

# Review of retained Regulation 2016/6 on importing food from Japan following the Fukushima nuclear accident

**Launch date: 10 December 2021**

**Respond by: 11 February 2022**

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

- Importers of fish, mushrooms and wild foraged vegetables from Japan into the UK.
- Food businesses in the UK including retailers and restaurants who specialise in Japanese food and consumers of these foods.

## **Consultation subject**

Regulation 2016/6 was retained in Great Britain following the UK's exit from the European Union (EU) and applies enhanced controls on certain food imported from Japan as a result of the Fukushima nuclear accident in March 2011. This was an emergency measure to protect consumers from imported food which may have become contaminated with radioactive material released following the nuclear accident.

Retained Regulation 2016/6 applies maximum levels of radioactive caesium on food and feed from Japan. However, the majority of foods from Japan can already be imported into the UK without any enhanced controls as levels of radioactivity are very low and well below these maximum levels. The enhanced controls apply to a limited number of foods including certain species of fish, wild mushrooms and foraged Japanese vegetables on

which enhanced controls remain in place. These products are only imported into the UK in small quantities primarily catering for restaurants specialising in Japanese food and consumers of traditional Japanese foods.

## **Purpose of the consultation**

To seek comments from industry, enforcement authorities, consumers and other interested stakeholders on our risk management options to retain, amend or revoke retained Regulation 2016/6.

The Food Standards Agency (FSA) have carried out a risk assessment which has been published on the FSA's website.

We are not seeking comments on the risk assessment which has been independently reviewed.

## **How to respond**

Responses to this consultation should be sent to [radiation@food.gov.uk](mailto:radiation@food.gov.uk).

## **Details of consultation**

### **Background**

In March 2011, an earthquake struck off the east coast of Japan resulting in a tsunami. This caused damage to the Fukushima Daiichi nuclear power station which resulted in radioactive contamination affecting areas of Japan and the food and animal feed grown in these areas.

The European Commission put in place emergency legislation on the import of food and animal feed from Japan as a result of this accident. Since the accident, the European Commission have regularly reviewed these controls. At each review, data on the contamination of food and feed in Japan have been considered and the controls amended. In recent reviews, the range of food and feed covered by the controls and the prefectures (regions) where enhanced checks are required prior to export have reduced as monitoring has shown that fewer foods are contaminated. The most recent review was in 2019 and a new review date was set in the legislation for 30 June 2021.

EU Regulation 2016/6 imposing special conditions on the import of food and feed from Japan came into force in 2016 and replaced previous versions of these controls. Please note that, while the Regulation does refer to feed, none of the products currently listed in Annex 2 of the Regulation, which remain subject to the enhanced controls, are likely to be used as animal feed.

Following the UK's exit from the European Union, this Regulation was retained in Great Britain along with the requirement for the appropriate authority to review these controls. The appropriate authority is the Secretary of State in England, the Welsh Ministers in Wales and the Scottish Ministers in Scotland. FSA in England and Wales and FSS in Scotland have been undertaking a review under their function of developing policy and providing advice relating to matters connected with food safety or other interests of consumers in relation to food and animal feed as provided in Sections 6 and 9 of the Food Standards Act 1999. This consultation is to seek further views prior to advising the Secretary of State in England, the Welsh Ministers in Wales and the Scottish Ministers in Scotland.

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. However, the views of Northern Ireland stakeholders are welcome, for example on any implications to the UK internal market from these proposals.

Since the accident, the authorities in Japan have undertaken widespread monitoring of food and animal feed, with over 2.5 million samples reported over the previous 10 years. These results are published on the [Japanese Ministry of Health and Welfare website](#).

## Current controls

Retained Regulation 2016/6 applies maximum levels of radioactive caesium (caesium-134 and caesium-137 referred to collectively as radiocaesium in this consultation) on food and animal feed from Japan as a result of the Fukushima accident. These maximum levels are provided in Annex 1 of retained Regulation 2016/6. There are different levels set for

- foods for infants and young children,
- milk and milk-based drinks,
- mineral water and similar drinks and tea brewed from fermented leaves, and

- other foods.

The majority of foods in Japan are well below these levels and so enhanced controls apply to only a limited number of food products, all of which are classified under the “other foods” category where a maximum level of 100 becquerels<sup>1</sup> per kilogram (Bq/kg) applies.

Annex 1 of retained Regulation 2016/6 also includes maximum levels for feed. Considering the available data, no products which may be used as animal feed are shown to exceed these levels.

The current enhanced controls require declarations and prior notification to be presented on import for certain foods, including mushrooms, wild vegetables and certain species of fish, from Japan. The declaration must certify that the product either did not originate in the listed prefectures (regions) or, if it did, that the product has been tested and the level of radiocaesium is below the limit of 100 Bq/kg. The listed foods for each affected prefecture can be found in [Annex 2 of retained Regulation 2016/6](#): <sup>2</sup>.

Checks are also carried out when these products are imported into the UK, including taking samples for laboratory analysis on a random basis (in 2011, laboratory analysis was required for at least 10% of consignments and between 2012 and 2014 on 5% of consignments. Since 2014, laboratory analysis has been on a random basis of no more than 5% of consignments). In the 10 years that these controls have been in place, there have been no instances where these checks have found levels above 100 Bq/kg on

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<sup>1</sup> A becquerel is a unit of radioactivity defined as one atom in a material undergoing radioactive decay per second and releasing energy in the form of radiation

<sup>2</sup> EU Regulation 2016/6 was amended by Regulation 2017/2058 and Regulation 2019/1787, both of which updated and replaced Annex II. Retained Regulation 2016/6 refers to the Regulation as it existed at 11pm on 31 December 2020 (the end of the transition period following the UK’s exit from the EU) and incorporating amendments made by The Food and Feed Hygiene and Safety (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020. Retained Regulation 2016/6 incorporates these previous amendments to Annex II.

products imported into the UK. Across the EU as a whole, there was only one recorded instance and this was within the first year following the accident.

## Review

These controls are an emergency intervention measure following the Fukushima nuclear accident. As an emergency measure, intervention was intended to be temporary and only apply so far as required to protect public health. The intervention places a cost on importing food from Japan from the testing food prior to export, obtaining the correct import certification and official controls carried out on import into the UK. The controls should be reviewed to consider if intervention in this area remains necessary.

Over time, levels of contamination in food have reduced due to a combination of radioactive decay, weathering processes and remediation actions by the government and agricultural industry in Japan. Review dates have been included in the legislation so the appropriate level of intervention can be considered. The European Commission has regularly reviewed these controls to take account of the changing situation as the local area recovered following the accident. At each review, data on the contamination of food in Japan has been considered and the controls amended. In recent reviews, the range of foods covered by the controls and the prefectures (regions) where enhanced checks are required prior to export have reduced as monitoring has shown that fewer foods are contaminated.

As a Member State of the EU, the UK participated in the previous European Commission reviews and consideration of risk management options. This current review is the latest in this process and the first undertaken since the UK left the EU. It has followed the risk analysis process established by the FSA and FSS, [How risk analysis keeps food and feed safe](#), including an assessment of the risk to public health from consuming Japanese food imported into the UK, if the maximum levels on radiocaesium for food imported from Japan are removed. As monitoring data shows that the only foods to exceed the maximum levels in Annex 1 are in the other food category, the risk assessment has been based on this level of 100 Bq/kg. Similarly, as data shows no animal feed products exceed the maximum levels in Annex 1, this was considered out of scope of the risk assessment.

FSA risk assessors have produced a risk assessment. The risk assessment has been independently reviewed by the Committee on Medical Aspects of Radiation in the

Environment (COMARE), a scientific advisory committee of the Department of Health and Social Care.

**The conclusion of the risk assessment is that based on this assessment, the removal of the 100 Bq/kg maximum level on radiocaesium for imported Japanese food would result in a negligible increase in dose and any associated risk to UK consumers.**

Food safety is a devolved matter and the final decision will be made by ministers in each devolved country. Secondary legislation will be required in each devolved country to amend, revoke or replace retained Regulation 2016/6. It is intended that legislation to implement the outcome of this review will come into force in Spring 2022.

## **Risks from radiation**

Low levels of radioactivity are present in the food we eat from both natural and artificial sources. In general the health effects of ionising radiation are dependent on the dose received.

The potential for harm from radioactivity is measured in terms of the dose, measured in millisieverts (mSv). The dose is a combination of the level of radioactivity in the food (measured in Bq/kg), the amount of the food consumed and a factor (dose coefficient) which depends on the radionuclide present (for example caesium-137). A higher dose represents an increased lifetime risk of cancer.

The International Commission on Radiological Protection (ICRP) recommends that members of the public should receive no more than the lower end of 1 to 20 mSv per year in an existing exposure situation, such as the continued exposure following the Fukushima accident, ICRP Publication 103 - [The 2007 Recommendations of the International Commission on Radiological Protection](#). The FSA's risk assessment estimates the dose to UK consumers would be no more than 0.016 mSv per year as a result of consuming food imported from Japan which is less than 2% of the lower end of the range recommended by ICRP.

For comparison, the average radiation dose to members of the public in the UK is 2.7mSv from all natural and artificial sources, [Ionising radiation and you \(UKHSA\)](#).

## Options

### **Option 1 – Do nothing and retain the current controls**

In this option, the current controls would remain in place in Great Britain. Food business operators (FBOs) importing food from Japan would continue to incur the costs of official controls on import into Great Britain.

No legislation would be required for these controls to continue, but an amendment may be required to set a new review date. As these controls were put in place as emergency measures, it is appropriate to regularly review the situation. It is proposed this would be 30 June 2023, following the previous pattern of reviewing every two years.

### **Option 2 – Remove the existing controls on food and feed which specifically apply to contamination as a result of the Fukushima nuclear accident (Preferred Option)**

This is the preferred option. In this option, domestic legislation would be brought forward in England, Wales and Scotland to revoke retained Regulation 2016/6. There would no longer be a requirement for declarations in relation to the levels of radioactive contamination for imported food from Japan with a destination in Great Britain. There would also be no requirement to test for levels of radiocaesium prior to export for foods destined for Great Britain and no enhanced official controls on arrival. Some of the foods imported from Japan would still require declarations and undergo official controls for other food safety reasons where they are classified as high-risk foods (for example fish under the hygiene requirements for products of animal origin).

There would be reduced costs to FBOs as a result of removing the costs associated with complying with the enhanced controls.

This would follow the outcome of our risk assessment, which indicates that removing these controls would represent a negligible increase in risk to the UK consumer. Without specific import controls, the emphasis would fall on FBOs to ensure food is safe under General Food Law (retained Regulation 178/2002). However, we do not consider that FBOs would need to take any precautions beyond their normal due diligence and so there should be no additional costs transferred to FBOs.

### **Option 3 – Retain the existing maximum levels of radiocaesium on imports of food and feed from Japan but adjust the list of foods and prefectures covered by the enhanced controls**

In this option, the controls would remain in place but domestic legislation would be brought forward in England, Wales and Scotland to adjust the scope of the controls in line with previous reviews conducted by the European Commission. The requirement for pre-export testing would be removed on a prefecture-by prefecture basis where the monitoring in Japan shows no instances of a food from that prefecture being above 100 Bq/kg in the last calendar year, or the last two calendar years in respect of Fukushima prefecture.

Applying these criteria would remove all fish except salmon and char, as well as Aralia sprout, bamboo shoots and persimmon from the requirement for declarations.

Salmon and char would continue to require declarations from the whole of Japan with pre-export testing if they originate in Fukushima and Gunma prefectures. Declarations would still be required for mushrooms and certain wild vegetables (including koshiabura, ferns and bracken) from the whole of Japan, with pre-export testing in Fukushima, Miyagi, Ibaraki, Gunma, Iwate, Yamagata, Niigata, Yamanashi, Nagano and Shizuoka prefectures. The prefectures of Tochigi and Chiba would be removed from the specified prefectures where pre-export testing of the remaining listed foods is required.

FBOs importing food from Japan would continue to incur costs passed on by Japanese exporters for the laboratory analysis and obtaining the correct declarations and the costs of official controls on import into Great Britain. However, this would still be a saving compared to Option 1 as a reduced number of foods would require these measures.

This option would require secondary legislation to amend the list of foods and prefectures covered by the enhanced controls and to set a new review date. As these controls were put in place as emergency measures, it is appropriate to regularly review the situation. It is proposed this would be 30 June 2023 following the previous pattern of reviewing every two years.

In September 2021, the EU published [EU Regulation 2021/1533](#) which replaced EU Regulation 2016/6 in the EU. This new regulation applied similar, but not identical, changes to those proposed in this option. The main difference is that the EU have not



amended the list of fish species in Annex II which means a larger number of fish species remain subject to controls in the EU than is proposed in this option. It is not clear on what basis the EU have retained controls on a wider number of fish species as the extensive monitoring results published by the Japanese authorities show low levels of contamination in all other fish species monitored.

## Northern Ireland

Under the current terms of the Northern Ireland Protocol, Northern Ireland would continue to apply the EU Regulations. Please note that the UK Government has set out in its Command Paper - The way forward - changes to certain elements of the Protocol, and is engaging with the EU on these proposals.

The EU have also reviewed and amended its Regulation but have reached different decisions to the options presented in this consultation. There could be a potential impact on Northern Ireland due to divergence between Great Britain and the EU's decisions whether or not to lift the controls on imports following the Fukushima accident. Northern Ireland aligns with EU official control legislation, therefore, Northern Ireland will implement Regulation 2021/1533 and controls in Northern Ireland will remain in place.

Option 1: Due to the change in the EU Regulations, fewer foods require enhanced checks when imported into the EU, and consequently Northern Ireland, than are required for import into Great Britain. These foods could move to Great Britain from Northern Ireland under unfettered market access rules. However, we are not aware of any such movements of these products and our risk assessment shows there would be a negligible increase in risk to UK consumers if these products are sold in the UK.

Option 2: If Great Britain removes the enhanced controls, there would be an impact on any flows of Japanese controlled products moving from Great Britain to Northern Ireland. This is because a controlled product arriving at Great Britain from Japan would not require controls. However, when it travels onwards to Northern Ireland, it would become subject to controls under EU Regulation. Therefore, declarations issued by the Japanese authorities would be required for relevant Japanese goods being moved from Great Britain into Northern Ireland and costs could be incurred in obtaining these for traders outside of the Scheme for Temporary Agri-food Movements to Northern Ireland (STAMNI).

Option 3: If Great Britain reduces the enhanced controls, there will be an impact on Northern Ireland in that any Great Britain to Northern Ireland movements outside of STAMNI may incur additional costs for Northern Ireland importers if products do not require checks in Great Britain but do require controls upon entry into Northern Ireland.

We have no evidence that the listed foods from Japan are being imported into Great Britain with an onward destination in Northern Ireland. This is because of the limited range of foods which remain subject to these controls that are unlikely to be imported for further processing; they are most likely to be imported directly by Japanese restaurants or specialist retailers of Japanese foods in the UK.

## Impacts

A draft UK-wide Impact Assessment has been produced for each of these options and is included as Annex B to this consultation.

There are no costs or benefits associated with Option 1. This is the baseline against which all other options are appraised.

The Net Benefit (Present Value) for Option 2 is estimated to be £0.018m (low estimate £0.002m, high estimate £0.034m) and for Option 3 is estimated to be £0.009m (low estimate £0.001m, high estimate £0.016m).

Other key non-monetised benefits include perishability savings (a reduction in products spoiling at port while official controls take place) and trade facilitation.

## Questions

Please explain your answers as far as possible, and where available please also include evidence to support your views.

1. Do you agree that Option 2 to remove these enhanced controls on food from Japan, as outlined above, should be adopted?
2. Do you have any evidence of any of the listed foods from Japan being imported into Great Britain (England, Wales or Scotland) for onward sale in Northern Ireland?

3. Do you have any evidence of any of the listed foods from Japan being imported into Great Britain (England, Wales or Scotland) for onward sale in the European Union?
4. Do you have any additional comments on the proposed options or additional relevant evidence which should be considered?

## Responses

Responses are required by close **11 February 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 response to [radiation@food.gov.uk](mailto:radiation@food.gov.uk)

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,

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