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24 January 2020

**CONSULTATION ON THE IMPLEMENTATION OF THE EU OFFICIAL CONTROLS REGULATION - REGULATION (EU) 2017/625 - AND ASSOCIATED TERTIARY LEGISLATION**

**SUMMARY REPORT OF STAKEHOLDER RESPONSES**

1. Food Standards Scotland (FSS) carried out a consultation on the implementation of the new EU Official Controls Regulation (OCR) - [Regulation EU 2017/625](https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1574850810120&uri=CELEX:02017R0625-20170407) - and associated tertiary legislation. The consultation was issued on 27th September 2019 and closed on 25th October 2019.
2. The consultation provided stakeholders with the opportunity to comment and express their opinions on the Business and Regulatory Impact Assessment (BRIA) developed by FSS on the implementation, approach and assessment of impacts in Scotland to provide for the execution and enforcement of the OCR in relation to our areas of responsibility for food and feed safety.
3. FSS is grateful to those stakeholders who responded and sets out in the table below the responses/comments raised by stakeholders, along with a response from FSS.
4. While stakeholders were generally in favour of, or did not disagree with, the proposed approach some concerns were raised. These, and our considered response, are noted below.
5. The OCR applied fully as of 14th December 2019 and, as of that date, repealed and replaced legislation which is integral to the activities of FSS as the national competent authority (CA) responsible for the delivery of official food and feed controls in Scotland, and other food and feed enforcement bodies such as Local Authorities (LAs).
6. FSS has engaged with industry and enforcement authorities about the implementation of the OCR and will continue to do so.

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| Respondent | Respondent comments | FSS comments |
| Chartered Institute of Environmental Health (CIEH) | Concerned that the OCR does not explicitly recognise Environmental Health Officers (EHOs) or Environmental Health Practitioners (EHPs) as Authorised Officers (OAs). Article 49 (2) (a) and (b) of the OCR refers only to the Official Veterinarian (OV) and staff trained (in accordance with the article) delivering official controls at Border Control Posts (BCPs) in relation to the importation of products of animal origin (POAO), aquatic animals, germinal products and animal by-products (ABPs). Therefore concerns raised as to whether EHOs and EHPs can continue to carry out official controls on these products. Requested confirmation from both FSS and the Food Standards Agency (FSA) in England, Wales and Northern Ireland that EHOs and EHPs are recognised as staff trained to undertake official controls on certain products imported into the UK. | FSS and the FSA value the work of all those involved in delivering official control checks throughout the UK. A wide variety of titles are used throughout the EU to describe trained staff and it would be difficult to list a specific title to identify other groups who could carry out import functions in the OCR that would be common to all Member States. The inclusion of trained staff provides the opportunity to use staff other than the OV to deliver official controls relating to the importation of those products listed in Article 49, which provides greater flexibility resourcing this control. The Food Law Code of Practice and Practice Guidance continues to recognise qualifications that would be suitable for those involved in delivering official controls for imported foods. Neither FSS nor the FSA anticipate that there will be any change for those EHOs/EHPs that are employed to undertake official controls on certain imported food products. |
| Aberdeen, Glasgow and Tayside Scientific Services | Questioned the familiarisation costs for official control laboratories (OCLs).  Opined there shouldn’t be any instances of a Local Authority (LA) “sub-contracting” samples. Official samples for analysis must be submitted to an OCL that has a contractual relationship with a Public Analyst appointed by the LA or the Public Analyst for the area in which the sample was procured – Section 30(1) of the Food Safety Act 1990. Questioned the term “sub-contracting” and highlighted there is a tendency to use this term indiscriminately to apply to all situations where a sample is not analysed at the OCL to which it is first submitted. There are important legal distinctions that need to be considered – Section 30(4) of the Food Safety Act 1990. | Comments noted.  Comments noted. The term “sub-contracting” refers to the provision in Article 37 of the OCR which permits the competent authority (CA) to designate an official laboratory in its home Member State, in another Member State or in a third country that is a Contracting Party to the Agreement on the European Economic Area (EEA). One of these conditions is that, if the CA designates an official laboratory in another Member State, that laboratory must have been designated as an official laboratory in its home Member State. |
| Centre for Environment, Fisheries and Aquaculture Science (CEFAS) | Confirmed that they’re unaware of any food business operators (FBOs) in Scotland that currently harvest echinoderms from unclassified areas but are aware that discussions have taken place in the past regarding future harvesting opportunities from areas currently classified for other species in Scotland.  Confirmed that none of the official samples delivered to their laboratory are sent abroad for analysis and they also don’t receive any samples for official control testing from any other laboratory. | Comments noted.  Comments noted. |
| FBO of approved wild game handling establishment (AGHE) | Agreed that the total list of identified affected sectors/groups was representative.  Clarified that their AGHE is the one referenced in the BRIA as exceeding the threshold levels that have been set for “low-capacity” game handling establishments which may result in an estimated 35% increase in fees due to the requirement to have an OV carry out post-mortem inspection (PMI). Opined that this puts their establishment at a competitive disadvantage to all other AGHE's in Scotland and that they would sincerely hope that there would be some extra discount to ensure they’re not disadvantaged. | Noted.  FSS recognise certain aspects of the meat hygiene official controls contained within the OCR (2017/625) and the specific rules on official controls on POAO in Regulations 2019/624 and 2019/627 – which repeal and replace Regulation 854/2004 – require further analysis and risk assessment. These risk assessments include changes to PMI where meat hygiene inspectors (MHIs) carry out PMI without the OV being present and where PMI is delayed. This analysis will be undertaken by FSS in collaboration with the FSA across the UK. Therefore, there will be no immediate change to current official control duties in these areas until this assessment takes place. |
| Food producer | Partly agreed that the total list of identified affected sectors/groups was representative.  Partly disagreed that a harmonised and coherent regulatory approach to official controls will deliver any benefits and/or cost savings to industry. | Noted.  Noted. |