

## **EXECUTIVE NOTE**

### **THE NUTRITION AND HEALTH CLAIMS (SCOTLAND) AMENDMENT REGULATIONS 2010**

#### **SSI 2010/307**

1. The above instrument is being made in exercise of the powers conferred by sections 16(1)(e) and (f), 17(2), 26(1)(a) and (3) and 48(1) of the Food Safety Act 1990, and is subject to negative resolution

#### **Policy Objectives**

2. The purpose of this instrument is to amend national Regulations which provide for the execution and enforcement of a European Union (EU) Regulation on nutrition and health claims made on foods, to make an ambulatory reference to the Annex to the EU Regulations which lists permitted nutrition claims and conditions relating to their use.
3. Nutrition claims that can be made for foods (e.g. “low fat”, “high fibre” etc.) are regulated in the EU under Regulation (EC) No. 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods (‘Regulation 1924/2006’) which is directly applicable in EU Member States. Permitted nutrition claims and conditions for their use are set out in the Annex to Regulation 1924/2006.
4. The Nutrition and Health Claims (Scotland) Regulations 2007 (SSI 2007/383) (‘the national Regulations’) provide for the execution and enforcement of Regulation 1924/2006 in Scotland.
5. The instrument amends the national Regulations to provide for the execution and enforcement, in Scotland, of the revised Annex to Regulation 1924/2006 (to which a further five claims have been added) and for any future amendments to the Annex

#### **Policy Background**

6. Nutrition claims that can be made for foods (e.g. “low fat”, “high fibre” etc.) are regulated in the EU under Regulation (EC) No. 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods (‘Regulation 1924/2006’) which is directly applicable in EU Member States. Permitted nutrition claims and conditions for their use are set out in the Annex to Regulation 1924/2006.
7. Member States voted in favour of a draft European Commission Regulation intended to add five nutrition claims (“source of omega-3 fatty acids”; “high omega-3 fatty acids”; “high monounsaturated fat”; “high polyunsaturated fat” and “high unsaturated fat”) to the list of permitted nutrition claims set out in the Annex to Regulation 1924/2006.

8. The draft Commission Regulation completed the scrutiny process and was published on 10 February 2010 as Regulation (EU) No. 116/2010 amending Regulation (EC) No. 1924/2006 of the European Parliament and of the Council with regard to the list of nutrition claims (OJ No. L37, 10.02.2010, p.16) ('Regulation 116/2010'). It came into force on 1 March 2010.
9. An amendment to the national Regulations is necessary to provide for the execution and enforcement of Regulation 1924/2006 as amended by Regulation 116/2010. However, in the interests of simplification and better regulation, it is desirable to avoid the need to make national legislation each time further amendments are made to the list of nutrition claims in the Annex to Regulation 1924/2006, simply to provide for the execution and enforcement of the Regulation in its amended form.
10. The instrument therefore amends the national Regulation to make an ambulatory reference to the Annex to Regulation 1924/2006, in exercise of the power to make ambulatory references provided by paragraph 1A of Schedule 2 to the European Communities Act 1972. This provides for the execution and enforcement of Regulation 1924/2006 as amended by Regulation 116/2010 and any future amendments to the list of nutrition claims in the Annex to Regulation 1924/2006, without the need for further national legislation.
11. The instrument amends the national Regulations for the first time. The national Regulations are not being consolidated on this occasion.

### **Consultation**

12. A public consultation on a draft of the instrument was carried out by the Food Standards Agency in Scotland from 5 January to 29 March 2010. The consultation documents were also available on the Food Standards Agency website. Within Government the Food Standards Agency consulted the Scottish Government Health Directorate. A total of 8 responses were received (4 from Scotland) with stakeholders broadly supportive of the proposals. A summary of consultation response which includes a description of the modification made to the instrument has been published on the Food Standards Agency website.
13. The preferred option set out in the consultation was to make an ambulatory reference to the nutrition claims in the Annex to Regulation 1924/2006 via an amendment to the national Regulations that referred to Regulation 1924/2006 in its entirety. Although no consultee commented adversely on this proposal, it was considered that a more precise reference to the Annex to Regulation 1924/2006 would be preferable as this would achieve the desired policy objective whilst providing greater legal certainty.
14. A list of the interested parties consulted in Scotland is attached at Annex A.

## **Financial Implications**

15. The instrument makes a technical amendment to the national Regulations which will not place any additional burdens on businesses other than the one-off impact associated with being aware of and becoming familiar with the amendment and its effect on national regulations. A business and regulatory impact assessment has therefore not been prepared.

## **Regulating small business**

16. The instrument applies to small business. Small businesses will not be exempted because the instrument does not place any new burdens on them.

## **Contact**

17. Kathy Guinee at the Food Standards Agency Telephone 01224 285197 or email [Kathleen.guinee@foodstandards.gsi.gov.uk](mailto:Kathleen.guinee@foodstandards.gsi.gov.uk)

## ANNEX A

Aberdeen Scotch Meat Ltd  
Aberdeen University  
Adam Smith College  
AG BARR (Finlays NMW)  
AIC Ltd  
Angus Council  
Aquascot Ltd  
Argyll & Bute Council  
Association of Scottish Shellfish Growers  
Ayrshire & Arran Health Board  
Baxters of Fochabers  
Bell Bakers Limited  
Berits & Brown Ltd  
Black of Dunoon (Bakers) Ltd  
BMA Scotland  
British Goat Society  
British Hospitality Association  
British Nutrition Foundation  
British Poultry Council  
British Soft Drinks Association  
Brookside Products Ltd  
Brown Brothers Ltd.  
Buchanans (Scotland) Ltd  
C J Lang & Son Ltd  
Cairnton House  
Calder Millerfield Ltd  
Cardowan Creameries Ltd  
Care Commission  
Castle MacLellan Foods  
Centre for Public Health Nutrition Research  
Charcuterie Continental  
Charcuterie Continental  
Charles Tennant & Co Ltd  
Children In Scotland  
Chilled Food Association  
City of Edinburgh Council  
Clackmannanshire Council  
Coca Cola Enterprises Ltd  
Coeliac UK  
Comhairle Nan Eilean Siar  
Consumer Focus Scotland  
Co-operative Group (CWS) Ltd  
COSLA  
Cream o'Galloway  
Dairy UK - Scotland  
Dawnfresh Seafoods  
Deans of Huntly  
Deeside Natural Mineral Water  
Demlane Ltd  
Diageo  
Direct & Care Services  
Dumfries & Galloway Council  
Dunblane & Stirling Districts Beekeepers Ass.  
Dundee City Council  
Dundee College  
East Ayrshire Council  
East Dunbartonshire Council  
East Lothian Council  
East Renfrewshire Council  
Eastwood Beekeepers Association  
Edinburgh Community Food Initiative  
Edinburgh Smoked Salmon Company (1992) Ltd.  
Edinburgh Tea & Coffee Company Ltd  
European Parliament  
Falkirk Council  
Falkirk Royal Infirmary  
Federation of Small Businesses  
FG Associates  
Fife Council  
First Milk Ltd  
Food & Drink Federation  
Food Additives & Ingredients Association  
Food And Drink Federation  
Food Industry (North) Development Services  
Food Innovation Institute (F2i)  
Food Microbiology, Fish Handling and Processing  
Food Partners Ltd.  
Food Safety Authority of Ireland  
Food Training & Consultants Company  
Framgord Ltd  
G McWilliam (Aberdeen) Ltd  
Galloway Lodge Preserves  
Glasgow Caledonian University  
Glasgow City Council  
Glasgow Metropolitan College  
Glasgow Scientific Services  
Golden County Foods Ltd.  
Gordon & MacPhail  
Grampian Oat Products  
Greenwood Academy  
H.R. Bradford (Bakers) Ltd  
Hallmark Meat Hygiene Ltd/ AA Duncan & Son  
Harbro Group Ltd

Healthyiving Award  
Health & Sport Committee  
Health Protection Scotland  
Health Services Research Unit  
Highland Council  
Highland Drovers Ltd.  
Highland Smoked Salmon Ltd  
Highland Spring Ltd  
Ian Hain Associates  
Ingram Brothers Ltd.  
Institute of Biological & Environmental  
Services  
Inverawe Smokehouses  
Inverclyde Council  
Island Cheese Co Ltd.  
J & I smith (Bakers)  
J G Ross (Bakers) Ltd  
James Rizza & Sons Ltd  
James Ross & Son (Edin) Ltd.  
John Hogarth Ltd.  
JWC Services Ltd.  
Kettle Produce Ltd.  
Kingdom Bakers Ltd  
King's College London  
Klinge Foods Ltd.  
Lactalis McLelland Limited  
Larder Bytes Ltd  
Lerwick Fish Traders Ltd.  
Loch Fyne Oysters Ltd  
Lothian Health Board  
Lothian NHS  
M A Mackinnon's Marmalade  
M.D. Longhorn & Co  
MacDuff Shellfish  
Mackays Ltd  
Mackies Of Scotland  
MacPhie of Glenbervie Ltd  
Macswen of Edinburgh  
Marine Harvest (Scotland) Ltd  
Matthew Algie & Co Ltd  
McAusland Crawford  
McIntosh Donald  
Meat and Livestock Commission  
Microgram  
Middleton Food Products  
Midlothian Council  
Mitchells  
Moray Seafood Ltd  
Mortons Rolls Ltd  
Mylnefield Reasearch Services Ltd.

Nairn Beekeepers  
Napier University  
National Beef Association  
Neville Craddock Association  
Newcastle University  
NFU Scotland  
NHS Ayrshire & Arran  
NHS Borders  
NHS Dumfries and Galloway  
NHS Fife  
NHS Fife - Nutrition & Dietic Dept.  
NHS Forth Valley  
NHS Grampian  
NHS Greater Glasgow & Clyde  
NHS Health Scotland  
NHS Highlands  
NHS Lanarkshire  
NHS Orkney  
NHS Tayside  
NHS Tayside - Directorate of Public Health  
Nisha Enterprises Ltd.  
Norscot Seafoods Ltd  
Nor-Sea Foods Ltd  
North Ayrshire Council  
North Lanarkshire Council  
Organisation  
Orkney Herring Co Ltd  
Orkney Islands Council  
Pan Fish Scotland Ltd  
Paterson Arran Limited  
Perth & Kinross Council  
Perth College  
Puremalt Products Ltd.  
Quality Meat Scotland  
Queen Margeret University College  
Regulatory Solutions  
Renfrewshire Council  
Robert Wisemans Dairies  
Rowett Institute  
Rowett Research Services  
Royal Environmental Health Institute for  
Scotland  
Royal Highland & Agricultural Society of  
Scotland  
Royal Highland Education Trust  
Ruma  
Rural Directorate  
SAC  
Scallop Association  
Scotch Whisky Association

Scotch Whisky Research Institute  
 Scotland Excel  
 Scotland Food and Drink  
 Scottish Association of Master Bakers  
 Scottish Association of Meat Wholesalers  
 Scottish Beef Cattle Association  
 Scottish Beekeepers Association  
 Scottish Beer & Pubs Association  
 Scottish Borders council  
 Scottish Care Commission  
 Scottish Churches Rural Group  
 Scottish Crofting Foundation  
 Scottish Crop Research Institute  
 Scottish Enterprise  
 Scottish Enterprise Borders  
 Scottish Environmental Research Centre  
 Scottish Federation of Meat Traders  
 Scottish Food & Drink Federation  
 Scottish Food Enforcement Liaison Committee  
 Scottish Food Enforcement liaison Committee  
 FSSC  
 Scottish Food Guide  
 Scottish Food Quality Certification Ltd  
 Scottish Government  
 Scottish Government Criminal Justice  
 Directorate  
 Scottish Grocers Federation  
 Scottish Health Food Retailers Association  
 Scottish Midland Co-op Society  
 Scottish Newcastle UK  
 Scottish Organic Producers Association  
 Scottish Qualifications Authority  
 Scottish Salmon Producers Organisation  
 Scottish Women's Rural Institutes (SWRI)  
 Sea Fish Industry Authority  
 Seachill  
 Seafish Industry Authority  
 Seafood Scotland  
 Shetland Catch Ltd  
 Shetland Farm Dairies Ltd  
 Shetland Islands Council  
 Shetland NHS Board  
 Shortbread House of Edinburgh Ltd  
 SNDRT  
 Soil Association Certification Ltd  
 Soil Association Scotland  
 South Ayrshire Council  
 South Lanarkshire Council  
 Speyfish Ltd  
 Spicemanns Ltd.

Spitfire Resources  
 SQA  
 Stirling Council (Catering & Cleaning)  
 Strathmore Foods Ltd.  
 SUSTAIN  
 T & L Food Services Ltd  
 Tayside Contracts  
 Tayside Scientific Services  
 TESCO Stores Ltd  
 The Association of Meat Inspectors  
 The British Dietetic Association  
 The Drambuie Liqueur Co.Ltd  
 The Glenside Group  
 The Glenside Group Ltd.  
 The Halal Food Authority  
 The Highland Council  
 The Moray Council  
 The Really Garlicky Company  
 The Robert Gordon University  
 The Royal Society of Edinburgh  
 The Salmon Net Fishing Association of  
 Scotland  
 Thomas Tunnock Ltd  
 Tilquhillie Fine Foods  
 Tobermory Fish Co.  
 Tods of Orkney Ltd.  
 United Central Bakeries Ltd  
 United Fish Industries  
 University of Aberdeen  
 University of Dundee  
 University of Glasgow  
 University of St Andrews  
 University of Stirling  
 University of Strathclyde  
 V.M.G. Bakery Ltd  
 Vegetarian Economy & Green Agriculture  
 (VEGA)  
 Verner Wheelock Associates  
 Vion  
 Visit Scotland  
 Voluntary Health Scotland  
 Walkers Shortbread Ltd  
 West Dunbartonshire Council  
 West Lothian Council  
 West Lothian Council - Domestic Services  
 Which?  
 Wicken Fen Wholesome Foods  
 William Yule & Son Ltd  
 Women's Food & Farming Union