

**The Coffee Extracts and Chicory Extracts (Scotland) Regulations 2001****Title of the regulatory proposal**

1. The Coffee Extracts and Chicory Extracts (Scotland) Regulations 2001

**Purpose and intended effect of the proposal****Objective**

2. To implement Directive 1999/4/EC of the European Parliament and the Council relating to coffee extracts and chicory extracts (OJ No. L66,13.3.1999, p.26). They revoke and replace the Coffee and Coffee Products (Scotland) Regulations 1979, in relation to Scotland.

**Issue**

3. The Coffee and Coffee Products (Scotland) Regulations 1979 implement Council Directive No. 77/436/EEC on the approximation of the laws of the Member States relating to coffee extracts and chicory extracts. This Directive defined coffee extracts and chicory extracts, determined which substances could be added during their manufacture, and laid down rules governing their packaging and labelling. This has been replaced by Directive 1999/4/EC which amends it with respect to general Community legislation on foodstuffs, particularly on labelling and methods of analysis.
4. The provisions of Directive 1999/4/EC need to be implemented through the national legislation of Member States. Thus the Coffee and Coffee Products (Scotland) Regulations 1979 will need to be repealed and Directive 1999/4/EC implemented. This will be achieved by the Coffee Extracts and Chicory Extracts (Scotland) Regulations 2001. These apply only to Scotland. England, Wales and Northern Ireland will produce their own, amending Regulations.
5. The Regulations prescribe definitions and reserved descriptions for coffee extracts and chicory extracts. They also make provisions for the Regulations to apply to coffee extracts and chicory extracts ready for delivery to the ultimate consumer or to a catering establishment, except for the product known as *café torrefacto soluble*, and prohibit the sale of food bearing a reserved description other than food to which the description relates. They will require reserved descriptions and specified declarations to be applied to designated products, and prescribe the manner of marking or labelling to be employed. Additionally, they provide for penalties and enforcement, include a transitional provision, and a defence in relation to exports (in accordance with Articles 2 and 3 of Council Directive 89/397/EEC (OJ No. L186, 30.6.89, p. 23) on the official control of foodstuffs).

## **Risk Assessment**

6. Article 7 of the Directive required Directive 1999/4/EC to be implemented into national legislation by 13 September 2000. Therefore, to avoid the possibility of infraction proceedings by the Commission, the draft Coffee Extracts and Chicory Extracts (Scotland) Regulations 2001 should be implemented by as soon as possible, i.e. by 17 March 2001.

## **Options**

7. The UK is obligated to implement the provisions of Directive 1999/4/EC into national legislation.

7.1 Option 1 – Issue a Code of Practice: It would not be sufficient to issue codes of practice or guidance as the reserved descriptions need the support of a statutory instrument.

7.2 Option 2: Amend current Regulations on Food Labelling: It would be possible to amend the Food Labelling Regulations 1996 to accommodate the necessary provisions, but it would not be easy to obtain the same end-point without substantial amendment.

7.3 Option 3: replace existing Coffee and Coffee Products Regulations: As Regulations relating to Coffee and Coffee Products already exist in our national legislation, and will have to be revoked as a result of the new provisions, the most straightforward way to achieve the objective is to replace the current Regulations as proposed.

## **Issues of equity or fairness**

8. The approach adopted by the Commission has been to develop a more simplified set of provisions. Its aim is to ensure harmonisation of labelling and methods of analysis to promote free trade without incurring excessive costs. The measures are applicable to manufacturers throughout the Community and therefore competitiveness of UK producers should not be disadvantaged.

## **The benefits (to business, citizens, the environment) identified and valued**

9. Consumers will benefit from the reserved descriptions which will improve product labelling. The amending regulations will benefit the industry by being simpler in construction. These benefits cannot be quantified monetarily.

## **Compliance Costs for Businesses**

### **The affected business sectors**

10. The coffee market is divided into the instant sector and the roast and ground sector. The instant coffee sector dominates, accounting for almost 89% of the value of sales in 1999, or a total of £727million, compared to the £94million of the roast and ground sector<sup>1</sup>. In Scotland, there are approximately ten manufacturers/distributors.
11. It is only the instant coffee sector that is affected by the new legislation. More than half of this market is dominated by one supplier with a 57% share of the market, and the

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<sup>1</sup> Mintel Report. *Coffee* 31/01/2000

second largest supplier having a 15% share. The remaining 28% of the market is shared by a number of smaller brands and own label coffees.

**Total compliance costs**

12. There is unlikely to be any additional recurring and non-recurring costs imposed on manufacturers or retailers by this amending legislation. The new provisions are less prescriptive and will allow more latitude, for example with methods of analyses, and therefore no significant costs are envisaged.

**Impact on small business**

13. The proposed measures should impose no additional burdens or costs on small businesses.

**Other costs (e.g. to citizens, the environment, Government)**

14. No other costs to citizens or the environment have been identified. There is unlikely to be any increase in costs to Local Authorities in the enforcement of the Regulations.

**Results of consultations**

15. This consultation is part of continuing consultations which have taken place since negotiations began at Community level 1996. Interested parties representing and including food producers, manufacturers, traders and retailers have been consulted on technical issues relating to Directive 1999/4/EC. This consultation broadens the scope to also include consumers, enforcement authorities and other interested parties.

**Summary of recommendations / conclusions**

16. It is recommended that the Coffee and Coffee Products (Scotland) Regulations 1979, as amended, in relation to Scotland be revoked and replaced with the Coffee Extracts and Chicory Extracts (Scotland) Regulations 2001. England, Wales and Northern Ireland will also produce separate amending Regulations. These amending Regulations are the best way to implement Directive 1999/4/EC. They are necessary to avert the risk of proceedings against the UK Government by the Commission for failing to implement that Directive.

**Enforcement, sanctions, monitoring and review**

17. The Regulations will be enforced by local food authorities' Environmental Health Departments. No additional resource requirement for enforcement of this new legislation is envisaged. Officials will maintain regular contact with the Scottish Food Co-ordinating Committee (SFCC) and relevant trade associations to monitor compliance with, and enforcement, of these Regulations.

**Declaration:**

I have read the Regulatory Impact assessment and I am satisfied that the balance between cost and benefit is the right one in the circumstances.

Signed by the responsible Minister.....

Date.....

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12 February 2001