

## **POLICY NOTE**

### **THE FOOD (SCOTLAND) ACT 2015 (COMMENCEMENT) ORDER 2015**

#### **SSI 2015/99 (C. 19)**

1. The above instrument has been made in exercise of the powers conferred on the Scottish Ministers by section 62(2) of the Food (Scotland) Act 2015 (“the 2015 Act”) and all the other powers enabling them to do so. It is subject to negative procedure.

#### **Policy Objectives**

2. This instrument commences all sections of the 2015 Act not commenced the day after Royal Assent (13 January 2015). Part 5 of the Act (with the exception of section 58) was commenced at that time. There will be no further Commencement Order required for the Act

#### ***Part 1***

3. The commencement of Part 1 of the Act establishes Food Standards Scotland and gives it objectives, functions and governance arrangements. That part also stipulates the arrangements for the appointment of Members, Chief Executive and other staff as well as operational matters such as proceedings and committee arrangements. Part 1 also makes necessary changes to Acts of the Scottish Parliament to bring FSS into statutory regimes which apply to public bodies, including the ethical standards regime, freedom of information, complaints handling and public appointments.

4. The commencement of Part 1 gives FSS its statutory powers to acquire and compile relevant information, to make observations with a view to obtaining information, to carry out observations, to set performance standards for enforcement authorities and for the reporting of enforcement activities. These powers underpin the functions set out in the 2015 Act. FSS will also rely on these powers to undertake activity for which the Scottish Ministers will designate FSS as an enforcement or competent authority in secondary legislation, usually to ensure effective implementation of European regulations in respect of food safety or food standards.

5. The commencement of Part 1 also give FSS statutory powers to issue guidance on control of food-borne diseases and to publish and disclose advice and information. The final section of Part 1, section 31, also means the “relevant functions” of FSA from the Food Standards Act 1999 cease to be exercisable in respect of Scotland.

#### ***Part 2***

6. The commencement of Part 2 of the 2015 Act inserts new provisions in respect of food information in Scotland into the Food Safety Act 1990. These new provisions align the powers of FSS to seize or detain food which is in contravention of food information law with existing powers to do the same in respect of food in contravention with food safety law. The commencement of Part 2 also introduces a statutory duty on food business operators to report non-compliance with food information law.

7. The commencement of Part 2 will enable further regulations to be made in respect of a food hygiene information scheme. Such a scheme is intended to inform consumers of the performance of food businesses and drive up food hygiene standards. Part 2 will also enable the Scottish Ministers to make orders for the regulation of animal feedingstuffs.

### ***Part 3***

8. The commencement of Part 3 will enable further regulations to be made for the introduction of fixed penalty notices and compliance notices in respect of breaches of food law. The intention is to offer food businesses the opportunity to discharge liability for offences by the payment of a fixed penalty as an alternative to the potential for prosecution.

### ***Part 4***

9. The commencement of Part 4 allows clear interpretation of the meaning of terms used in the 2015 Act.

### **Consultation**

10. This instrument brings all remaining the powers within the 2015 Act into force, so that the Act will be fully implemented. A formal consultation was carried out for the Food (Scotland) Bill and the comments from stakeholders have been considered when drafting the instrument. Stakeholder responses to the consultation as well of summaries of stakeholder consultation events have been published on the Scottish Government's website. This Order has been shared with the shadow Board and Chief Executive designate of FSS.

### **Impact Assessments**

11. A Business and Regulatory Impact Assessment and an Equalities Impact Assessment were carried out before the introduction of the Food (Scotland) Bill. These assessments were published to coordinate with the introduction of the Bill. A pre-screening report for Strategic Environment Assessment was also carried out before introduction of the Bill.

### **Financial Effects**

12. No Business and Regulatory Impact Assessment has been prepared for this order as no financial effect or impact on the private, voluntary or public sectors is foreseen.

Population Health Improvement  
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