

Consultation on The Food and Feed Hygiene and Safety (Miscellaneous Amendments) Regulations (Northern Ireland) 2021

Launch date: 19 April 2021

Respond by: 23 May 2021

This consultation will be of most interest to

All food and animal feed businesses, local authorities and other enforcement authorities responsible for undertaking official controls. The consultation may also be of note to other stakeholders with an interest in food and feed hygiene and safety law that applies to Northern Ireland.

Consultation subject

This consultation concerns the proposed amendments to Northern Ireland domestic legislation relating to official controls and other official activities performed to ensure the application of food and feed law, and to technical amendments to food and feed hygiene and safety law that applies in Northern Ireland.

Purpose of the consultation

To seek stakeholders' views and comment in relation to:

- The proposed amendments to Northern Ireland domestic legislation on official controls and other official activities performed to ensure the application of food and feed law, and to technical amendments to food and feed hygiene and safety law that applies in Northern Ireland.
- Our assessment of the impact associated with the implementation of these amendments into Northern Ireland domestic law.

How to respond

Responses to this consultation should be sent to [executive.support@food.gov.uk]

Details of consultation

Introduction

The Official Control Regulation (EU) 2017/625 sets out a framework of requirements for competent authorities organising and performing official controls and other official activities to verify compliance with agri-food chain legislation. Regulation (EU) 2017/625 has applied in Northern Ireland since 14 December 2019.

Most of the provisions of Regulation (EU) 2017/625, and the tertiary legislation made under it, clarify and simplify existing requirements and aim to introduce a more risk-based approach to controls. Therefore, existing enforcement arrangements in Northern Ireland are generally already in line with the new requirements.

Legislation, that provided for the execution of powers and enforcement in Northern Ireland, of the Official Control Regulation (EU) 2017/625 in relation to food and feed hygiene and safety has been in operation since 14 December 2019 when the main application of Regulation (EU) 2017/625 took effect.

The proposed The Food and Feed Hygiene and Safety (Miscellaneous Amendments) Regulations (Northern Ireland) 2021 (the 2021 Regulations) will amend the Official Feed and Food Controls Regulations (Northern Ireland) 2009 and the Food Hygiene Regulations (Northern Ireland) 2006 to update references and to give effect to the relevant elements of EU Tertiary Regulations made under Regulation (EU) 2017/625 since November 2019. This ensures that competent authorities in Northern Ireland continue to have the powers to undertake checks required by this legislation to verify compliance with food and feed hygiene and safety law.

The proposed 2021 Regulations will also make technical amendments to Northern Ireland domestic legislation relating to food and feed hygiene and safety. A draft of these proposed 2021 Regulations is provided (Annex A).

Main proposals:

Amendments relating to official controls and other official activities

The proposed 2021 Regulations will amend the Official Feed and Food Controls Regulations (Northern Ireland) 2009 (the 2009 Regulations) and the Food Hygiene Regulations (Northern Ireland) 2006 (the 2006 Regulations) to update references and to give effect to the relevant elements of EU Tertiary Regulations made under Regulation (EU) 2017/625 since November 2019.

The amendments to the 2009 Regulations will also include:

- an update to references to recent tertiary legislation made under Regulation (EU) 2017/625 regarding existing offences in relation to certification arrangements for sprouts and seeds intended for the production of sprouts.
- a proposed regulation 41A on fees or charges arising from unplanned official controls pursuant to Article 79(2)(c) in respect of food and feed official controls. This provision replaces regulation 41, for charging for unplanned official controls pursuant to Article 28 of Regulation (EC) 882/2004, in the 2009 Regulations, and is a continuation of existing policy.

Technical amendments to food and feed hygiene and safety law that applies in Northern Ireland

The 2021 Regulations will correct minor drafting errors by amending:

- the Fishery Products (Official Controls Charges) Regulations (Northern Ireland) 2007 (the 2007 Regulations) to remove a definition of tertiary legislation, Commission Delegated Regulation (EU) 2019/624, in the 2007 Regulations which was not used in the body of the 2007 Regulations.
- the Animal Feed (Composition, Marketing and Use) Regulations 2016 (the 2016 Regulations) to fix a typographical error in regulation 19 of the 2016 Regulations in reference to Regulation (EC) No 1829/2003.

The 2021 Regulations will also revoke provisions in the Food Hygiene Regulations (Northern Ireland) 2006 (the 2006 Regulations). These provisions were inserted into the 2006 Regulations in November 2020 to ensure Northern Ireland food businesses continued to meet the necessary requirements on the form and application of health and identification marks for products of animal origin at the end of the Implementation Period and to reflect the application of the Ireland/Northern Ireland Protocol. Subsequent amendments in January 2021 to EU food law in relation to the form and application of health and identification marks, which came into force in January 2021, have resulted in these provisions being no longer necessary. This proposed technical revocation does not result in any change in policy relating to the requirements on the form and application of health and identification marks for products of animal origin produced in Northern Ireland.

Impacts

An Impact Assessment is provided (Annex B) which seeks to assess the impact in Northern Ireland, of the proposed amendments to Northern Ireland domestic legislation by the Food and Feed Hygiene and Safety (Miscellaneous Amendments) Regulations (Northern Ireland) 2021.

The FSA assessment identifies very few direct impacts on business and enforcement authorities from the implementation of these proposed amendments in Northern Ireland, and those impacts that are identified are not considered to be significant. This is largely due to the changes resulting from the Official Control Regulation (EU) 2017/625 and its tertiary legislation relating to the overarching principles of conducting official controls are already in place in Northern Ireland.

The FSA in England and Wales, and Food Standards Scotland have implemented these changes separately into their respective national legislation.

Engagement and Consultation Process

A consultation on the Official Control Regulation 2017/625 was previously undertaken by the FSA from the 29 August to 11 October 2019. <https://www.food.gov.uk/news-alerts/consultations/implementation-of-the-official-controls-regulations-northern-ireland>

There were 8 responses from Northern Ireland stakeholders. These were mainly from District Councils and were generally supportive of the proposals. The main comments of note were that the familiarisation costs had been under-estimated due to the comprehensive nature of Regulation (EU) 2017/625. The FSA updated its assumptions on familiarisation costs in line with this feedback.

Stakeholder views are now being sought on this consultation and the associated FSA Impact Assessment. The FSA would particularly welcome any evidence that stakeholders may be able to provide towards this and as such we have provided a list of questions below:

Questions asked in this consultation:

Please explain your answers as a far as possible, and where available please also include evidence to support your views.

1. Do you have any comments on the proposed amendments to Northern Ireland domestic legislation on official controls and other official activities performed to ensure the application of food and feed law, and to the technical amendments to food and feed hygiene and safety law that applies in Northern Ireland, as set out in this consultation?
2. Do you identify any concerns or risks regarding the proposed approach that appear not to have been adequately addressed?
3. Have we appropriately identified the impacts of the proposed amendments in our Impact Assessment?
4. Are you aware of any other impacts of the proposed amendments that have not been identified in this consultation?

Questions asked in the Impact Assessment (Annex B):

1. Is the total list of identified affected sectors / groups representative? If you partly agree or do not agree please identify other sectors / affected groups that should also be considered and provide reasons for your suggestion.
2. Is the estimated time of two hours per manager accurate for the purpose of familiarising the reader with the content of the statutory rule?
3. Do you agree that there is no further impact on consumers as a result of this statutory rule?

Responses

Responses are required by close 23 May 2021. Please state, in your response, whether you are responding as a private individual or on behalf of an organisation/company (including details of any stakeholders your organisation represents).

Please send response to executive.support@food.gov.uk

For information on how the FSA handles your personal data, please refer to the Consultation privacy notice at <https://www.food.gov.uk/about-us/privacy-notice-consultations>'.

Further information

If you require a more accessible format of this document please send details to the named contact for responses to this consultation and your request will be considered.

This consultation has been prepared in accordance with [HM Government consultation principles](#).

Thank you on behalf of the Food Standards Agency for participating in this public consultation.

Yours,

Food Standards Agency in Northern Ireland