The purpose of this Instrument is to amend domestic legislation in relation to food contact materials, extraction solvents, animal feed and food information in order to correct deficiencies in relation to EU Exit.
This Instrument also makes minor miscellaneous amendments to the Feed Additives (Authorisations) (Scotland) Regulations 2022, and related Commission Implementing Regulations (EU) No's 787/2013, 2015/1020 and 2017/2276.

Policy Objectives

3. The Instrument amends several instruments relating to food and feed. The purpose of the Instrument is to reproduce the content contained in four Commission Directive Annexes into schedules of domestic legislation rather than the domestic legislation continuing to refer to the Annexes of Commission Directives. As the UK is no longer a Member State of the EU the cross references to the EU Directives are no longer suitable. Without this Instrument, references in our domestic law to these Annexes of Directives will remain as they were at the end of the Implementation Period. By including the content of these Commission Directive Annexes within their corresponding domestic regulations this will enable amendments to be made in the future and will provide greater clarity for enforcement authorities and industry.
4. The amendments do not make any substantial changes – they reproduce the terms of EU law into the domestic statute book and no more – but they ensure continuity in Scots law by:
 - amending the Animal Feed (Scotland) Regulations 2010 to reproduce the contents of the Annex to Commission Directive 82/475/EEC laying down the categories of feed materials which may be used for the purposes of labelling compound feeding stuffs for pet animals as a Schedule
 - amending the Animal Feed (Scotland) Regulations 2010 to reproduce the contents of Annexes 1 and 2 to Commission Directive 2002/32/EC on

undesirable substances in animal feed as Schedules. Annex I sets out the maximum levels of undesirable substances permitted in products intended for animal feed and Annex II contains the action thresholds triggering investigations

- amending the Materials and Articles in Contact with Food (Scotland) Regulations 2012 to reproduce the contents of Annexes 1 and 2 from Commission Directive 2007/42/EC relating to materials and articles made of regenerated cellulose film intended to come into contact with foodstuffs
 - amending the Food Additives, Flavourings, Enzymes and Extraction Solvents (Scotland) Regulations 2013 to reproduce the contents of Annex 1 from Directive 2009/32/EC on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients
 - amending the Food Information (Scotland) Regulations 2014 to remove redundant references to Regulation (EU) No 1169/2011.
5. Regulation 5 of the instrument makes minor amendments to the Feed Additives (Authorisations) Scotland Regulations 2022. These amendments make various miscellaneous corrections to those 2022 Regulations, and related amendments are made by Regulations 2, 3 and 4 to Commission Implementing Regulations (EU) Nos 787/2013, 2015/1020 and 2017/2276.

Statements required by European Union (Withdrawal) Act 2018

Statement that in their opinion Scottish Ministers consider that the regulations do no more than is appropriate

6. The Minister for Public Health, Women's Health and Sport, Maree Todd MSP has made the following statement "In my view The Food and Feed (Miscellaneous Amendments) (Scotland) Regulations 2022 do no more than is appropriate". This is the case because it makes only minor and technical amendments to Scottish Secondary Legislation to ensure that food and feed legislation continues to operate effectively following UK exit from the EU.

Statement as to why the Scottish Ministers consider that there are good reasons for the regulations and that this is a reasonable course of action

7. The Minister for Public Health, Women's Health and Sport has made the following statement "In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action". This is because the instrument makes only those amendments to Scottish secondary legislation which are needed to ensure that legislation on food and feed continues to operate effectively following UK exit from the EU. The amendments are minor and technical in nature to ensure legislative operability only.

Statement as to whether the SSI amends, repeals or revokes any provision of equalities legislation, and, if it does, an explanation of that amendment, repeal or revocation

8. The Minister for Public Health, Women's Health and Sport has made the following statement "In my view The Food and Feed (Miscellaneous Amendments) (Scotland) Regulations 2022 do not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts."

Statement that Scottish Ministers have, in preparing the regulations, had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010

9. The Minister for Public Health, Women's Health and Sport has made the following statement "In my view The Food and Feed (Miscellaneous Amendments) (Scotland) Regulations 2022 have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010."

Additional information provided for EU Exit instruments in terms of the protocol agreed between the Scottish Government and the Scottish Parliament

Statement that Scottish Ministers have, in preparing the regulations, had due regard to the guidance principles on the environment and animal welfare

10. The Minister for Public Health, Women's Health and Sport has made the following statement "In my view The Food and Feed (Miscellaneous Amendments) (Scotland) Regulations 2022 have had due regard to the need to the guiding principles on the environment and animal welfare as derived from the equivalent principles provided for in Articles 13 and 191(2) in Titles II and XX respectively of the Treaty on the Functioning of the European Union."

Statement explaining the effect (if any) of the regulations on rights and duties relating to employment and health and safety and matters relating to consumer protection (so far as is within devolved competence)

11. The Minister for Public Health, Women's Health and Sport has made the following statement "In my view the Food and Feed (Miscellaneous Amendments) (Scotland) Regulations 2022 have no effect on the rights and duties relating to employment, health and safety and matters relating to consumer protection. This is because the minor technical amendments do not make any policy changes and ensure the current high level of public health protection, with regard to food and feed law, is maintained after the UK exits the EU."

An indication of how the regulations should be categorised in relation to the significance of the change proposed.

12. Low – this instrument is only making minor technical amendments with no changes in policy, to allow for domestic regulations to function effectively following UK exit from the EU.

Statement setting out the Scottish Ministers' reasons for their choice of procedure

13. The Minister for Public Health, Women's Health and Sport has made the following statement regarding use of legislative powers in the European Withdrawal Act 2018 "In my view the Food and Feed (Miscellaneous Amendments) (Scotland) Regulations 2022 are subject to negative procedure." This is the case because the regulations comply with the requirement for the negative procedure under paragraph 1(3) of schedule 7 of the European Union (Withdrawal) Act 2018 and, in particular, do not contain provisions of the type listed in paragraph 1(2) of that schedule. The instrument contains only minor and technical amendments to Scottish secondary legislation.

Consultation

14. In compliance with the requirements of Article 9 of Regulation (EC) No 178/2002, there has been an open and transparent public consultation during the preparation of this Instrument. The public consultation was open from 12th September 2022 until 10 October 2022. One response was received to the consultation. This response was from an industry trade body and was supportive of the proposed amendments. They highlighted no concerns with the amendments or with regards to costs or burdens for industry. A summary of the consultation and the response can be found on Citizen Space here: [The Food and Feed \(Miscellaneous Amendments\) \(Scotland\) Regulations 2022 - Food Standards Scotland - Citizen Space](#)

Impact Assessments

15. Given the feedback from stakeholders, FSS consider that a specific Business and Regulatory Impact Assessment (BRIA) is not required in this instance. This Instrument does not introduce any new costs to business or industry. No other impact assessments are required.

Financial Effects

The Minister for Public Health, Women's Health & Sport confirmed that no BRIA is necessary as the Instrument has no financial effects on the Scottish Government, local government, voluntary bodies or on business.

