

EXECUTIVE NOTE

THE MARKETING OF HORTICULTURAL PRODUCE (SCOTLAND) REGULATIONS 2009 SSI 2009/225

Introduction

1. The above instrument was made in exercise of powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972 and sections 16(1)(e), 16(2)(b) and 17(1) of the Food Safety Act 1990. The instrument is subject to negative resolution procedure.

Policy Objective

2. The purpose of this instrument is to provide a new statutory framework for the enforcement of the Community marketing rules in the fresh fruit and vegetable sector provided for in Article 113 and 113a of Council Regulation 1234/2007/EC establishing a common organisation of agricultural markets and specific provisions for certain agricultural products (Single CMO Regulation), and contained in Title II of Commission Regulation 1580/2007/EC laying down implementing rules of Council Regulations 2200/1996/EC, 2201/1996/EC and 1182/2007/EC in the fruit and vegetable sector. They implement the revisions made to the Community marketing rules introduced by Commission Regulation 1221/2008/EC amending Regulation 1580/2007/EC.

3. The changes have been driven by the European Commission's reform of the fruit and vegetable sector in 2007. The aims of the new regulation are to harmonise, consolidate, simplify and deregulate the rules relating to fresh fruit and vegetables, whilst ensuring that produce traded is "sound, fair and marketable". The key features are the introduction of two types of marketing standards to be applied at all stages of the distribution chain. These are the Specific Marketing Standards (SMS) for 10 products and a General Marketing Standard (GMS) to apply to all fruit and vegetables unless exempt. Other features include special arrangements for the marketing of packages of 5kg or less and a requirement to undertake conformity checks by the Member State using risk analysis. The removal of the requirement to notify and certify consignments for processing and the extension of powers to facilitate distance selling by the internet or other means.

4. These Regulations designate Scottish Ministers as the inspection body for Scotland. They make the failure to comply with Article 113a(3) of Council Regulation 1234/2007/EC and the provisions of Commission Regulation 1580/2007/EC mentioned in the Schedule, an offence. They confer power to control the movement of horticultural produce and to affix a stop notice warning of its exercise. They also exercise a derogation which exempts products presented for retail sale to consumers for their personal use from the specific marketing standards provided they are labelled "product intended for processing", or with other equivalent wording, and are not intended for industrial processing.

Consultation

5. A consultation was undertaken with the industry which ran for eight weeks from 27 February to 24 April 2009. One response was received from NFU Scotland who were broadly in favour of the Scottish Government's proposals.

Timing

6. Commission Regulation 2008/1221/EC has to be implemented by 1 July 2009.

Financial effects

7. These Regulations will not place additional financial burdens on businesses so no Regulatory Impact Assessment has been prepared.

Transposition

8. Commission Regulation 2008/1221/EC, amending Commission Regulation 1580/2007/EC, lays down implementing rules, on the marketing of horticultural produce, has been implemented, by the Marketing of Horticultural Produce (Scotland) Regulations 2009. The specific derogation exempting from specific marketing standards products presented for retail sale to consumers for their personal use and labelled as product intended for processing has been implemented by Regulation 16.

Scottish Government – Rural Directorate
Agricultural and Rural Development Division
Plants, Horticulture and Potatoes
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