POLICY NOTE

THE FOOD INFORMATION AND ADDITION OF VITAMINS, MINERALS AND OTHER SUBSTANCES (SCOTLAND) AMENDMENT REGULATIONS 2020

SSI 2020/156

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

The purpose of this instrument is to enable the enforcement of and to expand the existing regime of offence provisions to include penalties for non-compliance with the EU Regulation, as detailed below.

Policy Objectives
These regulations are necessary to meet the following objective:

- To amend the Food Information (Scotland) Regulations 2014 ("the 2014 Regulations") to enable the enforcement of and to expand the existing regime of offence penalties for non-compliance with Article 26(3) of Regulation (EC) No 1169/2011 of the European Parliament and of the Council on the provision of Food Information to Consumers.
- To amend the Addition of Vitamins, Minerals and other Substances (Scotland) Regulations 2007 to allow all foods non-compliant with the trans fat limit specified in Annex III of 1925/2006 to be placed on the market until 1st April 2021

Implementing Regulation (EU) 2018/775 lays down rules for the application of Article 26(3) of Regulation (EU) No 1169/2011 as regards the requirement to indicate the country of origin or place of provenance of a primary ingredient of a food. This is necessary where country of origin information is provided and the country of origin or place of provenance of a primary ingredient is different to the origin of the food itself.

This instrument will provide for the enforcement and execution of the rules on country of origin labelling. It also amends the 2014 Regulations to provide a transitional period during which foods placed on the market or labelled prior to the coming into force date of the proposed SSI may continue to be sold, until such stocks are exhausted without committing an offence or incurring a penalty.

In addition, Commission Regulation (EU) 2019/649 amends Annex III to Regulation (EU) No 1925/2006 which restricts the content of trans fat, other than trans fats naturally occurring in fat of animal origin, in food intended for the final consumer and food intended for supply to retail, to no more than 2 grams per 100 grams of fat. This instrument also amends the Addition of Vitamins, Minerals and other Substances (Scotland) Regulation 2007 to clarify that foods non-compliant with the trans fat limit specified in Annex III of 1925/2006 can still be placed on the market until 1st April 2021 without committing an offence or incurring a penalty

Consultation
A four week consultation was carried out in Scotland on the policy underpinning these Regulations and the supporting Business and Regulatory Impact Assessment (BRIA) from 2 March 2020 to 27 March 2020. Around 150 interested parties and 32 local authorities were consulted and 2 responses were received from stakeholders. Neither of the responses raised any concerns and both supported the proposals.

A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Food Standards Scotland Citizen Space website.

Impact Assessments and Financial Effects
A final BRIA has been prepared following the public consultation and accompanies this note. The impact of this policy on business is expected to be minimal given that businesses are already working to the standards of this legislation, although business familiarisation costs will be incurred.

To support the 4 week consultation and BRIA, Food Standards Scotland (FSS) met with a shortbread manufacturer who confirmed they use primary ingredients in a range of their products sourced from other parts of the UK and EU. Although the business fully supported the proposals, they had significant concern regarding the timescale for compliance. In addition further concerns were raised in situations where the source of raw materials collapses and businesses have to switch supplier. In these circumstances, labelling and supply chain verification are an added consideration for industry and the additional requirements for primary and quantitative ingredient declarations will add to this.

Food Standards Scotland
May 2020