

POLICY NOTE

THE FOOD HYGIENE AND OFFICIAL FEED AND FOOD CONTROLS (SCOTLAND) AMENDMENT REGULATIONS 2014

SSI 2014/213

1.1 The above instrument was made by Scottish Ministers in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972 and all other powers enabling them to do so. The instrument is subject to negative resolution procedure.

2. Policy Objectives

2.1 This instrument amends The Food Hygiene (Scotland) Regulations 2006 (regulation 2) and the Official Feed and Food Controls (Scotland) Regulations 2009 (regulation 3) and provides for the enforcement in Scotland of the provisions of;

- Commission Regulation (EU) No 579/2014 granting derogation from certain provisions of Annex II to Regulation (EC) No. 852/2004 as regards the transport of liquid oils and fats by sea;
- Commission Regulation (EU) No 704/2014 amending Regulation (EU) 211/2013 on certification requirements for import into the Union of sprouts and seeds intended for the production of sprouts.

2.2 The above EU Regulations make the following key changes:

- Regulation (EU) No. 579/2014 updates an existing derogation previously provided by Directive 96/3/EC which granted a derogation from transport requirements of foodstuffs for bulk liquid oils and fats transported by sea. The derogation has been in place for a number of years, but following the European Food Safety Authority advice the lists of substances which can be transported in seagoing vessels not reserved for the transport of foodstuffs has been revised to bring it up to date and the list of acceptable cargoes extended. The Regulations revoke and replace Directive 96/3/EC and increase the list of permitted cargoes which are caught by the derogation for edible fats and oils.

- Regulation (EU) No.704/2014 amends Regulation (EU) 211/2013 to provide a derogation from the requirement to officially attest that sprouts and seeds intended for the production of sprouts, imported into the EU, were produced in compliance with Regulation (EC) 852/2004 on the hygiene of foodstuffs. The derogation lasts until 1 July 2015 and provides that such sprouts and seeds may instead be subjected to an alternative microbiological test to verify hygiene conditions prior to exportation. The change was considered necessary following audits by the Commission (Food and Veterinary Office) in third countries, where deficiencies were observed in their capacity to provide certification. These regulations allow microbiological testing as an alternative, to ensure public health protection whilst facilitating existing trade.

2.3 The above EU Regulations should be read with the Commission Regulation (EC) 852/2004 on the hygiene of foodstuffs (Annex II, Chapter IV, article 4) and the Commission Regulation (EU) No 211/2013 on certification requirements for import into the Union of sprouts and seeds intended for the production of sprouts.

2.4 Regulation (EU) No. 579/2014 was published in the Official Journal on the 28 May 2014 and Regulation (EU) No 704/2014 was published on the 25 June 2014. Both entered into force on the twentieth day following their publication in the Official Journal of the European Union. The EU Regulations are binding and directly applicable from the dates they came into force. However, it is necessary to provide for their domestic enforcement by making amendments to the following domestic Regulations:

2.5 The Food Hygiene (Scotland) Regulations 2006

Amendments include:

- Deleting references to revoked Commission Directive 96/3/EC.
- Adding Regulation (EU) No 579/2014 to Schedule 2. The effect is that contravening or failing to comply with those Regulations will be an offence by virtue of regulation 17(1) the Food Hygiene Regulations 2006.

2.6 The Official Feed and Food Controls (Scotland) Regulations 2009

Amendments include:

- Adding Regulation (EU) No 704/2014 to the definition of “import provisions.” This allows for enforcement, as it is an offence to contravene or fail to comply with any of the “import provisions” (regulation 41(1)).

3. Consultation

3.1 The Food Standards Agency in Scotland consulted with stakeholders including industry, trade bodies, enforcement bodies and other Government departments throughout the development of the two draft EU Regulations by informal consultation during February and April 2014. 18 Scottish Port Authorities (sea and air) and the Scottish Ports Liaison Network were also asked for their specific comments. No comments were received from stakeholders in Scotland.

3.2 In July 2014, FSA in Scotland carried out a two-week consultation on the draft Scottish Statutory Instrument, the Food Hygiene and Official Feed and Food Controls (Scotland) Amendment Regulation 2014, which formed part of a wider UK consultation. There was no associated Business and Regulatory Impact Assessment prepared as the potential costs and the wider impacts of the enforcing instrument are negligible. However, the consultation invited stakeholders to consider FSA’s assumption that there were no burdens on food businesses. Two Local Authorities responded one confirmed they were content and one made no comment. No other comments were received from stakeholders.

3.3 The Food Hygiene and Official Feed and Food Controls (Scotland) Amendment Regulations 2014 will come into force on 1 October 2014. Across the UK similar Regulations will be implemented, subject to their scrutiny procedure and parliamentary timetable.

4. Financial Effects

4.1 A Business and Regulatory Impact Assessment (BRIA) has not been completed as there are no financial impacts that the Food Standards Agency is aware of. From previous consultation with Scottish industry and enforcers there was no indication that these Regulations would result in any additional costs. The Minister for Public Health agreed that no BRIA is necessary as the instrument has no financial effects on Scottish Government, local government or on business.

Food Standards Agency in Scotland

Contact:

Claire Moni

Food Standards Agency in Scotland

St Magnus House

25 Guild Street

Aberdeen AB11 6NJ

Claire.Moni@foodstandards.gsi.gov

July 2014