Dear Minister

EU Foodstuffs and Hygiene – EU Exit Regulations

Thank you for providing oral evidence at the Health and Sport Committee’s meeting on 6 November in relation to the above. The Committee agreed at the meeting to write to you to seek clarification on a number of issues.

Your notification on the regulations detailed that the Food Standards Agency carried out a public consultation across the UK from 4 September to 18 October 2018 on the proposed approach to retained EU law for food and feed safety and hygiene.

- Which stakeholders in Scotland responded to this consultation and were any concerns expressed?
- Why was there no equivalent consultation from Food Standards Scotland?

During your evidence session the removal of the legal basis for the European Food Safety Authority and the EUs Rapid Alert System for Food and Feed as well as other associated crisis and emergency management arrangements was discussed. You highlighted that a UK wide framework was currently being discussed between the FSA and FSS for food and feed safety and hygiene. The notifications detail this will set up new working arrangements and enhanced capacity for incident handling and risk
assessment. The notifications mention that these roles are currently undertaken by “EU governance arrangements and systems”.

- Are you able to provide further information on what the framework agreement between UK Ministers/FSA and Scottish Ministers and the FSS will look like?
- It would be helpful to receive further insights into how the bodies will work together and share the load on risk assessment and management for foods coming into Scotland.
- Are you able to provide further information on the expected increase in the volume of work for FSA and FSS when European Food Safety Authority’s functions transfer over and the consequent cost and resource issues for the FSS?
- The FSA’s consultation on the changes to these pieces of retained EU law notes at page 13 that EFSA currently carries out its risk assessment through a worldwide network of experts. Are you able to provide further information on whether such a network will be required in the UK after exit from the EU and how one would be established?
- Are you able to provide further clarity on what access FSA and FSS will have to the EUs Rapid Alert System for Food and Feed information in the event of no deal? In particular, if publicly accessible information is all that would be available to FSA and FSS, how quickly is such information made available and is sufficient information made available to allow FSA and FSS to make recommendations on measures which UK or Scottish Ministers may wish to take to respond to an alert?

In your evidence session we sought assurance that as there is currently no agreement on how a UK-wide framework for food and feed safety and hygiene will operate how the Scottish Government can be confident that the General Food Law (EU Exit) Regulations will not lead to policy divergence from the current EU standards. We gave the specific example of the potential introduction of chlorinated chicken by the UK Government. You offered the Committee the assurance that the orders would respect the devolution settlement. You detailed that if the UK Government did decide to introduce chlorinated chicken Scotland would be able to adopt a different approach and maintain the current EU standards.

- Are you able to provide further information on how such a situation would operate in practice?
- What aspect of the SI or other legislation, would enable Scotland to maintain EU standards if the UK Government decided to adopt a different approach?

As was acknowledged during your evidence session FSS is accountable directly to the Parliament rather that Scottish Government Ministers. We therefore request the FSS provide in writing updates to the Committee on its progress in building its capacity to enable delivery of the functions that would be designated to it by these Statutory Instruments.

A response from you to this letter by 12 noon on Monday 12 November would be much appreciated. This will enable the Committee to consider your response at its next meeting on the morning of Tuesday 13 November. This timing will allow the Committee to consider further the proposals by the Scottish Government to consent to the UK Government legislating using the powers under the Act in relation to the UK statutory
instruments on EU Foodstuffs and Hygiene before the first instrument is laid on 19 November.

Yours sincerely

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Convener, Health and Sport Committee

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Food Standards Scotland