

# Statutory Instrument 1998 No. 1398

## The Food Labelling (Amendment) Regulations 1998

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### STATUTORY INSTRUMENTS

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**1998 No. 1398**

### **FOOD**

### **The Food Labelling (Amendment) Regulations 1998**

<i>Made</i>	<i>3rd June 1998</i>
<i>Laid before Parliament</i>	<i>5th June 1998</i>
<i>Coming into force</i>	<i>1st July 1998</i>

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Health and the Secretary of State for Wales, acting jointly, in relation to England and Wales, and the Secretary of State for Scotland in relation to Scotland, in exercise of the powers conferred on them by sections 6(4), 16(1)(e) and (f), 17(1), 26(1) and (3) and 48(1) of the Food Safety Act 1990<sup>[1]</sup> and of all other powers enabling them in that behalf, hereby make the following Regulations, after consultation in accordance with section 48(4) of the said Act with such organisations as appear to them to be representative of interests likely to be substantially affected by the Regulations:

#### **Title and commencement**

**1. These Regulations may be cited as the Food Labelling (Amendment) Regulations 1998 and shall come into force on 1st July 1998.**

#### **Amendment of the Food Labelling Regulations 1996**

**2. The Food Labelling Regulations 1996<sup>[2]</sup> shall be amended in accordance with regulations 3 to 17 of these Regulations.**

**3. In regulation 2(1) (interpretation) there shall be inserted after the definition of "confectionery product" the following definitions -**

**" Directive 79/112" means Council Directive 79/112/EEC[3] on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs, as read in accordance with Schedule A1;**

**"Directive 87/250" means Commission Directive 87/250/EEC[4] on the indication of alcoholic strength by volume in the labelling of alcoholic beverages for sale to the ultimate consumer;**

**"Directive 89/398" means Council Directive 89/398/EEC[5] on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses;**

**"Directive 90/496" means Council Directive 90/496/EEC[6] on nutrition labelling for foodstuffs;**

**"Directive 94/54" means Commission Directive 94/54/EC[7] concerning the compulsory indication on the labelling of certain foodstuffs of particulars other than those provided for in Directive 79/112, as amended by Council Directive 96/21/EC[8];".**

**4. In regulation 3 (exemptions) there shall be substituted for paragraph (1) the following paragraphs -**

**" (1) Subject to paragraph (1A) of this regulation, these Regulations shall not apply in respect of -**

**(a) any food to which the provisions of the EEA Agreement apply brought into Great Britain from an EEA State in which it was lawfully produced and sold;**

**(b) any food lawfully produced in another member State brought into Great Britain from a member State in which it was lawfully sold; or**

**(c) any food lawfully produced outside the European Community brought into Great Britain from a member State in which it was in free circulation and lawfully sold,**

**if -**

**(i) the requirements of Article 2 of Directive 79/112 are met in respect of that food;**

**(ii) that food is marked or labelled, in a language easily understood by the consumer, with the particulars provided for in Articles 3 and 4(2) of that Directive;**

**(iii) the name of the food and any other descriptive information accompanying it is in accordance with Article 5(1) of that Directive; and**

**(iv) where applicable, the requirements of Directive 87/250, Directive 89/398, Directive 90/496 and Directive 94/54 are met in respect of that food.**

**(1A) Nothing in paragraph (1) of this regulation shall prevent the enforcement of -**

- (a) regulation 44(1)(a) in relation to a contravention of regulation 31; or**
- (b) regulation 44(1)(c), (d) or (e)."**

**5. In regulation 4(2) (scope of Part II) in sub-paragraph (1) there shall be substituted for the words from "Council Regulation" to the end the words "Council Regulation (EC) No. 2200/96[9] on the common organisation of the market in fruit and vegetables".**

**6. In regulation 5 (general labelling requirement) there shall be inserted after paragraph (b) the following paragraph -**

**" (bA) the quantity of certain ingredients or categories of ingredients;"**

**7. In regulation 6 (name prescribed by law) -**

- (a) in paragraph (3) there shall be inserted at the end the words ", unless such qualification is prohibited";**
- (b) after paragraph (3) there shall be inserted the following paragraph -**

**" (4) In paragraph (1) of this regulation and in regulations 7 and 8(a) and Schedule 1, "prescribed by law" means prescribed by European Community law or, in the absence of such law, by law in Great Britain."**

**8. In regulation 18(1) (foods which need not bear a list of ingredients) -**

- (a) in sub-paragraph (e) the words from "any food" to "including" shall be omitted;**
- (b) there shall be inserted after sub-paragraph (f) the following sub-paragraph -**

**" ;**

**(g) any food consisting of a single ingredient, where -**

- (i) the name of the food is identical with the name of the ingredient;  
or**
- (ii) the name of the food enables the nature of the ingredient to be clearly identified".**

**9. There shall be substituted for regulation 19 (ingredients given special emphasis: indication of minimum or maximum percentage of ingredients) the following regulation -**

## **" Quantities of certain ingredients or categories of ingredients**

### **Indication of quantities of certain ingredients or categories of ingredients**

**19. - (1) Subject to paragraph (2) of this regulation, the quantity of an ingredient or category of ingredients used in the preparation of a food shall be indicated where -**

- (a) that ingredient or category of ingredients appears in the name of the food or is usually associated with that name by the consumer;**
- (b) that ingredient or category of ingredients is emphasised on the labelling in words, pictures or graphics; or**
- (c) that ingredient or category of ingredients is essential to characterise a food and to distinguish it from products with which it might be confused because of its name or appearance.**

**(2) Paragraph (1) of this regulation shall not apply -**

**(a) in respect of an ingredient or category of ingredients -**

- (i) the drained net weight of which is indicated in accordance with Article 8(4) of Directive 79/112;**
- (ii) the quantities of which are already required to be given on the labelling under European Community provisions;**
- (iii) which is used in small quantities for the purposes of flavouring; or**
- (iv) which, though it appears in the name of the food, is not such as to govern the choice of the consumer because the variation in quantity is not essential to characterise the food or does not distinguish it from similar foods;**

**(b) where specific European Community provisions stipulate precisely the quantity of an ingredient or category of ingredients without providing for the indication thereof on the labelling; or**

**(c) in the cases referred to in regulation 13(5).**

**(3) The indication of quantity of an ingredient or category of ingredients required by paragraph (1) of this regulation shall -**

**(a) be expressed as a percentage, which shall be determined as at the time of use of the ingredient or category of ingredients in the preparation of the food; and**

**(b) appear -**

**(i) in or next to the name of the food, or**

**(ii) in the list of ingredients in connection with the ingredient or category of ingredients in question."**

**10. In regulation 23 (food which is not prepacked and similar food, and fancy confectionery products), in paragraph (2) there shall be substituted for the words "regulations 32, 33 and 34; and" the words "regulations 32, 33 and 34."**

**11. In regulation 42 (misleading descriptions) there shall be inserted after paragraph (3) the following paragraph -**

**" (4) In calculating the percentage of milk fat in any cream for the purposes of paragraph (3) of this regulation and Part III of Schedule 8, any ingredient added to the cream shall be disregarded."**

**12. In regulation 47 (defence in relation to exports) there shall be substituted for paragraph (b) the following paragraph -**

**" (b) in the case of export to an EEA State, that the legislation complies with the provisions of Directive 79/112 and, where applicable, the provisions of Directive 87/250, Directive 89/398, Directive 90/496 and Directive 94/54."**

**13. In regulation 50 (transitional provision) there shall be inserted at the end the following paragraph -**

**" (4) In any proceedings for an offence under regulation 44(1)(a), it shall be a defence to prove that -**

**(a) the food concerned was prepacked before 14th February 2000, and**

**(b) the matters constituting the offence would not have constituted an offence under these Regulations if the amendments made by the following provisions of the Food Labelling (Amendment) Regulations 1998, namely -**

**(i) regulations 3 and 14 and the Schedule (in so far as they include in the definition of "Directive 79/112" a reference to European Parliament and Council Directive 97/4/EC[10]),**

**(ii) regulation 4 (in so far as it substitutes a new regulation 3(1)(iii)), and**

**(iii) regulations 6 to 9, 15 and 16,**

**had not been made when the food was prepacked."**

**14. There shall be inserted immediately before Schedule 1 the Schedule to these Regulations.**

**15. In Schedule 3 (generic names in list of ingredients) in the entry relating to starch there shall be inserted in column 3 (conditions of use of generic name) the following words -**

**" In the case of a starch which may contain gluten, the generic name must be accompanied by an indication of the specific vegetable origin of the starch".**

**16. In Schedule 4 (categories of additives which must be identified in a list of ingredients by their category name) in note 2 there shall be inserted, at the end, the following words -**

**" In the case of a modified starch which may contain gluten, the category name must be accompanied by an indication of the specific vegetable origin of the starch.".**

**17. In Part II of Schedule 6 (restricted claims), in the entry relating to reduced or low energy value claims there shall be inserted in column 2 (conditions) after paragraph 2 the following paragraph -**

**" 3. The food must be marked or labelled with the prescribed nutrition labelling.".**

**Other amendments**

**18. - (1) In the Jam and Similar Products Regulations 1981[11] and the Jam and Similar Products (Scotland) Regulations 1981[12] there shall be inserted after the final regulation the following regulation numbered sequentially -**

**" Defence in relation to quantitative ingredient labelling**  
**In any proceedings for an offence under these Regulations where it is alleged that any food described at item 7, 8, 9 or 10 in column 2 of Schedule 1 was sold in con-travention of regulation 8(1), 8(2) or 9, it shall be a defence for the person charged to prove that the requirements of regulation 19 of the Food Labelling Regulations 1996 (indication of quantities of certain ingredients or categories of ingredients) were met in respect of the food concerned.".**

**(2) In the Meat Products and Spreadable Fish Products Regulations 1984[13] and the Meat Products and Spreadable Fish Products (Scotland) Regulations 1984[14] there shall be inserted after regulation 22 the following regulation -**

**" Defence in relation to quantitative ingredient labelling**  
**23. In any proceedings for an offence under these Regulations in respect of an alleged contravention of, or failure to comply with, any provision of regulation 7, 8 or 10, it shall, in so far as that provision conflicts with regulation 19 of the Food Labelling Regulations 1996 (indication of quantities of certain ingredients or categories of ingredients), be a defence for the person charged to prove that the requirements of the latter regulation were met in respect of the product concerned.".**

**(3) In the Food Safety (Temperature Control) Regulations 1995[15], in regulation 2(1) (interpretation) there shall be inserted in the definition of "shelf life" after paragraph (b) the following paragraph -**

**" (c) in relation to food which is not required to bear an indication of**

minimum durability or a "use by" date, the period for which the food can be expected to remain fit for sale if it is kept in a manner which is consistent with food safety;".

*Jeff Rooker*  
Minister of State, Ministry of Agriculture, Fisheries and Food  
  
31st May 1998

Signed by authority of the Secretary of State for Health:

*Tessa Jowell*  
Minister of State for Public Health, Department of Health  
  
31st May 1998

Signed by authority of the Secretary of State for Wales:

*Win Griffiths*  
Parliamentary Under Secretary of State, Welsh Office  
  
2nd June 1998

*Sam Galbraith*  
Parliamentary Under Secretary of State, Scottish Office  
  
3rd June 1998

SCHEDULE

Regulation 14

CONTAINING NEW SCHEDULE A1 TO THE FOOD LABELLING  
REGULATIONS 1996

" SCHEDULE A1

Regulation 2(1)

AMENDMENTS TO DIRECTIVE 79/112

**Directive 79/112 has been amended by, and must be read subject to -**

**Act of Accession (Hellenic Republic) (OJ No. L291, 19.11.79, p. 17);  
Act of Accession (Kingdom of Spain and Portuguese Republic) (OJ No. L302, 15.11.85, p. 218);  
Council Directive 85/7/EEC (OJ No. L2, 3.1.85, p. 22);  
Council Directive 86/197/EEC (OJ No. L144, 29.5.86, p. 38);  
Council Directive 89/395/EEC (OJ No. L186, 30.6.89, p. 17);  
Commission Directive 91/72/EEC (OJ No. L42, 15.2.91, p. 27);  
EEA Agreement;  
Commission Directive 93/102/EEC (OJ No. L291, 25.11.93, p. 14), as  
amended by Commission Directive 95/42/EC (OJ No. L182, 2.8.95, p. 20);  
and, except in relation to an EEA State which is not a member State, -**

**Act of Accession (Austria, Finland and Sweden) (OJ No. L1, 1.1.95, p. 1);  
European Parliament and Council Directive 97/4/EC (OJ No. L43, 14.2.97,  
p. 21)."**

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## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

**These Regulations, which apply to Great Britain, amend the Food Labelling Regulations 1996 ("the principal Regulations"). The Regulations implement European Parliament and Council Directive 97/4/EC amending Directive 79/112/EEC on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs. This Directive is commonly known as "QUID".**

**In implementation of QUID, the Regulations -**

- (a) require the quantity of certain ingredients or categories of ingredients of a food to be indicated (regulations 6 and 9);**
- (b) clarify that where a name of a food is prescribed by European Community law, that name must be used as the name of the food (regulation 7); and require food brought into Great Britain in certain circumstances from a member State or an EEA State to comply with detailed rules as to the name of the food (regulations 3, 4 and 14 and Schedule);**
- (c) provide that food consisting of a single ingredient is exempt from the need to bear a list of ingredients only in certain cases (regulation 8);**
- (d) require the name "starch" or "modified starch" included in an ingredient list to be accompanied by an indication of its specific vegetable origin if the starch or modified starch may contain gluten (regulations 15 and 16);**
- (e) include a transitional provision (regulation 13);**
- (f) make some consequential amendments (regulation 18(1) and (2)).**

**The Regulations also -**



(a) adjust the exemption in the principal Regulations for food brought into Great Britain in certain circumstances from another member State or EEA State, in particular so as to require such food to comply with Articles 2, 3 and 4(2) of Directive 79/112/EEC (regulation 4);

(b) adjust the rule for calculating the percentage of milk fat in any cream for the purposes of regulation 42(3) of the principal Regulations (regulation 11);

(c) update the defence in relation to exports (regulations 3, 12 and 14 and Schedule);

(d) require food to be marked or labelled with the prescribed nutrition labelling if reduced or low energy claims are made (regulation 17);

(e) make some drafting corrections (regulations 10 and 18(3)) and update a cross-reference (regulation 5).

A Regulatory Appraisal has been prepared and placed in the Library of each House of Parliament. Copies may be obtained from the Food Labelling and Standards Division of the Ministry of Agriculture, Fisheries and Food, Ergon House, c/o Nobel House, 17 Smith Square, London SW1P 3JR.

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*Notes:*

[1] 1990 c. 16; "the Ministers" is defined in section 4(1) of the Act; section 6(4)(a) of the Act was amended by the Deregulation and Contracting Out Act 1994 (c. 40), Schedule 9, paragraph 6.[back](#)

[2] S.I. 1996/1499, to which there is an amendment not relevant to these Regulations.[back](#)

[3] OJ No. L33, 8.2.79, p. 1.[back](#)

[4] OJ No. L113, 30.4.87, p. 57.[back](#)

[5] OJ No. L186, 30.6.89, p. 27.[back](#)

[6] OJ No. L276, 6.10.90, p. 40.[back](#)

[7] OJ No. L300, 23.11.94, p. 14.[back](#)

[8] OJ No. L88, 5.4.96, p. 5.[back](#)

[9] OJ No. L297, 2.11.96, p. 1.[back](#)

[10] OJ No. L43, 14.2.97, p. 21.[back](#)

[11] S.I. 1981/1063; relevant amending instruments are S.I. 1982/1700, 1990/2085, 1991/1476, 1996/1499.[back](#)

[12] S.I. 1981/1320; relevant amending instruments are S.I. 1982/1779, 1990/2180, 1991/1476, 1996/1499.[back](#)

[13] S.I. 1984/1566; relevant amending instruments are S.I. 1986/987, 1991/1476, 1996/1499.[back](#)

**[14] S.I. 1984/1714; relevant amending instruments are S.I. 1986/1288, 1991/1476, 1996/1499.back**

**[15] S.I. 1995/2200; the relevant amending instrument is S.I. 1996/1499.back**

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