

**EXPLANATORY MEMORANDUM TO  
THE OFFICIAL FEED AND FOOD CONTROLS (ENGLAND) AND THE FOOD  
SAFETY AND HYGIENE (ENGLAND) (AMENDMENT) REGULATIONS 2014**

**2014 No. 2748**

1. This explanatory memorandum has been prepared by the Food Standards Agency (FSA) and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
  - 2.1 The proposed Regulations will give effect in England to three recent European Union Regulations. These will:
    - introduce a derogation in relation to the importation certificate required for seeds intended for the production of sprouts;
    - amend the list of previous cargoes allowed for vessels transporting liquid oils and fats by sea; and
    - revoke the requirements for the special health mark and restrictions of where meat derived from animals that have undergone emergency slaughter can be sold .
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None.
4. **Legislative Context**
  - 4.1 Harmonised European legislation controls the safety and hygiene of food. European Regulations are directly applicable in all European Member States. Therefore, the national legislation in these areas for the most part only covers the enforcement provisions for the relevant European Regulations i.e. designating enforcement authorities, identifying which provisions of those Regulations should, if breached, constitute an offence or attract an improvement notice and specifying penalties on conviction for offences.
  - 4.2 The European Commission have introduced three new Regulations which require national legislation to be introduced to provide for enforcement of the measures in England. Articles 2 and 3 of the proposed regulations make amendments to the Official Feed and Food Control (England) Regulations 2009 and the Food Safety and Hygiene (England) Regulations 2013 for this purpose.
5. **Territorial Extent and Application**
  - 5.1 This instrument applies to England. Legislation introducing the measures is being made in Scotland, Northern Ireland and Wales.

## **6. European Convention on Human Rights**

Jane Ellison, Under Secretary of State for Public Health, has made the following statement concerning Human Rights:

In my view the provisions of the Official Feed and Food Controls (England) and the Food Safety and Hygiene (England) (Amendment) Regulations 2014 are compatible with the Convention rights.

## **7. Policy background**

- 7.1 EU Regulations are directly applicable in EU Member States which are obliged under both Treaty obligations and the legislation itself to provide, by way of domestic measures, for their enforcement. This Statutory Instrument (SI) provides the domestic measures for three EU Regulations.
- 7.2 From 1 June 2014, Regulation (EU) No 218/2014 removed a restriction on the marketing of meat from animals slaughtered outside of an approved slaughterhouse ('emergency slaughter meat'). The restriction meant that emergency slaughter meat could not be marketed outside the Member State in which it was slaughtered and had to be specially health marked. The removal of this restriction means that, provided the meat has successfully passed veterinary inspection, the meat can be marketed throughout the European Union and to third countries and it no longer is required to carry the special health mark.
- 7.3 The SI will also introduce the derogation contained in Regulation (EU) No 704/2012 which allows EU producers to import seeds intended for the production of sprouts for human consumption from third countries which are unable to provide a signed health attestation. This attestation is required on the import certificate to certify that seeds have been produced in accordance to the general food hygiene requirements contained in Regulation (EC) No 852/2004. Since the introduction of the requirements for health certificates for imports of seeds, certain third countries have had difficulties in providing the certification. In order to facilitate the continuation of trade whilst maintaining the highest level of consumer protection, the derogation allows third countries exporting seeds intended for the production of sprouts to the EU to provide evidence of microbiological testing for Enterobacteriaceae to verify hygiene conditions of production in situations where the official attestation that seeds have been produced in compliance with Regulation (EC) No 852/2004 cannot be supplied. The results of the microbiological tests must not exceed 1000 cfu/g. This derogation will be in place until 1 July 2015.
- 7.4 Regulation (EU) No 579/2014 updates a list (introduced by way of an earlier derogation) of previous cargoes which sea-going vessels transporting liquid oils and fats can carry.

## **8. Consultation outcome**

- 8.1 A three and a half week consultation was conducted which ended on 26 August 2014. As the SI provides for enforcement of what are, in essence, deregulatory measures that will introduce immediate benefits to the UK food industry, without any significant impacts identified for other stakeholders, and given the level of engagement with industry and other interested stakeholders during the negotiations in Europe of the relevant measures, a shortened consultation period was agreed to be the most proportionate approach. Enforcement authorities, industry and consumer groups and trade bodies were directly consulted and the consultation package was published on the FSA website. Six responses were received. Generally, the comments were in support of the measures.
- 8.2 There was concern from one correspondent that the revocation of the emergency slaughter mark could potentially allow sick animals to enter the food chain but the FSA is content that the requirement for veterinary inspection and the controls that are already in place for this type of slaughter will continue to provide a high level of consumer protection in the UK. There were also two comments about the methodology and the requirements for Enterobacteriaceae testing in relation to the import of seeds. When the European Commission proposed the Enterobacteriaceae testing, it was understood that this would be an adequate short term measure which would provide a comment on the hygiene standards of the premises producing the seeds. It should be noted that the sprouts produced from the seeds will be required to undergo further microbiological testing as set out in Regulation (EU) No 209/2013 prior to being placed on the market. A summary of all of the consultation responses and the FSA's view on the issues raised will be available on the FSA website by the middle of September 2014.

## **9. Guidance**

- 9.1 No specific guidance has been prepared to accompany this SI.

## **10. Impact**

- 10.1 An impact assessment has been prepared for the emergency slaughter aspect of the SI. It has been agreed that an impact assessment would not be required for the import of seeds measure as there would only be indirect impact on the UK industry. The measure in relation to transport of liquid oils and fats by sea updates a list contained in a previous derogation so an impact assessment would not be required.

## **11. Regulating small business**

- 11.1 The legislation applies to all relevant food businesses.

## **12. Monitoring & review**

- 12.1 The FSA will work with Local Authorities and Port Health Authorities where problems arise or suspected infringements of the measures provided for by the instrument arise. The effectiveness of the measures provided for by the instrument will be also be monitored via general feedback from industry and Enforcement Authorities.

### ***Statutory Review***

- 12.2 The FSA is required to carry out a review of this instrument at least every five years. The review period begins when this instrument comes into force.
- 12.3 In carrying out the review, the FSA is required to produce a report that sets out the objectives of this instrument, the extent to which they have been achieved and whether they could be achieved by means that impose less regulation. Information gathered via the activities described in paragraphs 12.1 above will inform the review.

## **13. Contact**

Liz Stretton at the Food Standards Agency, Tel: 0207 276 8357, E-mail: [liz.stretton@foodstandards.gsi.gov.uk](mailto:liz.stretton@foodstandards.gsi.gov.uk)