

POLICY NOTE

THE FOOD STANDARDS AND HYGIENE (MISCELLANEOUS AMENDMENTS) (SCOTLAND) REGULATIONS 2019

SSI 2019/33

The above instrument was made in exercise of the powers conferred by sections 16(1), 17(1), 26(1) and 48(1) of the Food Safety Act 1990 and all other powers enabling them to do so. The instrument is subject to negative procedure.

This instrument is required to remove out of date references, update EU law references and implement EU law.

Policy Objectives

The amendments can be broadly categorised as follows:

Removal of out-of-date transitional provisions:

Amendment of the Coffee Extracts and Chicory Extracts (Scotland) Regulations 2001
Amendment of the Specified Sugar Products (Scotland) Regulations 2003
Amendment of the Cocoa and Chocolate Products (Scotland) Regulations 2003
Amendment of the Fruit Juices and Fruit Nectars (Scotland) Regulations 2013

Removing unnecessary provisions:

Amendment of the Country of Origin of Certain Meats (Scotland) Regulations 2016 as the Government undertook to do to the Delegated Powers and Law Reform Committee of the Scottish Parliament to remove unnecessary definitions.

Updating references to EU & domestic legislation:

Amendment of the Bread and Flour Regulations 1998
Amendment of the Coffee Extracts and Chicory Extracts (Scotland) Regulations 2001
Amendment of the Condensed Milk and Dried Milk (Scotland) Regulations 2003
Amendment of the Jam and Similar Products (Scotland) Regulations 2004
Amendment of the Food Hygiene (Scotland) Regulations 2006
Amendment of the Fishery Products (Official Controls Charges) (Scotland) Regulations 2007
Amendment of the Spreadable Fats, Milk and Milk Products (Scotland) Regulations 2008
Amendment of the Fruit Juices and Fruit Nectars (Scotland) Regulations 2013
Amendment of the Products Containing Meat etc. (Scotland) Regulations 2014

Implementation of EU obligations:

Amendment of the Fishery Products (Official Controls Charges) (Scotland) Regulations 2007
The 2007 Regulations are amended in relation to the following changes to EU law: Commission Regulation (EU) No 2017/1973 amends Regulation (EC) No 2074/2005 with regard to official controls on fishery products caught by vessels flying the flag of a Member State and introduced into Union after being transferred in third countries. It establishes a model health certificate for those products.

Amendment of the Fruit Juices and Fruit Nectars (Scotland) Regulations 2013

The 2013 Regulations are amended in implementation of Commission Delegated Regulation (EU) No 1040/2014 amending Council Directive 2001/112/EC relating to fruit juices and certain similar products intended for human consumption. The amendment allows plant proteins from wheat, peas and potatoes to be used for the clarification of products to which the Fruit Juices and Fruit Nectars (Scotland) Regulations 2013 apply.

Amendment of the Food Hygiene (Scotland) Regulations 2006

The amendment to the 2006 Regulations relates to the implementation of Regulation (EU) No 2017/2158 establishing mitigation measures and benchmark levels for the reduction of the presence of acrylamide in certain food.

Consultation

To comply with the requirements of Article 9 of Regulation (EC) No 178/2002, a four week consultation was carried out in Scotland from 19 November to 17 December 2018 on the draft SSI and the supporting Business and Regulatory Impact Assessment (BRIA) on the introduction of the requirements of Regulation (EU) No 2017/2158 establishing mitigation measures and benchmark levels for the reduction of the presence of acrylamide. Three responses were received from the five hundred fifty-eight stakeholders on the consultee list. These were from an industry trade body, independent professional research body, and a local authority Environmental Health Department.

The industry trade body raised points concerning the familiarisation costs for food businesses and local enforcement authorities outlined in the partial BRIA. Food Standards Scotland has reviewed these costs and these have been reflected in the final BRIA. The independent professional research body and local authority Environmental Health Department did not raise any concerns.

A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Food Standards Scotland's section on Citizen Space.

Impact Assessment

A final BRIA in relation to Regulation (EU) No 2017/2158 has been prepared following public consultation and accompanies this note. A final BRIA on the introduction of the requirements of Regulation (EU) No 2017/2158 has been completed only as all other proposed amendments represent minor corrections of references and we do not believe there will be an impact on the businesses or local authorities.

In relation to Commission Regulation (EC) 2017/1973, this introduces a health certificate for fishery products caught by a Member State's vessel, but unloaded in a 3rd country, before entering the EU. This measure has minimal impact in Scotland because all food Products of Animal Origin (POAO) arriving into the EU from a 3rd country must enter the EU via a Border Inspection Post (BIP). There are no BIPs in Scotland for food POAO.

The consultation did request for any business or local authority to respond to the consultation who feel they may be impacted by the change in regulations. No responses were received other than those in relation to Regulation (EU) No 2017/2158.

Financial Effects in relation to Regulation (EU) No 2017/2158

The one-off familiarisation cost to businesses collectively across Scotland is estimated to be £101,506. Ongoing costs to business should be minimal, as after the one-off familiarisation process, it is expected business will implement set practices. In general, businesses should be able to provide enforcement officials with appropriate documentation to show the relevant mitigation measures have been applied, and information on best practice has been identified and implemented. This may include Standard Operating Procedures (SOPs) as part of their food safety management plans.

Food Standards Scotland has prepared guidance for Local Authorities on the implementation of Commission Regulation (EU) 2017/2158 establishing mitigation measures and benchmark levels for the reduction of the presence of acrylamide in food.

Food Standards Scotland was involved in the development of UK Hospitality acrylamide guidance. UK Hospitality represents 65,000 venues across the UK including restaurants, pubs and other catering establishments.

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