EXECUTIVE NOTE

THE FOOD LABELLING (DECLARATION OF ALLERGENS) (SCOTLAND) REGULATIONS 2009

SSI 2009/374

1. The above instrument was made by the Scottish Ministers in exercise of the powers conferred by sections 16(1)(e), 17(1), 26(1)(a) and 48(1) of the Food Safety Act 1990 and all other powers enabling them to do so. This instrument is subject to negative resolution procedure.

Policy Objectives

2. The purpose of the instrument is to implement, in Scotland, Commission Regulation (EC) No. 415/2009 amending Directive 2007/68/EC. This Directive amends Annex IIIa to Directive 2000/13/EC of the European Parliament and of the Council as regards certain food ingredients. The food ingredients in question are likely to cause an allergic reaction in some consumers.

3. Directive 2000/13/EC has been implemented into the law of Great Britain by the Food Labelling Regulations 1996 (as amended). The Food Labelling (Declaration of Allergens) (Scotland) Regulations 2009 further amends the Food Labelling Regulations 1996 in Scotland to extend a temporary exemption from allergen labelling requirements for wine. The amending Regulation provides an extension from 31st May 2009 to 31st December 2010 (in respect of foods that are sold or marked or labelled before that date) for the declaration on the label of lysozyme used in wine, and albumin (produced from egg) and milk products (in the form of casein) used as fining agents in wine.

Policy Background

4. The Food Labelling Regulations 1996 aim to ensure that consumers are properly informed about the nature and substance of the foods they buy and are protected from false or misleading descriptions. These Regulations contain a list of 14 food allergens that have to be indicated on the label whenever those allergens, or their derivatives, are used as deliberate ingredients in pre-packed food, including alcoholic drinks. The list also contains certain derivatives that do not have to be indicated on the label because their allergenic component has been removed.

5. The Regulations have been amended a number of times to implement changes to EC legislation as regards allergenic ingredients. Legislation has added certain foods and/or their derivatives to the list of ingredients that must be declared on the label, and has also removed derivatives, notably where it has been established that, due to processing, the derived ingredient no longer contains the allergenic component. In an amendment made last year by the Food Labelling (Declaration of Allergens) (Scotland) Regulations 2008 (which implement Directive 2007/68/EC), among other measures set out the ingredients referred to in

paragraph 3 above were required to be declared on wine labels, with a phase in period for compliance that expired on 31 May 2009.

6. However, due to technical difficulties encountered by the wine industry in meeting this deadline for compliance, the European Commission has amended Directive 2007/68/EC to extend the transitional period for these ingredients used in wine making.

Consultation

7. Article 9 of EC Regulation 178/2002, laying down the principles and requirements of food law, requires open and transparent public consultation on the revision of food law, save in respect of measures made in circumstances of urgency. These Regulations were not made in circumstances of urgency and therefore full public consultation was undertaken as follows.

8. The Food Standards Agency Scotland consulted publicly with a total of 183 stakeholders (industry, consumer groups, and enforcement authorities) on the new instrument. The consultation documents were also made available on the Food Standards Agency website. Within Government, the Food Standards Agency Scotland consulted with the Scottish Government and Scottish Government Health Officials. No responses were received from stakeholders in Scotland.

9. The Agency has produced guidance on the allergen labelling rules. This guidance has been amended to reflect the changes made by this instrument and formed part of the consultation package. The revised guidance will be available on the Food Standards Agency's website.

Financial Implications

10. The instrument will not impact upon wine producers and manufacturers as they will not now be required to change the labels on wine until 31st December 2010. As there is no incremental impact from this instrument the Food Standards Agency in Scotland has not prepared a Regulatory Impact Assessment.

11. Local Authorities Coordinators of Regulatory Services have agreed that there are no additional costs from enforcing this instrument.

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