

## **Amendments to Retained Regulation 2019/1793: Controls Applied to Imported Food and Feed not of Animal Origin**

**Launch date: Thursday 14<sup>th</sup> April 2022**

**Respond by: Thursday 7<sup>th</sup> July 2022**

### **This consultation will be of most interest to**

All England and Wales food and feed businesses, local and port health authorities, and other stakeholders with an interest in food and feed safety. A separate, parallel, consultation [has been launched](#) in Scotland by Food Standards Scotland (FSS).

### **Consultation subject**

Consultation on proposed routine amendments to Retained Regulation 2019/1793 which applies a temporary increase of official controls and special conditions governing the entry into Great Britain of certain food and feed of non-animal origin from certain countries.

### **Purpose of the consultation**

To seek stakeholder comments on proposed amendments to the Annexes of Retained Regulation 2019/1793.

## How to respond

Responses to this consultation should be marked 'Regulation 2019/1793 consultation' and be sent to [imported.food@food.gov.uk](mailto:imported.food@food.gov.uk) (in England) or [LASupportWales@food.gov.uk](mailto:LASupportWales@food.gov.uk) (in Wales).

## Details of consultation

### Introduction

When the UK left the EU, imported food legislation that was in force at the time was retained and domesticated for it to remain operable. Prior to the UK exit from the EU, routine updates to EU imported food legislation, made by the European Commission, were directly applicable in the UK. Moving forwards, the appropriate authorities in GB are now responsible for reviewing and amending the legislation as required. The appropriate authorities are the Secretary of State in England, Welsh Ministers in Wales and Scottish Ministers in Scotland. The appropriate authority is required to review the lists set out in the Annexes of the Regulation on a regular basis in order to consider new information related to risks and non-compliance

The FSA in England and Wales and Food Standards Scotland (FSS) in Scotland have carried out a joint review of the Annexes contained in the legislation. This is the first such review since the UK departed the EU and this consultation is to seek views on our proposed amendments to the Regulation. Amending the current controls will require a Statutory Instrument to be laid in each country.

This review is delivered through the joint FSA and Food Standard Scotland (FSS) risk analysis process so that Ministers can make risk management decisions based on the FSA/FSS recommendations.

It should be noted that decisions and changes to controls of imported food and feed from third countries will only apply to Great Britain (GB) and not Northern Ireland due to the supremacy of EU food and feed law in Northern Ireland under the Northern Ireland Protocol.

## Current controls

Most food and feed of non-animal origin can be imported into GB without additional, enhanced controls. However, imports of higher risk food and feed of non-animal origin from certain countries can only enter GB through appropriately approved Border Control Posts (BCP) where official controls are undertaken such as documentary, identity and physical examinations including sampling. A higher risk product is food or feed that is identified as either a known, or an emerging risk to public health. This may be due to the presence of pathogens, contaminants and toxins including aflatoxins.

Retained Regulation 2019/1793 sets out lists of higher risk food and feed of non-animal origin in its Annexes.

Consignments of food and feed listed in Annex I of Regulation 2019/1793 are subject to a temporary increase of official controls at BCPs on entry into GB and at control points.

Annex II of Regulation 2019/1793 sets out the list of consignments of food and feed from certain third countries subject to special conditions for the entry into GB due to contamination risk by mycotoxins, including aflatoxins, pesticide residues, pentachlorophenol and dioxins, and microbiological contamination.

Food and feed listed in Annex IIa is suspended from entry into GB.

## Review

This is the first review of high-risk food and feed not of animal origin by the FSA and FSS since the UK left the EU. The review has followed the risk analysis process established by the FSA and FSS. All recommendations have been developed and considered through a four-nation expert working group and agreed by officials in Scotland, Wales, England, and Northern Ireland. It is noted under the terms of the Northern Ireland Protocol under the UK's Withdrawal Agreement with the EU, Northern Ireland will continue to apply EU regulations in this area.

Detailed risk assessments for commodities and countries have been considered by the FSA and FSS as well as supporting evidence such as Border Notifications and sampling data. All proposed recommendations are science and evidence based.

The proposed recommendations have been subject to an assessment of the risks by the FSA and FSS. This includes a detailed analysis of GB import data which identifies the volume of such imports, sampling results, number of consignments found to be non-compliant with GB food and feed safety requirements, expected consumer exposure and the risk it may present to public health. The assessment also considers other intelligence from international authorities and peer reviewed literature.

### **Main proposals:**

The expert working group has developed a set of recommendations concerning commodities that in our view, require changes to the level of official controls. The proposed recommendations can be found in the 'impacts' section of this document. Certain commodities where the evidence suggests that increased official controls are no longer necessary because the risk has been effectively managed by improved compliance, will be removed from the lists while others will increase or decrease in their checking frequency depending on the level of risk posed. Adjustments are proposed to reflect food and feed safety risks, ensuring consumers in GB continue to have access to safe imported food.

We propose to make these recommendations to Ministers. Food safety is a devolved matter and the final decision will be made by ministers in each devolved country.

Secondary legislation will be required to be laid in each country to amend retained Regulation 2019/1793. It is intended that legislation to implement the outcome of this review will come into force in the autumn of 2022.

## Impacts

The proposed amendment incorporates 26 individual updates, which are explained in the table overleaf, and summarised as follows:

- 3 products have been removed from the scope of the controls. We have been monitoring compliance levels of these commodities since they were listed in the Annexes several years ago. Data obtained through our Early Warning System (EWS) and via border and other notifications indicates that the level of risk has significantly reduced. Based on our assessment of the data it is no longer necessary to have these enhanced controls in place as it shows with a high level of certainty that removal of the controls represents a negligible risk to public health. Therefore, there is no justification to keeping the current measures in place.
- 5 products will be subjected to reduced checks. Having already subjected these commodities to the highest level of enhanced controls over a number of years, we have gathered sufficient data to have increasing confidence that the level of compliance is improving. These products will be subject to this level of monitoring until we are satisfied the risk posed has reduced further.
- 14 products will be subjected to increased enhanced controls because we have concerns about the risk they pose to public health. These commodities have been subjected to monitoring and surveillance at GB border control posts over several years. The information obtained from these controls in addition to data from other countries, indicates that levels of non-compliance is not improving therefore more stringent controls, placing the emphasis on the exporting country to provide assurances about the product, are deemed necessary at this time.
- The introduction of 4 new products that require enhanced controls to be carried out due to concerns that they present a risk to public health. These commodities have been identified through EWS as well as sampling data and intelligence from other sources. The products will be subject to a proportionate level of monitoring at GB border control posts to gather evidence which will be used to justify either removing them from the controls altogether or increasing the level of checks undertaken.

Commodities listed in Annex I to the Regulation are temporarily controlled to help build a picture of whether more stringent measures might be required later. As such any impacts

are likely to be short term. Commodities contained in Annex II to the Regulation are more static in nature but are included in the biannual review and once the level of risk changes, the level of control is amended. Commodities listed in the Annexes to Regulation 2019/1793 are risk based and therefore relate only to the specified country(s) of origin. UK importers may therefore import from other countries across the globe whose products are not identified as 'high risk' and where import controls do not apply.

Local and Port Health Authorities are likely to have some nominal familiarisation costs associated with the routine updates. The delivery of official controls undertaken at the border can be recovered through the levy of fees and charges. High risk commodities can only be imported through already established BCPs in GB.

For the reasons outlined, an impact assessment has not been produced for these Regulations which the FSA has certified as being below the *de minimis* threshold of +/- £5m equivalent annual net direct cost to business.

The identification of the food and feed listed in the Annexes are made on the basis of the codes from the Combined Nomenclature and TARIC sub-division.

Proposed recommendations are set out in the following Table.

#### **Commodities removed from controls**

<b>Commodity</b>	<b>Country</b>	<b>Hazard</b>	<b>Risk Management recommendation</b>
<b>Goji berries</b> (Food) ex 0813 40 95 10, ex 0810 90 75 10	<b>China</b>	<b>Pesticide residues</b>	Annex I - Delist
<b>Dried grapes</b> (Food) 0806 20	<b>Turkey</b>	<b>Ochratoxin A</b>	Annex I - Delist
<b>Pistachios</b> (Food and Feed) 0802 51 00, 0802 52 00 ex 2008 19 13, ex 2008 19 93	<b>USA</b>	<b>Aflatoxins</b>	Annex I - Delist

## Commodities subject to reduced checks

Commodity	Country	Hazard	Risk Management recommendation
<b>Groundnuts</b> (Food and Feed) 1202 41 00, 1202 42 00, 2008 11 10, 2008 11 91; 2008 11 96; 2008 11 98, 2305 00 00, ex 1208 90 00 20	<b>Brazil</b>	<b>Aflatoxins</b>	Move from Annex II to Annex I at 10% identity and physical checks
<b>Groundnuts</b> (Food and Feed) 1202 41 00, 1202 42 00, 2008 11 10, 2008 11 91; 2008 11 96; 2008 11 98, 2305 00 00, ex 1208 90 00 20	<b>China</b>	<b>Aflatoxins</b>	Move from Annex II to Annex I - decrease from 20% to 10% identity and physical checks
<b>Hazelnuts</b> (Food and Feed) 0802 21 00, 0802 22 00, ex 0813 50 39 70, ex 0813 50 91 70, ex 0813 50 99 70, ex 2007 10 10 70, ex 2007 10 99 40, ex 2007 99 39 05;06, ex 2007 99 50 33, ex 2007 99 97 23, ex 2008 19 12 15, ex 2008 97 14 15, ex 2008 97 16 15, ex 2008 97 18 15, ex 2008 97 32 15, ex 2008 97 34 15, ex 2008 97 36 15, ex 2008 97 38 15, ex 2008 97 51 15, ex 2008 97 59 15, ex 2008 97 72 15, ex 2008 97 74 15, ex 2008 97 76 15, ex 2008 97 78 15, ex 2008 97 92 15, ex 2008 97 93 15, ex 2008 97 94 15, ex 2008 97 96 15, ex 2008 97 97 15, ex 2008 97 98 15, ex 2008 19 12 30, ex 2008 19 19 30, ex 2008 19 92 30,	<b>Turkey</b>	<b>Aflatoxins</b>	Move from Annex II to Annex I at 5% identity and physical checks

<b>Commodity</b>	<b>Country</b>	<b>Hazard</b>	<b>Risk Management recommendation</b>
ex 2008 19 95 20, ex 2008 19 99 30, ex 1106 30 90 40, ex 1515 90 99 20			
<b>Betel leaves (Piper betle)</b> (Food) 1404 90 00 10	<b>Banglad esh</b>	<b>Salmonella</b>	Move from Annex IIa to Annex II at 50% identity and physical checks
<b>Sesamum seeds (Food)</b> 1207 40 90	<b>Ethiopia</b>	<b>Salmonella</b>	Move from Annex I to Annex II at 50% identity and physical checks

### Commodities subject to increased enhanced controls

<b>Commodity</b>	<b>Country</b>	<b>Hazard</b>	<b>Risk Management recommendation</b>
<b>Black pepper (Piper nigrum)</b> (Food) ex 0904 11 00 10	<b>Brazil</b>	<b>Salmonella</b>	Annex I - Increase from 20% to 50% identity and physical checks
<b>Peppers of the Capsicum species (other than sweet)</b> (Food) ex 0709 60 99 20, ex 0710 80 59 20	<b>Thailand</b>	<b>Pesticide residues</b>	Annex I - Increase from 10% to 20% identity and physical checks
<b>Groundnuts (Food and Feed)</b> 1202 41 00, 1202 42 00, 2008 11 10, 2008 11 91, 2008 11 96, 2008 11 98, 2305 00 00, ex 1208 90 00 20	<b>India</b>	<b>Aflatoxins</b>	Annex II - Increase from 10% to 50% identity and physical checks
<b>Sesamum seeds (Food)</b>  1207 40 90	<b>Ethiopia</b>	<b>Salmonella</b>	Move from Annex I to Annex II at 50% identity and physical checks
<b>Okra (Food)</b> ex 0709 99 90 20 ex 0710 80 95 30	<b>India</b>	<b>Pesticide residues</b>	Annex I - Increase from 10% to 20% physical identity and physical checks
<b>Sesamum seeds (Food)</b> 1207 40 90	<b>Sudan</b>	<b>Salmonella</b>	Annex II -Increase from 20% to 50% physical identity and physical checks



<b>Commodity</b>	<b>Country</b>	<b>Hazard</b>	<b>Risk Management recommendation</b>
<b>Peppers of the Capsicum species (sweet or other than sweet) (Food)</b> 0904 21 10 ex 0904 21 90 20 ex 0904 22 00 11,19 ex 2005 99 10 10,90 ex 2005 99 80 94	<b>Sri Lanka</b>	<b>Aflatoxins</b>	Move from Annex I to Annex II at 50% identity and physical checks
<b>Oranges (Food)</b> 0805 10	<b>Turkey</b>	<b>Pesticide residues</b>	Annex I - Increase from 10% to 20% identity and physical checks
<b>Mandarins, clementine, willkings similar citrus hybrids (Food)</b> 0805 21, 0805 22, 0805 29	<b>Turkey</b>	<b>Pesticide residues</b>	Annex I - Increase from 5% to 20% identity and physical checks
<b>Sweet Peppers (Capsicum annum) (Food)</b> 0709 60 10 0710 80 51	<b>Turkey</b>	<b>Pesticide residues</b>	Annex I increase from 10% to 20% identity and physical checks
<b>Vine leaves (Food)</b> ex 2008 99 99 11, 19	<b>Turkey</b>	<b>Pesticide residues</b>	Annex II - Increase from 20% to 50% identity and physical checks
<b>Jackfruit (Food)</b> ex 0810 90 20 20	<b>Malaysia</b>	<b>Pesticide residues</b>	Annex I - Increase from 20% to 50% identity and physical checks
<b>Peppers of the Capsicum species (other than sweet) (Food)</b> ex 0709 60 99 ex 0710 80 59	<b>Uganda</b>	<b>Pesticide residues</b>	Annex I -Increase from 20% to 50% identity and physical checks
<b>Groundnuts (Food and Feed)</b> 1202 41 00, 1202 42 00 2008 11 10, 2008 11 91 2008 11 96, 2008 11 98 ex 1208 90 00 20, 2305 00 00	<b>USA</b>	<b>Aflatoxins</b>	Annex I -Increase from 10% to 20% identity and physical checks

## New products requiring enhanced controls

Commodity	Country	Hazard	Risk Management recommendation
<b>Groundnuts</b> (Food and Feed) 1202 41 00, 1202 42 00, 2008 11 10, 2008 11 91; 2008 11 96; 2008 11 98, 2305 00 00, ex 1208 90 00 20	<b>Brazil</b>	<b>Pesticide residues</b>	Add to Annex I at 20% identity and physical checks
<b>Lemons</b> (Food) 0805 50 10	<b>Turkey</b>	<b>Pesticide residues</b>	Add to Annex I at 20% identity and physical checks
<b>Peppers of the Capsicum species (other than sweet)</b> (Food) ex 709 60 99 20 ex 710 80 59 20	<b>Turkey</b>	<b>Pesticide residues</b>	Add to Annex I at 20% identity and physical checks
<b>Betel leaves (Piper betle)</b> (Food) 1404 90 00	<b>Thailand</b>	<b>Salmonella</b>	Add to Annex I at 10% identity and physical checks

### Notes:

- The identification of the food and feed products listed in Annexes I, II and IIa for official controls are made based on the codes from the Combined Nomenclature and TARIC sub-division indicated in the Annexes. Identity and physical checks, including sampling and laboratory analysis of food and feed listed in the Annexes at a frequency set out in Annexes.
- Consignments of food and feed listed in Annex I of Regulation 2019/1793 are subject to temporary increase of official controls at Border Control Posts at entry into Great Britain and at control points. Annex II of Regulation 2019/1793 sets out the list of consignments of food and feed from certain third countries subject to special conditions for the entry into Great Britain due to contamination risk by mycotoxins, including aflatoxins, pesticide residues, pentachlorophenol, and dioxins, and due to microbiological contamination. Food and feed listed in Annex IIa is suspended from entry into Great Britain.

## Engagement and Consultation Process

This consultation will remain open for 12 weeks until Thursday 7<sup>th</sup> July 2022. Once the consultation has ended, a full review will be undertaken of the results and a consultation report will be published.

### Questions asked in this consultation:

1. Do you have any comments on the country/commodity recommendations that are being proposed to amend retained Regulations 2019/1793?
2. Are you aware of any impacts of the proposed commodity amendments that have not been identified in this consultation?

## Responses

Responses are required by 5pm on Thursday 7<sup>th</sup> July 2022. Please state, in your response, whether you are responding as a private individual or on behalf of an organisation/company (including details of any stakeholders your organisation represents).

**Please send your response**, marked 'Regulation 2019/1793 consultation' to [imported.food@food.gov.uk](mailto:imported.food@food.gov.uk) (England) or [LASupportWales@food.gov.uk](mailto:LASupportWales@food.gov.uk) (Wales).

For information on how the FSA handles your personal data, please refer to the Consultation privacy notice at <https://www.food.gov.uk/about-us/privacy-notice-consultations>'.

## Further information

If you require a more accessible format of this document please send details to the named contact for responses to this consultation and your request will be considered.

This consultation has been prepared in accordance with [HM Government consultation principles](#).

Thank you on behalf of the Food Standards Agency for participating in this public consultation.

Yours,

David Lowe, Imports and Exports Strategy Manager

Owen Lewis, FSA Wales

## **Annex A: List of interested parties Local Authorities in England and Wales**

- Local Authorities in England and Wales
- Port Health Authorities in England and Wales
- The Association of Port Health Authorities (APHA)
- UK Major Port Group
- UK Airport Operators
- Fresh Produce representatives
- UK Hospitality representatives
- Food and Feed representatives
- British Food importer representatives
- Packaging organisations
- UK Supermarkets
- Convenience store representatives
- British Retail Consortium
- Which?