Via email
Joe FitzPatrick MSP
Minister for Public Health, Sport and Wellbeing

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Dear Minister

EU Foodstuffs and Hygiene – EU Exit Regulations

Thank you for your letter of 8 October regarding the EU Food Law etc – EU Exit Regulations.

In advance of the Committee considering this the Committee would find it helpful to have a response to the questions set out in the Annex to this letter. Given the short timescales we are working to we request the response by Tuesday 23 October.

Yours sincerely

Lewis Macdonald
Convener, Health and Sport Committee
c.c. Stephen Hendry, Senior Policy Advisor – Food Labelling & Standards
Food Standards Scotland
ANNEX

NOTIFICATION TO CONSENT – Food Law and Hygiene Regulations
Questions for the Scottish Government

General

• Specifically, in devolved policy areas, do the proposed Regulations make purely technical changes to the EU Regulations or do they include any new policy provisions?

28 day scrutiny period

• Please provide further elaboration of the reason for the time for consideration being shortened from 28 days to 8 days. In particular please indicate the reasons why the request on what are described as non-contentious regulations was only made after the start of the October recess and further details as to the legislative need including potential impact to the sector to lodge between 31 October and 5 November.

Annex B The General Food Law (EU Exit) Regulations

• In the event of no-deal, the UK will leave the RASFF and the European Food Safety Authority, Are provisions being made for a UK wide system to replace these systems and what Parliamentary scrutiny will take place of the establishment of any such systems?

• In addition, what cooperation will take place with the EU in the operation of any new UK systems?

• How will food safety risks be averted in the case of a no-deal Brexit?

• Please advise why Regulation (EU) No. 16/2011 is revoked.

• Please provide further detail as to the justification for the classification of these instruments as category A. In particular please comment on the appropriate delegation to be given under the protocol for “sub-delegation- transferring EU legislative powers to a UK public authority” and “creating or amending a power to legislate” which would appear to be Category B characteristics.

• In addition please provide your views on whether you consider these regulations are intended (1) “to provide Ministers...with enabling powers to make subordinate legislation for the purpose of applying traceability requirements...” and (2) “the provision of enabling powers...is required to replace existing delegated powers exercised by the Commission at EU level”. Again these would seem to be category B characteristics.

• Please provide detail of the bodies within Scotland whom were consulted and a summary of their responses.
• Has the Scottish Government undertaken any consultation on the proposed provisions in the Regulation, if so please provide the above details?

Annex C The General Foodstuffs Hygiene (EU Exit) Regulations

The Specific Foodstuffs (Hygiene) (EU Exit) Regulations 2018

• Can you provide a short summary of the purpose and effect of the EU Regulations being amended by the UK Regulations?

• Please provide further detail as to the justification for the classification of these instruments as category A. Why has this notification been given a Category A when it is likely to provide delegated powers to Ministers and agencies which are consistent with a Category B notification?

• The Committee would like more information on what additional capacity is required to enable Scottish Ministers to exercise these new functions.

• The Committee would also like to know whether the Scottish Government has undertaken an assessment on what additional capacity is likely to be required?

• Please provide detail of the bodies within Scotland whom were consulted and a summary of their responses.

• Has the Scottish Government undertaken any consultation on the proposed provisions in the Regulation, if so please provide the above details?

Annex D Contaminants in Food (Amendment) (EU EXIT) Regulations 2018

• Can you provide a short summary of the purpose and effect of the EU Regulations being amended by the UK Regulations?

• Please expand upon the general statements in the summary of proposals and provide detail how deficiencies are corrected.

• Why has this notification been given a Category A when it is likely to provide delegated powers to Ministers and agencies which are consistent with a Category B notification?

• Has the Scottish Government undertaken any consultation on the proposed provisions in the Regulation, if so please provide the above details?

• Please provide detail of the bodies within Scotland with whom you consulted and a summary of their responses.