

Executive Note

The Food Labelling Amendment (No. 2) (Scotland) Regulations 2005 SSI/2005/456

The above instrument was made in exercise of the powers conferred by sections 6(4), 16(1)(e) and (f), 17(1), 26(1) and (3) and 48(1) of the Food Safety Act 1990. The instrument is subject to negative resolution procedure.

Policy objectives

The purpose of the instrument is to implement, in Scotland, Commission Directive 2005/26/EC establishing a list of food ingredients or substances provisionally excluded - until 25 November 2007 - from Annex III(a) of Directive 2000/13/EC of the European Parliament and of the Council.

Directive 2005/26/EC provides provisional exemptions from the requirement to be listed as allergens on food labels, for ingredients derived from allergens that are no longer allergenic.

Directive 2000/13/EC on the approximation of the laws of Member States relating to the labelling, presentation and advertising of foodstuffs, has been implemented into national law by the Food Labelling Regulations 1996 (SI No.1499) as amended. The Food Labelling Amendment (No. 2) (Scotland) Regulations 2005 further amends the Food Labelling Regulations 1996 in Scotland.

Food allergy and food intolerance is thought to affect about 2 million people in the UK. Symptoms range from relatively mild to life threatening (anaphylactic shock). Although most children who experience allergic reactions from food grow out of it, there is no cure for food allergy or food intolerance, and the only way to avoid symptoms is to avoid the food in question.

New food labelling rules, which are set out in the Food Labelling Amendment (No. 2) (Scotland) Regulations 2004, will require food labels to provide more comprehensive information from 25 November 2005, so that consumers can identify those ingredients they may need or wish to avoid. The rules abolish the '25% rule', under which ingredients of a compound ingredient of a food do not have to be declared if the compound ingredient makes up less than 25% of the finished product, and introduce a requirement to declare any of 12 specified food allergens on the labelling. The 12 specified allergens and their derived ingredients will have to be labelled whenever they are present in pre-packed food, including alcoholic drinks.

The purpose of Directive 2005/26/EC is to exempt from labelling the derivatives of food allergens that are not allergenic, provided there is sufficient scientific justification in support of this. Applications on 32 derived ingredients

were submitted to the European Food Safety Authority and all but 4 have been granted provisional exemption from the new allergen labelling rules. This will reduce burdens on industry and improve information given to consumers.

Consultation

Article 9 of EC Regulation 178/2002, laying down the general principles and requirements of food law, requires open and transparent public consultation on the revision of food law, save in respect of measures made in circumstances of urgency. These regulations are not made in circumstances of urgency and therefore full public consultation was undertaken by the Agency as follows.

A circulation list of the interested parties that have been consulted during the preparation of the instrument is attached to the Regulatory Impact Assessment. Under the terms of agreement of Directive 2005/26/EC, manufacturers were to have a 12-month transition period in which to make any labelling changes necessary in order to comply with the requirements of the Directive. However, publication of the Directive was delayed by 5 months. To avoid further loss of transposition time in facilitating label changes and because stakeholders were already aware of the provisions of the Directive (through the consultation on Directive 2003/89/EC) a shortened consultation period was agreed. The Food Standards Agency Scotland received seven responses during the four-week consultation period. Five of the responses made no comment and two were largely in favour of the proposed draft instrument.

Parallel implementing legislation has already been introduced in England and Northern Ireland, and will be introduced in Wales.

Financial Effects

The instrument will exempt ingredients that would have to be labelled from the requirement to be labelled therefore there are no identifiable costs to the public.

Foods Standards Agency Scotland
13 September 2005