POLICY NOTE

THE GENETICALLY MODIFIED FOOD AND FEED (AUTHORISATIONS) (SCOTLAND) REGULATIONS 2022

SSI 2022/137

The above instrument was made in exercise of the powers conferred by Articles 7(3), 9(2), 11, 19(3), 21(2), 23 and 35 of Regulation (EC) No. 1829/2003 of the European Parliament and of the Council on genetically modified food and feed. The instrument is subject to negative procedure.

Summary Box

The purpose of the instrument is to implement the decision made by the Minister for Public Health, Women's Health & Sport to authorise five and renew the authorisation for four genetically modified (GM) food and feed products for placement on the market in Scotland.

Policy Objectives

The instrument is required to give legislative effect to the Minister's decision with respect to authorisation of nine GM food and feed products, either for placing on the market in Scotland or for the renewal of their use in the market.

At the end of the Implementation Period the UK inherited the EU Commission's legal obligation to process applications for the authorisation of regulated food and feed products. Assessing food and animal feed safety in Scotland is the responsibility of Food Standards Scotland (FSS) as the 'food safety authority'. The European Food Safety Authority (EFSA) previously developed technical guidance on the requirements of applications and these generally remain relevant as FSS' approach is based on EU processes.

The authorisation of these regulated products for placing on the market in Scotland rests entirely with the Scottish Ministers. The retained law obligates the Scottish Ministers to prescribe authorisation of the relevant regulated product in law, which is the focus of this Scottish Statutory Instrument (SSI). This SSI comprises the authorisations by the Scottish Ministers of applications made to them either for a new authorisation or renewal of an authorisation for genetically modified food and feed. This instrument will apply to Scotland only.

This SSI aligns Scotland with England and Wales as well as with similar EU legislation for these products, all of which have now been authorised by the EU Commission. Not progressing this SSI would mean that the Minister's decision to authorise would have no legal effect. Not signing the SSI would also lead to divergence across GB and the EU, creating an unequal footing within the UK and disruptions for imports, exports and enforcement bodies as Northern Ireland operates under EU legislation under the terms of the Northern Ireland Protocol. Additionally, due to the United Kingdom Internal Market Act, if the SSI is not progressed the product could still be put on the market across GB.

All relevant information on the authorisation of the products will be entered in the register of genetically modified food and feed referred to in Article 28(1) of Regulation 1829/2003.

The authorisations made by this instrument will be notified through the Biosafety Clearing-House to the Parties to the Cartagena Protocol on Biosafety to the Convention on Biological Diversity, pursuant to Article (1) and Article 15(1)(e) of retained Regulation (EC) 1946/2003 on transboundary movements of genetically modified organisms.

Further information including in relation to the register or the information notified pursuant to the Cartagena Protocol, can be obtained from Food Standards Scotland, Pilgrim House, Old Ford Road, Aberdeen, AB 11 5RL.

Consultation

To comply with the requirements of Article 9 of Regulation (EC) 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, there has been open and transparent public consultation during the preparation and evaluation of this SSI. The consultation ran from 30 November 2021 to 25 January 2022 and attracted 245 visitors, resulting in the survey being accessed 126 times.

There were 37 responses to the consultation, of which four were in support and 33 were opposed to the authorisation of these products. Those in support included private individuals and trade associations, while those in opposition were mainly private individuals. Concerns were raised around a number of issues, including the adequacy of the risk assessments, the effects of the consumption of GMO on human health, and environmental impacts including potential for increased use of herbicides. Conversely, trade associations raised concerns around the potential for trade disruption and rising feed prices during the current feed supply deficit. Responses both for and against authorisation were low in numbers compared to actual numbers of stakeholders reached.

Stakeholder concerns were analysed in detail and addressed. Based on the science and evidence, the responses did not alter FSS views. Discussions were held on a four-nation basis, in line with the provisional Food and Feed Safety and Hygiene Common Framework, to address any devolved concerns and ensure alignment. The views of FSS and the Food Standards Agency in England and Wales were agreed on through discussion of feedback and responses within cross-government forums with the Scottish Government, the Department of Health and Social Care, and the Welsh Government. A summary of the consultation responses and the main themes identified in these have been published on the consultation page on Citizen Space alongside FSS consideration of each of the themes. A list of those consulted, with the exception of private individuals, and who agreed to the release of this information is attached to the consultation report published on Citizen Space.

Impact Assessments

FSS consider that a specific (Business and Regulatory Impact Assessment) BRIA is not required for these regulated products authorisations. The costs to businesses are contained in the Regulation (EC) No. 1829/2003 of the European Parliament and of the Council on genetically modified food and feed which requires authorisation for GMOs to be placed on the market. This SSI gives legislative effect to the Minister's decisions and does not in itself introduce any new costs to the individual businesses or industry as a whole. Since four out of the nine GMOs authorised in this SSI are renewals, the impact is expected to be minimal. The new authorisations would likely result in reallocation of wealth from existing to new product lines. The consultation has explored perceived impacts with industry which have been reviewed by FSS and responded to as outlined above. No other impact assessments are required.

Financial Effects
The Minister for Public Health, Women's Health & Sport confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Food Standards Scotland
19 April 2022