

To: Interested parties

7 September, 2007

Reference: SCB/0403

Dear Sir/Madam,

**THE DRAFT OFFICIAL FEED AND FOOD CONTROLS (SCOTLAND) REGULATIONS  
2007 – PROPOSED CHANGES**

1. I wrote to you on 8 June 2007 inviting your views on the above draft Scottish Statutory Instrument (SSI) which will update and replace the Official Feed and Food Controls (Scotland) Regulations 2005 (SI 2005/616).<sup>1</sup> I highlighted then that the provisions in the SSI on third country import controls on feed/food of non-animal origin (non-POAO) were being reviewed to ensure, amongst other things, that officers of Her Majesty's Revenue and Customs (HMRC) may withhold consignments pending control by local authorities. The purpose of writing now is to inform you of our intention to provide an appropriate legal mechanism to ensure effective cooperation between HMRC and local authorities in relation to such consignments, and to provide you with an opportunity to comment.

2. We are also proposing to update further some of the definitions that are required for interpretation of the SSI to reflect some recent corrections that have been made to Community legislation.

3. I should be grateful to receive any comments by close on **30 September 2007** at the latest. My contact details are given below.

**Cooperation between HMRC and local authorities**

**Background and policy aim**

4. Part 3 of SSI 2005/616 gives effect in Scotland to the provisions in Regulation (EC) No 882/2004 on official controls<sup>2</sup> relating to non-POAO imported from third countries. As part of the recent consultation on updating and replacing this SSI, the Agency proposed some new powers to ensure that the relevant authorities have the powers necessary for effective enforcement of the provisions. This included a provision which would aim to provide the required legal basis for officers of HMRC to cooperate with the enforcement authorities (local authorities). The policy aim is that where consignments of such 'high-risk' products are not presented for official control but are declared for customs purposes, HMRC is able to withhold clearance and bring the consignments to the attention of the relevant local authority.

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<sup>1</sup> Details of the relevant public consultation are available on the Agency's website at: <http://www.food.gov.uk/consultations/consultscot/2007/offcscot07consult>

<sup>2</sup> Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and welfare rules. Official Journal L191, 28.5.2004, 1-52. The text of the EU Regulation may be downloaded from the European Commission's website at: [http://europa.eu.int/eur-lex/pri/en/oj/dat/2004/l\\_191/l\\_19120040528en00010052.pdf](http://europa.eu.int/eur-lex/pri/en/oj/dat/2004/l_191/l_19120040528en00010052.pdf)



5. In order for HMRC to withhold clearance of consignments, pending official control by local authorities, it is necessary to include in the SSI a prohibition on the act of introducing/importing goods (feed/food) that do not meet EU feed/food law requirements as opposed to a prohibition on the individual introducing/importing the goods which SSI 2005/616 provided for. The Regulations nevertheless provide that an individual introducing/importing the goods commits an offence by virtue of the offence provision at regulation 39(1)(b) such that local authorities may still take action where appropriate.

6. The original consultation closed on 30 August and no objections to the additional prohibition were raised.

### **Proposed additional amendment**

7. My letter of 8 June indicated that we would be liaising further with HMRC to ensure that the proposed new powers were appropriate and sufficient. We have done so and now, in addition, intend to provide an appropriate legal mechanism that permits HMRC to pass information to the relevant local authority regarding consignments that have not been cleared for release.

8. Similar amendments are being proposed for England, Wales and Northern Ireland, and the Agency is also writing to interested parties in those countries.

9. We do not consider that these new provisions will have any impact on racial equality or on social or environmental sustainability issues, or that there are any implications for businesses in terms of new administrative burdens or costs.

### **Definitions of Community legislation**

10. The European Commission has recently issued corrigenda to three of the EC Regulations that are defined in Schedule 1 of the draft SSI - 852/2004, 853/2004 and 882/2004 - the definitions are needed for interpretation. These corrigenda were published in the Official Journal<sup>3</sup> earlier this month - see link below. The corrections made are simply to the place at which the Regulations were made, i.e. Brussels rather than Strasbourg. We are proposing to update the definitions in Schedule 1 to the SSI to reflect the issuing of these corrigenda. Again, similar amendments will be made to the parallel legislation that is being prepared in England, Wales and Northern Ireland.

<http://europa.eu.int/eur-lex/lex/JOHtml.do?uri=OJ:L:2007:204:SOM:EN:HTML>

### **Further information**

11. If you wish to discuss this issue, please get in touch with me (my contact details at are the foot of page 1) or with Bill Adamson (☎ 01224 285137, email: [bill.adamson@foodstandards.gsi.gov.uk](mailto:bill.adamson@foodstandards.gsi.gov.uk)).

Yours faithfully,

Carolyn Ainsbury  
Strategic Policy and Consumer Engagement Team

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<sup>3</sup> Official Journal L204, 4.8.2007, 26 and 29.