

Rural Affairs and Islands Committee

19th Meeting, 2023 (Session 6), Wednesday, 21 June

Subordinate legislation

Introduction

1. This paper supports the Committee's consideration of three negative statutory instruments—
 - [Public Intervention and Private Storage Aid \(Suspension and Miscellaneous Amendment\) \(Scotland\) Regulations 2023](#) (SSI 2023/150) – see Annexe A;
 - [Seed Fees \(Scotland\) Amendment Regulations 2023](#) (SSI 2023/151) – see Annexe B; and
 - [Feed Additives \(Form of Provisional Authorisations\) \(Cobalt\(II\) Compounds\) \(Scotland\) Regulations 2023](#) (SSI 2023/170) – see Annexe C.

Parliamentary procedure – negative instruments

2. The negative parliamentary procedure is set out in Chapter 10 of the Parliament's Standing Orders. Instruments subject to the negative procedure come into force on a specified date and remain in force unless it is annulled by the Parliament. Thus, the Parliament does not need to agree to the instrument in order for it to come into force.
3. The Parliament may, however, and on the recommendation of the lead committee, recommend the instrument be annulled within 40 days of the instrument being laid. Any MSP may by motion propose to the lead committee that the committee recommends “that nothing further is to be done under the instrument”. Any motion for annulment would be debated by the lead committee and a report made to Parliament.
4. No motions to annul have been lodged for these three instruments.

For decision

5. **Members are invited to consider if they wish to make any recommendations in relation to these instruments.**

Public Intervention and Private Storage Aid (Suspension and Miscellaneous Amendment) (Scotland) Regulations 2023 (SSI 2023/150)

Title of Instrument:	The Public Intervention and Private Storage Aid (Amendment and Suspension) (Scotland) Regulations 2023
Type of Instrument:	Negative
Laid date:	22 May 2023
Reporting deadline:	26 June 2023
Coming into force:	1 July 2023
Instrument drawn to Parliament's attention by DPLRC:	No
Instrument made using powers conferred by:	Agriculture (Retained EU Law and Data) (Scotland) Act 2020
Supporting documentation:	Policy note attached

Purpose of the instrument

1. The policy note states this instrument amends retained EU legislation in order to suspend the rules around intervention purchasing and bring the rules around private storage aid into line with the rest of the UK.

Background

2. The European Commission's market support programme includes two important components: intervention and private storage aid. Intervention is used to maintain market stability by purchasing excess supplies, which are then stored. These intervention stocks are later sold through public tenders when market prices rise. On the other hand, private storage aid offers support payments for storage specifically in the context of dairy production, which experiences seasonal fluctuations. Both intervention strategies aim to remove products from the market, particularly when prices drop below certain thresholds, in order to manage market conditions effectively.
3. The schemes were two of the main market intervention mechanisms under the Common Agricultural Policy for supporting prices during periods of market volatility, but according to the policy note, usage has declined since the 1990s.

Private intervention

4. The Single CMO Regulation, established by Regulation (EU) No 1308/2013, mandates the availability of private intervention for specific agricultural products during certain periods of the year. However, private intervention schemes are generally regarded as inefficient market support measures and are associated with high costs. These schemes are infrequently utilised primarily because the specified criteria are rarely met, and market prices seldom drop below the private intervention price. Consequently, there has been limited engagement with private intervention in most sectors over the past two decades, with the majority of activity focused on Private Storage Aid instead.
5. The Market Measures Payment Schemes (Amendments, Revocation and Transitional Provision) (England) Regulations 2023 came into force in England on 28 February 2023. Those regulations modify retained EU legislation to eliminate the provisions regarding public intervention that are not related to exceptional market conditions. Additionally, the framework for private storage aid is adjusted to align with the specific needs and regulations of the domestic market in England.
6. This instrument will introduce similar changes to the market intervention measures in Scotland, with the exception that the framework for private intervention will be largely suspended for a period of five years, rather than being revoked, where they are not related to exceptional market conditions. The instrument will maintain the framework for private storage aid with minor adjustments, while the framework for private intervention will be largely suspended in Scotland for five years, but with limited provisions remaining for situations where Scottish Ministers need to take action to address potential market disruptions.
7. In Scotland, the Agriculture (Retained EU Law and Data) (Scotland) Act 2020 granted powers to suspend the application of provisions related to market schemes for a specific duration. This instrument will utilise those powers to temporarily deactivate the provisions for private intervention for a period of five years. This temporary suspension allows for further consideration of the future of both PI and private storage aid schemes and their alignment with EU regulations. However, Scottish Ministers retain the discretion to activate private intervention during this period if there is a perceived risk of market disturbance.
8. Temporarily suspending the private intervention provisions aligns Scotland with the rest of the UK. Without this change, there is a risk of solely supporting the entire UK market. Additionally, in the case of private storage aid, a decision not to align could potentially put Scottish applicants at a disadvantage compared to applicants from other parts of the UK.

Private storage aid

9. Most of the retained EU provisions relating to private storage aid will remain in place, with minor amendments, including—

- there will no longer be interim checks on products being stored for the purposes of private storage aid, streamlining inspection requirements, but there will be a corresponding increase to the minimum percentage of product checked at the opening and closing of a scheme from 5% to 10% (inspections at intake and at the end of the storage period provide sufficient checks to confirm scheme adherence)
- cheeses with PDO/PGI status will no longer be treated in a different way from those without such status
- securities will no longer need to be provided – security was in place to ensure the applicant placed the contracted quantity into store as an indication of their genuine intent to use the scheme but since the scheme payment is not made until the end of the storage period, and the intake inspection ensures the product goes into store, the payment of a security is deemed unnecessary
- tenders for private storage aid schemes will now be set in pounds sterling.

10. While the policy note states that there is no legal requirement for a formal consultation, officials conducted a limited stakeholder engagement process. The proposed amendments and policy objectives were shared with the National Farmers Union of Scotland (NFUS) and the Scottish Agricultural Organisation Society (SAOS). SAOS expressed agreement with the proposals, indicating that there was no longer a need for private intervention. On the other hand, NFUS acknowledged the importance of having a framework for market support during crisis situations and expressed caution regarding the potential impact of the proposed changes on stability and confidence in various sectors. However, NFUS also mentioned that the upcoming Agriculture Bill would provide adequate powers for Scottish Ministers to intervene when necessary.

11. Impact assessments were not conducted for the SSI as it is intended for a temporary period. The SSI will still provide protection by granting powers to address potential market disruptions, and it will also enable the creation of private storage aid schemes. As a result, impact assessments were deemed unnecessary for this specific instrument.

Consideration by the Delegated Powers and Law Reform Committee

12. [The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 30 May 2023](#) and agreed that no points arose.

Policy note

The Public Intervention and Private Storage Aid (Amendment And Suspension) (Scotland) Regulations 2023 SSI 2023/150

The above instrument was made in exercise of the powers conferred by sections 6(1) and 21 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020 (“the ARELDS Act”).

The instrument is subject to negative procedure.

This instrument amends retained EU legislation in order that rules around intervention purchasing are suspended and rules around private storage aid are brought into line with the rest of the UK. The schemes were two of the main market intervention mechanisms under the Common Agricultural Policy for supporting prices during periods of market volatility.

Policy Objectives

Two of the main market intervention mechanisms under the Common Agricultural Policy for supporting prices during periods of market volatility were public intervention (PI) and private storage aid (PSA) but usage has declined since the 1990s.

Intervention would be through the purchase of product by public authorities and its removal from the market (intervention purchasing) or by paying private companies to store product rather than placing it immediately on the market (private storage aid). Both policies relate to the removal of products from the market, including when prices fall below certain thresholds.

The Single CMO Regulation (Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products) requires PI to be available for certain products at certain times of year. PI schemes are widely considered not to be an efficient form of market support and also have high associated costs. The schemes are rarely used largely due to the fact that the specification is rarely met and/or market price rarely falls below the PI price. There has been limited activity in most sectors over the past 20 years and activity has mainly been in PSA.

In England, the Market Measures Payment Schemes (Amendments, Revocation and Transitional Provision) (England) Regulations 2023 came into force on 28 February 2023. Those Regulations amend retained direct EU legislation in order to remove the framework related to public intervention (otherwise than in connection with exceptional market conditions) and to tailor the framework relating to private storage aid to domestic requirements.

This instrument makes equivalent changes to the market intervention measures, with the exception that instead of removing PI, this instrument provides that PI will cease to have effect in Scotland for a period of 5 years.

This instrument will retain the framework for PSA with some minor changes, and preserve the framework for PI only for circumstances where Scottish Ministers have to take measures to address threats of market disturbance. PI for the specified commodities will no longer operate for a period of five years from 01 July 2023.

For Scotland, powers were taken in the ARELDS Act to allow the provisions for the schemes to cease to apply for a period – this instrument will temporarily dis-apply the PI provisions for a period of five years, pending a longer term decision on the future of PI and PSA schemes and on EU alignment. Scottish Ministers could in the meantime choose to make it available in the event of a threat of market disturbance.

If Scotland chose not to mirror the rest of the UK to the extent that Scotland temporarily ceases PI provisions, it would run the risk of supporting the whole of the UK market and for PSA, potentially leave Scottish applicants at a disadvantage. Most of the retained EU provisions relating to PSA will remain in place, with minor amendments:

- there will no longer be interim checks on products being stored for the purposes of PSA, streamlining inspection requirements, but there will be a corresponding increase to the minimum percentage of product checked at the opening and closing of a scheme from 5% to 10% (inspections at intake and at the end of the storage period provide sufficient checks to confirm scheme adherence)
- cheeses with PDO/PGI status will no longer be treated in a different way from those without such status
- securities will no longer need to be provided - security was in place to ensure the applicant placed the contracted quantity into store as an indication of their genuine intent to use the scheme but since the scheme payment is not made until the end of the storage period, and the intake inspection ensures the product goes into store, the payment of a security is deemed unnecessary
- tenders for PSA schemes will now be set in pounds sterling.

Consultation

Whilst there is no statutory consultation requirement, officials carried out light touch stakeholder engagement. The National Farmers Union of Scotland (NFUS) and the Scottish Agricultural Organisation Society (SAOS) were informed of the proposed amendments and policy objectives.

SAOS agreed with the proposals and that there was no longer a need for PI. NFUS recognise that there needs to be some form of framework for market support for sectors in a crisis and cautioned that the proposed changes may not offer the same stability or confidence for sectors. However they also stated that the forthcoming Agriculture Bill would offer the adequate provision of such powers for Scottish Ministers to intervene where necessary.

Impact Assessments

Impact assessments were not carried out as the SSI is for a temporary period and will continue to afford protection through powers to address threats of market disturbance and continuing to allow for PSA schemes to be created.

Financial Effects

The Cabinet Secretary for Rural Affairs, Land Reform and Islands confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Agriculture & Rural Economy Directorate
May 2023

Seed Fees (Scotland) Amendment Regulations 2023 (SSI 2023/151)

Title of Instrument:	Seed (Fees) (Scotland) Amendment Regulations 2023
Type of Instrument:	Negative
Laid date:	22 May 2023
Reporting deadline:	26 June 2023
Coming into force:	1 July 2023
Instrument drawn to Parliament's attention by DPLRC:	No
Instrument made using powers conferred by:	The Plant Varieties and Seeds Act 1964
Supporting documentation:	Policy note attached

Purpose of the instrument

13. The policy note states that the purpose of the instrument is to update the provisions for charging for seed certification (in relation to seed marketing), seed testing and associated licensed activities by substituting new schedules 1 and 2 of the Seeds (Fees) (Scotland) Regulations 2018 (“the 2018 Regulations”).
14. The 2018 Regulations prescribe fees in relation to various regulations, known collectively as the “Marketing Regulations”, these include:
 - The Vegetable Seeds Regulations 1993 (S.I. 1993/2008),
 - The Oil and Fibre Plant Seed (Scotland) Regulations 2004 (S.S.I. 2004/317),
 - The Cereal Seed (Scotland) Regulations 2005 (S.S.I. 2005/328),
 - The Fodder Plant Seed (Scotland) Regulations 2005 (S.S.I. 2005/329),
 - The Beet Seed (Scotland) (No 2) Regulations 2010 (S.S.I. 2010/148), and
 - The Seeds (Licensing and Enforcement etc.) (Scotland) Regulations 2016 (S.S.I. 2016/68) (all as amended).
15. The policy note explains that seed certification is carried out to ensure that farmers and growers receive seeds of a known minimum quality. In Scotland, this is accomplished through the Marketing Regulations, which require that seeds of major agricultural and vegetable species undergo examination and certification to meet specific minimum standards. These standards remain aligned with those of the European Union (EU). Additionally, the seeds must come from crops that have also met certain standards. The Scottish Government is responsible for the

technical and administrative aspects associated with seed certification to ensure compliance with these regulations.

16. The Scottish Government conducts an annual review of costs and services related to seed certification. This review enables the Seed Certifying Authority to ensure that they achieve full cost recovery without any over-recovery, while maintaining a strong and transparent system. The purpose of the review is to ensure that the functions and associated costs are clear and transparent to all stakeholders involved in the seed certification process.
17. Based on historical data, and an inflation rate of 4.5% from March 2022, the cost of certifying a tonne of barley seed was estimated to be around £20.60, taking into account the average tonnes per hectare for the past harvest. However, since then, inflation has significantly increased to double figures, resulting in a corresponding rise in costs.
18. Considering the uncertainty and variation in costs due to inflation, it has been decided to increase fees to prevent a more significant cost increase in future reviews. The increase in fees will be based on the rate of CPI (Consumer Price Index), which is a customary practice. This adjustment acknowledges the additional costs caused by the high CPI in the latter half of 2022 and into 2023, while also taking into account the industry's desire to limit cost increases.
19. Specifically:
 - Fees listed in schedule 1 of the 2018 Regulations will undergo a 5% increase. These fees pertain to various functions involved in verifying the species, variety, and quality of seeds, including processes such as seed sampling and crop inspections; and
 - Fees listed in schedule 2 of the 2018 Regulations will experience a 7% increase. These fees cover activities like representations and hearings, Licensed Seed Testing Stations, as well as courses and examinations.
20. Section 16(1) of the Act mandates the Scottish Ministers to engage in consultations with relevant stakeholders before implementing regulations. In compliance with this requirement, all customers of the seed certification system in Scotland and/or OSTs (Official Seed Testing Station) were notified via email or letter and provided with a link to participate in a consultation regarding changes to the fees. The consultation document was also made available on the Scottish Agricultural Science Agency (SASA) website.
21. The consultation lasted for a period of eight weeks and targeted over 50 individuals. Additionally, the complete consultation document was shared with key stakeholders such as the National Farmers Union Scotland (NFUS), AIC Scotland, and Scottish Seed Trade Association. Only one response was received within the consultation period from HIS Ltd., a grass seed retailer based in Inverness. Their response expressed satisfaction with the proposed fee changes, considering the prevailing economic conditions.
22. The Scottish Government conducted a Business Regulatory Impact Assessment (BRIA) to assess the financial effects of proposed changes. However, despite

inviting several businesses in Scotland to participate in BRIA interviews, none chose to take part. As a result, no interviews were conducted. Consequently, the BRIA evaluates the impact on businesses solely based on the information that was accessible to the Scottish Government.

Consideration by the Delegated Powers and Law Reform Committee

23. The [Delegated Powers and Law Reform Committee considered the instrument at its meeting on 30 May 2023](#) and agreed that no points arose.

Policy note

The Seed (Fees) (Scotland) Amendment Regulations 2023 S.S.I. 2023/151

Introduction

The above instrument (“the SSI”) is made by Scottish Ministers in exercise of the powers conferred by sections 16(1), (1A), 3(i) and 36 of the Plant Varieties and Seeds Act 1964 (“the Act”) and all other powers enabling them to do so. The SSI is subject to negative procedure.

Purpose of the instrument

The purpose of the SSI is to update the fees charged for seed certification, seed testing and associated licensed activities by amending the relevant provisions of the Seed (Fees) (Scotland) Regulations 2018.

Policy objectives

This SSI will update the provisions for the charging for seed certification (in relation to seed marketing) and associated licensed activities by substituting new schedules 1 and 2 of the Seeds (Fees) (Scotland) Regulations 2018 (“the 2018 Regulations”).

The 2018 Regulations prescribe fees in respect of matters arising under the various regulations, known collectively as the “Marketing Regulations”, namely:

- The Vegetable Seeds Regulations 1993 (S.I. 1993/2008),
 - The Oil and Fibre Plant Seed (Scotland) Regulations 2004 (S.S.I. 2004/317),
 - The Cereal Seed (Scotland) Regulations 2005 (S.S.I. 2005/328),
 - The Fodder Plant Seed (Scotland) Regulations 2005 (S.S.I. 2005/329),
 - The Beet Seed (Scotland) (No 2) Regulations 2010 (S.S.I. 2010/148), and
 - The Seeds (Licensing and Enforcement etc.) (Scotland) Regulations 2016 (S.S.I. 2016/68)
- (all as amended).

Seed certification is carried out to ensure that farmers and growers receive seeds of a known minimum quality. These standards remain aligned with the EU. This is achieved in Scotland through the Marketing Regulations, which ensure that seeds of the main agricultural and vegetable species can be marketed only after being examined and certified as meeting specified minimum standards and as being derived from crops which have also met specific standards. The Scottish Government carries out technical and administrative work associated with seed certification.

The annual review of costs and services by Scottish Government allows the Seed Certifying Authority to check that full cost recovery is achieved (with no over recovery) whilst still providing a robust system, where functions and costs are transparent to all.

The figures were calculated using historical data and an inflation rate from March 2022 (4.5%). Inflation has since risen to double figures and costs have increased in line with this. Incorporating these increases, the cost of certifying a tonne of barley seed, for example, would be roughly £20.60 (figure provided by SASA, factoring in average tonnes per hectare for the past harvest).

Noting the uncertainty and variation to costs due to inflation, but also taking into account the need to increase fees to avoid a more significant cost increase in future reviews, consideration was given to increasing fees by the rate of CPI, which is an accustomed practice. These increases recognise the additional costs brought about by the high CPI throughout the second half of 2022 and into 2023 while balancing the desire to limit increases in cost to industry.

Fees prescribed in schedule 1 of the 2018 Regulations will be subject to a 5% increase. These fees relate to the various functions undertaken to allow the species, variety and standard of seed to be checked through various processes, including seed sampling and crop inspections.

Fees prescribed in schedule 2 of the 2018 Regulations will be subject to a 7% increase. These fees relate to representations and hearings, Licensed Seed Testing Stations, and courses and examinations.

Consultation

Section 16(1) of the Act requires Scottish Ministers to consult with representatives of such interests as appear to them to be concerned before making regulations under that power. All customers of the seed certification system in Scotland and / or OSTs were sent an email or a letter providing them the link to the consultation on changes to the fees. The consultation was also placed on the SASA website. (2023 - Consultation on Fees for Seed Testing, Seed Certification, and Associated Seed Functions | SASA (Science & Advice for Scottish Agriculture))

The consultation ran for an eight-week period and was targeted at over 50 individuals. The full consultation document was also shared with key stakeholders (the National Farmers Union Scotland (“the NFUS”), AIC Scotland and Scottish Seed Trade Association). One response was received within the consultation period from HIS Ltd. (a grass seed company in Inverness) which stated, “as we are a retailer of grass seed, all seems fine and balanced, given current economic conditions.”

Financial Impact

In addition to the consultation, a Business Regulatory Impact Assessment (“BRIA”) was undertaken to determine the extent of the financial effects of the proposed changes. Several businesses across Scotland were invited to take part in BRIA

interviews, but none wished to participate. Therefore, it was not possible to conduct any interviews. Accordingly, the BRIA considers the impact on businesses based on the information that was available to the Scottish Government.

Timing

The SSI comes into force on 01 July 2023.

Scottish Government
Agriculture and Rural Economy Directorate
SASA, Agriculture Division
May 2023

Feed Additives (Form of Provisional Authorisations) (Cobalt(II) Compounds) (Scotland) Regulations 2023 (SSI 2023/170)

Title of Instrument:	Feed Additives (Form of Provisional Authorisations) (Cobalt(II) Compounds) (Scotland) Regulations 2023
Type of Instrument:	Negative (see paras 15 and 16)
Laid date:	1 June 2023
Reporting deadline:	11 September 2023
Coming into force:	30 June 2023
Instrument drawn to Parliament's attention by DPLRC:	DPLRC to consider SSI on 21 June 2023
Instrument made using powers conferred by:	Article 15 of Regulation (EC) No. 1831/2003
Supporting documentation:	Policy note attached

Background

24. Cobalt is a trace element that plays a key role in meeting the nutritional requirements of ruminants, horses, and, to a lesser degree, other animal species. Its nutritional significance is associated with vitamin B12. Cobalt deficiency in animals (particularly ruminants) results in loss of appetite, reduced growth rate, severe emaciation, weakness, anaemia, decreased fertility, and lowered milk and wool production.
25. According to the policy note, the European Food Safety Authority (EFSA) scientific opinion states that cobalt supplementation of animal feed should be maintained and considered as an effective nutritional additive for ruminants and does not pose safety concerns for consumers. Further information regarding the safety and efficacy of cobalt compounds and the European Food Safety Authority (EFSA) scientific opinion is available in the attached policy note.
26. The policy note further explains that there are no alternatives to these cobalt compounds that could meet nutritional requirements. This would, the note contends, result in a serious risk that animal health would be negatively and severely impacted (almost immediately) if cobalt was to become unavailable in animal feed.

Purpose of the instrument

27. The policy note states that the instrument is required to implement the decision of the Minister for Public Health and Women's Health to provisionally authorise (for a period of three years) four feed additives cobalt(II) trace compounds as feed additives in Scotland. The instrument prescribes the form of those provisional authorisations which are set out in schedules 1 to 4 of the instrument. The policy note explains that, due to an oversight by the previous consortium of applicants, no renewal applications for specific (liquid) cobalt forms were submitted in time, and as a result, the authorisation for these cobalt compounds will expire at the end of 14 July 2023.
28. The provisional authorisations were made possible by Article 15 of Regulation (EC) 1831/2003, which provides Ministers with the power to make an urgent authorisation: "In specific cases where urgent authorisation is needed to ensure the protection of animal welfare, the appropriate authority may provisionally authorise the use of an additive for a maximum period of five years. The authorisation is to be in a form prescribed by the appropriate authority."
29. To comply with the requirements of Article 9 of Regulation (EC) No. 178/2002 there has been consultation during the preparation and evaluation of this SSI. Due to the urgent nature and the immediate risks to animal health and welfare, consultation across GB has been focused on engagement with the key feed trade associations throughout April-May 2023. Responses received from the Agricultural Industries Confederation (AIC) and the British Association of Feed Supplements and Additive Manufacturers (BAFSAM) provided strong evidence in support of the four cobalt authorisations.
30. The UK feed trade associations mentioned above have indicated that cobalt supplementation is at its height from March to November and, is administered 3-weekly to young animals in spring/summer and sheep/cattle during summer/autumn. As most forages and feedstuffs fed to ruminants do not contain adequate quantities of cobalt to support the ruminant's nutritional requirements industry estimates that without the use of cobalt as an additive this would lead to death of animals within 3-12 months.
31. Within Scotland, the trade associations AIC Scotland and NFUS have provided robust evidence demonstrating an even greater need for cobalt in Scotland (than the rest of the UK) due the geological composition of the soils which indicate a higher risk of cobalt deficiencies in grassland soils in most of Scotland.
32. Scottish Government vets together with Scottish Rural College (SRUC) produced [technical notes \(TN664\) on the management of cobalt in grassland soils maps the severity of cobalt deficiency in Scotland due to pastures low in cobalt levels](#).
33. The policy note highlights that Ministers in England and Wales are also considering provisional authorisations for these 4 cobalt compounds in order to have a GB-wide approach to this issue.

34. A Business and Regulatory Impact Assessment (BRIA) has not been carried out on this occasion as a result of the urgency of these provisional authorisations. The Minister for Public Health and Women's Health confirms that the instrument itself has no financial effects on the Scottish Government, local government or on business.

Consideration by the Delegated Powers and Law Reform Committee

35. The Delegated Powers and Law Reform Committee (DPLRC) will consider the instrument at its meeting on 21 June 2023 and clerks will update members if the DPLRC raises any points in relation to the instrument prior to this Committee's consideration.

Policy note

The Feed Additives (Form of Provisional Authorisations) (Cobalt(ii) Compounds) (Scotland) Regulations 2023 SSI 2023/170

Description

The above instrument was made in exercise of the powers conferred by Article 15 of Regulation (EC) No. 1831/2003 of the European Parliament and of the Council on additives for use in animal nutrition (Regulation (EC) No. 1831/2003). The instrument is subject to negative procedure.

Summary Box

The purpose of this instrument is to prescribe the form of provisional authorisations for four cobalt(II) trace compounds as feed additives.

Policy Objective

The instrument is required to implement the decision of the Minister for Public Health and Women's Health to provisionally authorise for a period of three years, four feed additives cobalt(II) trace compounds as feed additives in Scotland. The instrument prescribes the form of those provisional authorisations which are set out in schedules 1 to 4 of the instrument.

The provisional authorisations were made administratively Article 15 of Regulation (EC) 1831/2003, which provides Ministers with the power to make an urgent authorisation: "In specific cases where urgent authorisation is needed to ensure the protection of animal welfare, the appropriate authority may provisionally authorise the use of an additive for a maximum period of five years. The authorisation is to be in a form prescribed by the appropriate authority."

Policy Background

Cobalt is an essential trace element that is used to meet the nutritional demands for ruminants, horses and to a lesser extent other animal species due to its association with vitamin B12.. The 2009 European Food Safety Authority (EFSA) Scientific Opinion on safety and efficacy (No.1383) is available at:

<https://efsa.onlinelibrary.wiley.com/doi/abs/10.2903/j.efsa.2009.1383>

and the EFSA Opinions are available at:

(No.2791) at: <https://efsa.onlinelibrary.wiley.com/doi/abs/10.2903/j.efsa.2012.2791>

(No. 2727) at: <https://efsa.onlinelibrary.wiley.com/doi/abs/10.2903/j.efsa.2012.2727>.

These Opinions state that cobalt supplementation of animal feed should be maintained and considered as effective nutritional additives for ruminants and do not pose safety concerns for consumers.

Due to an oversight by the previous consortium of applicants no renewal applications for specific (liquid) cobalt forms were submitted in time, and as a result the authorisation for these cobalt compounds will expire at the end of 14 July 2023 (if not for the making of these provisional authorisations). There are no alternatives to these cobalt compounds that could meet nutritional requirements. This would result in a serious risk that animal health would be negatively and severely impacted (almost immediately) if cobalt was to become unavailable in animal feed.

Consultation

Within GB

To comply with the requirements of Article 9 of Regulation (EC) No. 178/2002 there has been consultation during the preparation and evaluation of this SSI. Due to the urgent nature and the immediate risks to animal health and welfare, consultation across GB has been focused on engagement with the key feed trade associations throughout April-May 2023. Responses received from the Agricultural Industries Confederation (AIC) and the British Association of Feed Supplements and Additive Manufacturers (BAFSAM) provided strong evidence in support of the four cobalt authorisations. In brief, cobalt deficiency in animals (particularly ruminants) results in loss of appetite, reduced growth rate, severe emaciation, weakness, anaemia and decreased fertility, milk and wool production. The UK feed trade associations mentioned above have indicated that cobalt supplementation is at its height from March to November and, is administered 3-weekly to young animals in spring/summer and sheep/cattle during summer/autumn. As most forages and feedstuffs fed to ruminants do not contain adequate quantities of cobalt to support the ruminant's nutritional requirements industry estimates that without the use of cobalt as an additive this would lead to death of animals within 3-12 months.

Within Scotland

Within Scotland the trade associations AIC Scotland and National Farmers' Union of Scotland (NFUS) have provided robust evidence demonstrating an even greater need for cobalt in Scotland (than the rest of the UK) due the geological composition of the soils which indicate a higher risk of cobalt deficiencies in grassland soils in most of Scotland. Scottish Government officials have provided their support for continued use of the 4 cobalt compounds in order to protect young ruminants (sheep and cattle) grazing animals in Scotland. Scottish Government Vets together with Scottish Rural College (SRUC) technical notes TN664 on the management of cobalt in grassland soils maps the severity of cobalt deficiency in Scotland due to pastures low in cobalt levels. This SRUC technical note is available at:

<https://www.fas.scot/downloads/tn664-management-of-cobalt-in-grassland-soils/>

Other Administrations

Ministers in England and Wales are also considering provisional authorisations for these 4 cobalt compounds in order to have a GB-wide approach to this issue.

Impact Assessments

As a result of the urgency of these provisional authorisations a specific Business and Regulatory Impact Assessment (BRIA) has not been carried out.

Financial Effects

The Minister for Public Health and Women's Health confirms that given the urgent nature of this provisional authorisation no BRIA has been prepared and the instrument itself has no financial effects on the Scottish Government, local government or on business.

Food Standards Scotland, Feed Safety Policy