

POLICY NOTE

THE FOODS FOR SPECIFIC GROUPS (SCOTLAND) REGULATIONS 2016

SSI 2016 No. 190

1. Description

1.1 The above instrument is made by the Scottish Ministers in exercise of the powers conferred by sections 6(4), 16(1), 17(1), 26(1) and (3), 31(1) and 48(1) of the Food Safety Act 1990, section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972 and all other powers enabling them to do so. This instrument is subject to the negative procedure.

2. Policy Objective

2.1 The main purpose of The Foods for Specific Groups (Scotland) Regulations 2016 is to provide enforcement powers to underpin the directly applicable Regulation (EU) No 609/2013 on the requirements for food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control.

3. Policy Background

3.1 Following a revision of the legislation on foodstuffs intended for particular nutritional uses (PARNUTS), on 20 July 2016 Regulation (EU) No 609/2013 will repeal Directive 2009/39/EC (the PARNUTS directive) on foodstuffs intended for particular nutritional uses.

Regulation (EU) No 609/2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control defines the categories of foods included in Foods for Specific Groups, revises the categories included in the current Foods for Particular Nutritional Uses (PARNUTS) Directive and provides a framework for the new approach from the Commission to regulation in this area.

There are now only four categories of foods within scope: infant formula and follow-on formula, food intended for infants and young children, food for special medical purposes and total diet replacement for weight control. All other foods will now be regulated under existing EU regulations on food labelling and nutrition and health claims.

The EU regulation also reinstates some of the basic rules that are currently contained within the PARNUTS legislation on safety, composition, labelling and advertising of the four categories. New detailed provisions in these areas will be contained within four specific Commission Regulations which will be applied within the next few years and will be consulted upon separately.

This Scottish Statutory Instrument (SSI) is necessary to provide enforcement powers to underpin the European Regulation and to revoke the Notification of Marketing of Food for Particular Nutritional Uses (Scotland) Regulations 2007 (as amended) and Regulations 26 and 27 of the Infant Formula and Follow-on Formula (Scotland) Regulations 2007 on exports, which will no longer have any purpose. The enforcement powers will ensure the continued protection of consumers of foods for specific groups.

4. Consultation

4.1 A shortened 8 week consultation was carried out in Scotland on the draft SSI and the supporting Business and Regulatory Impact Assessment from 21 March to 15 May 2016. Two responses were received from the 64 stakeholders on the consultee list. These were from British Specialist Nutrition Association and Glasgow City Council Environmental Health Department.

The response from British Specialist Nutrition Association indicates that whilst their members retail their products in Scotland, none of them manufacture in Scotland. FSS consultation and industry engagement work has not identified any other Scottish food manufacturers who are likely to be affected.

5. Other Administrations

5.1 These Regulations apply in relation to Scotland only and corresponding Regulations will be introduced in the other UK countries.

6. Guidance

6.1 Guidance notes for the new Regulation will be prepared in due course.

7. Impact Assessment

7.1 A final Business and Regulatory Impact Assessment has been prepared following the public consultation and it accompanies this note.

8. Regulating small businesses

This Regulation will apply to all businesses with responsibility for manufacturing and labelling foods for specific groups.

9. Monitoring

Food Standards Scotland will work with Enforcement Authorities where problems or suspected infringements of the legislation arise. The effectiveness of this instrument will be monitored via general feedback from industry and Enforcement Authorities.

Contact:

Georgina Finch
Food Standards Scotland
Pilgrim House
Old Ford Road
Aberdeen AB11 5RL

Tel: 01224 288371

Email: georgina.finch@fss.scot