Health, Social Care and Sport Committee
Tuesday, 3 February 2026
5th Meeting, 2026 (Session 6)

Note by the Clerk on The Food Supplements (Magnesium L-threonate monohydrate) (Scotland) Regulations 2026 [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 Supplements (Magnesium L-threonate monohydrate) (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 Supplements (Magnesium L-threonate monohydrate) (Scotland) Regulations 2026 [draft]

   Laid under: The Nutrition (Amendment etc.) (EU Exit) Regulations 2019

   Laid on: 7 January 2026

   Procedure: Affirmative

   Lead committee to report by: 15 February 2026

   Commencement: If approved, the instrument comes into force on 5 March 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 20 January 2026 and reported on it in its 8th Report, 2026 (Session 6). The DPLR Committee made no recommendations in relation to the instrument.

Purpose of the instrument

9. The purpose of this instrument (SSI) is to allow the mineral substance Magnesium L-threonate monohydrate, a novel food concurrently authorised in Scotland by the Scottish Ministers under Regulation (EU) 2015/2283, to be used in the manufacture of food supplements. This SSI also sets the purity criteria for this mineral substance.

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. 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).

Clerks to the Committee
February 2026

Annexe: Scottish Government Policy Note

POLICY NOTE

THE FOOD SUPPLEMENTS (MAGNESIUM L-THREONATE MONOHYDRATE) (SCOTLAND) REGULATIONS 2026

SSI 2026/XXX

The Scottish Ministers make the following Regulations in exercise of the powers conferred by regulations 2(2) and 3 of the Nutrition (Amendment etc.) (EU Exit) Regulations 2019. The instrument is subject to affirmative procedure.

Summary Box

The purpose of this instrument (SSI) is to allow the mineral substance Magnesium L-threonate monohydrate, a novel food concurrently authorised in Scotland by the Scottish Ministers under Regulation (EU) 2015/2283, to be used in the manufacture of food supplements. This SSI also sets the purity criteria for this mineral substance.

Policy Objectives

An application was received by Food Standards Scotland (FSS) and the Food Standards Agency (FSA) seeking the authorisation under Regulation (EU) 2015/2283 of the mineral substance Magnesium L-threonate monohydrate as a novel food. The application is for Magnesium L-threonate monohydrate, a novel form of the mineral Magnesium, to be used in the manufacture of food supplements for adults aged 18 years and older.

The mineral substance Magnesium L-threonate monohydrate has been subject to the regulated products safety assessment process by FSS and the FSA, as required by Regulation (EU) 2015/2283. In March 2024, a positive opinion on Magnesium L-threonate monohydrate was published on the FSA's website, https://www.food.gov.uk/research/researchprojects/safety-assessment-magnesium-l-threonate-as-a-novel-food-for-use-in-foodsupplement

The Food Supplements (Scotland) Regulations 2003 (the "2003 Regulations") sets out labelling and compositional requirements for food supplements. The 2003 Regulations stipulate that only vitamins and minerals listed in schedule 1, and in the form specified in schedule 2, of the Nutrition (Amendment etc.) (EU Exit) Regulations 2019 (the "2019 Regulations") and which also meet purity criteria for the substance in question, can be used in the manufacture of food supplements.

Therefore, in order for Magnesium L-threonate monohydrate to be used in the manufacture of food supplements, an amendment to schedule 2 of the 2019 Regulations must be made to add an entry for this mineral substance, and purity criteria of the substance must be set, both by this SSI.

This is in addition to an authorisation of the novel food under Regulation (EU) 2015/2283, which is by way of a Ministerial Determination.

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 Scottish Ministers certify that, in their view, the Food Supplements (Magnesium L-threonate monohydrate) (Scotland) Regulations 2026 are compatible with the UNCRC requirements, as defined by section 1(2) of the Act.

EU Alignment Consideration

Magnesium L-threonate monohydrate has been approved as a novel food in the EU and Directive 2002/46 has been amended to allow for its use in food supplements across member states.

The terms of the GB and EU safety assessments which underpin the novel food authorisations differ. The EU risk assessment included information on microbiological data, however this is not included in the GB assessment as the view in GB is that this is deemed unnecessary because the product is synthetic in nature. The EU have also not included heavy metals in their assessment, whereas GB has included this detail in their assessments. These minor differences do not amount to any material difference in terms of the safety assessments nor do they raise any safety concerns. The EU has not set purity criteria for this substance. Magnesium L-threonate monohydrate is currently produced in such a way that it will meet the legislative specifications required by both the GB and EU markets. As such, these Regulations will not have any material impact upon the Scottish Government's policy to maintain alignment with the EU.

Consultation

There has been consultation as required by Article 9 of Regulation (EC) No 178/2002. On the 8th January 2025, Food Standards Scotland launched an 8-week consultation which closed on the 5th March. During the consultation, no concerns were raised in regard to adding Magnesium L-threonate as a form of magnesium for use in the manufacture of food supplements.

A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Food Standards Scotland Citizen Space Website, https://consult.foodstandards.gov.scot/regulatory-policy/regulatory-policy-tranche4-wave1- miscellaneous/

Impact Assessments

A Child's Rights and Wellbeing Impact Assessment (CRWIA) has been undertaken to consider the impact of these Regulations on children's rights and welfare. The CRWIA for these Regulations concluded that the impacts upon children's rights is neutral. A copy of the completed CRWIA accompanies this policy note.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.

Financial Effects

The Minister for Public Health and Women's Health confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Food Standards Scotland
January 2026