

2015 No. 410

FOOD

**The Food Information (Miscellaneous Amendments) (Scotland)
Regulations 2015**

Made - - - - *2nd December 2015*

Laid before the Scottish Parliament *4th December 2015*

Coming into force - - *19th January 2016*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 6(4), 15A(b), 16(1), 17, 18, 26, 45 and 48(1) of, and paragraphs 1 and 4(b) of Schedule 1 to, the Food Safety Act 1990(a), section 2(2) of, and 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, and it appears to the Scottish Ministers that it is expedient for any reference to specified provisions of Regulation (EU) No 1169/2011(c) of the European Parliament and of the Council on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004, to be construed as a reference to that Regulation as amended from time to time.

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- (a) 1990 c.16. Section 1(1) and (2) (definition of “food”) was substituted by S.I. 2004/2990. Section 6(4) was amended by paragraph 6 of Schedule 9 to the Deregulation and Contracting Out Act 1994 (c.40), paragraph 10(3) of Schedule 5 to the Food Standards Act 1999 (c.28) (“the 1999 Act”), and Schedule 2 to the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794). Section 6(4A) was inserted by paragraph 3(2) of the schedule to the Food (Scotland) Act 2015 (asp 1) and Section 15A was inserted by section 33 of that Act. Sections 16(1)(e) and (f) were amended by paragraph 8 of Schedule 5 to the 1999 Act. Sections 17 and 48 were amended by paragraphs 12 and 21 respectively of Schedule 5 to the 1999 Act. Section 17(2) was amended by section 40(1) of and 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 Section 26(3) was amended by, and partially repealed by, paragraph 1 of Schedule 6 to the 1999 Act. Section 48 was also amended by S.I. 2004/2990. Section 48(1) was amended by paragraphs 7 and 8 of Schedule 5 to the 1999 Act. Section 53(2) was amended by paragraph 19 of Schedule 16 to the Deregulation and Contracting Out Act 1994 (c.40), Schedule 6 to the 1999 Act, S.I. 2004/2990 and S.I. 2004/3279. Amendments made by Schedule 5 to the 1999 Act which extend to Scotland shall be taken as pre-commencement enactments for the purposes of the Scotland Act 1998 (c.46) by virtue of section 49(2) of the 1999 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 Scotland Act 1998. 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. Section 2(2) was amended by paragraph 15(3) of Schedule 8 to the Scotland Act 1998 (c.46) (“the 1998 Act”), section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7). Paragraph 1A of Schedule 2 was inserted by section 28 of the 2006 Act. The powers in section 2(2) of the 1972 Act are exercised as regards the whole or part of regulations 3 to 8 of this instrument. 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.
- (c) OJ L 304, 22.11.2011, p.18.

So far as the following Regulations are made in exercise of powers under the Food Safety Act 1990, the Scottish Ministers have had regard to relevant advice given by Food Standards Scotland in accordance with section 48(4A)(a) of that Act.

Citation commencement interpretation and extent

1.—(1) These Regulations may be cited as the Food Information (Miscellaneous Amendments) (Scotland) Regulations 2015.

(2) These Regulations come into force on 19th January 2016.

(3) In these Regulations:—

“the 2014 Regulations” means the Food Information (Scotland) Regulations 2014**(b)**.

(4) These Regulations extend to Scotland only.

Specification of Food Information Law

2. For the purposes of section 15(A)(b) of the Food Safety Act 1990 the 2014 Regulations are specified as food information law.

Amendment of the 2014 Regulations

3.—(1) The 2014 Regulations are amended in accordance with this regulation.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) at the appropriate alphabetical position insert ““Directive 1999/2/EC” means Directive 1999/2/EC of the European Parliament and of the Council on the approximation of laws of the Member States concerning foods and food ingredients treated with ionising radiation.”**(c)**;

(ii) in the definition of “prepacked food”, after “Article 2(2)(e)” insert “and “prepacked” is to be construed accordingly”;

(b) in paragraph (3) after “applies” insert “)” and for “a regulation” substitute “a provision of the Regulations”;

(c) in paragraph (4) for sub-paragraph (c) substitute—

“(c) regulation 4(1) and (3) (derogation relating to minced meat);

(ca) regulation 5(1), (3), (5) and (6) (foods that are not prepacked etc, containing an allergenic substance or product etc.)”.

(3) In regulation 5 (foods that are not prepacked etc. containing an allergenic substance or product etc.) in paragraph (5)(a), after “aid is” insert “listed in or”.

(4) In regulation 8 (irradiated foods)—

(a) in paragraphs (2) and (4) for “ultimate” where it appears substitute “final”;

(b) for paragraph (6) substitute:—

“(6) In this regulation—

“in bulk”, “ionising radiation” and “product” have the same meaning as in Directive 1999/2/EC;

“places on the market” is to be construed taking into account the meaning of “placed on the market” as used in Article 2 of Directive 1999/2/EC; and”.

(a) Section 48(4A) was inserted by paragraphs 7 and 21 of Schedule 5 to the Food Standards Act 1999.

(b) S.S.I. 2014/312.

(c) OJ L 66,13.3.1999, p.16, last amended by Regulation (EC) No 1137/2008 of the European Parliament and of the Council (OJ No L 311, 21.11.2008, p.1).

(5) In Schedule 2 (foods that are not products to which regulation 7(1) applies), at the end of paragraph 3, omit “20”.

(6) In Schedule 3 (specified FIC provisions) in the reference, omit “1(2)”.

(7) In Schedule 3 in Part 1 (specified FIC provisions applying on and from 13th December 2014)—

(a) for each entry in the second column relating to “the first paragraph of Article 54(1)” substitute “the first sub-paragraph of Article 54(1)”; and

(b) at the entry relating to Article 18(1) (list of ingredients), in the second column, for “(8)” substitute “8” and, in the same line, after “first” add “sub-”.

(8) At the end of the reference to Article 22(2) for “.” substitute “)”.

(9) In Schedule 4 (revocations), in Part 1 (revocations coming into force on 13th December 2014) omit the reference to The Miscellaneous Food Additives (Amendment) Regulations 1999 in the first column and the related text in the second column.

(10) In Schedule 5 (consequential and other amendments)—

(a) in paragraphs 1, 4, 8, 11 and 12, in each place where this occurs, for “Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers”, substitute “Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004”;

(b) for paragraph 2 (the food labelling regulations 1996) substitute:—

“Schedule 8 (misleading descriptions), Part I of the Food Labelling Regulations 1996 is amended as follows—

(a) in column 2 of the entry relating to the description “alcohol-free”, for subparagraph (b) substitute—

“(b) the drink is marked or labelled with—

(i) an indication of its maximum alcoholic strength in a form comprising of the words “not more than” followed by a figure to not more than one decimal place indicating its maximum alcoholic strength and the symbol “% vol.” (required form 1), “alcohol % vol.” (required form 2), or “alc. % vol.” (required form 3), or

(ii) in an appropriate case an indication that it contains no alcohol.”;

(b) in column 2 of the entry relating to the description “dealcoholised”, for subparagraph (b) substitute—

“(b) the drink is marked or labelled with—

(i) an indication of its maximum alcoholic strength in required form 1, 2 or 3; or

(ii) in an appropriate case, an indication that it contains no alcohol.”; and

(c) in column 2 of the entry relating to the description “low alcohol” (or any other word or description which implies that the drink being described is low in alcohol), for subparagraph (b) substitute—

“(b) the drink is marked or labelled with an indication of its maximum alcoholic strength in required form 1, 2 or 3.””.

(c) for paragraph 5 substitute:—

“5. Regulation 2(1) (interpretation) of The Bread and Flour Regulations 1998 is amended as follows—

- (a) in the definition of “ingredient”, for “the Food Labelling Regulations 1996”, substitute “Article 2(2)(f) of Regulation (EU) No 1169/2011”;
- (b) in the definition of “labelling”, for “the Food Labelling Regulations 1996”, substitute “Article 2(2)(j) of Regulation (EU) No 1169/2011”;
- (c) omit the definition of “the labelling regulations”; and
- (d) insert the following definition in its alphabetical place—

““Regulation (EU) No 1169/2011” means Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004; and””.

- (d) in paragraph 7(b)(ii), for “1169/2011” substitute “1169/2011”.
- (e) in paragraph 13 for “.(c).” substitute “(c)”.

St Andrew’s House,
Edinburgh
2nd December 2015

MAUREEN WATT
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision to specify “food information law” as required by Section 15A of the Food Safety Act 1990 to enable enforcement action to be taken under that Act for breaches of food information law. The Regulations make amendments to the Food Information Regulations 2014.

No consultation has been carried out as is normally 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 food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety as the specification of food information law in regulation 2 was consulted on as part of the Food (Scotland) Act 2015 and the remaining amendments are technical amendments to the Food Information (Scotland) Regulations 2014 which were subject to consultation.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.

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