

FOOD (SCOTLAND) BILL

POLICY MEMORANDUM

INTRODUCTION

1. This document relates to the Food (Scotland) Bill introduced in the Scottish Parliament on 13 March 2014. It has been prepared by the Scottish Government to satisfy Rule 9.3.3 of the Parliament's Standing Orders. The contents are entirely the responsibility of the Scottish Government and have not been endorsed by the Parliament. Explanatory Notes and other accompanying documents are published separately as SP Bill 48–EN.

BACKGROUND

2. The Scottish Government is committed to ensuring people in Scotland live longer, healthier lives. Making sure we eat a good, nutritious diet of safe food is vital to achieving that ambition. Food-borne disease costs Scotland £140 million per year. More significantly, of the 130,000 consumers contracting food borne disease each year, around 2,000 will be hospitalised and around 50 will die¹. Bad eating habits are one of the most significant causes of ill health in Scotland² and a major factor in obesity. Scotland is positioned near the top of the league tables for obesity among OECD countries. The public cost of dealing with obesity is likely to rise to £3 billion per year by 2030³. Even relatively minor improvements to the safety and standards of food in Scotland will have significant social and economic benefits.

3. Currently in Scotland food safety and food standards responsibilities are for the most part set out either in the key Acts or in regulations made by the Scottish Ministers. The key Acts are the Food Safety Act 1990 (“the 1990 Act”) and the Food Standards Act 1999 (“the 1999 Act”).

4. The 1990 Act sets out the meaning of food, and defines food authorities and authorised officers. The authorities (local authorities and Food Standards Agency (FSA) in the case of Scotland) enforce and execute the food safety provisions in the 1990 Act or any regulations made under it, unless the Scottish Ministers decide they should discharge any functions or that the FSA should do so. One of the Act's key sections (section 16) gives the Scottish Ministers power to make regulations for food safety and consumer protection. Other provisions in the Act cover food safety requirements, inspection and seizure in respect of food safety, as well as improvement notices and prohibition orders.

¹ Food-borne Disease Strategy 2010-2015, FSA, May 2011

² Scottish Public health Observatory, NHS Health Scotland, March 2013

³ Preventing overweight and obesity in Scotland, SG, February 2010

5. The 1999 Act established the FSA, and gave the Scottish Ministers appropriate authority to direct the FSA in the exercise of its activities in Scotland. The Act gives FSA authority to develop food policy, make observations – auditing food enforcement carried out by enforcement authorities (usually local authorities). The Act gives FSA authority to carry out research and publish and give advice on food and feeding stuffs.

6. For our activities in respect of food standards (food information, formulation etc.) and food safety in Scotland we rely mostly on European regulations to determine what activities are carried out. The Scottish Ministers make regulations on food hygiene, meat charging, import and export control etc. to implement these European regulations. Currently the Scottish Ministers nominate the FSA and local authorities as the relevant food authorities either for all or some of the provisions in each of the Scottish food or feed regulations.

7. Across the UK responsibility for developing policy on, and regulating, food safety and food standards currently rests with the UK-wide FSA. When it was created in 2000 the agency also had policy responsibility for food information (including labelling) and diet and nutrition. In 2010, the UK Government decided to remove responsibility for nutrition and labelling for England. These responsibilities were passed to the Department of Health and Defra. This division of responsibility was seen by the Scottish Government as a mistake.

8. The Westminster Environment and Rural Affairs Committee identified this division of responsibilities as a factor that hindered the UK Government's response to the horsemeat scandal⁴. The horsemeat scandal has demonstrated the importance of having a single body with clear responsibility for all aspects of food safety and standards (which also covers the safety and standards of feed and food sources).

9. In response to the 2010 changes, the Scottish Government commissioned an independent review of the work of the FSA in Scotland. The review was led by Professor Jim Scudamore. In March 2012 the review recommended that food safety should not be divorced from nutrition and labelling and that advice on these subjects should be independent, evidence-based and consumer-focused⁵. Advice on food safety, nutrition and meat inspection should come from a body at arm's length from the Scottish Ministers.

10. The Scottish Government agreed with these recommendations and decided to create a food body for Scotland which delivers all necessary food safety, food standards, nutrition, food information and meat hygiene advice and regulation. The new food body will maintain the important principle that advice on food safety, nutrition and food information should be independent and transparent.

11. The Scottish Ministers saw this as an opportunity to reform how food safety and standards are assured in Scotland. In 2013, the Scottish Ministers consulted on ambitious

⁴ House of Commons Environment, Food and Rural Affairs Committee, *Food Contamination*, Fifth Report of Session 2013–14 (para 58) <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmenvfru/141/141.pdf>

⁵ Future arrangements for securing food standards and food safety in Scotland <http://www.scotland.gov.uk/Publications/2012/04/6141/0>

proposals for reform. That ambition was supported in responses to the consultation and from targeted stakeholder events last year. There is now broad support for widening the scope of policy areas in which the new body can exercise its functions and responsibilities beyond those covered by the FSA. The full range of policy areas will be developed through 2014 and will be set out in the new body's strategic objectives and corporate plan as it begins its work in 2015. Having a distinct, local Scottish food body focused on Scottish needs will also bring clear advantages to Scottish consumers and industry.

BENEFITS OF THE BILL

12. The objectives of the Bill will contribute to the Government's Purpose across a range of National Outcomes:

- making sure food in Scotland is safe so people lead longer, healthier lives;
- improving the diet and nutrition of people in Scotland, so people lead longer, healthier lives;
- being more efficient and more responsive to Scottish circumstances than the current UK-wide FSA, helping to ensure that our public services are high quality, continually improving, efficient and responsive to local people's needs;
- supporting the growth of the Scottish food and drink industry by providing a strong, international reputation for safe, quality food and through proportionate and responsive regulation, thus helping to make Scotland an attractive place for doing business with, and securing inward investment from, our European neighbours and other trading partners at a global level.

13. In Scotland we have already taken radical action to improve public health through tackling smoking and alcohol. The creation of FSS gives us the opportunity to take action to improve diet and nutrition. Obesity and food-borne disease are arguably as significant a cause of poor health as smoking in Scotland, so there is potential to make very significant impacts and savings in the long term by improving diet and protecting the public from food-borne disease to improve health in Scotland.

POLICY OBJECTIVES OF THE BILL

14. The first step towards meeting the Scottish Ministers' ambitions is marked by the introduction of this Bill. This creates Food Standards Scotland and sets out a wider set of objectives for it and sets out a fresh and transparent relationship between FSS and the Scottish Government. The provisions in the Bill are drafted widely to help unlock the new body's potential to take on a wider set of functions from 2015 and to develop new, improved and streamlined relationships with consumers, local authorities, Government and industry.

15. The policy proposals can be summarised as being to:

- a) establish Food Standards Scotland (FSS) to replace the UK-wide Food Standards Agency (FSA) in Scotland;
- b) allow for the scope of the body's functions to be widened beyond the FSA's current remit. The Bill gives FSS a new key objective and builds the foundations for expanding

its involvement in policy areas not covered previously by the FSA. The full extent of that scope will be developed with stakeholders up to and beyond the 2015 vesting date and will take account of the wide range of suggestions made in the 2013 consultation on scope. No further primary legislation would be required for any of the expansions suggested (see paragraph 22). By setting the roles and powers of FSS as widely as possible in the Bill, any of the expansions considered at paragraph 22 that would require legislation would be achieved by secondary legislation;

- c) establish new food law provisions. These are designed to protect and improve public health by: driving up hygiene standards and reducing the incidence of food-borne disease; providing safeguards against food standards incidents such as horsemeat food fraud; and strengthening and simplifying the penalties regime for breaches of food law. These arrangements will increase consumer and investor confidence and will help make Scotland an even more attractive place for food businesses.

Food Standards Scotland

16. Food Standards Scotland is to be created as a body corporate. Subsequent subordinate legislation (made under section 104 of the Scotland Act 1998) will then designate its status as a non-ministerial office of the Scottish Administration. Accountability for policy delivery, compliance with statutory duties and performance against agreed strategic objectives will be to the Scottish Parliament. FSS will lay reports such as its annual report in Parliament covering how it has performed. The Parliament and Committees will be able to invite the Chair or Chief Executive to explain any matter.

17. Upon being established FSS will develop and implement policy on food safety and standards in Scotland. This includes advising and informing the public and users of feed stuffs. FSS will also have powers designed to ensure it has access to sufficient information to be able to exercise its functions and duties effectively – especially engaging in, co-ordinating and sharing research and gathering information. Another key function for FSS will be making observations with a view to acquiring information.

18. As the statutory authority for food policy in Scotland as set out in the Bill, FSS will set the performance standards for itself and other enforcement authorities and carry out education and training activities. Over and above this, the Scottish Ministers intend to identify FSS in other Scottish food regulations as the “competent authority”. Having such an authority is a requirement in European food and feed regulations. That competence will give FSS the responsibility for ensuring compliance in Scotland with food regulations currently overseen by the FSA.

Widening the remit

19. The new objectives, functions, duties and powers of FSS will build on the current arrangements in place for the Food Standards Agency in Scotland. However there are important additions which reflect the ambitions of the Scottish Ministers. For example, the existing objective FSA has is to protect public health from risks which may arise in connection with the consumption of food (including risks caused by the way in which it is produced or supplied) and otherwise to protect the interests of consumers in relation to food. The objectives for FSS will be:

- (a) to protect the public from risks to health which may arise in connection with the consumption of food;
- (b) to improve the extent to which consumers have diets conducive to good health; and
- (c) to protect the other interests of consumers in relation to food.

20. The scope of FSS is to be significantly widened through the creation of the new objective on diet.

21. This gives FSS a specific statutory basis for the policy work on diet and nutrition that the FSA in Scotland, the Scottish Government and NHS Health Scotland already carry out in partnership. This new objective is included here explicitly so that FSS will not have to rely on the current more general FSA objective of developing policy “on other interests of consumers in relation to food⁶”. Clarity on the respective roles of these partners was a significant theme raised in consultation. As this concerns the dynamics of the relationship between public authorities and how they communicate their joint objectives rather than a statutory relationship, we have not attempted to be prescriptive about that in the Bill. However, this new statutory objective allows for the further development of the present flexible mechanism for sharing and working in partnership between these authorities on issues such as diet and nutrition.

22. The Scottish Government’s 2013 consultation on the remit and governance arrangements for a new Scottish food body identified many suggestions and ideas. These included more direct involvement in the regulation of animal health, animal by-products, eggs, poultry meat, organic food labelling, and drinking water quality. All of these policy areas relate to food and the interests of consumers, but are presently not led by the FSA in Scotland. No decisions have yet been taken on any of these suggestions for widening the remit – each would need to be considered in detail and consulted on specifically. The Scottish Government will begin work on this once the Bill has been introduced.

23. The strategic operation of FSS will also be different because of the Scottish context and duties set out in other Scottish legislation. For example, the Bill will amend schedules to the Public Services Reform (Scotland) Act 2010 so that provisions there will apply to FSS. As a result FSS will have statutory duties to report openly, pursue sustainable growth and be efficient, effective and economic in exercising all of its functions and be required to involve service users in the design and implementation of its public service regulation and inspection activities. The detail of these and other important operational and cultural changes in how FSS will operate – compared to how the FSA currently operates – are not for the Bill.

New food law provisions

24. The Bill provides for powers to seize and detain food which does not comply with food information law (section 32 (inserted section 15B)). These powers will more closely align food information powers with existing food safety powers. Currently if food is unsafe it can be seized or detained. Where food is unsafe, courts must order destruction of the food. However, there are no such powers for food which is safe but does not comply with food information requirements. In light of the horsemeat food fraud incidents, the power to seize or detain food that does not

⁶ Section 6(1)(a) Food Standards Act 1999

meet food information requirements in respect of labelling for example will help eliminate food fraud. Without such a power being available, at the moment a food business may still be able to pass on food which does not comply with food information law.

25. The Bill also provides for the creation of a statutory offence of failure to report breaches of food information law (section 32 (inserted section 15C)). This would more closely align with the existing requirement to report breaches of food safety requirements. Under the suggested arrangements it would become an offence to fail to notify FSS if any person suspected that food did not comply with food information law. The Bill also provides a corresponding power (section 32 (inserted section 15D)) for FSS to obtain further information on notifications made.

26. The Bill provides for a statutory scheme to be introduced at some future point by regulation for the mandatory display by food businesses of inspection outcomes (section 33). This is intended to drive up food hygiene standards and reduce the incidence of food-borne disease. A voluntary scheme, the Food Hygiene Information Scheme, is already in place and almost all local authorities have launched it locally. A statutory scheme is thought to be beneficial, but it has been decided to take time to consider the most appropriate arrangements for introducing a scheme. A similar statutory scheme has already been introduced in Wales and is being introduced in Northern Ireland. In Scotland we wish to monitor developments there before committing to the shape of a statutory scheme. For this reason this new food law provision in the Bill is restricted to giving the Scottish Ministers powers to introduce such a scheme after fuller consultation.

27. The Bill also includes provision (section 34) for the Scottish Ministers to regulate animal feeding stuffs and their production (retaining the existing power which Ministers have in the 1999 Act). This is included as a delegated power for Ministers to use for specific but as yet unknown issues. The intention of this provision is to offer some scope for future proofing against unforeseen circumstances where regulations could be appropriate. This power has been in force since 1999 but has not been previously used.

28. The Bill will also streamline Scotland's food law enforcement regime by offering a range of new administrative sanctions so that offences will be dealt with more quickly and at less cost (Part 3 – sections 35 to 51). This administrative sanction regime, comprising of compliance notices and fixed penalties will allow enforcement officers more flexibility to deal appropriately with food offences. The use of administrative penalty options will reduce the burden on the courts and reduce the costs of local authorities in respect of prosecuting through the court system.

29. These new enforcement and improvement arrangements have been recommended to the Scottish Government by an independent Expert Advisory Group in a report on the lessons learned for Scotland from the 2013 horsemeat food fraud scandal⁷. The recommendations on seizure of food, the food hygiene information scheme and administrative sanctions had already been suggested by the FSA in Scotland following the consultation referred to in paragraph 48 below.

⁷ Expert Advisory Group chaired by Professor Scudamore, July 2013

Updating the definitions of “food” and “feeding stuffs”

30. Food is a devolved matter. It is currently possible to introduce a Bill, creating a new food body for Scotland, which is within the legislative competence of the Scottish Parliament; and the Scottish Government is confident this Bill is within competence.

31. The competence of the Parliament and the competence of the Scottish Ministers are at present however slightly different. In practical terms the Scottish Ministers have a wider (executive) competence than the Parliament. This is the result of changes put in place in 2005 and 2006.

32. In 2005 changes were made to ensure that the Scottish Ministers were able to implement EU obligations relating to food (as defined in EU legislation). These changes were achieved through a transfer of additional functions to the Scottish Ministers in addition to those already devolved to the Scottish Ministers relating to food safety and standards for all substances considered to be food under regulation (EC) 178/2002 (see SI 2005/849).

33. The EU definition differed from the domestic definition found at that time in the 1990 Act. Although a definite list of substances included in the EU definition, but not included in the domestic definition, could not be collated with any certainty, there remained at least a theoretical risk that the two definitions covered different substances. The transfer of functions was made by means of an order made under section 63 of the Scotland Act 1998 (“the 1998 Act”), in order to cure these doubts and to ensure that the Scottish Ministers could continue to fully implement EU rules in relation to food.

34. In relation to animal feeding stuffs, it was agreed between the Veterinary Medicines Directorate (an executive agency of the Department for Food, Environment and Rural Affairs) and the Food Standards Agency that certain functions should be transferred to the Scottish Ministers (also by means of an order made under section 63 of the 1998 Act made in 2006) with respect to substances fed to animals which are not veterinary medicinal products or specified feed additives. The substances concerned were “zootechnical additives” which do not have a medicinal effect upon the animal to which they are fed, and it was agreed that their regulation should be brought within the framework of animal feed rather than veterinary medicines legislation (see SI 2006/304).

35. The Scottish Government is seeking a minor amendment to Schedule 5 to the 1998 Act to achieve alignment of the Parliament’s competence. This amendment is being sought through an order made under section 30(2) of the 1998 Act and will be laid in the Scottish Parliament and at Westminster in both Houses. This should be considered by both Parliaments and resolved by the summer of 2014.

36. The Scottish Government believes that this Bill is within the legislative competence of the Scottish Parliament and its introduction is not dependent on the section 30 order being made. Once the section 30 order has come into force, it is intended that amendments will be brought forward (either at stage 2 or 3) which will reflect the changes made to Schedule 5 to the 1998 Act. These amendments will be connected to the way in which “food” and “feeding stuffs” will be defined in the bill. It is the Scottish Government’s intention to provide the Parliament with

draft amendments during stage 1, to allow proper consideration of the provisions concerned and in light of evidence given to the Parliament during the stage 1 process.

ALTERNATIVE APPROACHES

37. The majority of the Bill's provisions are intended to replace existing legislation – establishing a food safety and standards regime for Scotland mirroring the UK regime and taking away the functions exercised in Scotland by the UK-wide Food Standards Agency and making these the responsibility of Food Standards Scotland. In all instances where a policy decision was required careful consideration has been given to the policy alternatives and a decision has been made on the basis of available evidence and on the basis of efficiency, economy and effectiveness.

Food Standards Scotland

38. The policy decision to establish Food Standards Scotland as a body corporate, and to thereafter establish the body as a non-ministerial office of the Scottish Administration (NMO)⁸, was taken after consideration of all the alternatives. The NMO status was chosen over Non Departmental Public Body or Executive Agency as it delivered on the desire to have the body established as independent of the Scottish Ministers to ensure impartiality. The decision to expand the functions of FSS in the Bill (to include a duty to prepare a consumer engagement strategy for example⁹) beyond the current range of FSA functions was based on the views of stakeholders and the desire to join up the regulation of a wider range of policies, to streamline the regulation of food related businesses. There was very strong support for this alternative as expressed through the consultation and stakeholder events.

New food law provisions

39. The decisions to introduce new food law provisions beyond those currently operated in Scotland were taken on the basis of these providing the best way forward for protecting and promoting public health as opposed to other options which included leaving the status quo. The Business and Regulatory Impact Assessment (BRIA) for the provisions covered¹⁰ included alternative approaches in each case. The alternative approaches considered were as follows.

⁸ The status of non-ministerial office of the Scottish Administration is not conferred in this Bill. Such status is a matter for the UK Parliament as it requires an amendment by order to the Scotland Act 1998. The amending order will be sought at the conclusion of the Bill's passage.

⁹ Public Services Reform (Scotland) Act 2010 – section 112

¹⁰ The Business and Regulatory Impact assessment covered all these provisions except the provision to allow for regulating animal feeding stuffs. This is an existing provision from the 1999 Act and so no consideration was required in the BRIA.

Provision	Alternative options considered
Seizure or detention of food not being compliant with food information law	Do nothing – allow food products incorrectly labelled (e.g. horse meat labelled as beef) to be placed on the market; Introduce statutory seizure or detention scheme in Bill.
Duty to notify where food does not comply with food information law	Do nothing – allow food products incorrectly labelled (e.g. horse meat labelled as beef) to be placed on the market; Introduce offence for failure to notify in the Bill.
Food hygiene information scheme	Do nothing – bolster voluntary scheme; Give Scottish Ministers delegated power to introduce mandatory scheme later; Introduce mandatory scheme on face of Bill.
Regulation of animal feeding stuffs	Do nothing – retain existing back-up provision in case of unforeseen circumstances; Refresh existing 1999 Act provision in the Bill.
Administrative sanctions	Do nothing; Introduce administrative sanctions in the Bill.

40. The consultation responses and views expressed at stakeholder events showed strong support for the new arrangements included in the Bill. There was very little support for alternatives, other than from business interests.

41. There were many recommendations made by stakeholders through consultations and by the Scudamore Expert Advisory Group on learning lessons from the horsemeat scandal in 2013. Careful consideration was given to all of these to assess their impact, effectiveness and their relevance for the Bill. As a result of considering these and alternatives, we have the most effective and practicable recommendations in the Bill and other recommendations will be for FSS to take forward itself after it is established.

CONSULTATION

42. The content of the Bill has been based on two separate consultations described in the paragraphs below.

Food Standards Scotland

43. Following the decision in 2012 to create the new food body, informal consultations were undertaken with a wide range of stakeholders. These concluded by the end of 2012. This

informed a full public consultation on creating the new food body which ran from 28 February to 22 May 2013: “A Healthier Scotland: Consultation on Creating a new Food Body”.¹¹

44. This consultation on the role of the new food body was an opportunity for consumers as well as industry to express what they thought about what the new food body should do, and how food safety and standards should be addressed in Scotland in the future. The aim of the consultation was to ensure that the Scottish Government delivered an effective and efficient food safety regime, and through that, consumers in Scotland would be given confidence in the food they eat.

45. The consultation process was supported by comprehensive stakeholder events and round-table discussions with the food industry, public health professionals, local government, and third sector and consumer groups. The consultation generated 126 responses¹² which were analysed independently. That analysis¹³ was published in August 2013.

46. There was little resistance to the idea of the new food body being created. A significant (two thirds) majority of responses supported a broadening of scope for the new body and supported the proposal to reconsider the distribution of specific roles currently performed either by FSA or local government. That redistribution would not require primary legislation, and so is not a matter for the Bill. The consultation responses also provided suggestions for better use of evidence and science and highlighted the need for clarity in specific areas such as responsibility for diet and nutrition policy in Scotland.

47. The consultation supported the creation of FSS through legislation, supported its independent status and supported the adoption of all FSA functions exercised in Scotland and supported the widening of the new body’s scope. These are all being taken forward in the Bill.

New food law provisions

48. A full public consultation on new enabling powers for enforcement was carried out by the FSA in Scotland between 28 February and 22 May 2013: “Consultation on New proposed Enabling Food and Feed legislation Provisions”.¹⁴ This consultation provided interested parties with the opportunity to comment on proposed additional new statutory powers which the new food body and food authorities (local authorities) might need in the future and which might be included in this Bill. This consultation focused on potential new powers which were been identified in discussion with stakeholders (and local authorities in particular).

49. The proposed enabling powers consulted on were to provide: a statutory basis for a scheme to enable the Scottish Ministers to make food business operators display the outcome of an official food inspection; new enforcement sanctions such as administrative penalties or forms

¹¹<http://www.scotland.gov.uk/Topics/Health/Healthy-Living/Food-Health/NewFoodBody/NewFoodBodyConsultation>

¹²<http://www.scotland.gov.uk/Topics/Health/Healthy-Living/Food-Health/NewFoodBody/NewFoodBodyConsultation>

¹³<http://www.scotland.gov.uk/Publications/2013/08/7854>

¹⁴<http://food.gov.uk/news-updates/consultations/consultations-scotland/2013/foodandfeed-consult-scot>

of restorative justice in relation to food and feed law; and to enable the detention of any food, where there are reasonable ground to suspect that it does not meet the requirements of food law in relation to food standards or labelling, similar to those which already exist for foods not complying with food safety legislation.

50. The introduction of a duty to report non-compliance with food information law and the corresponding power to obtain information in this regard were not the subject of that consultation. This proposal was made as a recommendation from the Expert Advisory Group which considered the lessons learned from the horse meat scandal. Whilst their evidence gathering process would not be considered a full public consultation, the recommendation was widely supported by stakeholders from whom they took evidence.

51. The Bill also includes provision to make secondary legislation to regulate broadly for animal feeding stuffs. This power already exists in the 1999 Act and so was not part of any consultation for this Bill.

52. Thirty three responses were received and these have been summarised and published on the FSA website¹⁵. Generally, the majority of respondents to the consultation were supportive of the proposals. This aligned with early stakeholder feedback and identified a strong preference for robust enforcement. However, the proposals in the consultation were for enabling powers to be created, to allow for further consideration once more detailed arrangements had been drafted.

53. Support for these proposals was also voiced at targeted stakeholder events run by the Scottish Government where representatives from stakeholder groups such as local government and business were given the opportunity to discuss and feedback on proposals for additional legislative powers. At these events there was strong support. Further, these proposals were considered in more detail with industry representatives and regulators by the Expert Advisory Group (EAG) led by Professor Scudamore. Following consideration, the EAG recommended these powers should be included in the Bill.

54. These powers have been included in the Bill.

EFFECTS ON EQUAL OPPORTUNITIES

55. The proposals do not discriminate on the basis of age, gender, race, religion, disability or sexual orientation.

56. As part of the consultation process, the Scottish Government held stakeholder engagement events and the opportunity was provided for equality organisations and others to make their representations known on the impact of the Bill's proposals. No equality issues or concerns were raised by stakeholders in either written responses or at the stakeholder events.

¹⁵ <http://www.food.gov.uk/multimedia/pdfs/consultationresponse/foodandfeed-responses.pdf>

57. The Bill includes a new duty in relation to the appointment of members. The appointments made by the Scottish Ministers must be made in a manner which encourages equal opportunities.

EFFECTS ON HUMAN RIGHTS

58. The measures in the Bill are compatible with rights under the European Convention on Human Rights (ECHR).

EFFECTS ON ISLAND COMMUNITIES

59. The Bill has no differential impact on island or rural communities. The provisions of the Bill apply equally to all communities of Scotland.

EFFECTS ON LOCAL GOVERNMENT

60. The Bill itself has no significant direct effect on local government. Local authority Trading Standards and Environmental Health officers play a key role in monitoring compliance with food and feed regulations. There is a very good relationship between these officers and the FSA. The agency sets performance standards and audits the enforcement activities of officers. The performance standard and audit roles will transfer to Food Standards Scotland, but there will be no associated impact on the work of local authority officers as a result.

61. However, the new food and feed law provisions in Parts 2 and 3 of the Bill will give local authorities new functions in respect of: detaining or seizing food that does not comply with food information law; promoting a mandatory food hygiene information scheme; and administering a sanction scheme of fixed penalty notices and compliance notices. This impact will be relatively minor. There is unlikely to be any increase in the number of seizure or detention incidents under the new regime. Costs associated with the new administrative penalty regime will be offset by savings as a result of not having to prepare for court prosecutions for all but the most serious breaches of food law.

EFFECTS ON SUSTAINABLE DEVELOPMENT ETC.

62. The Bill will have no negative impact on sustainable development. The Scottish Government's focus on sustainability is explicit within the National outcomes and associated National Indicators. As our Government Economic Strategy highlights, as well as being a desired characteristic of growth, sustainability is also an important long-term driver of sustainable economic growth and will be key if we are to maximise Scotland's economic potential.

63. This is the context in which the provisions of this Bill are likely to lead to largely positive economic and societal effects. Effective regulation of food and feed safety and standards will protect public health. Protection from food borne disease and from bad eating habits will contribute to the health of the population. This will ensure fewer days are lost to sickness and therefore increase or sustain productivity. Also, having effective regulation of food safety and

standards will further enhance the Scottish food industry's international reputation, which will contribute towards the growth of the industry in Scotland.

64. Strategic Environmental pre-screening has been carried out on the proposals. The position, supported by the Consultation Authorities, was that the Bill does not lead to any significant environmental effects.

This document relates to the Food (Scotland) Bill (SP Bill 48) as introduced in the Scottish Parliament on 13 March 2014

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