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## FINAL BUSINESS AND REGULATORY IMPACT ASSESSMENT

### 1. TITLE OF THE PROPOSAL

The Food Information (Scotland) Regulations 2014.

### 2. PURPOSE AND INTENDED EFFECTS

#### (i) Objectives

Proposed new legislation to:

- provide for the execution and enforcement in Scotland of Regulation (EU) No 1169/2011 on the provision of food information to consumers (FIC);
- consolidate and update general food and nutrition labelling to remove confusing overlaps between Scottish and EU legislation and to ensure a level playing field for Scottish and EU Food Business Operators (FBOs);
- balance consumer interests with regulatory burden on Scottish FBOs in taking advantage of flexibilities available for national measures in FIC.

This Business and Regulatory Impact Assessment (BRIA) considers only the impacts of those provisions over which there is a choice available. However, the overall impact of FIC has been assessed separately and this assessment is outlined in Annex A.

National measures permitted by FIC include the following, which already exist in current UK legislation:

- (i) include a national provision relating to the requirement to provide a quantitative indication ('QUID' indication) – essentially the proportion of meat content – in meat products sold loose; and
- (ii) include a national provision relating to mandatory 'name of food' requirement for non-prepacked products.

Consultees are asked specifically about the costs and benefits of these measures and whether the existing requirement to provide this information should be maintained.

In addition, the Regulations will:

(a) Implement the relevant irradiated food provisions in Article 6 (1) of Directive 1999/2/EC. No food is currently irradiated in the UK and very little, if any, irradiated food is sold in the UK, so this is simply for legal completeness. These provisions were previously implemented by the Food Labelling Regulations 1996 (as amended) and no substantive changes are being introduced.

(b) Update the Food (Lot Marking) Regulations 1996 to take account of the recast of Directive 89/396/EEC. Most of the amendments that are being made, mainly to definitions, should have minimal if any impact on businesses. A description of the update of the Food (Lot Marking) Regulations is attached at Annex B.

## **(ii) Background**

FIC sets out a series of general requirements for information to be provided by FBOs so that consumers have the information they need to make informed, safe and healthy food choices. It is a large technical Regulation covering a number of issues including:

- Country of origin/place of provenance labelling;
- Mandatory nutrition declaration and voluntary front of pack nutrition labelling;
- Ingredients and nutrition labelling of alcoholic drinks;
- Consumer information about non-prepacked foods;
- Food allergen labelling and information;
- Clarity of food labels and minimum font size;
- Labelling of vegetable oil including palm oil;
- Labelling of engineered nano-materials; and
- Quantity labelling.

The current European requirements on food information and labelling have been in place since 1978 and have been subject to a significant number of amendments. The rationale for Commission intervention and the FIC was the need to update and consolidate regulation in this area and it is widely acknowledged that review and simplification would be beneficial to consumers and businesses. The Regulation brings together both general and nutrition labelling provisions in a single directly applicable Regulation. There is also a recognition that while a number of horizontal directives have been in place (e.g. foods containing quinine and caffeine), the area would benefit from review and consolidation of all such requirements into a single Regulation. A further objective was to ensure consistency of labelling requirements across Europe by replacing the current Directives with a single Regulation, ensuring a 'level playing field' and a competitive market for all businesses operating within the EU. The FIC also addresses the need to reflect changes in business practices.

There was also a need to ensure that labelling information is in line with consumer needs and reflects changes in eating habits and consumer lifestyles. Provisions that reflect this include:

- **Distance selling.** With the increase in sales of food online it was recognised that measures were needed in order to ensure consumers were receiving similar amounts of information when purchasing using distance communication such as catalogues and the internet as they would when shopping in store.
- **Mandatory nutrition labelling for most prepacked foods.**
- **Easy to access nutrition information.** FIC provides a common basis for easy to access voluntary front of pack labelling. This makes it easier for consumers to understand the information when provided and helps ensure that where additional forms of expression are used that it can be demonstrated that they are understood by consumers.
- **Easier to access food allergy information.** Highlighting the allergens in the ingredients list in prepacked foods will allow food allergic consumers to access the information quickly so that they can make safe food choices.
- **Extension of provisions of allergen information to non-prepacked foods.**

The negotiations relating to FIC have been a key vehicle for furthering Scotland's labelling objectives in a number of areas, particularly in allowing consideration of the need for an extension of country of origin labelling at an EU level. The FIC also contributes to the healthy eating and obesity challenge through improved information for consumers on the nutrients present in their food. This is due not only to the requirement for a mandatory nutrition declaration, but also to the provision of a framework for voluntary nutrition information, ensuring that where information is provided on a voluntary basis, it does not undermine the benefits to consumers of the mandatory requirements. Through this framework, innovative labelling schemes developed in the UK can continue and may be used across Europe, ensuring that there is a level playing field for industry and that consumers are not confused or misled by the information they receive.

For meat products, meat preparations and fishery products containing added proteins, such as hydrolysed proteins of a different animal origin, the name of the food shall bear an indication of the presence of those proteins and of their origin.

For meat products and meat preparations which have the appearance of a cut, joint, slice, portion or carcass of meat, the name of the food shall include an indication of the presence of added water if the added water makes up more than 5% of the weight of the finished product. The same rules apply to fishery products and prepared fishery products which have the appearance of a cut, joint, slice, portion, fillet or of a whole fishery product.

Meat products, meat preparations and fishery products which may give the impression that they are made of a whole piece of meat or fish, but actually consist of different pieces combined together by other ingredients, including food additives and food enzymes or by other means, shall show 'formed meat' or 'formed fish' as appropriate.

FIC also contributes to managing public health issues such the presence of liquorice (glycyrrhizinic acid or its ammonium salt) or phytosterols in food, which particular groups need to be aware of in order to ensure that products containing these ingredients are not over-consumed to avoid adverse health effects.

The only means of managing food allergies is for the allergic consumer to completely avoid the food to which they are allergic. Accurate and complete food labelling is therefore essential for the food allergic consumer. The FIC extends the mandatory requirement for allergy information to non-prepacked food but allows the FBO some flexibility in how this is provided. This has previously been a sector where the greatest proportion of severe/fatal food allergic reactions has occurred, with some 75% of reactions occurring after eating food sold non-prepacked<sup>1</sup>.

The FIC also includes provision to maintain food safety both for general consumers and for vulnerable groups, for example the requirements on use by dates which prevent consumers from becoming ill through eating foods that are past the date when they become microbiologically unsafe.

The impacts of the provisions on country of origin labelling and net quantity requirements are not included in this BRIA. Some country of origin requirements come into force without the need for further EU action (i.e. those in Article 26(2)(a) of FIC). The nature of the information to be given when country of origin information becomes mandatory remains under discussion in the EU. Once agreed, enforcement provisions to support these areas will be needed and the impact of these provisions will be assessed at that time.

The net quantity provisions are being considered as part of a separate simplification exercise on weights and measures requirements and legislation for food being undertaken by the National Measurement Office (NMO). The cost and benefits of those provisions will therefore be assessed in that exercise and are not outlined here.

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<sup>1</sup> Pumphrey, RS. 2000. Lessons for the management of anaphylaxis from a study of fatal reaction. *Clinical and Experimental Allergy*. Vol 30, pages 1144-1150. Pumphrey, RS and Gowland, MH. 2007. Further fatal allergic reactions to food in the United Kingdom 1992-2006. *J Allergy and Clinical Immunology*. Vol 119, pages 1018-9.

At present the requirements for general labelling of food are set out in Directive 2000/13/EC of the European Parliament and of the Council and the requirements relating to nutrition labelling are set out in Council Directive 90/496/EEC. Both are implemented in Scotland by the Food Labelling Regulations 1996 (as amended) (FLR). These cover much of the same areas as the new EU FIC Regulation although as a result of the consolidation and review in Europe some of the requirements have changed or been extended. FIC repeals both Directives 2000/13/EC and 90/496/EEC as well as other EU legislation. We need to revoke the FLR as the domestic legislation implementing the requirements of 2000/13/EC and 90/496/EEC. We also need to introduce provisions to enforce the FIC in Scotland due to EU legal requirements and to take advantage of derogations and any additional permitted national measures which serve Scotland's interests.

The BRIA considers only the impacts of those provisions over which there is a choice available. The overall impact of FIC has been assessed separately and this assessment is outlined in Annex A.

#### Consideration of alternatives to regulation

The possible use of a non-regulatory route was explored. Options considered included a concordat with businesses to ensure compliance was achieved. However, considering that a significant proportion of businesses in the food sector are small or medium sized enterprises (SMEs), as well as the rapid turnover of businesses in the sector, it was thought impossible to gain comprehensive consent of the industry rendering this approach ineffective as a means of ensuring that the UK's EU obligations were met.

Moreover, because a directly applicable EU Regulation is involved, we are legally obliged by EU law to put in place provisions that ensure that the EU Regulation is enforced. Failure to do so carries a risk of infraction fines which can be significant depending on the timescale at which the UK remained without an enforcement regime. The minimum infraction fine that can be imposed on the UK is 9.446 million Euros.

#### The Scottish Statutory Instrument

FIC was published in the Official Journal of the European Union on 22 November 2011. FIC is directly applicable, therefore, as a matter of law operators will have to comply with the provisions of FIC. However it is necessary for the Government to put in place domestic legislation in order to enforce the FIC provisions in Scotland and in order to take advantage of derogations that serve UK interests (and which otherwise would not apply). The **Scottish Statutory Instrument** (SSI) will provide enforcement provisions to allow enforcement authorities to take action where food information is not

provided correctly in accordance with FIC and will take advantage of FIC derogations. As drafted, the SSI follows Option 1B.

The EU-wide nature of the FIC requirements means that compliance with the legislation facilitates access to the EU market for Scottish businesses. Most businesses in Scotland have adopted a number of voluntary initiatives which are now covered in the EU Regulation (e.g. back of pack nutrition labelling), which puts Scottish businesses at an advantage in these areas.

Aside from introducing an SSI to meet the EU obligations to enforce the FIC and remove overlapping domestic regulations, the main objective from a Scotland perspective is to put in place domestic provisions to underpin FIC in such a way as to ensure the most advantageous balance of costs and benefits to Scottish businesses and consumers.

Labelling requirements are currently contained in a number of Statutory Instruments. The original Food Labelling Regulations were made in 1984 and replaced in 1996 and have been amended in a piecemeal way many times in response to subsequent European directives. FIC provides an opportunity to consolidate the 14 Regulations insofar as they apply to Scotland into one SSI so that they are easier to follow and use for businesses and enforcers.

In addition, as part of the development of an SSI to underpin the FIC, a review is being made of existing national rules to:

- Ensure that the labelling regulations remain fit for purpose and reflect changes in industry practices and consumer needs.
- Consider national measures permitted by FIC in the area of food labelling and remove these where they are no longer needed to reduce burdens on business.

Separate consultations will be carried out for amendments to other domestic legislation, such as the domestic Meat Products (Scotland) Regulations 2004, from which overlaps with the FIC need to be removed and other existing domestic measures need to be reviewed.

### Derogations

The SSI will contain a derogation in relation to **milk and milk products in glass bottles** intended for reuse, removing the requirement that nutritional information must be provided with these products.

Adopting this derogation avoids costs to business arising from:

- Changes in packaging to provide the information either through printing on bottles or providing “collars” with the relevant information where labels were not previously used.
- Changes to production systems to ensure the correct bottles are used on the correct lines.

The ‘doorstep’ share of the milk market is approximately 6%, of which 79% is in returnable glass bottles, with those bottles being reused an average of 19.6 times<sup>2</sup>. Therefore, not taking this derogation would incur significant costs, both in terms of changing delivery and production practices and additional non-reusable packaging. However, taking the derogation has a small potential disadvantage to consumers from the reduced amount of information provided compared to that provided were the derogation not taken. Due to the small size of the sector and the lack of requests from consumers for this information, this disadvantage is not considered to be significant.

The Scottish Regulations will also contain a derogation for **minced meat that does not meet the compositional requirements of FIC**. A significant proportion of minced meat currently sold in the UK contains a greater proportion of fat and collagen (connective tissue) than would be permitted by point 1 of Part B in Annex VI to FIC.

Adopting this derogation avoids costs to business arising from not being able to sell such minced meat in the UK as minced meat or using minced meat like designations. However, the derogation requires the use of a ‘national mark’ to indicate where the derogation applies, which will incur a small cost to business.

### Transitional Period

The provisions of FIC have staggered coming into force dates. The provisions of FIC relating to the designation of minced meat apply from **1 January 2014**. Most of the general labelling provisions of FIC will apply from **13 December 2014**. The requirement to provide nutrition information on a mandatory basis for the majority of prepacked food, will apply from **13 December 2016**. These dates are detailed in the following table.

Other provisions in the SSI will come into force at different times to match the relevant FIC application dates, as shown in the table. This will ensure businesses and enforcers are clear about when the provisions will apply.

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<sup>2</sup> Email correspondence from Dairy UK

Provisions	Date according to FIC	Relevant Scottish law date
Ability to use minced meat labelling provisions about percentage of fat content and collagen/meat protein ratio in the FIC format.	13 December 2011	Until 31 December 2013 In line with the Food Hygiene (Scotland) Amendment Regulations 2012 and Regulation (EU) No 1162/2009
Ability to choose between the old (FLR 1996) and new (FIC) format for nutrition declaration.	13 December 2011	31 October 2014
Date at which the minced meat information must be given in the FIC format. Products labelled correctly before this date can be sold until stocks are exhausted.	1 January 2014	31 October 2014
Application date for the majority of provisions. Products labelled correctly before this date can be sold until stocks are exhausted.	13 December 2014	13 December 2014
Date at which the FIC format must be used when the nutrition declaration is given voluntarily or is required because a nutrition or health claim has been made or vitamins and /or minerals have been added to the food.	13 December 2014	13 December 2014
Date at which existing rules (2000/13 and FLR) are removed.	13 December 2014	13 December 2014
Date at which nutrition declarations become mandatory for the majority of prepacked food. Prepacked products placed on the market or labelled before this date which do not comply with the mandatory nutrition requirement may be sold until stocks are exhausted. ( <b>N.B.</b> Products in respect of which a nutrition or health claim has been made or to which vitamins or minerals have been added must carry nutrition labelling in compliance with the FIC from 13 December 2014.)	13 December 2016	13 December 2016

### Approach to small businesses

In negotiations, measures that would minimise the burden to small businesses from the requirements were explored. An exemption for small businesses was not included in FIC as a significant proportion of businesses in this sector in Europe are small to medium size enterprises (SMEs). To introduce an exemption would undermine the provisions and reduce the likelihood of

achieving the identified benefits. Table 1 shows the significant presence of SMEs in the food and drink sector<sup>3</sup>.

	Micro	Small	Medium	Large	<b>Total</b>
Scotland	16,175	2,650	280	50	19,155
England	163,535	21,370	2,065	540	187,510
Wales	10,035	1,295	80	25	11,435
N. Ireland	5,010	1,450	190	30	6,680
UK	194,755	26,765	2,615	645	<b>224,780</b>

**Table 1: Food Business Operator numbers in 2010, by country and firm size**

In 2010, there were 224,780 businesses operating in the food and drink manufacturing, wholesaling, retailing or catering sectors in the UK of which over 99 per cent were identified as having SME status. Of the total FBOs in Scotland, 19,105 fell into the categories micro to medium in size.

A number of measures have been included in FIC to minimise burdens on SMEs where possible. Examples of these include exemptions from the mandatory nutrition declaration when manufacturers of small quantities of handcrafted food supply directly to the final consumer or to local retail establishments supplying directly to the consumer, as well as minimal requirements for foods which are being sold prepacked for direct sale. For Option 1A, only allergen information will be required for non-prepacked food, including food prepacked for direct sale and there is some flexibility in how this information should be given. The UK has elected to allow the provision of such allergen information verbally as permitted by Article 44 of FIC and has notified the Commission of this decision. Should FBOs choose to supply nutrition information on a voluntary basis, the Regulation sets out rules governing its content and presentation in order that consumers are not misled.

FIC only applies to the activities of FBOs. The Regulation makes clear that charity events where private individuals are supplying food to, for example, a church fete, otherwise than in the course of a business would be exempt from labelling their food, although they might want to supply allergen information on a voluntary basis.

### **(iii) Rationale for Government Intervention**

Food labelling legislation has developed in a piecemeal way since the 1970s. Government intervention is necessary to:

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<sup>3</sup> All figures refer to bespoke analysis from the 2011 ONS Business Demography publication. The analysis was taken from all businesses that are active within the specified year.

- correct for potential market failure of asymmetric information in the provision of nutritional and allergen labelling information to consumers; and
- ensure consistency in food labelling requirements across the EU, reflecting current and future business practice.

The directly applicable EU Regulation on the Provision of Food Information to Consumers (FIC) aims to do this. To meet the UK's EU legal obligations, enforcement provisions for FIC must be introduced and overlapping national legislation removed. We must also decide which optional national measures to adopt to fit with the Scottish Government's aims for a healthier Scotland.

### **3. CONSULTATION**

#### **(i) Within Government**

Scottish Government officials from the Health and Wellbeing Directorate and the Food, Drink and Rural Communities Division were informed throughout the development of the EU Regulation. The consultation package regarding the drafting of the implementing SSI was also discussed with the same officials.

#### **(ii) Public Consultation**

A full 12 week public consultation was carried out in Scotland from February to May 2008 on a proposal for the EU Regulation. Stakeholders have since been updated on the development of the Regulation by means of interested party letters. Three stakeholder meetings were held in Edinburgh to provide information on the Regulation.

A subsequent 12 week public consultation on the draft Food Information (Scotland) Regulations 2013 (now 2014) was carried out from December 2012 to March 2013. Over 450 Scottish stakeholders were included on the consultation list. A total of 23 responses were received, mainly from local authorities with some business and consumer representative organisations. Two food businesses responded but only one was based in Scotland.

Most respondents who expressed a preference were in favour of Option 1B (as set out in Section 4), while a minority favoured Option 2. One respondent expressed a desire for further provisions on top of those already required by Option 2. No respondents were in favour of Option 1A.

Engagement with consumers: – FSA ran three citizens forum events as part of the consultation. Using an independent facilitator, events took place in Edinburgh, Glasgow and Inverness.

Food labelling workshops for Local Authorities in Scotland: – FSA organised eight workshops for enforcement officers and these took place between October 2013 and February 2014. The workshops were held in Inverurie, Dundee, Motherwell, Dumfries, Edinburgh Airport (to facilitate Island Authorities), Dalkeith, Kilmarnock and Glasgow.

### **(iii) Business**

Several Scottish businesses have been approached to discuss the impact of the EU Regulation and SSI on their business. In general FBOs in Scotland were interested to find out how the FIC requirements are likely to affect their business. However, there was little desire shown to discuss the financial implications as set out in the BRIA. Further details to be found in Section 5 - Scottish Firms Impact Test.

## **4. OPTIONS**

### **Do Nothing**

'Do nothing' is not an option that would be legally acceptable for the Scottish Government to choose. FIC provisions are directly applicable and legally binding in Scotland and the rest of the UK. But without an SSI, enforcement authorities in Scotland do not have the necessary powers to enforce its provisions; offences cannot be prosecuted and penalties cannot be imposed on those in breach of the Regulation. Under EU law, the UK is obliged to provide for the enforcement of EU legislation. Failure to do so may lead to the UK being liable to infraction proceedings and consequent fines. These can be significant depending on the period during which the UK remained without an enforcement regime. The minimum infraction fine that can be imposed on the UK is 9.446 million Euros.

By virtue of FIC, the existing EU provisions under Directive 2000/13/EC will be repealed under all options.

The Partial BRIA issued with the consultation on the draft SSI considered only the impacts of those provisions over which there was a choice available. The impact of the mandatory requirements of FIC itself is a separate matter. However, the overall impacts of FIC have been assessed and this assessment is outlined in Annex A.

### **Option 1A**

Provide enforcement provisions in the form of an SSI, revoking 14 existing SI/SSIs and minimising the additional burdens to business by taking advantage of available derogations and national measures.

Through this option an SSI would be produced putting into place offences and enforcement provisions, and setting out in Scottish law those areas of Member State flexibility which were in UK businesses' best interests. EU obligations would be fully met.

The following derogations taken forward as national measures are;

1. Use of Article 40 national measure for milk or milk products presented in glass bottles intended for reuse – ability to derogate from the mandatory requirements, to provide nutrition information, in Article 9(1).
2. Use of derogation on compositional requirements for minced meat, allowing a higher proportion of fat and collagen than stated in point 1 of Part B of Annex VI. Use of the derogation will require the use of the national mark on minced meat for compositional requirements.
3. Use of Article 44 (2) power to allow the provision of allergen information verbally for non-prepacked foods.

### **Option 1B**

This option is in essence Option 1A plus an additional two national measures permitted, but not required, in the FIC. **Note that these retain existing practice:**

1. Use of Article 44 (1) power to impose a national measure to retain requirements to provide quantitative indications on the meat content of meat products sold non-prepacked.
2. Use of Article 44 (1) power to impose a national measure requiring the provision of additional mandatory particulars in relation to the name of non-prepacked food. This may include any or all of the mandatory particulars accompanying the name of food set out in Annex VI of FIC.

### **Option 2**

Provide enforcement provisions, taking advantage of derogations and full uptake of Member State flexibility to introduce national measures where permitted to increase mandatory information to the consumer.

This option is in essence Option 1A plus an additional five national measures permitted, but not required, in the FIC. **Note that the first two of these retain existing practice:**

1. Use of Article 44 (1) power to impose a national measure to retain requirements to provide quantitative indications on the meat content of meat products sold non-prepacked.
2. Use of Article 44 (1) power to impose a national measure requiring the provision of additional mandatory particulars in relation to the name of non-prepacked food. This may include any or all of the mandatory particulars accompanying the name of food set out in Annex VI of FIC.
3. Use of Article 44 (1) power to impose national measures requiring some or all of the mandatory particulars detailed in Articles 9(1) other than the name of the food, (separately addressed in point 2 above) e.g. list of ingredients, storage conditions and/or conditions of use, the name or business name and address of the food business operator, etc.) and 10(1) to be provided in relation to non-prepacked food

4. Use of Article 43 power to impose a national measure on the voluntary indication of reference intakes (RIs) for specific population groups. For example, the provision of RIs for children, in addition to the current requirement to provide RIs for an average adult. As provision of reference intakes for specific groups would remain voluntary, this national measure would not itself impose costs on business. However, there would be a cost to FBOs that chose to adopt them.

5. Use of Article 35(3) power to require FBOs to notify any Additional Forms of Expression (AFE's) used for front of pack nutrition labelling and to provide justification regarding fulfilment of the AFE criteria. As AFEs are voluntary, this national measure would not itself impose costs on business. However, there would be a cost to FBOs that chose to adopt them.

Given the mandatory provision of nutrition labelling, it is not expected that the voluntary provision of repeated ('front of pack') nutrition information will impose any additional nutrition analysis costs on companies who choose to provide such information. In terms of relabelling, it is expected that no unit costs above and beyond those applying to mandatory 'back of pack' labels will apply to 'front of pack' labels, given that relabelling of back and front of pack will take place simultaneously and will therefore represent a one-off cost.

## Options summary

	Option 1A	Option 1B	Option 2
<b>General</b>			
Consolidation of legislation	Yes	Yes	Yes
Improved proportionate, risk-based enforcement regime	Yes	Yes	Yes
Burdens on business	Minimum	Status Quo	Increased
Information to consumers	Improved in some areas, reduced in others	Improved in some areas	Improved overall
<b>Non-prepacked food</b>			
Allergen information for non prepacked food	Mandatory (written or verbal)	Mandatory (written or verbal)	Mandatory (written or verbal)
'Traditional' minced meat	Allowed with 'National Mark'	Allowed with 'National Mark'	Allowed with 'National Mark'
<u>Quantitative indication</u>	Voluntary	Mandatory	Mandatory
Name of food	Voluntary	Mandatory	Mandatory
Additional particulars	Voluntary	Voluntary	Mandatory

**Table 2: Options Summary**

### (i) Sectors and Groups affected

Almost all food businesses providing food to the final consumer are likely to be affected in some way. Also the Local Authority Environmental Health Officers who will enforce the legislation in Scotland.

While these Regulations apply to Scotland only, separate but similar legislation will be introduced in England, Wales and Northern Ireland; as such the impact on the UK as a whole was assessed.

## **Consumers**

How will this affect consumers? Are any particular groups likely to benefit from these proposals?

Allergen sufferers will benefit since allergen information will have to be provided for non-prepacked food.

## **Enforcement**

Traditionally, enforcement of the Food Labelling Regulations 1996 (as amended) has been done on a risk based approach. Where there is not a significant risk to human health, enforcement officers work with businesses in their area to ensure food information complies with the requirements. They do this through visits, the timing of which is determined on a risk basis, as well as through collaborative relationships under the primary and home authority principles. Enforcement action is only pursued where informal action has been unsuccessful.

## **Industry**

The changes to food labelling introduced by Regulation (EU) No 1169/2011 are likely to have some effect on almost all FBOs in Scotland.

## **(ii) Benefits**

### **Option 1A**

## **Industry**

### **SSI Consolidation**

This benefit has been monetised. Where currently there are 14 pieces of legislation to contend with, FIC and the SSI consolidate these into one. There is an element of simplification in this though it should not be over-stated – the responsibilities on businesses do not reduce as a result of the number of SSIs reducing. However, certainly those businesses which are inclined to get their information from primary sources in legislation rather than, and as well as, from guidance documents will derive a benefit from the provisions for their businesses being in one place.

We have assumed that micro businesses will tend not to use legislative documents to access information on legal requirements, but will look to guidance from Government, local enforcement and trade bodies etc. Larger businesses however will, we assume, look to the legislation itself and therefore will derive simplification benefits from the consolidation of food information legislation from fourteen pieces of legislation down to one SSI.

Full methodology is outlined in **Annex E** including scenario analysis looking at a range of hours saved. We have assumed 2 hours saved of a production manager/shopkeeper’s time per FBO for small, medium and large businesses, which is up-rated by 30% to account for overheads, in accordance with the standard cost model.

Given these assumptions, the **estimated benefit to FBOs in Scotland is approximately £1.03 million over 10 years, equivalent to £103,000 per annum** (see Table 3).

	Number of affected FBOs	Annual Familiarisation Benefit
Scotland	2,980	£103,000
England	23,975	£830,000
Wales	1,400	£48,000
N Ireland	1,670	£58,000
UK	30,025	£1,039,000

**Table 3: Total annual benefits to business, by Country<sup>4</sup>**

EU Member State flexibility Article 44 – No requirement to introduce further mandatory labelling requirements for foods sold non-prepacked - quantitative indication on meat products

This is currently a non-monetised benefit. At present, the UK utilises Member State flexibility in order to extend requirements for providing information on the quantity of meat ingredients in meat products for prepacked food to non-prepacked. This was done to ensure that consumers buying food prepacked for direct sale or loose for example from a butcher who then wraps the product for the consumer is receiving information on how much meat is present.

Under option 1A, the declaration would no longer be required. This is not the status quo. Some businesses will no longer be required to provide the information. It is conceivable that some may seek to provide products with less meat and other businesses, unable to avoid the information requirement (i.e. those selling similar products prepacked), may be put at a competitive disadvantage. The *minimum* meat content for burgers, sausages etc. under reserved descriptions rules would remain unchanged under these proposals.

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<sup>4</sup> Benefits to the nearest £1,000

The scale of the impacts is difficult to estimate as they will be dependent on market response to the change, which is difficult to predict. Some businesses may choose to retain current practice in which case the costs would be minimised. Others may make a decision to change their product. Information received previously from industry suggests that a level playing field is preferred so that there is consistency in the market.

EU Member State flexibility Article 44 - Removing the requirement to provide name of food on products sold non-prepacked

This is currently a non-monetised benefit. Under Option 1A the requirement for business to always provide the name of food is removed, reducing regulation on business. In most cases where there may be any doubt as to the name of the food, it would still need to be given under the Unfair Commercial Practices Directive.

**Government**

SSI consolidation – Enforcers

This benefit has been monetised. Enforcers are also likely to benefit from SSI consolidation through spending less time referring to several SSI documents, which takes time. We have assumed 2 hours saved of an Enforcement Officer’s time, which is up-rated by 30% to account for overheads, in accordance with the standard cost model.

Given these assumptions, the estimated benefit to local authorities in Scotland is nearly £10,000 over 10 years, equivalent to £1,000 per annum (see Table 4).

	<b>Number of Local Authorities</b>	<b>Annual Familiarisation Benefit</b>
Scotland	32	£1,000
England	433	£16,000
Wales	22	£1,000
N Ireland	26	£1,000
UK	513	£19,000

**Table 4: Total annual benefits to Government, by Country<sup>5</sup>**

**Consumer**

EU Member State flexibility Article 44 – No requirement to introduce further mandatory labelling requirements for foods sold non-prepacked - quantitative indication on meat products

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<sup>5</sup> Benefits to the nearest £1,000

This benefit is currently non-monetised. If businesses become free to change their current practice, there may be a move by some to reduce costs by reducing meat content, and this may also result in a reduced price to the consumer (though as the product would be reduced in value, this may not be considered a benefit).

## **Option 1B**

### **Industry**

#### SSI Consolidation

Benefits are the same as Option 1A.

### **Government**

#### SSI consolidation – Enforcers

Benefits are the same as Option 1A.

### **Consumers**

#### More informed decision-making benefits through two national measures adopted for non-prepacked food.

There may be benefits to consumers through the continuation/introduction of the following national measures:

- Use of Article 44 (1) power to continue a national measure to retain requirements to provide quantitative indications on the meat content of meats product sold non-prepacked.
- Use of Article 44 (1) power to continue a national measure requiring the provision of additional mandatory particulars in relation to the name of non-prepacked food.

## **Option 2**

### **Industry**

#### SSI Consolidation

Benefits are the same as Option 1A.

### **Government**

#### SSI consolidation – Enforcers

Benefits are the same as Option 1A.

## **Consumers**

### More informed decision-making benefits through national measures adopted under Option 2

There may be benefits to consumers through the continuation/introduction of the following national measures:

- Use of Article 44 (1) power to continue a national measure to retain requirements to provide quantitative indications on the meat content of meat products sold non-prepacked.
- Use of Article 44 (1) power to continue a national measure requiring the provision of additional mandatory particulars in relation to the name of non-prepacked food.
- Use of Article 44 (1) power to impose national measures requiring some or all of the mandatory particulars detailed in Articles 9(1) other than the name of the food and meat quantitative indication, e.g. list of ingredients, storage conditions and/or conditions of use, the name or business name and address of the food business operator, etc.) and 10(1) to be provided in relation to non-prepacked food
- Use of Article 43 power to impose a national measure on the voluntary indication of reference intakes for specific population groups. For example the provision of RIs for children, in addition to the current requirement to provide RIs for an average adult.
- Use of Article 35(3) power to require FBOs to notify any Additional Forms of Expression (AFE's) used for front of pack nutrition labelling and to provide justification regarding fulfilment of the AFE criteria.

### **(iii) Costs**

#### **Option 1A**

##### **Industry**

#### EU Member State flexibility, FIC point 3 of Part B of Annex VI - Developing a national mark for minced meat

This is currently a non-monetised cost. Current practice is that minced meat does not need to meet the compositional requirements of point 1 of Part B of Annex VI to FIC so long as it is not called 'minced meat' or anything like 'minced meat'. Taking up the derogation means that such meat can be sold as 'minced meat' so long as the national mark is used.

It should be noted, however, that without using this derogation, businesses would be required to produce minced meat in line with the standards set out in point 1 of Part B of Annex VI to FIC. This would have significant costs to industry affecting both large retailers and small businesses such as butchers as traditionally produced minced meat could not be sold as 'minced meat' or any similar description if it contains more fat and/or connective tissue than

would be allowed. Changes in commercial practice would result in costs from inefficiency in processes as potentially different cuts of meat would need to be used, and other uses would need to be found for the cuts currently being used.

Under Option 1A, as a condition of taking up the derogation, a small cost will be incurred as a result of the requirement (point 3 of Part B of Annex VI to FIC) to indicate that the derogation is in place by use of a 'national mark', which is subject to a cost. Use of a national mark may have an impact on consumer preference but as there would be no change in the product quality from present, it is not thought to be significant.

The scale of the cost of not taking the derogation is difficult to estimate, but the following would need to be taken into account:

- Not all minced meat currently produced would fail to meet FIC requirements.
- The meat currently used to produce minced meat not meeting FIC specifications would still have a value, albeit slightly lower than when sold as minced meat (taking account of processing costs).

## **Government**

### Familiarisation costs

This cost has been monetised. Local authorities will also need to become familiar with the updated Regulations. It is estimated that it would take one Environmental Health officer 2.5 hours to read the guidance. Once again, wage rates have been up-rated by 30% to account for non-wage labour costs and overheads, in accordance with the standard cost model.

Based on the number of enforcement authorities in the UK with responsibility for food, this is thought to be a cost around £22,000 translating into an equivalent annual cost of £3,000 over a ten year period, as outlined in Table 5. This cost may be slightly reduced if training is made available on the provisions of the FIC. Under all options opportunities to provide this support can be explored and will result in a training cost for central and local Government.

	Number of Local Authorities	Total Familiarisation Cost	Equivalised Annual Cost
Scotland	32	£1,000	£0
England	433	£19,000	£2,000
Wales	22	£1,000	£0
N Ireland	26	£1,000	£0
UK	513	£22,000	£3,000

**Table 5: Familiarisation costs for Local Authority Enforcement officers, by regional breakdown and as Equivalent Annual Cost to Enforcement by Country<sup>6</sup>**

**Baseline situation:** It is worth noting that in the absence of the SSI and guidance, FBOs would, if and when they decided to meet the new FIC, need to establish for themselves how this related to their businesses without the assistance of Government guidance. There are mechanisms for this to happen. Information could be through industry developed guidance documents, food research institutes such as Campden BRI or Leatherhead producing their own guidance documents. However, Government guidance is freely available to FBOs whereas there may be a cost to an FBO for guidance produced by industry or the food research industry.

#### Enforcement costs – increased informal activity

In the longer term, it is expected that the ongoing costs to enforcement are likely to be comparable with enforcement action currently taken by local authorities as part of a risk based approach to enforcement. However, in the short term there may be some additional non-monetised enforcement costs from the new approach arising from increased informal enforcement activity – enforcers are likely to have increased activity while businesses become familiar with the new requirements. This would be through the coaching role they play and through dealing with non-compliances under the new procedures.

Apart from the increased enforcement activity, these costs are covered in the familiarisation costs as part of the FIC impacts in Annex A.

## **Consumer**

### Removing the requirement to provide name of food on products sold non-prepacked

This cost is currently non-monetised. Under option 1A the requirement to always provide the name of food is removed, though under the Unfair

<sup>6</sup> Source for local authority numbers

(1) England – 433 –

<http://www.communities.gov.uk/newsroom/factsandfigures/local/facts/localgovernment/?id=1682861>

(2) Scotland – 32 – [http://www.direct.gov.uk/en/dl1/directories/devolvedadministrations/dg\\_4003604](http://www.direct.gov.uk/en/dl1/directories/devolvedadministrations/dg_4003604)

(3) Wales – 22 – <http://wales.gov.uk/topics/localgovernment/localauthorities/?lang=en>

(4) Northern Ireland – 26 – [http://www.doeni.gov.uk/index/local\\_government/council\\_structure.htm](http://www.doeni.gov.uk/index/local_government/council_structure.htm)

Costs to the nearest £1,000

Commercial Practices Directive, in most cases where there may be any doubt as to the name of the food, it would still need to be given.

It is anticipated that this is likely to be a small cost given that businesses are currently providing this information and it is assumed that they will continue to do so.

#### Removing the requirement to provide quantitative indications on products sold not prepacked

This cost is currently non-monetised. Under option 1A the requirement to always provide the quantitative indications is removed, though under the Unfair Commercial Practices Directive, in most cases where there may be any doubt as to the composition of the food, it would still need to be given.

It is anticipated that this is likely to be a small cost given that businesses are currently providing this information and it is assumed that they will continue to do so.

### **Option 1B**

#### **Industry**

##### Developing a national mark for minced meat

Costs are the same as for Option 1A.

##### Burden on industry through two national measures adopted for non-prepacked food.

There will be no additional costs to businesses through the introduction of the following national measures:

- Use of Article 44 (1) power to impose a national measure to retain requirements to provide quantitative indications on the meat content of meat products sold non-prepacked.
- Use of Article 44 (1) power to impose a national measure requiring the provision of additional mandatory particulars in relation to the name of non-prepacked food.

Businesses are currently providing this information on non-prepacked food.

#### **Government**

##### Familiarisation costs

Costs are the same as for Option 1A.

##### Enforcement costs – increased informal activity

Costs are the same as for Option 1A.

## **Consumers**

No significant costs to consumers.

## **Option 2**

### **Industry**

#### Developing a national mark for minced meat

Costs are the same as for Option 1A.

#### Provision of additional mandatory particulars for non-prepacked food other than name of food and quantitative indications

This is currently a non-monetised cost. Use of Article 44 (1) power to impose a national measure to require additional mandatory particulars be provided in relation to non-prepacked food.

#### Increased burden on industry through national measures adopted under Option 2.

There will be no additional costs to businesses through the introduction of the following national measures:

- Use of Article 44 (1) power to impose a national measure to retain requirements to provide quantitative indications on the meat content of meat products sold non-prepacked.
- Use of Article 44 (1) power to impose a national measure requiring the provision of additional mandatory particulars in relation to the name of non-prepacked food.

Businesses are currently providing this information on non-prepacked food.

There may be costs to businesses through the introduction of the following national measures:

- Use of Article 44 (1) power to impose national measures requiring some or all of the mandatory particulars detailed in Articles 9(1) other than the name of the food and the meat quantitative indications, (separately addressed in the paragraph above) e.g. list of ingredients, storage conditions and/or conditions of use, the name or business name and address of the food business operator, etc.) and 10(1) to be provided in relation to non-prepacked food

- Use of Article 43 power to impose a national measure on the voluntary indication of reference intakes for specific population groups. For example the provision of RIs for children, in addition to the current requirement to provide RIs for an average adult. As provision of RIs for specific groups would remain voluntary, this national measure would not itself impose costs on business. However, there would be a cost to FBOs that chose to adopt them.
- Use of Article 35(3) power to require FBOs to notify any Additional Forms of Expression (AFE's) used for front of pack nutrition labelling and to provide justification regarding fulfilment of the AFE criteria. As AFEs are voluntary, this national measure would not itself impose costs on business. However, there would be a cost to FBOs that chose to adopt them.

## **Government**

### Familiarisation costs

Costs are the same as for Option 1A.

### Enforcement costs – increased informal activity

Costs are the same as for Option 1A.

### Implementing a reporting framework for notification and justification of AFEs

This cost is currently non-monetised. Although this is a voluntary measure, Government will be required to implement a reporting framework for businesses that choose to take part in this process.

## **Consumers**

There are no significant costs to consumers.

## **(iv) Conclusion**

FIC has been carefully negotiated by UK officials and is considered to be a positive step forward in food labelling legislation, which will be fit for purpose for some time to come. The needs of consumers are properly balanced with the burdens on businesses.

For any legally available option, there will inevitably be the need for businesses to make some changes to labels on prepacked food, to the information provided to consumers of food sold non-prepacked, and businesses will need to set aside some resource to become familiar with these changes. This will be at a cost to business, though almost entirely a

one-off cost, and one which they may spread across a period of time in the case of label changes.

By selecting the national measures and derogations available in FIC, the option set out as Option 1B produces the best balance for Scottish consumers and businesses.

As explained in the summary of costs and benefits for Option 2, the additional burden to industry and Government that is incurred in Option 2 is attributed to:

- **Additional Forms of Expression** – cost of development of new reporting framework for Government; increased reporting costs for business;
- **Setting reference intakes for specific population groups** – business cost of collecting and converting nutritional information into RIs;
- **Provision of additional mandatory particulars to non-prepacked food** – business cost of collating nutritional information for non-prepacked foods (this may vary depending on the means of presentation).

Similarly for regulatory authorities ('enforcers') following a period of familiarisation, the burden of work will remain largely as before.

Consumers will benefit from clearer, more consistent and in the case of allergic or food-intolerant consumers, more useful information which both safeguards their health and allows them a greater choice of where to buy food. There will be less of an opportunity for food producers and retailers to mislead consumers by the omission or selective provision of nutrition information, making decisions, on for example healthier eating, easier for the consumer to make.

There are two areas where the balance of benefits and burdens is made less clear by current and established business practice in Scotland (and the wider UK). These are (a) the provision of quantitative indications on meat products (i.e. the proportion of defining ingredients, for example the pork content of a pork sausage) for food sold not prepacked and (b) again for food sold not prepacked, the name of the food to be displayed with the food. Both of these are required under current legislation, but neither are required under FIC although national measures to retain both are available. Initial indications from enforcers have so far shown strong support for retaining these measures as reflected in Option 1B.

No views on preferred Options were received from Scottish businesses during the consultation.

Opinions expressed at the FSA citizen forum events showed an acceptance of the derogation for milk/milk products. Also, there was a desire to retain the national measures for non-prepacked foods regarding the food name and the provision of a quantitative indication for the meat content of meat products.

Overall, this aligns with the requirements set out in Option 1B. However, there were concerns regarding the derogation for the compositional requirements for minced meat, but this is common to all three options.

## **5. SCOTTISH FIRMS IMPACT TEST**

The Food Standards Agency in Scotland (FSAS) has attended and supported various meetings with food businesses and stakeholders to inform them of the changes to labelling requirements which will be introduced by the new legislation. This work includes:

In February 2013, FSAS met a group of SMEs in Dumfries at a South of Scotland Food & Drink Forum Labelling Workshop organised by Scottish Enterprise.

In February 2013, FSAS held a stakeholder meeting in Edinburgh to support the consultation on the draft Food Information (Scotland) Regulations.

In February 2013, FSAS covered the consultation on the Regulations at a Food Labelling & Standards event for Local Authorities.

In May 2013, FSAS gave a presentation at the Food & Health Innovation Service (FHIS) seminar for small businesses in Dundee.

In September 2013, FSAS gave a presentation to members of the Royal Environmental Health Institute of Scotland (REHIS) at a Food Safety Day in Falkirk.

FSAS met with SMEs in Dumfries again in April 2014 at a food labelling and packaging workshop organised jointly by Scottish Agricultural College Food & Drink Section and Dumfries & Galloway Council.

In May 2014 and again in June 2014, FSAS engaged with representatives from the baking industry at well attended workshops arranged in conjunction with the Scottish Bakers at Halbeath, Dunfermline.

In June 2014, the FSA supported a Scottish Food and Drink Federation food labelling event in Edinburgh. This was very well attended by a wide range of food businesses based in Scotland, including smaller enterprises.

In June 2014, the FSA supported a Seafish event in Boddam, Peterhead covering food labelling with an emphasis on fishery products and the specific fish labelling requirements.

In July 2014, the FSA worked with Scotland Food and Drink and Access 6 to hold a webinar on food labelling aimed at reaching the operators of smaller enterprises for whom taking time to attend meetings is difficult. Feedback was very positive and the material is available using the following link: <http://www.access6.ie/news/food-labelling-webinar>

The FSA has also worked with the Scottish Federation of Meat Traders Association to organise a food labelling event for butchers in August 2014.

The consultation and subsequent meetings and events generated follow up enquiries and one to one discussion with several businesses. Businesses generally find it difficult to attribute precise costs to labelling changes, although they are keen to understand what the EU requirements mean for their particular product lines.

In terms of one to one engagement with businesses, FSAS staff have had discussions with representatives from Ashers Bakery in Nairn; the catering management team at Aberdeen Exhibition and Conference Centre; Macphie of Glenberrie; Malcolm Allan Ltd. butchers and a supplier of exotic meats. In addition, many attendees at the various labelling events took the opportunity to raise specific points with FSA staff on an individual basis. FSAS is also handling a significant number of enquiries from Scottish based food businesses.

The most common concerns expressed by businesses have been around relabelling, particularly about the amount of additional information that will have to be included on the label and how to satisfy the allergen labelling requirements. There has also been one report that the relabelling costs as shown in the partial BRIA were underestimated but no figures of the true cost were provided.

In terms of the national measures for non-prepacked foods and minced meat being introduced through the proposed Scottish Regulations, businesses have not raised concerns at the aim of maintaining the status quo as far as possible and giving businesses some flexibility in how allergen information is provided to food allergic consumers in loose food and catering situations. Caterers have mentioned the likelihood of additional work to fully track ingredients used where food prepared by one chef to a particular style, is served to consumers at a later stage. The FSA has now produced allergen advice specifically for caterers.

Meetings have also been held with the Scottish Chairman of the Institute of Hospitality and a representative from the Scottish Wholesale Association to discuss the provision of allergen information for non-prepacked food.

### **(i) Competition Assessment**

We recognise the need to ensure that businesses in Scotland are not at a competitive disadvantage as a result of the Regulation and the SSI. During the negotiations a better regulation approach was taken so that new measures were only introduced where benefits to consumers could be demonstrated. The input of industry was sought throughout the process and a collaborative approach taken to the interaction with Europe with the aim that UK businesses were not disadvantaged by the provisions compared to businesses in other Member States. The nature of the UK market was taken into account in the UK lines, in particular the role of retailer own brand

products in the market. As the provisions with which businesses must comply are held in an EU Regulation, there are benefits for Scottish businesses access to the market in other Member States. A Regulation ensures greater consistency in the requirements across Europe as the opportunity for interpretation are minimised. It also reduces the scope for Member State national rules which could form a barrier to trade.

Using the Competition & Markets Authority Competition Filter questions we have concluded that the proposals will neither directly or indirectly limit the number or range of suppliers, limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously.

#### **(ii) Test Run of Business Forms**

No new forms are expected as a result of this proposal

### **6. LEGAL AID IMPACT TEST**

Scottish Government Access to Justice has confirmed that there will not be an impact on the legal aid fund.

### **7. ENFORCEMENT, SANCTIONS AND MONITORING**

The regulations will be enforced by Local Authority Environmental Health Departments.

#### **Sanctions for Non-Compliance**

Regulation 11 of the Food Information (Scotland) Regulations 2014 lays down that the penalty on summary conviction for an offence under the Regulations is a fine not exceeding level 5 on the standard scale.

These proposals do not introduce any new sanctions for non-compliance with the Regulations.

#### **Monitoring**

The effectiveness and impact of the regulations will be monitored via feedback from stakeholders, including Enforcement Agencies, as part of the ongoing policy process. Agency mechanisms for monitoring and review include; open fora, stakeholder meetings, surveys and general enquiries.

### **8. IMPLEMENTATION AND DELIVERY PLAN**

With the exception of the requirements on net weight, the enforcement provisions for Regulation (EU) No 1169/2011 which consolidates and updates general food and nutrition labelling will be implemented in Scotland by the Food Information (Scotland) Regulations 2014. It is proposed to bring the Regulations into force as soon as possible. The required implementation date is 13 December 2014.

## Post Implementation Review

A review to establish the actual costs and benefits and the achievement of the desired effects will take place in 5 years from the date the Food Information (Scotland) Regulations 2014 come into force.

## 9. SUMMARY AND RECOMMENDATION

Option 1B provides consumers with improved food labelling information to enable them to make informed, safe and healthy food choices. There is greater clarity and consistency for nutrition declarations and allergy information. Option 1B provides regulatory certainty for manufacturers and ensures that Scottish food businesses have a level playing field and can compete on the same legal basis with EU counterparts.

### Summary Costs and Benefits Table

Option	Total benefit per annum: economic, environmental, social	Total cost per annum: economic, environmental, social policy and administrative
Do Nothing	No cost to Government of introducing new Scottish Statutory Instrument.	Possible infraction fines. Possible loss of international trade if products are not labelled to EU standard.
1A	Consolidation of legislation benefits businesses and enforcers. Businesses have less information to provide for non-prepacked foods.	Familiarisation costs for industry and local authorities. Possible relabelling and/or reformulation costs for industry. Consumers are provided with less information on non-prepacked foods.
1B	Consolidation of legislation benefits businesses and enforcers	Familiarisation costs for industry and local authorities. Possible relabelling and/or reformulation costs for industry.
2	Consolidation of legislation benefits businesses and enforcers. Consumers are provided with increased food information through additional national measures.	Familiarisation costs for industry and local authorities. Possible relabelling and/or reformulation costs for industry. Businesses must provide additional information for food.

Option	Total benefit per annum: economic, environmental, social	Total cost per annum: economic, environmental, social policy and administrative

**Option 1B is considered to be the preferred option.**

### **DECLARATION**

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Signed:**

**Date:**

**Minister's Name, Title & Department:**

Michael Matheson, Minister for Public Health.

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## Annex A

### Costs and benefits of FIC

This information has been given by way of background information. As has been stated earlier, FIC is a directly applicable Regulation. Compliance with the provisions is mandatory. The following estimates have been produced by DEFRA in consultation with FSA and the UK Administrations to provide context for the impacts of Options 1A, 1B and 2 above.

### INDUSTRY

#### Costs

##### Familiarisation costs

This cost has been monetised. There will be a one-off cost to industry for reading and familiarising themselves with the new Regulation. Time will be spent acquiring, reading and understanding the legislation, seeking external advice where necessary. In all options people working in the food industry at all stages would need to become familiar with the new requirements of the FIC.

Familiarisation costs are measured in terms of time costs and are therefore quantified by multiplying the time it takes for a member of staff to read and familiarise him/herself with the Regulation by their wage rate. The relevant average hourly rate<sup>7</sup> is uprated by 30% to take account of non-wage labour costs and overheads, which is in line with standard cost model methodology<sup>8</sup>.

The main assumptions for consultation are outlined below. **Annex C** provides the full assumptions used and provides a business breakdown throughout the supply chain.

**Per business.** For micro and small businesses, 2.5 hours of one proprietor/shopkeeper's time has been assumed to capture reading the guidance and understanding the implications to their particular business. For medium and large FBOs, 3.5 hours of one production manager's time per business has been assumed. The additional hour allows for extra time for dissemination of information to other colleagues in the firm.

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<sup>7</sup> Wage rates are obtained from ASHE 2011

<sup>8</sup> <http://www.berr.gov.uk/files/file44503.pdf>

**Per branch.** For the largest multiple retailers and foodservice businesses, it has also been assumed that there will be further familiarisation costs of 0.5 hours of a production manager’s time per branch. This acts as a proxy for the various activities that might be necessary including for example reading centrally supplied (i.e. by the company head office) training material, cascading this to relevant staff and filing the relevant training records. It does not include training for new staff as this, replacing existing training, is not a new burden.

Given these assumptions, **the total one off familiarisation costs for industry in Scotland are estimated at around £822,000.**

In order for one-off costs to be compared to annual costs on an equivalent basis across the time span of the policy, one-off costs are converted into Equivalent Annual Costs (EACs) by dividing the one-off cost by an annuity factor<sup>9</sup>. The total one-off familiarisation cost to businesses in Scotland translates to an equivalent annual cost of £96,000 over a ten year period.

For micro to small businesses, which account for 98.7% of all FBOs, this is likely to be around £41 per business. For medium to large firms<sup>10</sup>, it is equivalent to around £89 per business.

	Number of Food Business Operators	Total Familiarisation Cost	Equivalent Annual Cost
Scotland	19,155	£822,000	£96,000
England	187,510	£8,143,000	£946,000
Wales	11,435	£487,000	£57,000
Nireland	6,680	£286,000	£33,000
UK	224,780	£9,739,000	£1,131,000

**Table 6: Total familiarisation costs to business, by regional breakdown and Equivalent Annual Cost to Industry by Country<sup>11</sup>**

Mandatory (sometimes called ‘back of pack’) nutrition labelling costs

This cost has been monetised. The mandatory declaration for energy, fat, saturates and carbohydrates, with specific reference to sugars, protein and salt expressed as amounts per 100g or per 100ml imposes costs on industry falling into two broad categories: product analysis costs and re-labelling costs.

It has been estimated by the Food Standards Agency (FSA) that approximately 89% of UK companies already provide some level of nutrition

<sup>9</sup> The annuity factor is essentially the sum of the discount factors across the time period over which the policy is appraised.

<sup>10</sup> The largest retailers and food service businesses are treated differently given multiple branches will need to familiarise. Therefore, it would be a higher cost than the typical medium to large firm.

<sup>11</sup> Costs to the nearest £1,000

labelling<sup>12</sup>. This may be provided as 'Group I' or 'Group II' nutrition labelling. 'Group I' nutrition labelling comprises in its most basic form the declaration of energy, protein, carbohydrate and fat. 'Group II' nutrition labelling in its most basic form comprises the declaration of energy, protein, carbohydrate, sugar, fat, saturates, fibre, and sodium. It is further estimated that 77% of products providing nutrition labelling do so in the more detailed 'Group II' format.

The companies already providing some level of nutrition labelling would therefore face little or no additional cost of food analysis. The remaining approximately 11% who currently provide no nutrition labelling would face nutritional analysis costs estimated at £250 per product<sup>13</sup>.

Based on responses to a previous FSA consultation<sup>14</sup> regarding nutrition labelling the costs of re-labelling are estimated at a range of £2000 - £5000 per Stock Keeping Unit (SKU).

Products offered for sale prepacked will generally undergo changes in design of packaging over time. This might include re-branding, reformulation of ingredients, updating marketing messages or simply updating graphics – we refer to this as the 're-labelling cycle'.

In this BRIA, the assumption is made that while a number of changes would need to be made to any given label, businesses will try and minimise the number of times the label is changed to minimise the cost. In most cases all the required changes are likely to result in a single change in the label and therefore one set of design costs. Furthermore, by the end of the transition period built into each of the options, it is likely that the majority of pre-packaged food products offered for sale will either have been subject to a change of packaging for reasons outlined above, or will actually be new products on the market, and in both these cases the fact that the labelling will change or be introduced is not a new burden resulting from the policy, but of the re-labelling cycle. The EU Commission's IA on general labelling found that a 3 year transition period allowing firms to incorporate legislative changes into their normal labelling cycles reduced the cost burden to businesses by around 95%<sup>15</sup>.

To provide an estimate of back of pack labelling costs<sup>16</sup>, we use the Kantar dataset<sup>17</sup>, which provides us with an estimate of the number of products that are being purchased in the UK. This stands at 106,000 for 2011 which is multiplied by the trimmed mean cost of re-labelling per SKU for minor

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<sup>12</sup> <http://www.food.gov.uk/multimedia/pdfs/clearlabassess.pdf>

<sup>13</sup> The FSA's report into nutritional labelling costs

<sup>14</sup> Front of pack (FOP) nutrition labelling for pre-packed foods sold through outlets in the UK

<sup>15</sup> [http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/publications/ia\\_nutrition\\_labelling.pdf](http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/publications/ia_nutrition_labelling.pdf)  
p37.

<sup>16</sup> This does not include the additional costs associated with providing information on reference intakes for specific groups (GDAs).

<sup>17</sup> Source: Kantar Worldpanel The Kantar world panel (25,000 UK household panel) are asked to record every item purchased and brought into the household over a 52 week period. So this number reflects the number of different products purchased in the 52 weeks up to April 2011.

changes<sup>18</sup>, £1,800 (table below). Allowing for a 3 year transition period to help businesses mitigate costs by 95%, **the total cost for re-labelling is estimated to equivalent to £9.54 million**. Spread over the 3 year transition period, the average annual cost to industry is estimated at £3.18 million.

<b>Extent of change</b>	<b>Average cost (£/SKU)</b>	<b>Trimmed Mean (£/SKU)</b>
Minor change	£1,810	£1,800
Major change	£3,800	£3,330

Source: Developing a framework for assessing the costs of labelling changes in the UK

We have assumed that the highlighting of allergens in ingredients listings will form part of the same cycle of re-labelling, and that the information required to be highlighted is already present, in most cases, on existing labels.

More information on assumptions used in this BRIA can be found in **Annex D**. The impact of these mandatory requirements for FBOs on non-prepacked goods will be explored further through consultation.

Statutory information is often provided in a format that takes up the minimum space on the label that is allowable, or close to it. The new regulations will have the effect of increasing this size so for some products, the labels currently used to display information will not be large enough and will need to be replaced by larger ones. Were the regulations to be introduced with immediate effect, there may be significant costs from redundant labelling stock. However, it is not thought that this will be large as:

- Many products do not rely on affixed labels to display information (for example items with printed wrappers, printed cans, cereal boxes etc);
- Many of those that do have labels already have sufficient space for the required information, albeit sometimes at the loss of space for non-regulatory marketing information;
- All FBOs have a transition period during which to run down existing stocks of potentially redundant label stock. It is estimated that only 11% of FBOs hold more than 24 months stock of any labels.

#### Costs associated with provision of allergen information on non-prepacked food

This is currently a non-monetised cost. The costs associated with the provision of allergen information will be influenced by a number of factors:

<sup>18</sup> The study states that a change was considered as minor when only the text was changed on a single face of the label and no packaging size modification was required to accommodate this.

- Costs of determining the allergens in food ingredients, including in many cases in pre-prepared ingredients (for example sauces, pastes etc).
- Costs of ensuring that this information arrives consistently and accurately with the consumer.
- Whether the information needs to be presented in written form, or may be given verbally by the FBO. If given verbally, consumers must be made aware that the information is available on request for example by a prominent notice on the menu.

The cost impacts of these issues will be investigated through consultation with stakeholders.

#### Costs associated with the provision of additional meat and fish labelling requirements

These costs are currently non-monetised. There are a number of changes to information required to be provided in association with the name of the food for meat and fish products. These include:

- Indicating whether a food has been frozen and sold defrosted
- Indicating if water has been added to a product above 5% finished weight to a piece of meat that looks like a cut or joint
- Indicating if proteins from other species have been added to meat products, preparations and fishery products
- Indicating if meat or fish with the appearance of a cut or a joint has been formed from small pieces formed together into a portion sized product

Some of these costs will be captured in the labelling costs by incorporating these changes into the natural label cycle. However, some of these changes may result in increased costs to industry. Currently, there is little information to infer the scale of the costs.

#### Costs associated with provision of vegetable origin of edible vegetable oils

These costs are currently non-monetised. Under the current food labelling rules, composite foods can use the generic term 'vegetable oil' to describe when oil from a number of different vegetable sources are present in a blend. Under the FIC, this has changed; businesses will now be required to list all of the types of oils used in making that oil, in addition to using the term "vegetable oil" For example 'Vegetable Oil (sunflower, palm and rapeseed) in varying proportions'.

It is assumed that food manufacturers already know the vegetable origin of the oils used in products, though there may be a 'seasonal' effect, whereby oils of different vegetable origin are substituted in a product depending on availability and price. There may also be a consumer response consequent to

the introduction of this measure with oils that may, by some consumers, be considered less acceptable.

Some of these costs will be captured in the labelling costs by incorporating these changes into the natural label cycle. However, some of these changes may result in increased costs to industry. Currently, there is little information to infer the scale of the costs.

#### EU Member State flexibility Article 44 - Removing the requirement to provide QUID on non-prepacked meat products

This cost is currently non-monetised. Under FIC consumers would not always be provided with information for non-prepacked meat products that they currently have access to. So consumers may no longer be able to compare the amount of meat in, for example, a burger bought from a butchers or deli counter to that in a burger being sold prepacked in a supermarket (though should a retailer choose to provide such information, it would remain the case that it must be accurate). However, under Unfair Commercial Practices Directive, some of these products would need to have this and other information displayed in any case, if its absence would lead the average consumer to make a different purchasing decision.

Furthermore, it is anticipated that this is likely to be a small cost given that businesses are currently providing this information and it is assumed that they will continue to do so.

#### **Benefits**

##### Clearer and more consistent nutritional information on prepacked foods: Nutrition information

This benefit is currently non-monetised. Although, as stated above, many companies already provide some level of nutrition labelling, the introduction of mandatory back of pack labelling of specific nutrients for prepacked products will provide clarity and consistency for consumers across all products. Consumers are likely to benefit from this clarity and consistency. This will further assist use and understanding of the information.

This view is broadly supported by research. Grunert and Willis in “A review of European research on consumer response to nutrition information on food labels” (Journal of Public Health, 2007), find that studies report consumer interest in nutrition information on food packages. Consumers are also reported to like simplified front of pack information, and to understand the most common signposting formats.

Further insight into the understanding and use of food labels is offered by the FLABEL (Food Labelling to Advance Better Education for Life) project that carried out research into the impact of nutrition labelling in the EU and Turkey over a three-year period (2008-2011). The project’s findings report consumer preference for non-directive labels and labels with detailed nutrition

information. Consumers are also reported to have felt capable of making healthy choices regardless of label format.

It remains much less clear how the use of labelling affects consumers' dietary patterns. Grunert and Willis (2007) report studies mainly focusing on self-reported and hypothetical use. The FLABEL project finds no relationship between sales of healthy foods and the introduction of new types of nutrition labels, especially front of pack signposting<sup>19</sup>.

It is therefore not possible, at this stage, to quantify any health benefits arising from the introduction of new nutrition labelling requirements and recommendations within the Regulations.

Businesses have nevertheless reported to the Department of Health that they have seen shifts in purchasing pattern within category following the introduction of front of pack schemes (including guideline daily amounts and colour coding), and that this has stimulated reformulation of food on their part.

#### More informed decision-making benefits through more accessible and consistent allergen information; Allergen labelling

These benefits are currently non-monetised. The underlying premise is that benefits will stem largely from two areas:

- a) Reduction in harm caused by food-allergic consumers unwittingly consuming food containing ingredients to which they may react; and
- b) Increase in choice for food allergic customers who, following the introduction of the legislation, may be confident that information will be provided accurately in all food businesses selling prepacked and non-prepacked foods, including cafes and restaurants.

Reduction in harm and improving quality of life. It is estimated that between 5-8% in children and 1-2% in adults<sup>20</sup> have food allergy, and these percentages have not changed significantly over the last 20 years. Allergic reactions are usually self treated at home, however on occasion the reaction warrants hospital intervention with minimum 24 hour hospital stay followed by recuperation at home. On rare occasions, treatment has not been administered or has not been administered in time resulting in a fatality. Through the period of consultation, the following question will be investigated:

- a) How would your ability to manage your food allergy (i.e. avoiding / reducing the incidence of an allergic reaction) be improved by better allergen labelling and allergen information?

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<sup>19</sup> Data from the Tesco club card scheme were used for this analysis.

<sup>20</sup> <http://www.nhs.uk/Tools/Documents/Food%20allergy%20and%20intolerance%20myth%20buster.htm>

Increase in choice. It is estimated that up to 20% of the UK population think that they have a food allergy<sup>21</sup>. Through the period of consultation, the following questions will be investigated:

- a) For people who do have or believe that they have a food allergy, how many restrict their activities (such as not eating outside of the home) as a result of not being confident about the allergen information provided?
- b) What is the cost to food business (in terms of lost revenue) resulting from food allergic consumers and their companions not eating at their establishments because allergy information is not provided?

### **Summary of monetised costs and benefits**

Table 6 provides a summary of the monetised costs and benefits for FIC.

The net present value is -£10.11 million over 10 years while the net present value to business (costs and benefits that affect business specifically) is -£10.22 million over the same period.

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<sup>21</sup> [http://www.foodbase.org.uk/admintools/reportdocuments/249-1-421\\_T07023\\_Final\\_Technical\\_Report\\_Feb\\_2007.pdf](http://www.foodbase.org.uk/admintools/reportdocuments/249-1-421_T07023_Final_Technical_Report_Feb_2007.pdf)

	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Total cost/benefit	Annual Cost/EAC	PV
<b>Costs</b>													
<b>Industry</b>													
Familiarisation (transition)	£8,142,541	£0	£0	£0	£0	£0	£0	£0	£0	£0	£8,142,541	£945,962	£8,142,541
Prepacked labelling (transition)	£3,180,000	£3,180,000	£3,180,000	£0	£0	£0	£0	£0	£0	£0	£9,540,000	£954,000	£9,221,028
Total Industry Costs	£11,322,541	£3,180,000	£3,180,000	£0	£0	£0	£0	£0	£0	£0	£17,682,541	£1,899,962	£17,363,569
<b>Government</b>													
Familiarisation (transition)	£19,496	£0	£0	£0	£0	£0	£0	£0	£0	£0	£19,496	£2,265	£19,496
Total Government Costs	£19,496	£0	£0	£0	£0	£0	£0	£0	£0	£0	£19,496	£2,265	£19,496
<b>TOTAL COSTS</b>	£11,342,037	£3,180,000	£3,180,000	£0	£0	£0	£0	£0	£0	£0	£17,702,037	£1,902,227	£17,383,065
<b>Benefits</b>													
<b>Industry</b>													
SI Consolidation (recurring)	£829,799	£829,799	£829,799	£829,799	£829,799	£829,799	£829,799	£829,799	£829,799	£829,799	£8,297,987	£829,799	£7,142,647
Total Industry Benefits	£829,799	£829,799	£829,799	£829,799	£829,799	£829,799	£829,799	£829,799	£829,799	£829,799	£8,297,987	£829,799	£7,142,647
<b>Government</b>													
SI Consolidation (recurring)	£15,597	£15,597	£15,597	£15,597	£15,597	£15,597	£15,597	£15,597	£15,597	£15,597	£155,967	£15,597	£134,251
Total Government Benefits	£15,597	£15,597	£15,597	£15,597	£15,597	£15,597	£15,597	£15,597	£15,597	£15,597	£155,967	£15,597	£134,251
<b>TOTAL BENEFITS</b>	£845,395	£845,395	£845,395	£845,395	£845,395	£845,395	£845,395	£845,395	£845,395	£845,395	£8,453,954	£845,395	£7,276,898
<b>NET BENEFIT</b>													
Total Net (Benefit)	-£10,496,641	-£2,334,605	-£2,334,605	£845,395	£845,395	£845,395	£845,395	£845,395	£845,395	£845,395	-£9,248,083	-£1,056,831	-£10,106,166
Total Net Business (Benefit)	-£10,492,742	-£2,350,201	-£2,350,201	£829,799	£829,799	£829,799	£829,799	£829,799	£829,799	£829,799	-£9,364,354	-£1,070,163	-£10,220,922

Table 6: Summary of total monetised costs and benefits of FIR

## **Annex B**

Council Directive 89/396/EEC regulated food lot marking. It had been substantially amended several times. Because of this it needed replacing with a codified version of the amended Directive in the interests of clarity. It was replaced by Directive 2011/91/EU. There were no changes of substance. The domestic Food (Lot Marking) Regulations 1996 include a reference to Directive 89/396/EEC. This reference is in the definition of the expression 'first seller established within the European Union'. The reference to Directive 89/396/EEC in the domestic Regulations needs to be updated so that it refers to Directive 2011/91/EU instead. The consequential amendment in paragraph 3 (a) (ii) of Schedule 5 to the Food Information (Scotland) Regulations 2014 effects this simple amendment. This should have minimal if any impact on businesses.

The above text focuses on the changes being made as a result of the replacement of 89/396/EEC with Directive 2011/91/EU. However, the revocation of the Food Labelling Regulations 1996 (as amended) and repeal of Directive 2000/13/EC as part of the FIR exercise will result in the need for other amendments to be made to the Food (Lot Marking) Regulations 1996 as from 13th December 2014. These amendments are contained in paragraphs 3 (a) ((iii) to (vi)) and 3 (c) (ii) of Schedule 5 to the Scottish Food Information Regulations.

Most of the amendments that are being made, mainly to definitions, should have minimal if any impact on businesses.

## Annex C

### Estimating Familiarisation Costs of FIC

To calculate the familiarisation costs to industry and Government, the following assumptions have been made:

#### Relevant wage rates:

The wages outlined in this impact assessment represent median gross hourly pay including overtime from the Annual Survey of Household Earnings, 2011, All Employees. Following standard cost model assumptions, the following wages are then uprated by 30% to account for non-wage costs:

- **Shopkeepers and proprietors** (proxy for small FBOs) - £16.32 per hour;
- **Regulatory affairs/production manager** (proxy for medium and large FBOs) - £25.39 per hour;
- **Inspectors of standards and regulations** (local authorities) - £18.01 per hour.

#### Number of familiarisation hours:

- The number of hours required by affected **micro and small** organisations to become familiar with FIC Regulations, and to ensure compliance = **2.5 hours**;
- The number of hours required by affected **medium and large** organisations to become familiar with FIC Regulations, to ensure compliance and disseminate information = **3.5 hours**;
- The number of hours required by **environmental health officers** to become familiar with SSI = **2.5 hours**.

#### Treatment of the largest retailers and food service providers:

In order to capture the familiarisation cost across all FBOs, an additional assumption has been made that the largest food retailers and food service providers will require more time to familiarise themselves in all stores. As a result, it is assumed that **an additional 0.5 hours per branch** of one regulatory affairs/production manager's time will be needed. We have used information from Horizons Data Services to acquire the number of stores of the 6 largest retailers and the 10 largest food service operators, (tables below).

<b>No of Stores of top 6 retailers</b>	<b>Scotland</b>	<b>England</b>	<b>Wales</b>	<b>Nireland</b>	<b>Total</b>
Asda	50	464	33	15	562
Co-op Group	418	2570	182	38	3208
Morrisons	54	344	22	0	420
Sainsbury's	43	793	17	12	865
Tesco	147	2187	98	45	2477
Waitrose	3	220	56	0	279
<b>Total</b>	<b>715</b>	<b>6578</b>	<b>408</b>	<b>110</b>	<b>7811</b>

<b>No of outlets of the top 10 food service providers</b>	<b>UK</b>	<b>Scotland</b>	<b>England</b>	<b>Wales</b>	<b>Nireland</b>
Mitchells & Butlers plc	1,600	100	1,419	80	1
Punch Taverns plc	4,655	280	4,095	280	0
Whitbread plc	2,410	130	2,190	85	5
McDonald's Restaurants	1,300	130	1,080	65	25
Greene King plc	2,430	320	2,085	25	0
J D Wetherspoon plc	841	50	741	40	10
Enterprise Inns plc	6,143	0	6,043	100	0
Yum! Brands (Pizza Hut UK)	720	40	657	20	3
Yum! Brands (Kentucky Fried Chicken)	770	20	700	25	25
Marstons plc	2,150	0	1,985	140	25
Greggs plc	1,600	170	1,330	100	0
<b>Total</b>	<b>24,619</b>	<b>1,240</b>	<b>22,325</b>	<b>960</b>	<b>94</b>

### Estimate of costs

Using the standard cost model approach, familiarisation costs are calculated by using the number of hours to familiarise and multiplied by the number of businesses affected by the hourly cost (wage and non-wage costs). Costs are disaggregated by type of food business operators namely, manufacturers, wholesalers, retailers and food service in the following tables.

Food & Drink Manufacturers					
	Micro	Small	Medium	Large	TOTAL
England	176,256	49,164	40,434	15,107	280,961
Wales	12,444	3,264	2,666	889	19,263
Scotland	21,012	8,588	8,442	2,222	40,244
NI	9,588	4,692	3,999	889	19,168
UK	219,300	65,688	55,541	19,106	359,635

Food & Drink Wholesalers					
	Micro	Small	Medium	Large	TOTAL
England	467,364	76,092	27,992	4,888	576,336
Wales	15,912	3,264	889	0	20,065
Scotland	37,944	7,752	3,110	889	49,695
NI	18,360	3,468	1,777	0	23,605
UK	539,580	90,576	33,769	5,776	669,701

Food & Drink Retailers						
	Micro	Small	Medium	Large	Branch level for 6 largest retailers	TOTAL
England	1,931,472	120,360	16,884	5,776	83,508	2,158,000
Wales	110,160	8,772	889	444	3,674	123,939
Scotland	211,956	16,320	2,666	889	9,077	240,908
NI	62,016	16,728	5,332	889	1,396	86,361
UK	2,315,604	162,180	25,771	7,998	99,161	2,610,713

Food & Drink Services						
	Micro	Small	Medium	Large	Branch level for 10 largest food service companies	TOTAL
England	4,097,136	626,280	98,196	22,216	283,416	5,127,244
Wales	270,912	37,536	2,666	889	12,187	324,190
Scotland	389,028	75,480	10,664	444	15,742	491,358
NI	114,444	34,272	5,776	889	1,193	156,574
UK	4,871,520	773,568	117,302	24,438	312,538	6,099,366

## Annex D

### Estimating costs of label changes for FIC requirements

The estimates provided refer only to prepacked products. We will investigate through the consultation the methods and cost to business to provide the necessary information to consumers for non-prepacked products.

#### Label costs

Information from the 2010 Campden BRI study “Developing a framework for assessing the costs of labelling changes in the UK” looked at the total cost of all stages of the label cycle, from familiarisation of new legal requirements, re-design and auditing through to printing. The study concluded that the following costs would be incurred by businesses making minor or major label changes:

<b>Extent of change</b>	<b>Average cost (£/SKU)</b>	<b>Trimmed Mean (£/SKU)</b>
Minor change	£1,810	£1,800
Major change	£3,800	£3,330

Source: Developing a framework for assessing the costs of labelling changes in the UK

There are a number of variables which affect the costs of relabelling including size of firm, printing methods, type of market and type of product. In distinguishing between major and minor label changes the following descriptions are used:

*Minor label change: only the text has been changed on a single face of the label and no packaging size modification was required to accommodate this.*

*Major label change: the text but also the layout and/or colours and/or format were changed and/or multiple faces of the package were affected. The change is also considered as major in each case when the process entailed packaging size modification.*

We consider that the label changes consequent to the FIR and enabling SSI are, by these descriptions, minor.

#### Number of stock keeping units affected

In order to estimate the scale of the cost to industry, we require the total number of stock keeping units (SKUs) produced by the industry. The closest approximation to this is data from Kantar dataset, which provides us with an estimate of the number of prepacked food products that are being purchased in the UK. For prepacked products, we estimate the number of SKUs to be approximately 106,000 for 2011.

The number of SKUs is then multiplied by the trimmed mean cost of re-labelling per SKU for minor changes. Evidence from an EU commission Impact Assessment for FIC<sup>22</sup> suggested that, if provided with a transition period, much of the labelling costs incurred because of changes to legislation can be incorporated into the labelling cycle. The study assumes that if a 3-year transition period is allowed, 95% of the costs incurred can be absorbed. Applying this assumption, the total cost estimate for re-labelling is equivalent to

<sup>22</sup> [http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/publications/ia\\_nutrition\\_labelling.pdf](http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/publications/ia_nutrition_labelling.pdf) p37

£9.54 million. Spread over the 3 year transition period, the average cost per year to industry is estimated at £3.18 million. Without this transition period, the total labelling costs for prepacked products would stand at £190.8 million (see table below).

Number of stock keeping units in the UK	Labelling cost per stock keeping unit	Total labelling costs (without transition period)	Total labelling costs (with transition period)	Average labelling cost per year over the 3 year labelling cycle
106,000	£1,800	£190,800,000	£9,540,000	£3,180,000

## Annex E

### Estimating benefits from SSI consolidation

In this BRIA, we estimate the benefits from consolidating 14 statutory instruments (SIs and SSIs) into one integrated SSI. By doing this, we assume that businesses are likely to save time by not searching and analysing 14 separate pieces of legislation. We anticipate these savings to be a recurring benefit over the 10 year period of assessment.

We have excluded micro businesses from our calculations because we assume that they are likely to refer to industry guidance as opposed to legislative documents such as an SSI although they would possibly refer to this when the SSI is first available (captured in the familiarisation costs).

We have also excluded branches of the largest FBOs in this calculation because it is likely to be the head offices of the largest FBOs and not the branches that would benefit from SSI consolidation.

#### Relevant wage rates:

The wages used in this calculation are from the same source used to calculate familiarisation costs (see Annex C). Following standard cost model assumptions, the following wages are then uprated by 30% to account non-wage costs:

- **Shopkeepers and proprietors** (proxy for small FBOs) - £16.32 per hour
- **Regulatory affairs/production manager** (proxy for medium and large FBOs) - £25.39 per hour
- **Inspectors of standards and regulations** (local authorities) - £18.01 per hour

#### Number of familiarisation hours:

For both enforcers and FBOs, we looked at a range of hours saved through SSI consolidation. The lower estimate is 1 hour per FBO per year with the upper estimate at 4 hours per FBO. We have presented benefit savings based on 2 hours per FBO.

#### Treatment of the largest retailers and food service providers:

Using the standard cost model approach, familiarisation costs are calculated by using the number of hours to familiarise and multiplied by the number of businesses affected by the hourly cost (wage and non-wage costs). Costs are disaggregated by type of food business (manufacturers, wholesalers, retailers and food service), by region and by firm size. All three scenarios are presented in the following tables.

Scenario 1 – Assuming 2 hrs of time saved per FBO (in current costings)

All FBOs	Small	Medium	Large	TOTAL
England	687,617	104,881	27,421	829,799
Wales	42,268	4,062	1,270	47,601
Scotland	66,496	14,218	2,539	103,253
NI	47,328	9,648	1,523	58,500
UK	873,610	132,790	32,753	1,039,152

Food & Drink Manufacturers	Small	Medium	Large	TOTAL
England	39,331	29,106	8,833	71,069
Wales	2,611	1,523	508	4,642
Scotland	6,854	4,824	1,270	12,948
NI	3,754	2,285	508	6,547
UK	52,550	31,738	10,918	95,206

Food & Drink Wholesalers	Small	Medium	Large	TOTAL
England	60,874	16,888	2,783	79,662
Wales	2,611	508	0	3,119
Scotland	6,202	1,777	508	8,487
NI	2,774	1,016	0	3,790
UK	72,461	19,296	3,301	95,058

Food & Drink Retailers	Small	Medium	Large	TOTAL
England	98,288	8,848	3,301	109,237
Wales	7,018	508	254	7,779
Scotland	13,056	1,523	508	15,087
NI	13,382	3,047	508	16,937
UK	129,744	14,726	4,570	149,040

Food & Drink Services	Small	Medium	Large	TOTAL
England	601,024	68,112	12,886	669,831
Wales	30,029	1,523	508	32,060
Scotland	60,384	6,094	254	66,732
NI	27,418	3,301	508	31,226
UK	618,854	67,030	13,965	699,849

## Scenario 2 – Assuming 1 hr of time saved per FBO

All FBOs				TOTAL
	Small	Medium	Large	
England	348,768	62,430	13,711	414,889
Wales	21,134	2,031	635	23,800
Scotland	43,248	7,109	1,270	51,627
NI	23,664	4,824	762	29,250
UK	436,805	66,395	16,377	519,576

Food & Drink Manufacturers				TOTAL
	Small	Medium	Large	
England	18,888	11,662	4,318	34,868
Wales	1,306	762	254	2,321
Scotland	3,427	2,412	635	6,474
NI	1,877	1,143	254	3,273
UK	26,275	15,869	5,459	47,603

Food & Drink Wholesalers				TOTAL
	Small	Medium	Large	
England	30,437	7,998	1,396	39,831
Wales	1,306	254	0	1,560
Scotland	3,101	889	254	4,243
NI	1,387	508	0	1,895
UK	36,230	9,648	1,650	47,529

Food & Drink Retailers				TOTAL
	Small	Medium	Large	
England	48,144	4,824	1,650	54,618
Wales	3,509	254	127	3,890
Scotland	6,528	762	254	7,544
NI	6,691	1,523	254	8,469
UK	64,872	7,363	2,285	74,520

Food & Drink Services				TOTAL
	Small	Medium	Large	
England	260,612	28,056	6,348	284,915
Wales	15,014	762	254	16,030
Scotland	30,192	3,047	127	33,366
NI	13,709	1,650	254	15,613
UK	309,427	33,515	6,982	349,924

Scenario 3 – Assuming 4 hrs of time saved per FBO

All FBOs				TOTAL
	Small	Medium	Large	
England	1,386,034	208,721	64,842	1,658,687
Wales	84,538	8,125	2,539	95,201
Scotland	172,992	28,437	5,078	206,507
NI	94,656	19,296	3,047	116,999
UK	1,747,219	265,579	65,506	2,078,305

Food & Drink Manufacturers				TOTAL
	Small	Medium	Large	
England	78,882	48,210	17,286	142,137
Wales	5,222	3,047	1,016	9,285
Scotland	13,709	9,648	2,539	25,896
NI	7,507	4,570	1,016	13,093
UK	105,101	63,475	21,835	190,411

Food & Drink Wholesalers				TOTAL
	Small	Medium	Large	
England	121,747	31,891	6,688	159,324
Wales	5,222	1,016	0	6,238
Scotland	12,403	3,555	1,016	16,973
NI	5,549	2,031	0	7,580
UK	144,922	38,593	6,601	190,116

Food & Drink Retailers				TOTAL
	Small	Medium	Large	
England	182,678	18,298	8,801	218,474
Wales	14,035	1,016	508	15,559
Scotland	26,112	3,047	1,016	30,174
NI	26,765	6,094	1,016	33,874
UK	259,488	29,452	9,140	298,081