EXECUTIVE NOTE

THE ADDITION OF VITAMINS, MINERALS AND OTHER SUBSTANCES (SCOTLAND) AMENDMENT REGULATIONS 2010

SSI 2010/308

1. The above instrument is being made in exercise of the powers conferred by sections 16(1)(a),(e) and (f), 17(2), 26(1)(a) and (3) and 48(1) of the Food Safety Act 1990, and paragraph 1A of Schedule 2 to the European Communities Act 1972 and all other powers enabling the Scottish Ministers to do so. It is subject to negative resolution.

Policy Objectives

2. The purpose of this instrument is to amend national Regulations which provide for the execution and enforcement of a European Union (EU) Regulation on the addition of vitamins, minerals and other substances to foods, to make an ambulatory reference to the Annexes to the EU Regulation which lists the vitamins, minerals and their sources permitted for addition to foods.

3. The addition of vitamins, minerals and other substances to foods (also known as 'fortification'), is regulated in the EU under Regulation (EC) No. 1925/2006 of the European Parliament and of the European Council of 20 December 2006 on the addition of vitamins, minerals and of certain other substances to food. The Regulation is directly applicable in all Member States.

4. The Addition of Vitamins, Minerals and Other Substances (Scotland) Regulations 2007 (SSI 2007/325) as amended ('the national Regulations') provide for the execution and enforcement of Regulation 1925/2006 in Scotland.

5. The instrument amends the national Regulations to provide for the execution and enforcement, in Scotland, of future amendments to the Annexes to Regulation 1925/2006.

Policy Background

6. Commission Regulation (EC) No. 1170/2009, which came into force on 21 December 2009, added 1 mineral and 10 vitamin and mineral sources to the Annexes to the Regulation 1925/2006. The Food Supplements, Vitamins, Minerals and Other Substances (Scotland) Regulations 2009 amended the national Regulations for the first time to provide for the execution and enforcement of Regulation 1925/2006 in its amended form.

7. In the interests of simplification and better regulation, it is desirable to avoid the need to make national legislation each time amendments are made to the Annexes to Regulation 1925/2006, simply to provide for the execution and enforcement of the Regulation in its amended form.

8. This instrument therefore amends the national regulation to make an ambulatory reference to the Annex to Regulation 1925/2006, in exercise of the power to make ambulatory references provided by paragraph 1A of Schedule 2 to the European Communities Act 1972. This provides for the execution and enforcement of any future amendments to the Annexes to Regulation 1925/2006, without the need for further national legislation.

9. The instrument amends the national legislation for the second time. The national Regulations are not being consolidated on this occasion.

Consultation

10. A public consultation on a draft of the instrument was carried out by the Food Standards Agency for a period of 12 weeks from 31 March to 23 June 2010. A total of 6 responses to the consultation were received, with stakeholders being broadly supportive of the proposals. A summary of consultation responses has been published on the Food Standards Agency's website.

11. A list of the interested parties consulted in Scotland is attached Annex A.

Guidance

12. The Food Standards Agency's guidance on the addition of vitamins and minerals and of certain other substances to food provides advice on compliance and, whilst aimed primarily at industry, is also of use to enforcement authorities.

Financial Implications

13. The instrument makes a technical amendment to the national Regulations which will not place any additional burdens on stakeholders, other than the one-off impact associated with being aware of, and becoming familiar with, the amendment and its effect on the national Regulations. A Business and Regulatory Impact Assessment has therefore not been prepared.

Regulating Small Business

14. The instrument applies to small businesses. Small businesses will not be exempted because the instrument does not place any new burdens on them.

Contact

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ANNEX A

CONSULTATION LIST

Aberdeen City Council

Aberdeenshire Council

Adam Smith College

AG BARR (Finlays NMW)

Angus Council

Animal Health Distributors Assoc (UK)

Argyll & Bute Council

Ayrshire & Arran Health Board

Barratlantic Ltd

Bell Bakers Limited

Black of Dunoon (Bakers) Ltd

BMA Scotland

British Goat Society

British Hospitality Association

British Nutrition Foundation

British Soft Drinks Association

Brooks-Carter Clinic

Buchanans (Scotland) Ltd

Cairnton House

Care Commission

Centre for Public Health Nutrition Research

Charles Tennant & Co

Ltd

Children In Scotland

City of Edinburgh Council

Clackmannanshire Council

Coca Cola Enterprises Ltd

Comhairie Nan Eilean Siar

Consumer Focus Scotland

Co-operative Group (CWS) Ltd

COSLA

Dairy UK - Scotland

Diageo

DSM Nutritional Products (UK) Ltd

Dumfries & Galloway Council

Dundee City Council

East Ayrshire Council

East Dunbartonshire Council

East Lothian Council

East Renfrewshire Council

Edinburgh Community Food Initiative

Edinburgh Tea & Coffee Company Ltd

European Parliament

Falkirk Council

Falkirk Royal Infirmary

Federation of Small Businesses

FG Associates

Fife Council

Food & Drink Federation

Food Additives & Ingredients Association

Food And Drink Federation

Food Industry (North) Development Services

Food Innovation Institute (F2i)

Food Safety Authority of Ireland

Food Training & Consultants Company

G McWilliam (Aberdeen) Ltd

Glasgow Caledonian University

Glasgow City Council

Glasgow Metropolitan College

Glasgow Scientific Services

H.R. Bradford (Bakers) Ltd

Hallmark Meat Hygiene Ltd/ AA Duncan & Son

Health & Sport Committee

Health Protection Scotland

Health Services Research Unit

Highland Council

Highland Spring Ltd

Institute of Aquaculture

Institute of Biological & Environmental Services

Inverclyde Council

J G Ross (Bakers) Ltd

James Rizza & Sons Ltd

JWC Services Ltd.

Kettle Produce Ltd.

King's College London

Klinge Foods Ltd.

Lactalis McLelland Limited

Larder Bytes Ltd

Lothian NHS

M Corson

Mackies Of Scotland

MacPhie of Glenbervie Ltd

McAusland Crawford

Microgram

Midlothian Council

Moray Seafood Ltd

Nairn Beekeepers

Neville Craddock Association

Newcastle University

NFU Scotland

NHS Ayrshire & Arran

NHS Borders

NHS Fife

NHS Fife - Nutrition & Dietic Dept.

NHS Forth Valley

NHS Grampian

NHS Greater Glasgow & Clyde

NHS Health Scotland

NHS Highlands

NHS Lothian

NHS Orkney

NHS Tayside

North Ayrshire Council

North Lanarkshire Council

Orkney Herring Co Ltd

Orkney Islands Council

Paterson Arran Limited

Perth & Kinross Council

Purely Scottish Mineral Water

Quality Meat Scotland

Regulatory Solutions

Renfrewshire Council

Robert Gordon University

Rowett Institute

Rowett Research Services

Royal Environmental Health Institute for Scotland

Ruma

Scottish Association of Master Bakers

Scottish Borders council

Scottish Chambers of Commerce

Scottish Commission for the Regulation of Care

Scottish Crop Research Institute

Scottish Enterprise

Scottish Environmental Research Centre

Scottish Food & Drink Federation

Scottish Food Enforcement Liaison Committee

Scottish Food Quality Certification Ltd

Scottish Government

Scottish Government Criminal Justice Directorate

Scottish Grocers Federation

Scottish Health Food Retailers Association

Scottish Midland Co-op Society

Scottish Newcastle UK

Scottish

Qualifications Authority

Scottish Spina Bifida Association

Sea Fish Industry Authority

Seafish Industry Authority

Shetland Islands Council

SNDRT

Soil Association Certification Ltd

Soil Association Scotland

South Ayrshire Council

South Lanarkshire Council

Spitfire Resources

SUSTAIN

Tayside Scientific Services

The Association of Meat Inspectors

The British Dietetic Association

The Glenside Group

The Halal Food Authority

The Highland Council

The Infant & Dietetic Foods Association Ltd

The Moray Council

The Royal Society of Edinburgh

Thomas Tunnock Ltd

United Central Bakeries Ltd

United Fish Industries

University of Aberdeen

University of Dundee

University of Glasgow

University of Liverpool

University Of Paisley

University of Strathclyde

Vegetarian Economy & Green Agriculture (VEGA)

Verner Wheelock Associates

Vion

Voluntary Health Scotland

Walkers Shortbread Ltd

West Dunbartonshire Council

West Lothian Council

Which?

Women's Food & Farming Union