

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations, which apply to Scotland only, provide for the execution and enforcement of the following EU Regulations—

- (a) Regulation (EC) No 2065/2003 of the European Parliament and of the Council on smoke flavourings used or intended for use in or on foods;
- (b) Regulation (EC) No 1332/2008 of the European Parliament and of the Council on food enzymes;
- (c) Regulation (EC) No 1333/2008 of the European Parliament and of the Council on food additives;
- (d) Regulation (EC) No 1334/2008 of the European Parliament and of the Council on flavourings and certain food ingredients with flavouring properties for use in and on foods.

2. These Regulations also implement Directive 2009/32/EC of the European Parliament and of the Council on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients.

3. These Regulations, in Part 2, provide that it is an offence, subject to any applicable transitional arrangements, to contravene or to use or place on the market a product that contravenes specified requirements of—

- (a) Regulation (EC) No 1333/2008 relating to food additives (*regulation 3 and Schedule 1*);
- (b) Regulation (EC) No 1334/2008 relating to food flavourings and foods with flavouring properties (*regulation 4 and Schedule 2*);
- (c) Regulation (EC) No 2065/2003 relating to smoke flavourings (*regulation 5 and Schedule 3*); and
- (d) Regulation (EC) No 1332/2008 relating to food enzymes (*regulation 6 and Schedule 4*).

4. Part 3 of these Regulations implement Directive 2009/32/EC relating to extraction solvents, in particular by—

- (a) specifying the circumstances where the controls on extraction solvents do not apply (*regulation 8*);
- (b) defining what constitutes a permitted extraction solvent (*regulation 9*);
- (c) prohibiting any person from using an extraction solvent other than a permitted extraction solvent, as defined, in the production of food (*regulation 10*);
- (d) prohibiting any person from placing on the market an extraction solvent that is not a permitted extraction solvent or which is not accompanied by certain information on the packaging, container or label (*regulations 11 and 12*).

5. These Regulations in Part 4—

- (a) designate the Food Standards Agency as the competent authority for the purposes of applications for authorisation of a smoke flavouring (*regulation 13*);
- (b) assign the duty of enforcing these Regulations to food authorities (*regulation 14*);
- (c) provide for the maximum penalty to which a person may be liable on conviction for an offence under these Regulations (*regulation 15*);

Changes to legislation: There are currently no known outstanding effects for the The Food Additives, Flavourings, Enzymes and Extraction Solvents (Scotland) Regulations 2013. (See end of Document for details)

- (d) provide that, where it appears to an authorised officer that a product fails to comply with certain requirements or that food is placed on the market contrary to a specified prohibition, the food will be treated for the purposes of subsections (3) to (9) of section 9 of the Food Safety Act 1990 (with certain modifications) as failing to comply with food safety requirements (*regulation 16*); and
 - (e) apply, with certain modifications, various provisions of the Food Safety Act 1990 for the purposes of these Regulations (*regulation 17*).
6. These Regulations in Part 5—
- (a) make a minor amendment to the Food Labelling Regulations 1996 (*regulation 20*) and the Jam and Similar Products (Scotland) Regulations 2004; and
 - (b) revoke certain instruments in whole or in part (*regulation 19 and Schedule 5*).
7. A business and regulatory impact assessment has not been prepared for this instrument as no impact on business or the public or third sectors is foreseen.

Changes to legislation:

There are currently no known outstanding effects for the The Food Additives, Flavourings, Enzymes and Extraction Solvents (Scotland) Regulations 2013.