

POLICY NOTE

The Food Information (Transitional Provisions) (Miscellaneous Amendments) (Scotland) Regulations 2022

SSI 2022/265

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

Summary Box

The purpose of the instrument is to make amendments to existing transitional provisions contained in subordinate legislation and in retained EU legislation which relate to various food labelling requirements. The amendments, which only apply in Scotland, extend previous transitional arrangements, which were due to expire at the end of September 2022, so that they continue to apply until the end of 2023.

Policy Objective

The purpose of the Food Information (Transitional Provisions) (Miscellaneous Amendments) (Scotland) Regulations 2022 is to extend the effect of food labelling transitional provisions relating to EU Exit. The new EU exit related labelling legislation was due to come into force from 1 Oct 2022 but the intention of the amending legislation is to change this coming into force date to the 1st January 2024.

Policy Background

The transitional period for several EU exit related changes to food labelling requirements is due to expire on 30 September after which the changes are due to come into effect. These changes became necessary to reflect the UK's departure from the EU. However, UK Government announced that import controls on goods from the EU to GB, including food labelling changes, were to be delayed from July 2022 until the end of 2023.

The UK Government's reason for the change is to recognise the significant supply chain impact due to Russia's illegal invasion of Ukraine and the recent rise in global energy costs. In their view it would be wrong to impose new administrative requirements on businesses who may pass on the associated costs to consumers already facing pressures on their finances. The same changes are taking place in Wales.

If a similar postponement is not implemented in Scotland, it would see Scotland out of step with England and Wales as Scotland would have different labelling requirements between 1st October 2022 and January 2024. The main risk of this is the potential confusion it would cause for enforcement authorities as it would mean they would be obligated by Scots labelling law to enforce against products directly imported into Scotland where the law differs between Scotland and rest of the UK. For products directly imported into rest of the UK the effect of the Internal Market Act is that these products could be lawfully sold in Scotland even if they did not comply with the law in Scotland, as long as they comply with the law in the part of UK they are imported into. Food businesses would also likely be concerned if different approaches were taken across GB. Therefore, the Scottish Government and Food Standards Scotland (FSS) have determined that, in order to avoid the risks noted

above, similar legislative changes to those being made in the rest of the UK should be made in Scotland.

Consultation

In compliance with the requirements of Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, there has been open and transparent public consultation during the preparation and evaluation of this SSI. FSS and , alongside the Scottish Government, alongside Defra, Welsh Government, and FSA England and Wales carried out a joint short consultation with stakeholders across GB from the 18th to the 30th of August.

A total of 18 Stakeholders responded to the consultation, of which, 80% were in support of delaying these changes. Some of the main reasons given for supporting the delay focused on stakeholders being given additional time to be able to use up stocks of already printed labels as well as allowing stakeholders more time to update labels to meet the new requirements when they come into force.

Impact Assessments

FSS and Scottish Government consider that a specific BRIA (Business and Regulatory Impact Assessment) is not required for these amendments to food labelling transitional provisions relating to EU Exit. This SSI does not introduce any new costs to businesses or industry as it is not creating new legislation, it is only extending the period during which current food labelling provisions can continue to be applied.

Financial Effects

The Scottish Ministers confirm that a BRIA is not necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Food Standards Scotland and Scottish Government
September 2022