POLICY NOTE

THE PROCESSED CEREAL-BASED FOODS AND BABY FOODS FOR INFANTS AND YOUNG CHILDREN (SCOTLAND) AMENDMENT REGULATIONS 2022

SSI 2022/342

The above instrument was made in exercise of the powers conferred by section 16(1)(a) and (e) of the Food Safety Act 1990 ("the 1990 Act"). This instrument is subject to the negative procedure.

Summary Box

The purpose of this instrument is to amend the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Scotland) Regulations 2004 to add additional forms of vitamins and minerals which can be used in the manufacture of processed cereal-based foods and baby foods.

Policy Objectives

Following consultation on proposed minor and technical amendments to GB-wide legislation on nutrition, it became apparent that the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Scotland) Regulations 2004 ("the 2004 Regulations") would require amendment. The amendments are necessary to add calcium-L-methylfolate as an alternative form of folate that may be added to processed cereal-based food and baby foods, and also ferrous biglycinate (as a permitted form of iron) and zinc chloride (as a permitted form of zinc). As noted below, similar changes are being proposed for England and Wales to avoid divergence across GB, and to align with changes already made in the EU.

This instrument is linked to the proposed Food Supplements and Food for Specific Groups (Miscellaneous Amendments) Regulations 2022, a GB-wide instrument which makes minor technical amendments to a number of pieces of GB-wide legislation on nutrition, and also makes equivalent changes to the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (England) Regulations 2003 to those being made to the 2004 Regulations by this instrument. A similar amendment will also be made to the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Wales) Regulations 2004. The GB-wide instrument is the subject of a notification to the Scottish Parliament.

Consultation

In compliance with the requirements of Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council, laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, there was open and transparent public consultation during the preparation and evaluation of this SSI. The consultation requirement at section 48(4) of the

Act 1990 was disapplied given that consultation was required under Article 9 (section 48(4C) of the 1990 Act).

A GB-wide 3-week public/stakeholder consultation on the proposed nutrition-related changes was carried out between November and December 2021. The consultation generated responses from one local authority, three trade associations, one consumer healthcare association and one industry group representative.

Out of the 6 responses received (including one from a Scottish local authority), 4 focused on the proposed amendments to be made for Scotland by this instrument There was overall support for the proposal to expand the permitted forms of folate that may be used in processed cereal-based foods and baby foods to include calcium-L-methylfolate. Respondents also indicated that as use of these substances is not mandatory, the amendment will not negatively impact on manufacturing.

Through the consultation feedback it was also identified that at the end of the EU-Exit transition period an oversight had occurred, which led to a non-alignment between the Annex of Regulation (EU) No 609/2013 and national baby food legislation. This instrument will therefore also update the 2004 Regulations to include ferrous bigylcinate as a permitted form of iron and zinc chloride as a permitted form of zinc (as was intended at the end of the EU-Exit transition period).

Impact Assessments

Food Standards Scotland consider that a BRIA (a Business and Regulatory Impact Assessment) is not required for these Regulations. The Regulations are not expected to have any significant financial implications for food businesses or enforcement authorities in Scotland. The cost to businesses and enforcement officers may be a small amount of familiarisation time, although the changes broaden rather than restrict the options of vitamins and minerals that may be added to processed cereal-based foods and baby foods for infants and young children. No other impact assessments are required.

Financial Effects

The Minister for Public Health, Women's Health and Sport confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Food Standards Scotland
November 2022