

Reference: OFFC 2017/S/001

**THE OFFICIAL FEED AND FOOD CONTROLS
(SCOTLAND) REGULATIONS 2009 (S.S.I. 2009/446) (the "Regulations")**

DECLARATION UNDER REGULATION 35

Whereas Food Standards Scotland has reasonable grounds to suspect that certain products originating in or consigned from India may be contaminated with a wide range of pathogenic *Salmonella* strains in foodstuffs containing or consisting of betel leaves ('*Piper betle*', commonly known as 'Paan leaf' or 'Betel quid') and sesame seeds ('*Sesamum seeds*');

Whereas this is likely to constitute a serious risk to public health;

Whereas for many years, there has been a high frequency of non-compliance with microbiological safety issues in sesame seeds and betel leaves from India. An increased frequency of official controls on import of those foods has therefore been established in 2014 with regard to the presence of *Salmonella* spp. Nonetheless these increased controls confirmed the high frequency of non-compliance of those foods with microbiological safety due to *Salmonella* spp. The import of those foods constitutes therefore a serious risk to public health within the European Union ('Union') and it is therefore necessary to adopt Union emergency measures;

Whereas guarantees from the competent authorities of exporting countries that those foods have been produced in line with the hygiene provisions set up in Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs (OJ No L 139, 30.4.2004, p. 1) are necessary to protect human health in the Union. In order to ensure harmonised enforcement of import controls across the Union, all consignments of such foods should be accompanied by a health certificate signed by the competent authorities of exporting countries and by the results of analytical tests guaranteeing that they have been sampled and analysed with satisfactory results for the presence of microbiological pathogens.

Whereas Article 6 of Commission Regulation (EC) No 669/2009 of 24 July 2009 implementing Regulation (EC) No 882/2004 of the European Parliament and of the Council as regards the increased level of official controls on imports of certain feed and food of non-animal origin and amending Decision 2006/504/EC (OJ No L 194, 25.7.2009, p. 11) requires the food business operators, responsible for consignments, to give prior notification of the arrival and nature of such consignments at the designated point of entry ('DPE').

Whereas Article 8 of Regulation (EC) No 669/2009 requires, with regard to the increased level of official controls, those controls to cover documentary, identity and physical checks. Documentary checks are to be carried out

without undue delay on all consignments within two working days from the time of arrival at the DPE and identity and physical checks, including laboratory analysis, at the frequencies set out in Annex I to that Regulation.

Whereas in order to ensure an efficient organisation and harmonised import controls at Union level with regard to the presence of microbiological pathogens in certain foods from certain third countries, specific import conditions for such foods should be laid down. For legal clarity, it is appropriate to gather all foods from third countries subject to specific conditions because of microbiological risks into one Regulation. Therefore the provisions regarding Betel leaves from India laid down in Commission Implementing Regulation (EU) 2016/166 laying down specific conditions applicable to the import of foodstuffs containing or consisting of betel leaves (*Piper betle*) from India and amending Regulation (EC) No 669/2009 (OJ No L 32, 9.2.2016, p. 143) should be inserted into Commission Implementing Regulation (EU) 2017/186 of 2 February 2017 laying down specific conditions applicable to the introduction into the Union of consignments from certain third countries due to microbiological contamination and amending Regulation (EC) No 669/2009 (OJ No L 29, 3.2.2017, p. 24) and Regulation (EC) No 669/2009 should be amended accordingly;

Whereas Implementing Regulation (EU) 2016/166 should be repealed and replaced simultaneously by a more general Regulation laying down the provisions as regards import of certain foods from certain third countries due to microbiological contamination;

And whereas, for that purpose, on 2 February 2017 the European Commission adopted Commission Implementing Regulation (EU) 2017/186.

Food Standards Scotland declares in accordance with regulation 35 of the Regulations that with effect from 23 February 2017 the importation into Scotland of the food identified in Article 1 of Commission Implementing Regulation (EU) 2017/186 (the "Implementing Regulation") laying down specific conditions applicable to the introduction into the Union of consignments from certain third countries due to microbiological contamination and amending Regulation (EC) No 669/2009 is subject to the conditions specified in Articles 3, 4, 5, 6, 7, 9, 10, and 13 of the Implementing Regulation, as read with Article 14 (transitional measures) of the Implementing Regulation.

Signed by: Elspeth Macdonald on: 9 February 2017

Print name: ELSPETH MACDONALD

Details of post held: DEPUTY CHIEF EXECUTIVE

For and on behalf of Food Standards Scotland.

NOTES

- (1) Any expression used both in this Declaration and the Implementing Regulation has the meaning it bears in the Implementing Regulation.
- (2) Import into Scotland of products originating in or consigned from India as set out in the Implementing Regulation in contravention of this Declaration is an offence under the Regulations, punishable by a fine or imprisonment or both.

