

ANNEX C

PARTIAL BUSINESS AND REGULATORY IMPACT ASSESSMENT

The Feed Enforcement (Scotland) Regulations 2018

Date: 28 August 2017
Stage: Consultation
Source of intervention: Scotland
Type of measure: Domestic legislation
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1. Title of Proposal

The Feed Enforcement (Scotland) Regulations 2018

2. Purpose and intended effect

The purpose of the draft Scottish Statutory Instrument (SSI) is to transfer full competence for EU feed law from local authorities (LAs) to Food Standards Scotland (FSS) to give effect to a centralised delivery model of feed official controls in Scotland. It is intended it will be in place early 2018/19.

3. Background

During the period 2009 - 2014, the auditors of the European Union and the Food Standards Agency (FSA) identified a number of issues relating to how feed official controls were organised and delivered by local authority trading standards in Scotland, including inspection frequencies not in accordance with risk, lack of feed safety controls, including cross contamination, and concerns about officer competency.

FSA undertook a full review of how feed controls were delivered in the UK in 2012 and implementation of the outcomes of the review took place from 2013 in England, Wales and Northern Ireland. No progress was made in Scotland at that time due to the establishment of FSS which has now proceeded with development of a centralised delivery model, which aims to deliver similar improvements to that seen elsewhere in the UK.

In September 2015, the FSS Board agreed that as a result of the concerns raised at audit, and evidence from the LA enforcement returns, the model of delivery of official controls (inspections and sampling etc.) in Scotland should change. A model that has greater accountability and control, and dedicated resource, should be implemented to address concerns raised about the performance of the feed official control delivery in Scotland, in line with changes made elsewhere in the UK. In January 2016, the FSS Board agreed that the executive should develop a centralised model for delivery for implementation which is expected to be delivered in early 2018/19.

Implementation of this model will mean that LAs, identified as having expertise in feed enforcement, will be supported by FSS to deliver feed controls, on behalf of FSS, on a regional basis. FSS intends to administer and fund this work through Service Level Agreements with authorities.

The Feed Enforcement (Scotland) Regulations 2018 will apply to Scotland only and it will amend the following legislation:

The Genetically Modified Animal Feed (Scotland) Regulations 2004

The Feed (Hygiene and Enforcement) (Scotland) Regulations 2005

The Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007

The Official Feed and Food Controls (Scotland) Regulations 2009

The Animal Feed (Scotland) Regulations 2010

Rationale for Government intervention

In order for FSS to have assurance of compliance with feed law, a change of delivery model of feed official controls in Scotland is required. FSS considers that centralisation is the only feasible option available. Essential for the effective operation of a centralised model is the full transfer of competence for feed law to FSS. A new SSI is required to give effect to this change which will ensure a high level of protection of human health and consumers' interests, including the protection of animal health and welfare, and the minimisation of risks at all stages of production, processing and distribution of feed produced for, or fed to, food producing animals.

1. We invite all stakeholders to comment on the assumption that a centralised model, using local authorities to deliver on a regional basis, is required to achieve effective feed safety controls. If you disagree, please provide comments as to why you consider such a model should not be introduced. If stakeholders consider that alternative model(s) would be effective, it would be helpful to provide evidence to support this.

4. Consultation

A number of stakeholder engagement meetings (with Government and industry) took place from May to August 2016 to discuss the options available for centralisation. The details of the options and the outcomes of these stakeholder discussions may be found in Annex 1. After extensive engagement, it was considered that the model that would provide greatest assurance is the regional authority model, where FSS delegates delivery to a smaller number of LAs who will operate regionally on behalf of FSS.

Public Consultation

A 12 week consultation will be carried out in Scotland on the draft Regulation from 28 August 2017 to 20 November 2017.

During this consultation period, all the stakeholders with whom FSS previously engaged will be approached during the public consultation on the proposed SSI. All other interested parties are invited to comment via the citizen space portal on the FSS website.

5. Options

5.1 Option 1 - Do nothing

'Do nothing' is not an option that would be legally acceptable for Scottish Ministers. Scotland is legally required to provide for the enforcement of EU legislation relating to feed safety and hygiene within *inter alia* EU Regulation No. 183/2005, EU Regulation No. 178/2002 and EU Regulation No. 882/2004. If Scotland does not implement an effective model of feed delivery of official controls, this could ultimately result in non-compliance with EU feed law, risking trade and the economic prosperity of the feed industry. This could be significant in securing future trade deals following the UK's exit from the EU.

5.2 Option 2 - Introduce domestic legislation to provide a transfer of competence from local authorities to Food Standards Scotland

The SSI is intended to transfer full competence for feed law from LAs to FSS to give effect to a centralised delivery model of feed official controls for feed businesses in Scotland.

It is not possible, in the near future, to transfer competence by amendment to primary legislation (the Agriculture Act) due to a number of external factors. However, an amendment to secondary legislation will provide for the transfer of a significant proportion of the feed functions. In recent years, EC official controls for feed have been accommodated in other statute and by amendment to the Act itself. This represents a significant proportion of the work, although the Agriculture Act maintains certain requirements in relation to samples taken at the purchaser's behest and to provide a warranty, and potentially certain provisions in relation to analysts. However:

- **Samples - The Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010** anticipate that samples could be taken (and sent) pursuant to one of a number of statutes. There are circumstances whereby enforcement officers will be taking and sending samples pursuant to the Act, but the majority will be taken in the course of the EC obligations (hygiene, verification of labelling, undesirables etc.). Any samples taken under the Agriculture Act are samples taken at the request of the feed business operator.
- **Analysts -** these requirements are mirrored in the **Feed (Sampling and Analysis and Specified Undesirables Substances (Scotland) Regulations 2010** and the **Feed (Hygiene and Enforcement) (Scotland) Regulations**, as amended.

2a. Do stakeholders agree that the draft instrument gives effect to the model proposed and does not have any unintended consequences?

2b. Do stakeholders agree with the analysis of legislation presented above that The Feed Enforcement (Scotland) Regulations 2018 provide sufficient transfer of legal competence from local authorities to FSS to enable the implementation of a centralised feed delivery service? FSS would particularly like to hear from local authorities and Agriculture Analysts.

FSS is currently working with nine local authorities that intend to operate across the regions to develop systems for the implementation of the new delivery model.

Table 1 details the number of feed businesses in Scotland, according to the 2015/16 Feed Premises Register based on LA returns. However, FSS estimates that this information does not represent the full number of registered and approved feed businesses in Scotland.

Table 1 Feed Businesses in Scotland

Business type	
Approved feed businesses (feed businesses undertaking higher risk activities)	23
Manufacture and/or placing on market feed additives, premixtures, bioproteins	35
Manufacturer and/or placing on market compound, including mobile feed mixers	217
Pet Food Manufacturers	30
Manufacture and/or placing on the market of feed materials (including surplus food)	633
Transporters of feed and feed products	332
Storage of feed and feed products	208
Farms - Mixing feed on-farm, with additives and premixtures and with compound feedingstuffs which contain additives	3545
Livestock farms	10341
Arable Farms	3243
Food and non-food businesses selling co-products (e.g. distillery by products) destined as feed materials	266

LAs are currently funded through the local authority block grant to deliver this function and the proposed model which will continue to use LA resources, but on a regional basis, will result in the removal of funds from the block grant (£325,000) to enable FSS to redistribute the money to the nine LAs to fund the new delivery model directly. This means that all LAs will lose the portion of the block funding available for feed official controls, although authorities undertaking this function on a regional basis and will receive the relevant proportion for their region as well as additional funding from FSS. A breakdown of the funding to each local authority is provided in Table 2.

Table 2 The current allocated funding per Local Authority in Scotland (block grant)

Local Authority	Funding per local authority
Aberdeen City	£1000
Aberdeenshire	£62,000
Angus	£11,000
Argyll & Bute	£17,000
Clackmannanshire	£2000
Dumfries & Galloway	£38,000
Dundee City	£1000
East Ayrshire	£8000
East Dunbartonshire	£1000
East Lothian	£3000
East Renfrewshire	£1000
Edinburgh, City of	£1000
Eilean Siar	£9000
Falkirk	£2000
Fife	£9000
Glasgow	£1000
Highland	£41,000
Inverclyde	£1000
Midlothian	£2000
Moray	£12,000
North Ayrshire	£5000
North Lanarkshire	£3000
Orkney	£12,000
Perth & Kinross	£16,000
Renfrewshire	£2000
Scottish Borders	£23,000
Shetland	£8000
South Ayrshire	£7000
South Lanarkshire	£11,000
Stirling	£6000
West Dunbartonshire	£1000
West Lothian	£8000
TOTAL funding	£325,000

6. Options – Benefits and Disbenefits

6.1 Option 1 - Do nothing

Groups and Sectors affected

All parts of the feed chain are affected; from primary feed producers, feed additive/premixture manufacturers, compound feed manufacturers, hauliers, retailers, processing plants and food establishments providing surplus food to feed and therefore registered as feed businesses.

The sectors and groups affected by this legislative change are primarily LAs (who are currently responsible for this work) and feed businesses. Agricultural analysts are currently appointed by LAs to carry out feed analysis work. Under the new arrangements, FSS shall appoint analysts.

In addition, primary food producers are affected since this sector is included within the scope of the review of official controls delivery of feed because official controls for food are typically carried out alongside primary feed production, as the requirements are very similar for arable and livestock farms.

6.1.1 Consumers

Benefits: No benefits to consumers have been identified with this option ('do nothing').

Disbenefits: The safety of the feed chain, for food producing animals, has a direct impact on the food chain. The option of 'do nothing' means that the current official control delivery system will remain in place, however as deficiencies have been identified with the current model, this does not provide consumers with the level of assurance of safe food that consumers have the right to expect. 'Doing nothing' risks the safety of feed, and therefore food, within Scotland. If the current feed delivery model continues and the necessary measures and conditions to control hazards are not implemented, the fitness of the feeding stuff and of the animal products consumed could be compromised. Should there be a food contamination incident as a result of problems with animal feed, the costs associated with trade withdrawals and recalls, incident investigation and loss of trade, could push up prices of feed and food which will directly affect the consumer.

6.1.2 Local Authorities and other Government Departments

Benefits: LAs are currently responsible for the delivery of official controls. Doing nothing means that this function remains with LAs in accordance with the current arrangements. Some LAs, with dedicated staff and resources, will find this option beneficial as they can retain staff to continue to do this work.

Some LAs may carry out official controls for other purposes when present at feed businesses e.g. animal health and welfare, when on farm. 'Doing nothing' means that they can continue to carry out this function at the same time as animal feed, helping to reduce footfall and maintaining public sector efficiencies. 'Doing nothing' means that all LAs will continue with the current arrangement and retain the portion of the block funding available for feed official controls. Table 2 outlines the funding received by each LA in Scotland.

'Doing nothing' means there would be no need to develop and implement a new official control model, nor the systems required to support it.

With this option Government would incur no additional costs associated with the development of a new model and LAs would not have any costs associated with the familiarisation to a new regulation and system.

Disbenefits: The Society of Chief Officers of Trading Standards in Scotland (SCOTSS) has reported that resources available for feed are reducing. Continuing to carry out this function under the current arrangements, places an increasing burden on LAs and they

may not be in a position to invest in training on feed controls nor carry out inspections of the feed marketed and sold across Scotland, in accordance with the Feed Law Code of Practice (Scotland), risking the availability of unsafe/ non-compliant feed on the market. The investigation of a feed safety incident may have a significant impact on LA resources.

The thin spread of this function across 31 LA trading standards services means that in some cases, feed is a small part of an individual's work, risking levels of officer competence in the long term. In addition, the spread of this function results in potential inconsistency across 31 trading standards services in Scotland.

Effective feed safety and delivery of feed controls is a key objective of the FSS strategic plan. Doing nothing means that FSS would fail to deliver on its strategic objective:

Ensure that FSS and local authorities must have effective programmes of official controls to verify that food businesses are meeting their responsibilities to deliver safe food.

6.1.3 Industry

Benefits: The feed industry will continue to engage with officers from their LA in relation to feed matters. The local authority has knowledge of the history of compliance of the business which may inform their approaches to enforcement on farm for non-feed issues. Industry benefits from LAs retaining the ability to carry out feed inspections in conjunction with other official controls, where such arrangements are in place, to reduce footfall.

Disbenefits: In those LAs where feed enforcement is incidental to other work both animal and public health is potentially at risk. Industry that is fully compliant with requirements is also at a disadvantage to those who may not be compliant, but due to resourcing issues within authorities may not have been subject to appropriate enforcement action.

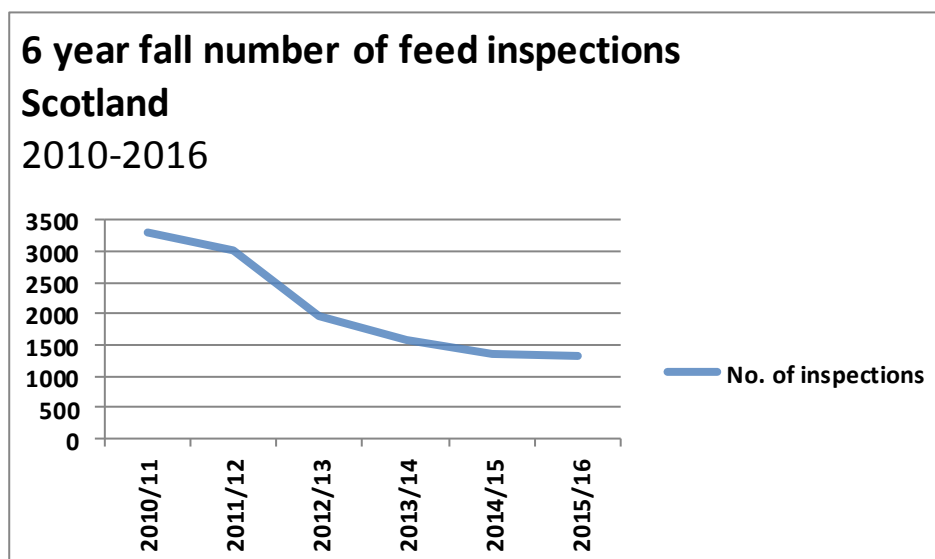
Doing nothing does not provide safeguards to the feed and food chain. Failure to fulfil the adequate delivery of feed official controls could have a detrimental effect on feed safety resulting in the potential for feed incidents and costs associated with the incident investigation, withdrawals and destruction, and loss of trade. This will have an impact on the industry in Scotland and across the UK as well as feed exported to other EU and non EU countries. This could be particularly significant in the context of the UK's exit from the EU.

If the status quo is retained, EU feed law requirements will not be fulfilled by all feed business operators. This is evidenced by reducing number of official controls (see Table 3 and graph) and by the outcomes of various FSS, FSA and Commission audits.

3. To help inform the Business and Regulatory Impact Assessment, we would like to invite all stakeholders, including local authorities and other Government departments, to comment on:

- The benefits of retaining the 'status quo' or 'do nothing' option
- The approximate financial impact and disbenefits/costs and risks of retaining the 'status quo' or 'do nothing' option. Consider the impact on feed and food safety and animal health on all stakeholder groups.

Chart 3: Decline in inspections of feed businesses carried out by Local Authorities across Scotland over 6 year period, between 2010 - 2016



As the chart above indicates almost three times less inspections were carried out over the last six years. The impact of doing nothing could result in a rise in the number of feed incidents.

Financial Impacts of Feed incidents in other EU Member States:

The following examples of feed incidents in Belgium and Ireland provide an indication of the level of impact and cost to industry, public and animal health and welfare. If the 'do nothing' option continues, there remains a risk of a significant feed incident occurring, resulting in significant costs. In addition, it could result in non-compliance with EU food and feed law, risking trade and the economic prosperity for industry.

The Belgian dioxin incident in 1999, where poultry feed was contaminated with dioxin-like PCBs (polychlorinated biphenyls), affected sales of animal products in Belgium and beyond. Costs of the incident to the Belgian economy, including withdrawal and destruction of affected product, compensation, trading and job losses, was estimated at around €1.5 - 2 billion.

A further example of cost associated with feed and food incidents was when in 2008 during a routine monitoring by the Irish authorities of the food chain for a range of contaminants, elevated levels of polychlorinated biphenyls (PCBs) were found in pig meat originating in Ireland. The use of contaminated bread crumbs produced from bakery waste was identified to be the source. The contamination was due to the direct heating process - and whereby an inappropriate fuel was used. The contaminated feedingstuff was supplied by one manufacturer to 45 beef farms and 10 pig farms across the Republic of Ireland and Northern Ireland, and resulted in the contamination of pork meat with between 80 and 200 times over the EU maximum permitted levels for PCBs and dioxin like PCBs. The Food Safety Authority Ireland quickly removed potentially contaminated products from market for the protection of public health. This incident affected thousands of jobs and affected pork supplies in 23 countries and 13 EU member states, costing the Irish economy around €100 million. Following this the Commission, based upon the conclusions of the EFSA

statement, issued on 2008 [guidelines for the management of the Irish contamination incident](#). These guidelines aimed also at ensuring a harmonised enforcement approach at EU level.

Financial Impact to Scotland:

Scotland’s food and feed export market adds considerable value to the economy as a whole and there are a number of factors that can affect the demand and the price of food and feed. An incident similar to those described above would have a detrimental effect on trade.

4. Can feed businesses provide an indication of cost associated with a feed incident in Scotland? Please provide details.

The UK feed industry is worth about £4.4bn to the economy. The figures below in the Table 4 indicate how in 2015 and 2016 Scotland’s food/drink and feed exports have grown, totalling in £421 million in 2016 to a record £5.5 billion. The latest figures from Scotland Food and Drink show an 8% increase in the value of exports. Exports are very important to the prosperity of Scotland and contribute to the growth in economic productivity.

Table 4 Scotland Food and Drink Exports, 2016 and 2015, £m (extract)

	2016	2015	2015-2016 £m Change	2015-2016 % Change
Animal Feed	153	95	58	61%
Live Animals	66	38	29	76%
Cereals	209	180	30	17%
Total Food & Live Animals	1,502	1,234	268	22%
Total Food, live animals & Drink	5,504	5,083	421	8%

Source: <https://beta.gov.scot/news/record-year-for-food-and-drink-exports/>

Further the feed industry in Scotland relies on imports of feed materials and ingredients such as; additives, protein sources and soy meal from other parts of the UK, the EU and non EU Countries. Findings from previous audits indicate that feed safety inspections carried out at Ports could be improved. If the ‘status quo’ continues there could be an

increased risk of incidents and contaminated feed material entering Scotland through three major feed ports as well as feed transported by hauliers.

6.2 Option 2 - Introduce domestic legislation to provide a transfer of competence from local authorities to Food Standards Scotland

Groups and Sectors affected

6.2.1. Consumers

Benefits: By transferring competence to FSS, consumers should be able to benefit from improved consumer protection and greater assurance of the production of safer food and feed. Delivering official controls according to risk should help Scotland's feed industry produce higher quality feed and over time with improved transparency consumers should be able to have greater trust that the feed used in food producing animals is safe.

Disbenefits: We have not identified any disbenefits to consumers from this proposal

6.2.2. Local authorities and other Government Departments (including FSS)

Benefits: The transfer of competence will reduce/lessen the administration burden around delivery and enable nine LAs to focus on the delivery of official controls and enforcement on a regional basis. The proposed system of LAs working across a region reduces the number of LAs working across Scotland and will provide the opportunity to maintain competence in animal feed.

Feedback from those LAs that will no longer carry out the delivery functions, indicate, that there should be little to no effect on the officers' employment terms or conditions. FSS considers that the new delivery model should in fact benefit officers employed by LAs and allow them to focus on other non-feed functions.

5. FSS would like to receive information from local authorities in response to this assumption with supporting evidence.

Agricultural analysts are currently appointed by LAs to carry out feed analysis work. Under the new arrangements, FSS shall appoint analysts. This will be an administrative process only and it is anticipated that samples will continue to be sent to the appropriate analysts in accordance with current arrangements. FSS does not consider there to be any detriment to the Agricultural analysts in Scotland as a result of this proposal, but FSS would be grateful to hear views from Analysts, particularly in relation to staffing of laboratories.

6. FSS would be grateful to hear views from Analysts about the impact that this model may have on laboratories, particularly in relation to staffing.

Under the current arrangements, LAs are competent to process approval applications, appeals against suspension or revocation of approvals. Under the new arrangements, FSS will be competent. The transition arrangements allow for proceedings raised by, or against, a feed authority, and any application made to a feed authority to be treated as having been made to FSS. No transitional period has been provided for these matters because of the lack of competence of LAs to handle appeals, should they be received.

7. FSS would like to hear local authority views on the transitional arrangements and any difficulties they foresee with such arrangements. Please provide evidence to support these views.

This model allows FSS to pay the nine LAs directly for carrying out official controls on a regional basis. This is made possible by removing the funding that is currently available to all LAs within the block grant for feed, and topped up with additional funding from FSS. Therefore for those LAs continuing to deliver this function regionally, this will represent an increase in funding.

Disbenefits: The responsibilities that currently fall to LAs will now fall to FSS and this is the first major transfer of enforcement competence to a central food authority in Scotland since the meat hygiene inspections were transferred from local authorities to the Meat Hygiene Service in 1995. This will require additional resource within FSS in order to deliver these functions effectively.

Specific financial costs associated with the introduction of the new model are listed below. All costs currently met by local authorities for the delivery of official controls will, under the proposed funding model, be met by FSS in the future.

(a) Funding of centralised feed delivery model post-implementation

As above, £325,000 is currently provided to LAs annually and allocated to feed delivery and this will be transferred from the block grant to FSS. FSS shall distribute this funding, as well as additional funding to the authorities carrying out this function under the new model, in accordance with workload.

(b) Develop of the model prior to implementation

Representatives from the LAs that intend to operate regionally are working with FSS to develop the model prior to implementation. There are intended to be 6 meetings prior to implementation and it is estimated that for each meeting, and subsequent actions, that 8 hours are dedicated to this activity, at a rate median rate of £27.26 per hour for a trading standards professional (based on the ASHE Provisional 2016 Estimates for a 'Quality Assurance and Regulatory Professional'¹, including a 30% overhead uplift in accordance with the UK standard cost model)².

¹

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation4digitsoc2010ashetable14>

² SCM methodology <http://www.berr.gov.uk/files/file44503.pdf>

(c) Familiarisation with new model

LAs intending to operate regionally, under FSS competence, are expected to familiarise themselves with this change and the legislation. Officer time is estimated as 3 hours at an hourly rate of £27.26. In addition, officers carrying out this function will be required to be released for refresher training. This equates to a maximum of 13 days training (7 hours per day).

8. FSS would like to hear from local authorities on the following:

- a. The financial impact and assumptions made on the development of the model
- b. The financial impact and assumptions made on the familiarisation with the model and training

(d) Handover between local authorities

Feed businesses may now be subject to official controls by an officer who has previously worked in a different LA. The officer may be unfamiliar with the business and therefore they may have to allocate more time for the initial inspection. There may also be a handover by the original LA to the new authority. For the purposes of this exercise, it is assumed this will impact on 70 businesses (number of manufacturers minus those manufacturers within the LAs that intend to retain this function), with each inspection (preparation and inspection), for the purposes of handover, taking an average of approximately 4 hours at an hourly rate of £27.26.

Feed manufacturers have been used for estimating the impact of the implementation of the new model on LAs because they are typically more complex operations and will therefore require greater intervention. It is recognised however that there may be other types of businesses that require a greater level of intervention.

9a. FSS would like to hear from local authorities about whether they agree with the assumptions made above to calculate the financial impact of a handover process for the more complex businesses. Please provide data to support these views.

Under the new model, feed businesses will engage with FSS directly in relation to most general feed matters which would otherwise be handled by LAs. This will provide consistency in advice and a single point of contact. This will have an impact on the capacity of FSS to handle this engagement. FSS has employed an additional member of staff to handle official control and enforcement engagement.

6.2.3. Industry

Benefits: Under the new model, feed businesses will engage with Food Standards Scotland directly in relation to most general feed matters which would otherwise be handled by LA. This will provide consistency in advice and a single point of contact. This is

considered by industry to be strength in the arrangements which will make the Scottish brand stronger.

Disbenefits: Feed businesses may now be subject to official controls by a different officer under this model, which may mean that feed business operators will have to allocate more time for the first inspection under the new model.

As above, it is assumed this will impact on 70 businesses (number of more complex feed businesses minus those feed businesses within the LAs that intend to retain this function), with each business inspection, for the purposes of handover, approximately 1 hour or more per business at an hourly rate of £27.70 for a manager at a feed manufacturer (based on the ASHE Provisional 2016 Estimates for 'Production managers and directors in manufacturing' professionals³, including a 30% overhead uplift in accordance with the UK standard cost model) .

9b. Do you agree with the cost assumptions presented here? Any other information on the potential costs to industry would be welcome.

Under the existing LA model, local authorities may also undertake other official controls at feed businesses, such as animal health and weights and measures. Under the new delivery model, the geographical boundaries are changing and therefore opportunities to carry out other official controls may not be available as this will depend on authorisation to do so by the original LA. It is not known if there is a willingness to do so. It is possible therefore that the new model may result in a slight increase in footfall for non-feed purposes.

10. FSS would like to hear from local authorities about the potential impact of the new feed delivery model to deliver other types of official controls. Please provide data to support these views.

7. Small and Micro Business Assessment

No small or micro business assessment has been undertaken as the proposal should largely impact delivery bodies rather than industry.

8. Scottish Firms Impact Test

Various Scottish businesses of different sizes and from various geographical areas will be approached directly during the public consultation period to seek their views on the likely impact on their business of the changes proposed in the draft SSI. They will be requested to consider all questions posed in this partial BRIA and assess the cost estimates.

3

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation4digitsoc2010ashtable14>

9. Competition Assessment

This draft instrument and centralised delivery model should not place restrictions on the number of feed businesses in the market, nor on entering or exiting the market. Subject to assurance of compliance identified through official controls, it should improve the ability of Scottish feed businesses to compete in the market due to demonstrably higher level of confidence in the feed safety assurance model in place.

10. Test run of business forms

No new or additional business forms will be introduced by this proposal therefore no test run need be completed.

11. Legal Aid Impact Test

During the consultation period, we will ascertain with the Justice Directorate whether the new Regulations will have any legal aid implications.

12. Enforcement, sanctions and monitoring

- **Enforcement**

As competent authorities, LAs will no longer be responsible for the delivery of official controls and enforcement of EU feed matters. This function will transfer to FSS under this proposal, and will be delivered by nine LAs on FSS's behalf.

- **Sanctions**

No changes are being proposed to the criminal sanctions or civil penalties contained in existing legislation

- **Monitoring**

The effectiveness and impact of the new arrangements will be monitored via feedback from stakeholders as part of the ongoing policy process. In addition, under these arrangements, FSS will have mechanisms in place for monitoring and review including review of Service Level Agreements in place with the LAs operating regionally, open fora, stakeholder meetings, surveys and general enquiries.

13. Contact point

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Annex 1

A. Centralisation Options

- FSS directly employs feed inspectors

This model will provide greater control and assurance by FSS, as central competent authority. It is the least expensive option.

- Contractor

This model will also provide greater control and assurance. It will enable engagement with a single body, responsible for fulfilling the contract. Although it requires management of a contract, it negates the need to manage individual inspectors, as this will be done by the contractor. However, it is the most expensive option.

- FSS delegates to local authorities (on a regional basis)

LAs have already expressed an interest in working on a regional basis. There are existing qualified and competent officers available. This model also provides greater resilience than other models.

- Other Government Departments/Agencies that are present at feed businesses

FSS has an existing working relationship with SGRPID which has a large pool of competent officers, located throughout Scotland. For primary production, this model would provide a reduction in footfall due to extensive presence on farm.

- Hybrid model

This model provides flexibility and provides a mechanism to address poor performance.

B. Outcome of Stakeholder Engagement

Stakeholder	Preferred option and why	Other comments/risks etc.
AIC	FSS employs officers – consistency, single point of contact. Stronger. These issues will make the Scottish feed industry stronger which can improve trade. Strength in centralised control – instructions, procedures, monitoring etc.	Use of contractor sends out wrong message, opportunities for conflict of interest, concern about retention of staff Secondment – concern about movement of staff and insufficient knowledge of businesses Regional LAs – some advantages (experience, knowledge etc.) but not as clear as option 1. Could be diverted on to other work by LA Concern about continuity OGDs – could work but concern about competence, continuity. Positive about reduction in footfall
NFUS	No particular preference, although there could be benefits to using existing	If other official controls are done as separate inspections, then not acceptable. Concern raised about using Scottish Government inspectors

	enforcement officers who are on farm anyway (but only if it is done at the same time as other inspections.)	as they have an obligation to report and issue penalties Farmers do not want third party assurance or control bodies carrying out OCs – need to keep separate. (Although this would be done, there could be an issue of perception)
Acoura	Contractor model	Proposed contractor model provided along with costings.
SGRPID	Considering OGD model	Scottish Government inspectors unable to provide advice about non-compliance and are legally bound to serve penalties (financial) which is contrary to FSS graduated enforcement model.
APHA	Considering OGD model	
VMD	Very positive about OGD model	Because of low figures, they would be happy to wait until we have implemented to core model
Orkney/ Shetland/ Western Isles	Orkney – regional (but not to be regional LA themselves) Shetland – FSS employs Western Isles – no preference	General acceptance of central Government undertaking PP work although one expressed concern about competence of government and third party assurance inspectors. Secondment <u>not</u> an option
SCOTSS	Regional LAs preference – remains with LAs	Concern raised <ul style="list-style-type: none"> • regional model not progressed previously • funding (removal of money from block grant) • Large number of TS reviews on-going at the moment so LAs may find it difficult to commit to any development of a model that involves them over the next year or so.
SCoEHS	Support the transfer of food primary production (high risk) inspection to EHOs.	Support, but concern over future resource.
SCOTSS members	Regional LAs preference – remains with LAs, but support also from some member for FSS employment contractor and OGDs.	Orkney/ Shetland/ Western Isles – as above Option 1: FSS Direct Employment This option has some support from 4 LAs. The main benefits of this option were seen as a reduction in administrative costs by the LAs, and the more streamlined approach of a centralised administration. The positives were seen as outweighed by the negative aspects of this option however. The main disadvantages were raised as: <ul style="list-style-type: none"> • A potential loss of local knowledge and experience – it was a common theme that the origin of the directly employed staff was not clear, as there is uncertainty regarding the willingness of current staff to transfer. In parallel to this was an uncertainty regarding the training and competence of any new staff, who would be replacing long term experienced TS officers. • There were concerns that this option would result in removal of funding and could lead to redundancy or reduction in services. • Feed inspection is delivered alongside other functions, so the existence of dedicated feed inspectors would not lead to a reduction in footfall, as the other functions would still be carried out by TS. • There was recognition of the challenges faced by home based, remote working. • There was potential for the loss of local working relationships and local knowledge and intelligence. Option 2: Contract Staff This option received tentative support from only one LA. While the general efficiency benefits of centralisation were still recognised, the disadvantages of this option were seen as

		<p>being similar to option 1. Concerns around accountability, contract management costs and the introduction of another agency/body were raised.</p> <p>Option 3: Secondment This option was supported by only one LA. While this would retain experienced staff, there was uncertainty around how many LA staff would be willing to undertake a secondment, if the LA's could afford to release them at all, and around the maintenance of terms and conditions particularly for staff who may have an increased salary due to non-feed responsibilities. Some of the likely lack of willingness of TS staff to undertake a secondment was related to the resource pressure LAs are experiencing, and the possibility that the officer may not have a post to return to following any secondment.</p> <p>Option 4: Regional LAs This option received the broadest support, with 22 LAs expressing some degree of support, including from those LAs who would not be considered as a regional authority for feed. The support for this option was strong, with emphasis being given to the retention of experienced staff, local knowledge, contacts and existing relationships. The main points raised were:</p> <ul style="list-style-type: none"> • A likely increased burden on the regional lead LA, and uncertainty around the funding for this. • An increase in travel costs for feed officers. • The future organisation of TS in general was raised under this option, and the likelihood that a regional approach would be taken for other TS functions. Some of the support for this option considered that the regional feed option could serve as a model for other TS functions, but there was uncertainty around how this option would match up with future TS organisation. <p>Option 5: Other OGDs/Agencies This option was supported by two LA's. In general, concern was raised about the fragmented and possibly inconsistent approach this model would take, and the lack of clarity for business about who was carrying out the inspections. There was some uncertainty if this option would result in reduced footfall, but recognition that SGRPID staff for example has experience in farm/biosecurity visits. This option would carry an increased and more complex administrative burden.</p> <p>Option 6: Hybrid This option was supported by one LA, but in general it was felt to be unsuitable in most cases, with more chance that issues would be missed with a more fragmented approach, although for some island or remote areas this may be viable, depending on the details of the option.</p>
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