

POLICY NOTE

THE CASEINS AND CASEINATES (SCOTLAND) REGULATIONS 2016

SSI 2016 No. 383

1. Description

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

The main purpose of The Caseins and Caseinates (Scotland) Regulations 2016 is to transpose Directive (EU) 2015/2203 relating to caseins and caseinates intended for human consumption and to provide enforcement powers.

3. Policy Background

Caseins and caseinates are milk products that are used primarily in cheese making, protein supplements, formula milk and additives.

Directive (EU) 2015/2203 makes very minor adjustment to the substance of Directive 83/417/EEC (which it repeals) which is considered to have provided effective controls for some time.

The new Directive was needed to take into account developments in food law, to remove unnecessary provisions and to update various terms and references to take into account those used in other EU legislation. It also aligns composition requirements with the international standard set by the Codex Alimentarius for the sake of consistency and to avoid trade distortions.

Taking account of the Lisbon Treaty and the Treaty on the Functioning of the European Union regarding the delegation of power by the European Parliament and the Council to the Commission, the Directive gives the Commission the power to make a delegated act in respect of the technical elements in the Annexes. For example, updates to reflect developments in relevant international standards or technical progress. This is in line with the usual approach on changes to technical details.

To fulfil our obligations to the EU, domestic legislation is necessary to transpose Directive (EU) 2015/2203 into Scots law and to provide penalties in the event of non-compliance with the new European requirements.

Given the age of the current domestic legislation and the fact it pre-dates devolution the instrument revokes and replaces The Caseins and Caseinates (Scotland) Regulations 1986 and the Caseins and Caseinates (Scotland) Amendment Regulations 1990 and maintains the enforcement role for Local Authorities.

4. Consultation

A shortened 4 week consultation was carried out in Scotland on the draft SSI and the supporting Regulatory Impact Assessment from 23 September to 23 October 2016. An exemption was granted for the Business Impact Assessment. Initial contact with trade bodies had not identified any business in Scotland which manufactured caseins and caseinates.

No responses were received from the 136 stakeholders on the consultee list.

FSS consultation and industry engagement work has not identified any Scottish food manufacturers who are likely to be affected.

5. Other Administrations

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

6. Guidance

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

7. Impact Assessment

A final 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 caseins and caseinates.

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.

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