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Health, Social Care and Sport Committee

The Food Safety Act 1990 Amendment (Scotland) Regulations 2026 [draft]



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Health, Social Care and Sport Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Health and Social Care.

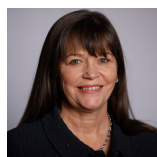


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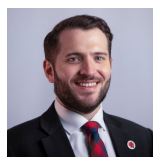


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Committee Membership



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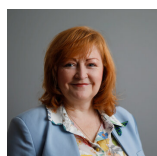
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Scottish Conservative
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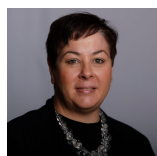
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Brian Whittle
Scottish Conservative
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Introduction

1. This report sets out the Health, Social Care and Sport Committee's consideration of the following Scottish Statutory Instrument (SSI) at its meeting on 9 December 2025 - [The Food Safety Act 1990 Amendment \(Scotland\) Regulations 2026](#) [draft].
2. The instrument, laid in draft, is subject to the affirmative procedure – which means it cannot be made unless it has been approved by a resolution of the Parliament.
3. The minutes of the meeting have been published on the Committee's webpages. The Official Report of the meeting will be published on the Committee's webpages in due course.

The Food Safety Act 1990 Amendment (Scotland) Regulations 2026 [draft]

4. The instrument, laid under the [Retained EU Law \(Revocation and Reform\) Act 2023](#) on 4 November 2025, amends provisions of the [Food Safety Act 1990](#).
5. The policy note states -
 - ” 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.
6. The policy note outlines that the 1990 Act provides the framework for food legislation in Great Britain, with its primary purpose being to maintain food safety and wider consumer protections relating to food.
7. Section 17 of the Act provides Ministers across Great Britain with powers to execute and enforce any EU provision or obligation. The policy note flags that 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, and so references to EU law should now be to assimilated law.
8. The policy note further states that these amendments put the operability of section 17 beyond doubt and do not change policy or obligations under food law.
9. Furthermore, the policy note highlights that the amendments have been subject to a GB wide consultation as the Scottish Government had originally anticipated these amendments to the Food Safety Act 1990 would proceed by SI rather than SSI. The Minister had agreed that course of action on 12 December 2024. The Food Standards Agency and UK Government subsequently reconsidered their priorities and potentially no longer wish to proceed with this action - therefore an SSI is necessary to make the change.
10. 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 \(SSI 2023/374\)](#).

Delegated Powers and Law Reform Committee Consideration

11. The Delegated Powers and Law Reform (DPLR) Committee is required to consider every instrument laid before the Parliament and decide whether to draw it to the attention of the Parliament on any of the “reporting grounds” set out in Rule 10.3 of the Parliament's standing orders.

12. The Delegated Powers and Law Reform Committee (DPLR) considered the instrument at its meeting on [18 November 2025](#). The DPLR Committee agreed that it did not need to draw the Parliament's attention to the instrument on any grounds within its remit.

Health, Social Care and Sport Committee consideration

13. The Health, Social Care and Sport Committee is required to consider and report on the instrument.

14. The Committee took evidence from the Minister, and supporting officials on the instrument at its meeting on 9 December 2025. During the evidence session, the Minister highlighted that the Scottish Government is advised by Food Standards Scotland on food safety standards and labelling. In that context, she told Committee that Food Standards Scotland had worked diligently with the Food Standards Agency and the Scottish Government to update EU Law references to Retained EU Law references where they were found. She further stated:

” This particular instrument relates to a deficiency contained within the Food Safety Act 1990. This Act provides the legal foundation for food safety and standards in Great Britain. The amendments to the Food Safety Act 1990 were originally going to be made by a GB Statutory Instrument, however once it became apparent the the GB SI was being paused by the Food Standards Agency and the UK Government, the responsible approach agreed between Food Standards Scotland and the Scottish Government was to take forward a Scottish Statutory Instrument instead...

15. The Minister was then asked if the implementation of this instrument would have any implications for the food industry. The Minister responded by stating:

” The reason for bringing in this SSI is to return the statute book to the way it should be. It wasn't updated - it still talks about EU Law, which is no longer factually correct, it is now assimilated Law. So that is the change that is being brought in. It therefore allows us, with the work the UK Government is currently doing, to improve relationships with the EU...I think it's important that we rebuild the close relationship that we have and therefore the current EU reset work that is happening, when that happens, then we have a statute book that is ready to integrate that quickly and efficiently.

16. Following the evidence session, the Minister moved motion [S6M-19531](#):

That the Health, Social Care and Sport Committee recommends that the Food Safety Act 1990 Amendment (Scotland) Regulations 2026 [draft] be approved.

17. The motion was agreed to.

18. The Health, Social Care and Sport Committee recommends to the Scottish Parliament that the Food Safety Act 1990 Amendment (Scotland) Regulations 2026 [draft] be approved.

