

2007 No. 330

FOOD, ENGLAND

**The Food Supplements (England) (Amendment) Regulations
2007**

<i>Made</i>	- - - -	<i>6th February 2007</i>
<i>Laid before Parliament</i>		<i>15th February 2007</i>
<i>Coming into force</i>	- -	<i>6th April 2007</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 16(1)(a) and (e), 17(1), 26(1)(a) and (3) and 48(1) of the Food Safety Act 1990(a) and now vested in her(b).

She has had regard to relevant advice given by the Food Standards Agency as required by section 48(4A) of that Act.

There has been open and transparent public consultation during the preparation of the Regulations as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council(c) 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.

Title and commencement

1. These Regulations may be cited as the Food Supplements (England) (Amendment) Regulations 2007; they come into force on 6th April 2007.

Amendment of the Food Supplements (England) Regulations 2003

2. The Food Supplements (England) Regulations 2003(d) are amended in accordance with regulations 3 to 5.

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- (a) 1990 c. 16; section 1(1) and (2) (definition of “food”) was substituted by S.I. 2004/2990. Sections 17 and 48 were amended by paragraphs 12 and 21 respectively of Schedule 5 to the Food Standards Act 1999 (1999 c.28), “the 1999 Act”. Section 48 was also amended by S.I. 2004/2990. Section 26(3) was amended by Schedule 6 to the 1999 Act. Section 53(2) was amended by paragraph 19 of Schedule 16 to the Deregulation and Contracting Out Act 1994 (1994 c.40), Schedule 6 to the 1999 Act and S.I. 2004/2990.
- (b) Functions formerly exercisable by “the Ministers” (being, in relation to England and Wales and acting jointly, the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with health in England and food and health in Wales and, in relation to Scotland, the Secretary of State) are now exercisable in relation to England by the Secretary of State pursuant to paragraph 8 of Schedule 5 to the 1999 Act. Functions of “the Ministers” so far as exercisable in relation to Wales were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) as read with section 40(3) of the 1999 Act and those functions so far as exercisable in relation to Scotland were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (1998 c. 46) as read with section 40(2) of the 1999 Act.
- (c) OJ No. L31, 1.2.2002, p. 1. That Regulation was last amended as at the date these Regulations were made by Commission Regulation (EC) No. 575/2006 (OJ No. L100, 8.4.2006, p.3).
- (d) S.I. 2003/1387, to which there are amendments not relevant to these Regulations.

3. In regulation 2(1) (interpretation), in the definition of “Directive 2002/46” insert at the end “, as amended by Commission Directive 2006/37/EC^(a) amending Annex II to Directive 2002/46/EC of the European Parliament and of the Council as regards the inclusion of certain substances”.

4. In Schedule 1 (vitamins and minerals which may be used in the manufacture of food supplements), in Section 1 (vitamins), for “Folic acid” substitute “Folate”.

5. In Schedule 2 (form of vitamin and mineral substances which may be used in the manufacture of food supplements)—

- (a) in section A (vitamins), at item 10 for the heading “FOLIC ACID” substitute “FOLATE”, and under that (revised) heading insert at the end “(b) calcium-L-methylfolate”;
- (b) in section B (minerals) before “Cupric carbonate” insert “Ferrous bisglycinate”.

Signed by authority of the Secretary of State for Health

Caroline Flint
Minister of State,
Department of Health

Date 6 February 2007

^(a) OJ No. L94, 1.4.2006, p.32.

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations amend the Food Supplements (England) Regulations 2003 which implement in England Directive 2002/46/EC of the European Parliament and of the Council on the approximation of the laws of the Member States relating to food supplements (OJ No. L183, 12.7.2002, p.51). These Regulations implement in England Commission Directive 2006/37/EC (OJ No. L94, 1.4.2006, p.32) amending Annex II to Directive 2002/46/EC as regards the inclusion of certain substances.

2. The 2003 Regulations prohibit the sale of a food supplement in the manufacture of which a vitamin or mineral has been used unless that vitamin or mineral is listed in Schedule 1 to those Regulations and is in a form listed in Schedule 2 (the positive lists), subject to a transitional provision (regulation 5 and Schedules to those Regulations).

3. These Regulations—

- (a) add another form of the vitamin folate and another form of the mineral iron to the positive list in Schedule 2 to the 2003 Regulations (*regulation 5*) and make a consequential amendment (*regulation 4*);
- (b) update the definition of “Directive 2002/46/EC” in the 2003 Regulations (*regulation 3*).

4. A full regulatory impact assessment of the effect that these Regulations will have on the costs of business has been prepared and placed in the Library of each House of Parliament together with a Transposition Note setting out how the main elements of Directive 2006/37/EC are transposed in these Regulations. Copies may be obtained from Novel Foods, Additives and Supplements Division of the Food Standards Agency, Aviation House, 125 Kingsway, London WC2B 6NH.

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