

These notes relate to the Food (Scotland) Act 2015 (asp 1) which received Royal Assent on 13 January 2015

FOOD (SCOTLAND) ACT 2015

EXPLANATORY NOTES

THE ACT

Part 3: Administrative Sanctions

Section 42: Compliance notices

50. This section enables authorised officers of enforcement authorities to issue compliance notices in relation to a relevant offence. The notice will stipulate steps that need to be taken to rectify the offence.
51. The definition of “relevant offence” in section 52 contains a power which enables the Scottish Ministers to specify which offences in food legislation are to be relevant offences. As with fixed penalty notices, the Scottish Ministers will by regulation set what the specified standard of proof will be for a relevant offence – i.e. beyond reasonable doubt or on the balance of probability etc. In practice, a compliance notice could be issued for minor offences where either a fixed penalty notice or a report to the Procurator Fiscal Service would be disproportionate to the offence.
52. Under section 49 of the Act, the Scottish Ministers can also make supplementary, incidental or consequential provisions to the compliance notice scheme by regulations.
53. Setting the standard and other aspects of the sanctions regime by regulations gives flexibility. One of the main reasons for building in flexibility is to align the regime to guidance issued by the Lord Advocate from time to time. Under section 51 of this Act the Lord Advocate may issue guidance to enforcement authorities about the exercise of compliance notices. Enforcement authorities must comply with that guidance.