

## **Consultation on New Proposed Enabling Primary Food & Feed Legislation Provisions**

**Key proposal(s):**

**a) New primary legislative powers to provide a statutory basis for a scheme to enable Scottish Ministers to make, if agreed in the future, any food business operator display the outcome of an official food inspection.**

***Q1: Do you agree that it would be useful to provide enabling powers, so that, following a further consultation, Scottish Ministers might provide regulations requiring the outcomes of official food inspections to be displayed by food business operators and requiring local authorities to participate in such schemes?***

SFELC agrees and fully supports the mandatory introduction of FHIS and feels it is sensible that the new Food Body has these powers available to implement if appropriate. SFELC would suggest that the mandatory display of hygiene inspection information would benefit compliant food businesses and encourage compliance without the need for formal intervention by food authorities. SFELC feels a mandatory scheme would also benefit consumers as it would allow them to make an informed choice on food purchases at the point of sale.

***Q2: Are you aware of any similar schemes in existence in other countries where improvements in compliance with hygiene rules have been verified after their introduction? If so please provide details of the scheme.***

SFELC is aware that a mandatory scheme has been introduced in Wales, but has no information on how it has affected compliance levels. SFELC is aware that FSA's FHIS Implementation Group had considered schemes in operation throughout the world and would suggest that this FSA group may have information to support the allocation of this enabling power.

**b) New primary legislative powers to enable Scottish Ministers to create, if required, new enforcement sanctions such as administrative penalties or forms of restorative justice in relation to food/feed law.**

***Q3: Do you agree that it would be useful to provide enabling provisions in this area?***

SFELC supports this proposal and feels it embodies the recommendations of the Macrory report and is consistent with the better regulation principles. SFELC feels these powers could ensure compliance with food or feed law without criminalising the food or feed business operator. SFELC is aware of the powers being proposed in the Regulatory Reform (Scotland) Bill in relation to environmental regulation and would suggest that the NFB should consider if similar powers would be appropriate to regulate food and feed businesses.

***Q4: If these were to be introduced which areas of food and feed regulatory policy do you think they would be best suited to?***

SFELC believes these powers would be best suited to deal with technical contraventions where it might not be in the public interest to submit a report to the Procurator Fiscal. SFELC has previously discussed the need to provide

additional powers to deal with food standards contraventions. Currently the only enforcement options are informal approaches or reporting contraventions to the Procurator Fiscal. SFELC would recommend that if the new Food Body were given these powers it should conduct a review of enforcement options and determine how best to implement the new powers. SFELC would be happy to contribute to such a review.

**Q5: Do you have any experience of the application of similar provisions in other areas of public policy and if so have you considered them a useful tool?**

SFELC is aware that in other areas of local authority enforcement the power to issue fixed penalty notices (FPN's) has been used to establish high levels of compliance. The smoking ban enforcement is an excellent example of this; FPN's can be issued against the person smoking and also the person in charge of the building where the smoking took place. SFELC is aware that high levels of compliance exist for this statute and would suggest that the high level of compliance with smoking ban is linked to the ability to administer effective sanctions.

SFELC would also highlight the use of FPN's in respect of litter control and public health nuisance as other areas where new powers have been used effectively to improve compliance. SFELC would suggest that as local authority staff are familiar with these powers, if they were introduced for food or feed law contraventions they would be used effectively.

**c) New primary legislative powers 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.**

**Q6: Do you consider that it would be useful to extend the existing powers of authorised officers to detain food, which already exists for foods not complying with food safety requirements, to areas where the food is considered safe but there are doubts over either its composition or its description or labelling?**

SFELC agrees that in light of the recent horse DNA issues that this would be a sensible additional power to consider introducing. SFELC would recommend that this new power should be introduced with the same compensation provisions that exist within food safety powers.

**Q7: In addition to extending the scope of the powers to detain food to areas of food standards and labelling do you consider that there are any situations where powers should also be provided to allow for foods to be seized and destroyed for non-compliance with food standards and labelling rules, similar to those that already exists for foods not meeting food safety requirements?**

SFELC would suggest this makes sense and could be used where it is not practical to rewrap/re-label food.