Limit on Trans Fats (Scotland) Bill

Improving Scotland’s diet and protecting public health

Public Consultation
By Dr Richard Simpson MSP
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Foreword

Notwithstanding the progress which has been made in reducing heart disease over the past 20 years Scotland remains near the top of the table for both deaths from heart attacks and premature death from heart disease. Moreover the rise in obesity threatens to undermine that progress by replacing smoking as the major preventable cause of heart disease. Obesity has become one of the most serious medical problems of the western world.

Additionally, the explosion in Type 2 Diabetes – which is linked to diet and weight control – is contributing to the continuing increase in cancer. Trans fats have been shown to increase the risk of coronary heart disease even when the intake is very low and can also cause inflammation of blood vessels which may lead to strokes, diabetes and other chronic conditions.

The trans fat story is one of significant progress. After 100 years of industrial manufacturing and unregulated use, British manufacturing, major retailers and food outlets working with the Food Standards Agency have achieved a remarkable reduction in the use of trans fats. The targeting of industrial trans fats has come about because, whilst they have been useful and economical in stabilising manufactured foods, they have no nutritional value other than as an energy source. Indeed when compared to other fats in the diet, they have a significantly greater damaging effect, which outweighs any benefits.
In the first ten years of The Scottish Parliament there has been a commitment towards improving the health of the Scottish people. This has been seen with the implementation of the ban on public smoking, the introduction of free fruit for schools and nurseries, as well as a commitment to reducing the availability of sweet and sugary snacks in schools. This proposed Bill will build on work put into place over the last ten years.

The proposal recognises that the time has now come to close the door on this particular chapter in Scotland’s diet, ensuring that in effect, exposure to industrial trans fats is ended.

In doing so this proposed Bill will underpin achievements that have been made by manufacturers, retailers and food outlets that have already stopped using industrial trans fats.

Your views on this subject are very important and I look forward to receiving your responses. Contact information is available at the end of this document.

Dr Richard Simpson MSP

Dr Richard Simpson was a GP for nearly 30 years before entering the Scottish Parliament in 1999. He is also a qualified psychiatrist, a medical adviser to the Samaritans, the Scottish Prison Service and within the adoption and fostering service. He is currently an honorary Professor at Stirling University. His time spent researching Health and Primary care has led him to believe that the time has come to rid Scotland of harmful trans fats.
1. Introduction

1.1 What is the proposal?

The proposed Bill would apply to oil and fat ingredients delivered direct to the consumer and to be used in food production and place a limit of 1% on trans fat levels.

Provisions of the bill would prohibit the sale in Scotland of foods intended for human consumption where the trans fat content exceeds 1% of the oil or fat contained in any of the ingredients (so the limit is applied at the source not in the final products). This measure would cover all oils and fats either alone or used in foodstuffs sold for human consumption in Scotland.

1.2 What is the aim?

The aim is largely to eliminate the consumption of industrial trans fats in Scotland and as a result to reduce cholesterol levels and the number of deaths due to coronary heart disease.

The proposed Bill should be considered as part of the process of safeguarding the health of the people of Scotland from the effects of an unhealthy diet.

At the same time it will assist in raising awareness of the hidden dangers in some foodstuffs, part of on-going campaigns to change the attitudes of the public towards diet and unhealthy eating in general.
1.3 How will this be implemented?

The proposed Bill would create an offence in Scotland to sell to consumers oils and fats – either alone or as part of processed foods – intended for human consumption where the content of trans fats of those oils and fats exceeded 1%. This would apply to both prepared and manufactured food to be sold in Scotland, packaged and unpackaged foods including in restaurants and food outlets and imported foods intended for sale to consumers.

On the date that the legislation takes effect, a six month ‘period of grace’ would allow the content of trans fats in oils and fats covered by the legislation to be up to 5% (5 grams per 100 grams) of that oil or fat. After the specified six month period has passed, the limit would be 1% of the oil or fat.

During the six months ‘period of grace’ shops, restaurants and take away outlets who are already trans fat free (which means less than 1% of the oil or fat contained in the ingredients as defined by the legislation) would be entitled to display signage showing that they are trans fat free.

The proposed Bill will build on the work which has already been undertaken voluntarily by many retailers and food manufacturers to reduce trans fats but will also enshrine that work in law in order to ensure the application of protective measures across Scotland.

Clear regulations for all food producers and the trade as a whole will be set out.
1.4 How will a limit be enforced?

The limit would be enforced by trading standards officers (TSOs) in the first instance. TSOs ensure that goods are sold in compliance with legislation. Their remit includes investigating complaints and prosecuting individuals who break the law. TSOs would be able to use their existing enforcement actions including written warnings, formal cautions and prosecutions before the criminal courts. Depending on the circumstances, prosecutions may be brought without having undergone any of the foregoing actions. Any person found guilty of an offence would be liable on conviction to a fine.
2. Background

2.1 What are trans fats?

It is important to note that not all fats are bad. We often hear of “good fats” and “bad fats”. “Good fats” such as polyunsaturated and monounsaturated fats are helpful for our body, providing us with energy as well as helping our body to absorb vitamins and minerals.

Bad fats such as trans fats or saturated fats are harmful to the body and generally our body does not need them. Trans fats do the same as saturated fats in raising our body’s “bad cholesterol” (LDL, Low-density lipoprotein), but they also strip levels of “good cholesterol” (HDL, high-density lipoprotein), the kind that helps unclog arteries. Trans fats also increase triglyceride levels in the blood, adding to our risk of cardiovascular disease.

Trans fats, also known as trans fatty acids, HVO (Hydrogenated Vegetable Oils) or PHVO (Partially Hydrogenated Vegetable Oils), are produced when liquid oils, usually vegetable oils, are turned into solid fats through a process of hydrogenation. They can also be produced when some oils are fried.

There are small amounts of naturally occurring trans fats in some meat and dairy products from ruminant animals (cattle, sheep and goats). However they are in such small quantities they are not harmful. Most trans fats in people’s diets come from processed foods. Most manufacturers used to add trans fats to biscuits, cereals, cakes,

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pastries, chips, potato products, savoury snacks and ‘fast food’ in order to extend the shelf life.\(^2\)

Trans fats are similar to other fats in that they give our body an energy source (9kcal/g), however, unlike saturated fats, they can have a significantly harmful effect if they replace other fats in the diet. A high intake of trans fats can lead to increased risk of coronary heart disease, strokes, diabetes, raised cholesterol and also have been linked to fertility problems in women.\(^3\) It is thought that 50,000 heart disease deaths within the EU can be linked to products that contain high levels of trans fats.\(^4\)

Trans fats are therefore harmful and do not have any nutritional benefit.\(^5\) The primary purpose of trans fats is to extend the life of food.

A permitted level of 1\% of oils and fats, either alone or as part of processed foods, would allow for natural trans fats whilst effectively eliminating industrial products. This level has been enforceable in Denmark for five years (see section 4.2).

\(^2\) http://www.food.gov.uk/multimedia/pdfs/board/fsa071207.pdf
\(^4\) http://www.Nynachamn.se/sagnejtiltransfetter/nototransfats.4.3
\(^5\) http://www.eatwell.gov.uk/asksam/healthydiet/fssq/#A218438
3. Who will benefit?

3.1 The Scottish public

The intake of trans fats has been linked to many diseases and health problems\(^6\). If a legislative limit on trans fats was to be introduced in Scotland it would help to improve the overall health of Scottish people. It would contribute to a reduction in the number of people suffering from:

- heart disease
- obesity (in 2003, 32\% of children had a body mass index (BMI) in excess of what is deemed healthy).
- diabetes
- strokes

It would also mean that those who are suffering from these diseases will not inadvertently eat food containing harmful trans fats.

Heart disease is one of the biggest killers in Scotland therefore any reduction in a contributing factor will significantly improve public health.

3.2 Deprived areas and communities

In Scotland, as in many countries, there are health inequalities between rich and poor. Those who live in affluent communities generally live longer, have healthier lives and a healthier diet. There is a strong relationship between coronary heart disease and

In July 2008 the Scottish Government launched “Equally Well” in order to tackle health inequalities across Scotland. It has been shown that 41% of children who live in deprived areas eat a takeaway meal each week compared to 23% in affluent areas. Twice as many children (34%) in deprived households have a poor diet compared to those in affluent households (15%). It has also been shown that those who live in low income or deprived households consume on average a higher percentage of trans fats. This is a problem because takeaway food is usually high in fat including harmful trans fats.

Some companies have already successfully removed trans fats from their take away food. A ban on trans fats therefore would be particularly beneficial to those in deprived communities.

### 3.3 Food companies

The Bill will reward the majority of companies who have already made a start in the reduction or elimination of industrial trans fats in their food products. The voluntary commitment that around 85% of UK companies have already made helps to improve the health of Scottish people. Such companies will have their market position improved by legislation which will require the remaining companies to eliminate trans fats from their products (this has been successfully implemented in Denmark).

People around the world, in the global food market, can now buy Danish manufactured foods safe in the knowledge that they will not contain dangerous amounts of trans fats. The Bill will provide the same competitive advantage to Scottish food manufacturers.

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7 [http://www.isdscotland.org/isd/3090.html](http://www.isdscotland.org/isd/3090.html)
8 Growing up in Scotland: Sweep 3 Food and Activity Repost 2.7 Summary
3.4 The National Health Service

The removal of trans fats in food should mean that fewer people would be in need of medical treatment for coronary heart disease, diabetes, obesity and other related diseases. This in turn will mean that the NHS will benefit from having to treat fewer people affected by the aforementioned diseases and could direct funding towards other areas.
4. Current UK position and approach by other countries

4.1 Current UK position

There is currently no legislation to regulate industrial trans fats in Scotland or the UK. Many supermarkets have started phasing out the use of trans fats in many of their own brand products. Members of the British Retail Consortium, which represents 85% of retailers in the market, have made a commitment to stop using trans fats as an ingredient in their “own brand food”.\textsuperscript{10} These voluntary reductions have made good progress. However legislation is now needed because:

- the voluntary commitment does not cover any imported foods
- the British Retail Consortium does not impose any sanctions on those members who do not or have not removed industrial trans fats from their foods
- it is not known which companies have removed trans fats from products; this leads to confusion and is unhelpful to the consumer
- additionally, trans fats are often labelled as many different things and this is confusing for the consumer.

Many retailers use labelling to highlight fat content of products. However, a separate labelling solution to the health-related problems specifically associated with trans fats is probably insufficient to reach the appropriate level of protection. Some of the risk products are non-packaged foodstuffs (for example, fast foods). A labelling scheme

\textsuperscript{10}http://www.foodqualitynews.com/Innovation/UK-food-retailers-committed-to-removing-trans-fats
would be insufficient in these cases. In general, labelling leaves the responsibility with
the consumer and requires a very intense public effort with regard to information as to
what trans fats are and why they are more dangerous to health than other saturated and
unsaturated fats.

The UK Government and the Scottish Government are currently not planning to bring in
any legislation with regards to trans fats. They prefer to rely on voluntary action which
is associated with various problems as set out above. This proposal is important because
it will bring definition and clarity and set out the same rules for all.

4.2 Approach by other countries

Denmark

In March 2003, Denmark introduced legislation (which came into force in 2004) which
set an upper limit (2%) on the amount of industry-produced trans fats and oils in food
which could be sold to consumers\(^{11}\). This was the first legislation of its type to be put in
place by any country. It was the result of advice from the Danish Nutrition Council\(^{12}\)
based on evidence on the adverse health effects of trans fats, which raised concerns
about the presence of high trans fat levels in a range of popular foods which are eaten
frequently and which may have resulted in consumers exceeding recommended intakes.
The Danish authorities considered that artificial trans fats were unnecessary from a
nutritional point of view and could easily be removed from the food supply without
impacting upon product availability or the quality of foods and with no or minimal cost
implications for the food industry.\(^{13}\)

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\(^{11}\) The Danish Order No. 160 of 11 March 2003, on trans fats in oils and fats came into force on 1 June 2003 with a transition period
until 1 January 2004

\(^{12}\) Executive Order No. 160 of 11 March 2003 on the content of Trans Fatty Acids in Oils and Fats etc
http://www.tfx.org.uk/page116.html

\(^{13}\) http://www.food.gov.uk/healthiereating/satfatenergy/transfat. FSA 07/12/07 Trans Fatty Acids (pdf)
One of the reasons for the 2% and not 1% limit in Denmark is that there were difficulties, since overcome, in the use of trans isomer oil in the process of refining rapeseed oil. However, under the proposed legislation, products may claim to be free from trans fats if the content is less than 1% of the oil or fat in the finished product.

As a result of the Danish rules, producers have developed new methods of production without increasing prices or reducing the variety of the products on the Danish market. The European Commission initially considered challenging the Danish legislation. Proceedings were closed in March 2007 because the Commission, having studied the Danish legislation, felt it was compliant with E.U. rules. My proposed legislation does not breach competition law since it does not discriminate between UK products and products from other countries. It can be further justified on the grounds of protection of human health.

There are currently a number of politicians and groups who are campaigning for a wider E.U. approach.

However a Europe-wide approach will happen over a prolonged time frame. Scotland’s problems of obesity and health abuse require immediate action.

New York and California

In July 2008 legislation was passed in California in order to phase out the use of trans fats in restaurants, as well as bakeries and other food outlets, by 2010 and from retail baked goods by 2011 (packaged foods will be exempt). Under the new law, restaurants, bakeries, delicatessens, cafeterias and other businesses classified as “food facilities” will, in the preparation of any foods, have to discontinue use of oils, margarine and shortening containing trans fats.

15 SECTION 1. Chapter 12.6 (commencing with Section 114377) is added to Part 7 of Division 104 of the Health and Safety Code http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_0051-0100/ab_97_bill_20080725_chaptered.html
Those vendors will have to keep the labels on their cooking products so that the products can be inspected for trans fats, a process that will become part of the duties of local health inspectors during periodic restaurant visits. Those who violate the ban could face fines.

New York City has also imposed bans on trans fats. Since July 2007 shortenings and margarines that are used for frying or as spreads that contain more than 0.5g of trans fat per serving have been banned from the food service in restaurants, cafeterias and schools. In July 2008, legislation was introduced that meant that food establishments could no longer store, use or serve any product that contained trans fats and has 0.5g or more per serving. A “per serving” legislation is possible in the US because serving sizes are laid down in legislation. However, this legislation does not apply to pre-packed foods that are served in the manufacturer’s original sealed packaging.16

Switzerland

A 2007 study from ETH Zurich (Swiss Federal Institute of Technology Zurich) revealed that almost one third of 120 Swiss comestibles tested contained an excessive amount of trans fats. After the researchers had publicised their study, the Swiss Federal Office of Public Health (FOPH) looked at solutions elsewhere in the food and gastronomy industry.17

In April 2008 Switzerland followed Denmark and introduced a ban on trans fats. From April 2008 vegetable oils in Switzerland must only contain a maximum of 2 grams of trans fats per 100 grams.

The head of the Food Safety Division of the FOPH, explained why a limit had been set: “Following an analysis of the situation, we were of the opinion that a restriction would make the conditions clear and equal for all food producers and the trade as a whole.”18 This, it would seem, is how to maintain the high level of health protection the Swiss population enjoys.

17 http://www.ethlife.ethz.ch/archive_articles/080318_Transfette/index_EN
18 http://www.ethlife.ethz.ch/archive_articles/080318_Transfette/index_EN
5. Conclusions

Trans fats have been shown to be the most harmful fats and contribute to heart disease, diabetes, obesity and other related diseases and they have no nutritional value.

The proposed Bill is directed at the health of people in Scotland by introducing a legislative limit on the use of industrial trans fats in Scotland. There is currently no legislation in Scotland or the UK which regulates trans fats. A reduction has been progressed purely on a voluntary basis and without any regulation; this is confusing for consumers as to which foods contain trans fats and which do not. This lack of regulation does not stop manufacturers from going back to previous methods to use trans fats.

Food labelling is currently confusing. Bringing in labelling specifically would require a prolonged education campaign and probably not be as effective as a legislative limit.

The further removal of trans fats from food sold to consumers in Scotland would lead to improved health for the people in Scotland.

For these reasons, I contend that legislation would be the quickest and most effective method to address this health issue.

Thank you for taking time to read this consultation I hope that you have been persuaded that there is a need to reduce the use of trans fats in Scotland.
6. Responding

You are now invited to respond to this consultation by answering the questions listed below as well as making any other comments which you consider relevant.

Responses, which should be submitted by 30 September 2009, should be sent to:

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Room M2.19  
The Scottish Parliament  
Edinburgh  
EH99 1SP

Tel: 0131 348 6756  
Fax: 0131 348 6758

E-mail: richard.simpson.msp@scottish.parliament.uk

If responding via email please make the subject title “Response to Consultation”.

Please make it clear if you are responding as an individual or on behalf of an organisation.

If you wish your response to be confidential then please say so. Otherwise it will be available for public inspection in accordance with the principles of transparency and freedom of information. Confidential responses will be included in any summary or statistical analysis but this will not reveal the identity of any respondent who has requested confidentiality.
Additional copies of the paper or alternative formats can be requested using the contact details on page 18 and calls via Typetalk are welcome. An on-line copy is available on the Scottish Parliament website, www.scottish.parliament.uk

A list of consultees follows on page 21; if you feel we have omitted any individual or organisation from the list of consultees please contact my office using the details on page 18.

Data Protection

To help inform debate on the matters covered by this paper and in the interests of openness it is intended all the responses submitted on this consultation document will be made public. You should therefore be aware that by submitting this response you are indicating consent to the publication of all the material contained in your response. Unless you indicate otherwise this will include your name and address and any other biographical information you have provided about yourself. You should note that personal data referring to third parties included in the response cannot be accepted without explicit written consent from the third party. This consent should be provided with your response.

We are not entitled to process your personal data by publication without your consent. If therefore you want parts of your response to remain confidential please indicate which parts are not for publication. Similarly, if you wish all of the contents of your response to be treated in confidence and not made public then please indicate so.

All responses will be included in any summary or statistical analysis, which does not identify individual responses.
7. Questions

Q.1 What, in your opinion, are the benefits and disadvantages of limiting the trans fat content of foodstuffs?

Q.2 My proposal seeks to set a legal limit for trans fats contained in ingredients. What would be an appropriate limit and why?

Q.3 How quickly should legislation be implemented?

Q.4 If there is to be a transition to ‘trans fat free’, how long should that transition period be?

Q.5 What do you think are the potential costs, economic benefits and other consequences (e.g. to business, to government) involved in legislating as proposed on the use of trans fats in Scotland?

Q.6 How should regulation of trans fats be enforced in Scotland?

Q.7 Are there any equal opportunities or human rights issues that arise from this proposal?

Q.8 Do you have any other comments or suggestions in relation to this proposal?
Acknowledgments

In preparing this proposal I would like to acknowledge a number of individuals and organisations who have helped:

- Professor Michael Lean, Professor of Human Nutrition at Glasgow University;
- a number of colleagues in the European Parliament including Catherine Stihler MEP and David Martin MEP;
- Oliver Ticket from TFX;
- Ben McKendrick from the British Heart Foundation

List of Consultees

1. All MSPs
2. Cross Party Group of the Scottish Parliament on Food
3. Cross Party Group of the Scottish Parliament on Obesity
4. Cross Party Group of the Scottish Parliament on Diabetes
5. Diabetes UK
6. British Heart Foundation
7. Food Standards Agency
8. British Retail Consortium
9. British Medical Association
10. GMB
11. Royal College of Nursing
12. UNISON
13. Scottish Trade Union Congress
14. UNITE the Union
15. McDonalds
16. TFX
17. All Scottish MEPs
18. Linda McAvan MEP
19. The Food and Drink Federation
20. Morrisons
21. Scottish Association of Master Bakers
22. British Nutrition Foundation
23. Alzheimers Scotland
24. HEART UK
25. Asda
26. Blood Pressure Association
27. British Dietetic Association
28. Sainsbury’s
29. Stroke Association
30. Federation of Oils, Seeds and Fats Association
31. British Hospitality Association
32. Margarine and Spreads Association
33. Nestle
34. Snacks, Nuts and Crisps Manufacturers Association
35. Tesco Stores Ltd.
36. United Biscuits
37. Burton’s Biscuits
38. DEFRA
39. School Food Trust
40. Subway
41. LIDL
42. Somerfield
43. Cooperative
44. Scotmid
45. ALDI
46. Spar
47. Sustain
48. Marks & Spencer
49. Burger King
50. Pizza Hut
51. Kentucky Fried Chicken
52. Scottish Retail Consortium
53. Dominos Pizza
54. Pizza Express
55. Wetherspoons
56. The Nutrition Society
57. All directors of Public Health for each Health Board in Scotland
58. Association of Convenience Stores
59. CBI Scotland
60. Federation of Small Businesses Scotland
61. Scottish Chambers of Commerce
62. Scottish Grocers’ Federation
63. Scottish Retail Consortium
64. Leaders of Local authorities in Scotland
65. COSLA
66. Local Authorities Coordinators of Regulatory Services
67. Society of Chief Officers of Trading Standards Scotland
68. Royal Environmental Health Institute for Scotland
69. Sodexo
70. Compass group PLC
71. Aramark
72. Elior
73. Public Health Departments of UK Universities
74. Royal College of General Practitioners
75. UK Department of Health
76. Scotland Office
77. Tunnock’s
78. Lee’s
79. Starbucks
80. Associated British Foods
81. Cadburys
82. Kelloggs
83. Boots Group
84. Greggs
85. Iceland
86. Thornton’s
87. Whitbread Group
88. The Restaurant Group
89. BUPA
90. Association for the study of obesity
91. Infertility Network