

To All Interested Parties

Dear Sir/Madam,

The Novel Foods (Scotland) Regulations 2017

I'm writing to update you on recent changes to the legislation covering novel foods both in Scotland and at EU level.

The Novel Foods (Scotland) Regulations 2017 came into force on 1 January 2018 and provide enforcement authorities with the necessary powers to enforce Regulation (EU) 2015/2283 on novel foods which applied from 1 January 2018.

A key element is the modification of section 9 of the Food Safety Act 1990 (as amended) as read with the Novel Foods (Scotland) Regulations 2017 regarding the serving of detention and seizure notices. This now enables authorised officers to detain food which is suspected of contravening Article 6(2) of Regulation (EU) 2015/2283. This is because Regulation (EU) 2015/2283 requires that only novel foods authorised and included in the European Union list may be placed on the market within the EU or used in or on foods, in accordance with their particular conditions of use and any applicable labelling requirements. If the officer making the determination is satisfied that the product requires assessment and authorisation (and therefore contravention of Article 6(2) of Regulation (EU) 2015/2283 has occurred), they must seize the food and remove it to be dealt with by a sheriff. This determination can be made either immediately or after a maximum 21 –day period of detention.

The new Regulations can be found at:

http://www.legislation.gov.uk/ssi/2017/415/pdfs/ssi_20170415_en.pdf

Regulation (EU) 2015/2283

The scope of Regulation (EU) 2015/2283 broadly remains the same as Regulation (EC) No 258/97, however clarity has now been achieved that insects are clearly now in scope and maintains the requirement for novel foods to undergo a safety assessment before they can be marketed. The new EU Regulation defines foods classed as “Novel Foods” and lays out requirements for placing novel foods on the market within the Union, including new streamlined authorisation procedures, and details new specific rules for traditional foods from third countries. It

specifies that the Commission by means of implementing acts, adopt measures concerning the administrative and scientific requirements concerning traditional foods from third countries and administrative and scientific application requirements.

As part of the change to the new approach, the European Commission introduced a European list of authorised novel foods. This is published in [Commission Implementing Regulation \(EU\) 2017/2470 of 20 December 2017, establishing the Union list of novel foods](#). The introduction of the Union list of authorised novel foods and any applicable conditions of use will benefit industry by providing greater clarity as to the novel foods that may legally be placed on the market.

The Commission has also published a further two Implementing Regulations as laid out in Regulation (EU) 2015/2283:

- [Commission Implementing Regulation \(EU\) 2017/2468 of 20 December 2017 laying down administrative and scientific requirements concerning traditional foods from third countries in accordance with Regulation \(EU\) 2015/2283](#). The Regulation specifies what information applications should contain in order to allow the Commission to verify the validity and enable Member States and the European Food Safety Authority (EFSA) to evaluate the history of safe use of the traditional food from a third country;
- [Commission Implementing Regulation \(EU\) 2017/2469 of 20 December 2017 laying down administrative and scientific requirements for applications referred to in Article 10 of Regulation \(EU\) 2015/2283](#). The Regulation specifies what information applications should contain in order to allow the Commission to verify the validity and enable Member States and the EFSA to conduct comprehensive risk assessments of the novel foods.

The new EU Regulation places a duty on food businesses to verify whether the food they intend to place on the market falls within the scope of the legislation in line with Article 4. Whilst the establishment of the Union list of authorised novel foods will help in this regard, if unsure, businesses should consult and provide all necessary information to the Member State in which they first intend to market the product to enable a determination to be made. In order to facilitate this, [Commission Implementing Regulation 2018/456 of 19 March 2018 on the procedural steps of the consultation process for determination of novel food status in accordance with Regulation \(EU\) 2015/2283 of the European Parliament of the Council on novel foods](#) was published on 20 March 2018.

FSS will provide further details in due course.

Yours faithfully,

Georgina Finch

Policy Advisor

Food Standards Scotland

Tel: 01224 288371

e-mail: Georgina.Finch@fss.scot