

2015 No. 48

FOOD

The Fish Labelling (Scotland) Amendment Regulations 2015

Made - - - - *3rd February 2015*

Laid before the Scottish Parliament *5th February 2015*

Coming into force - - *15th March 2015*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 16(1), 17(2), 26(1)(a) and (3) and 48(1) of the Food Safety Act 1990(a), paragraph 1A of Schedule 2 to the European Communities Act 1972(b) and all other powers enabling them to do so.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972(c), and it appears to the Scottish Ministers that it is expedient for references to the EU Regulations mentioned in regulation 2(2) to be references to those EU Regulations as amended from time to time.

In accordance with section 48(4A) of the Food Safety Act 1990(d), the Scottish Ministers have had regard to relevant advice given by the Food Standards Agency.

There has been consultation as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of

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- (a) 1990 c.16. Section 1(1) and (2) (definition of “food”) was substituted by S.I. 2004/2990. Section 16(1) was amended by paragraphs 7 and 8 of Schedule 5 to, the 1999 Act. Section 17(2) was amended by paragraphs 7, 8 and 12 of Schedule 5 to, the 1999 Act and S.I. 2011/1043. Section 26(3) was amended by, and partially repealed by, Schedule 6 to, the 1999 Act. Section 48(1) was amended by paragraphs 7 and 8 of Schedule 5 to, the 1999 Act. By virtue of section 40(2) of the 1999 Act, amendments made by Schedule 5 to the 1999 Act which extend to Scotland are to be taken as pre-commencement enactments for the purposes of the Scotland Act 1998 (c.46) (“the 1998 Act”). The functions of the Secretary of State, so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. In so far as not transferred, those functions were transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005 (S.I. 2005/849).
- (b) 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”) and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7) (“the 2008 Act”). The functions conferred on the Minister of the Crown under section 2(2), in so far as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. In so far as not transferred, and in so far as relating to food (including drink) including the primary production of food, relevant functions were transferred to the Scottish Ministers by S.I. 2005/849.
- (c) Section 2(2) was amended by paragraph 15(3) of Schedule 8 to the 1998 Act (which was amended by section 27(4) of the 2006 Act), section 27(1) of the 2006 Act and Part 1 of the Schedule to, the 2008 Act. The functions conferred on the Minister of the Crown under section 2(2) of the 1972 Act, so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. In so far as not transferred, those functions were transferred to the Scottish Ministers by S.I. 2005/849.
- (d) Section 48(4A) was inserted by paragraphs 7 and 21 of Schedule 5 to the 1999 Act.

food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(a).

Citation and commencement

1. These Regulations may be cited as the Fish Labelling (Scotland) Amendment Regulations 2015 and come into force on 15th March 2015.

Amendments to the Fish Labelling (Scotland) Regulations 2013

2.—(1) The Fish Labelling (Scotland) Regulations 2013(b) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2 (interpretation), for regulation 2(2) substitute—

“(2) In these Regulations—

“the Act” means the Food Safety Act 1990;

“consumer information requirement” has the meaning given in regulation 3(1)(a);

“the EU Regulations” means Regulation 1224/2009, Regulation 404/2011 and Regulation 1379/2013;

“Regulation 1224/2009” means Council Regulation (EC) No. 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy(c);

“Regulation 404/2011” means Commission Implementing Regulation (EU) No. 404/2011 laying down detailed rules for the implementation of Council Regulation (EC) No. 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy(d);

“Regulation 1379/2013” means Regulation (EU) No. 1379/2013 of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products(e); and

“traceability requirement” has the meaning given in regulation 3(1)(b).”.

(3) In regulation 3 (consumer information and traceability requirements)—

(a) in paragraph (1)(a) omit “(4), (5),”;

(b) for paragraph (2)(a) substitute—

“(a) a requirement specified in any of the following Articles of Regulation 1379/2013—

(i) Article 35 (mandatory information) as read with Article 38 (indication of the catch or production area); and

(ii) Article 39(3) or (4) (additional voluntary information) as read with paragraph (1) of that Article; and”;

(c) in paragraph (3) omit “and Article 67(1) to (3) and (5) to (13) of Regulation 404/2011” and substitute “, Article 67(1) to (3) and (5) to (13) of Regulation 404/2011 and Articles 35(1)(c) and 38 of Regulation 1379/2013”;

(d) omit paragraphs (4) and (5); and

(a) OJ L 31, 1.2.2002, p.1, as last amended by Regulation (EC) No. 596/2009 of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny (OJ L 188, 18.7.2009, p.14).

(b) S.S.I. 2013/256.

(c) OJ L 343, 22.12.2009, p.1 as amended by OJ L 354, 28.12.2013, p.1.

(d) OJ L 112, 30.4.2011, p.1, as amended by OJ L 328, 10.12.2011, p.58.

(e) OJ L 354, 28.12.2013, p.1.

(e) for paragraph (6) substitute—

“(6) The requirements referred to in paragraph (2)(a) do not apply in circumstances described in Article 35(4) of Regulation 1379/2013 as read with Article 58(8) (traceability) of Regulation 1224/2009, where the sale does not exceed the sterling equivalent of 50 euros per day.”.

(4) In regulation 5(4) for “Article 8 of Regulation 2065/2001 (traceability and control)” substitute “Article 58 of Regulation 1224/2009 (traceability)”.

St Andrew’s House,
Edinburgh
3rd February 2015

MAUREEN WATT
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Fish Labelling (Scotland) Regulations 2013 (“the 2013 Regulations”) in order to provide for the enforcement of the consumer information requirements of Chapter IV of Regulation (EU) No. 1379/2013 of the European parliament and of the Council on the common organisation of the markets in fishery and aquaculture products (OJ L 354, 28.12.2013, p.1).

Regulation 2 amends regulation 2 of the 2013 Regulations to remove the references to, and the definitions of, (EC) Regulation No. 104/2000 (OJ L 17, 21.1.2000, p.22) on the common organisation of the markets in fishery and aquaculture products and (EC) Regulation No. 2065/2001 (OJ L 278, 23.10.2001, p.6) laying down detailed rules for the application of (EC) Regulation No. 104/2000 as regards informing consumers about fishery and aquaculture products. These Regulations have been repealed by Regulation (EU) No. 1379/2013 and Commission Implementing Regulation (EU) No. 1420/2013 (OJ L 353, 28.12.2013, p.48) respectively.

Regulation 2 provides that a consumer information requirement includes a requirement specified in Article 35 of Regulation (EU) No. 1379/2013 (mandatory information to be provided to consumers) as read with Article 38, and Article 39(3) or (4) of that Regulation.

The consumer information which must be provided identifies the species of fish, where it was caught and how and where it was produced. The information also indicates whether the fish or fish product has been defrosted and the minimum durability of the product.

In addition, voluntary information may be provided if it is clear and unambiguous and can be verified.

Regulation 2 also amends the definition of traceability requirement in the 2013 Regulations in accordance with Article 45(2) of Regulation (EU) No. 1379/2013 to give the information required under Article 35(1)(c) as read with Article 38 of that Regulation.

A business regulatory impact assessment of the effect that this instrument will have on the cost of business and the voluntary sector has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Food Standards Agency (Scotland), 6th Floor, St Magnus House, 25 Guild Street, Aberdeen AB11 6NJ and online at www.legislation.gov.uk.

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