

## POLICY NOTE

### THE FOODS FOR SPECIFIC GROUPS (INFANT FORMULA AND FOLLOW-ON FORMULA) (SCOTLAND) REGULATIONS 2020

#### SSI 2020/6

The above instrument was made in exercise of the powers conferred by sections 6(4), 16(1)(a) and (e), 17(1) and (2), 26(1) and (3) and 48(1) of the Food Safety Act 1990 and section 2(2) and paragraph 1A of schedule 2 of the European Communities Act 1972. The instrument is subject to negative procedure.

**The purpose of the instrument is to enable the enforcement of and provide penalties for non-compliance with EU Regulations, as detailed below.**

#### Policy Objectives

These regulations are necessary to implement and enforce Delegated Regulation (EU) No. 2016/127 on rules on infant formula and follow-on formula and to revoke the Infant Formula and Follow-on Formula Regulations (Scotland) 2007 from 22nd February 2020, subject to savings.

Delegated Regulation 2016/127 ensures the safety and suitability of infant formula and follow-on formula by detailing the requirements that should be laid down on their composition, including requirements on energy value, macronutrient and micronutrient content and also pesticide residue limits.

Infant formula is the only processed foodstuff which wholly satisfies the nutritional requirements of infants during the first months of life until the introduction of appropriate complementary feeding. In order to safeguard the health of those infants, it is necessary to ensure that infant formula is the only product marketed as suitable for such use during that period.

This instrument repeals the Infant Formula and Follow-on Formula (Scotland) Regulations 2007 and executes and provides the enforcement of the rules on the specific compositional and information requirements for infant formula and follow-on formula set out in Delegated Regulation (EU) No. 2016/127. These apply from 22 February 2020 in respect of all infant and follow-on formula, except those which are manufactured from protein hydrolysates (i.e. those comprised of partly broken down protein to support easier take up by the body.)

This instrument provides for transitional arrangements to ensure that stocks of infant formula and follow-on formula placed on the market before the application of provisions of the Delegated Regulation can continue to be marketed until those stocks are exhausted. This is subject to their compliance with the requirements Infant Formula and Follow-on Formula Regulations (Scotland) 2007, which will continue to apply for this purpose.

## **Consultation**

A four week consultation was carried out in Scotland on the policy underpinning these regulations and on the supporting Business and Regulatory Impact Assessment (BRIA) from 4<sup>th</sup> November to 25<sup>th</sup> November 2019. Around 40 interested parties and 32 local authorities were consulted and two responses were received from Baby Feeding Law Group and British Specialist Nutrition Association. Neither responses raised any concerns and were happy with our proposals. However, one respondent pointed out some areas for later consideration, such as a closer alignment with the World Health Organisation Code of Marketing of Breastmilk Substitutes and subsequent World Health Assembly resolutions.

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 Citizen Space website, this includes the responses to the consultation from Baby Feeding Law Group and British Specialist Nutrition Association.

## **Impact Assessments and Financial Effects**

A final BRIA has been prepared following the public consultation and accompanies this note. The impact of this policy on business is minimal.

Food Standards Scotland  
14 January 2020