

Health, Social Care and Sport Committee  
Tuesday, 9 December 2025  
34<sup>th</sup> Meeting, 2025 (Session 6)

## Note by the Clerk on The Food Safety Act 1990 Amendment (Scotland) Regulations 2026 [2025/Draft]

### Overview

1. At this meeting, the Committee will take evidence from the Minister for Public Health and Women's Health and officials on The Food Safety Act 1990 Amendment (Scotland) Regulations 2026 before debating a motion in the name of the Minister inviting the Committee to recommend approval of the instrument.
2. This is a draft Scottish Statutory Instrument (SSI), which requires approval by resolution of the Parliament before it can become law. More information about the instrument is summarised below:

**Title of instrument:** [The Food Safety Act 1990 Amendment \(Scotland\) Regulations 2026](#) [2025/draft]

**Laid under:** [Retained EU Law \(Revocation and Reform\) Act 2023](#)

**Laid on:** 4 November 2025

**Procedure:** Affirmative

**Lead committee to report by:** 13 December 2025

**Commencement:** If approved, the instrument comes into force on 15 January 2026

### Procedure

3. Under the affirmative procedure, an instrument must be laid in draft and cannot be made (or come into force) unless it is approved by resolution of the Parliament.
4. Once laid, the instrument is referred to:
  - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
  - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.

5. The lead committee, taking account of any recommendations made by the DPLR Committee (or any other committee), must report within 40 days of the instrument being laid.
6. The normal practice is to have two agenda items when an affirmative instrument is considered by the lead committee:
  - an evidence session with the Minister and officials, followed by
  - a formal debate on a motion, lodged by the Minister, inviting the lead committee to recommend approval of the instrument.
7. Only MSPs may participate in the debate, which may not last for more than 90 minutes. If there is a division on the motion, only committee members may vote. If the motion is agreed to, it is for the Chamber to decide, at a later date, whether to approve the instrument. Delegated Powers and Law Reform Committee consideration
8. The DPLR Committee considered the instrument on 18 November 2025 and reported on it in its [85<sup>th</sup> Report, 2025 \(Session 6\)](#). The DPLR Committee made no recommendations in relation to the instrument.

## **Purpose of the instrument**

9. These Regulations amend provisions of the Food Safety Act 1990. These Regulations restate secondary assimilated law within the meaning of section 12(2)(b) of the Retained EU Law (Revocation and Reform) Act 2023. Regulation 2 amends section 17 of the Food Safety Act 1990 to replace references to “EU” obligations and provisions with “assimilated” obligations and provisions and replaces a reference to “directly applicable EU provision” with “provision of assimilated direct legislation”.
10. The Policy Note accompanying the instrument is included in the annexe. It includes a summary of consultation undertaken on the instrument and the anticipated financial effects. The following impact assessments have been carried out:
  - [Child Rights and Wellbeing Impact Assessment \(CRWIA\)](#)

## **Report**

11. Following today’s meeting, a draft report will be prepared by the clerks. As the reporting deadline falls before the Committee’s next meeting, the Committee should either:
  - agree to consider the draft report by correspondence, and delegate to the Convener responsibility for resolving any differences of view (if members wish the report to make points of substance or recommendations); or
  - delegate to the Convener responsibility for approving the draft for publication (if members are content with a short, factual report only).

**HSCS/S6/25/34/3**

**Clerks to the Committee  
December 2025**

## **Annexe: Scottish Government Policy Note**

### **POLICY NOTE THE FOOD SAFETY ACT**

#### **1990 AMENDMENT (SCOTLAND) REGULATIONS 2026**

#### **SSI 2026/XXX**

The above instrument was made in exercise of the powers in section 12(1) of the Retained EU Law (Revocation and Reform) Act 2023 and all other powers enabling them to do so.

The instrument is subject to affirmative procedure.

This Scottish Statutory Instrument (SSI) will amend provisions of the Food Safety Act 1990 (c. 17) using powers found in the Retained EU Law (Revocation and Reform) Act 2023 (REUL Act). The Regulations will replace references to “EU” obligations and provisions with “assimilated” obligations and provisions, and replace a reference to “directly applicable EU provision” with “provision of assimilated direct legislation”.

### **Policy Objectives**

The Food Safety Act 1990 provides the framework for food legislation in Great Britain. Its subject matter is wholly devolved. Its primary purpose is to maintain food safety and wider consumer protections relating to food. Section 17 of the Act provides Ministers across GB with powers to execute and enforce any EU provision or obligation. This section should have been amended on EU exit to reference retained EU law but was not, which was an oversight. Retained EU law was renamed “assimilated law” with effect from 1 January 2024, by virtue of the REUL Act, and so references to EU law should now be to assimilated law.

The amendments put the operability of section 17 beyond doubt and do not change policy or obligations under food law.

The amendments have been subject to a GB wide consultation as we had originally anticipated these amendments to the Food Safety Act 1990 would proceed by GB SI rather than SSI. The Minister had agreed that course of action on 12th December 2024. The Food Standards Agency and UK Government have subsequently reconsidered their priorities and have paused and potentially no longer wish to proceed with this action therefore an SSI is necessary to make the change.

The SSI will amend all references to EU law in section 17 of the Food Safety Act 1990 to accurately refer to assimilated law. Similar changes have already been made in the Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) (Scotland) Regulations 2023 (SSI 2023/374).

### **UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility**

The Scottish Ministers have made the following statement regarding children’s rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, The Food Safety Act 1990 Amendment (Scotland) Regulations 2026 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

### **EU Alignment Consideration**

There will be no divergence from EU food and feed law in Scotland as a result of the changes to the Food Safety Act 1990. As such the changes are not expected to impact any re-alignment obligations that may be agreed as part of any potential future UK-EU Sanitary Phytosanitary/Veterinary Agreement.

### **Consultation**

As required by Article 9 of the Regulation 178/2002 (General Food Law) a consultation (jointly between FSA and FSS) on the draft Statutory Instrument was carried out between 31st January and 6th March 2025. Six responses were received, none were from Scotland. The responses received all agreed with the proposed changes. The responses have been reviewed and did not require any further changes to the proposed amendments within that consultation.

The full summary of responses received by Food Standards Agency (who co-ordinated responses for this GB consultation) is published Summary of stakeholder responses: Correcting references in the Food Safety Act 1990 and Food Standards Act 1999 | Food Standards Agency<sup>1</sup>

### **Impact Assessments**

A Business Regulatory Impact Assessment is not required in relation to the SSI as it is policy neutral and no impact on businesses, stakeholders or regulators is expected.

A Child Rights and Welfare Impact Assessment has been completed on the draft SSI and is published on [legislation.gov.uk](https://legislation.gov.uk) website.

### **Financial Effects**

The SSI is policy neutral, therefore no costs are involved.

Food Standards Scotland

04 November 2025

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<sup>1</sup> <https://www.food.gov.uk/our-work/summary-of-stakeholder-responses-correcting-references-in-the-food-safety-act-1990-and-food-standards-act-1999>