

2007 No. 534

FOOD

**The Food Labelling (Declaration of Allergens) (Scotland)
Regulations 2007**

Made - - - - 28th November 2007
Laid before the Scottish Parliament 29th November 2007
Coming into force - - 23rd December 2007

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 16(1)(e), 17(1), 26(1)(a) and 48(1) of the Food Safety Act 1990(a), and all other powers enabling them to do so.

They have had regard to relevant advice given by the Food Standards Agency in accordance with section 48(4A) of that Act(b).

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

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Food Labelling (Declaration of Allergens) (Scotland) Regulations 2007 and come into force on 23rd December 2007.

(2) These Regulations extend to Scotland only.

Amendment of the Food Labelling Regulations 1996

2.—(1) The Food Labelling Regulations 1996(d) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 50 (transitional provision), after paragraph (13) insert—

(a) 1990 c.16; sections 16(1) and 48(1) were amended by the Food Standards Act 1999 (c.28) (“the 1999 Act”), Schedule 5, paragraph 8; section 17(1) was amended by the 1999 Act, Schedule 5, paragraphs 8 and 12; section 48(4) is disapplied in respect of these regulations by virtue of section 48(4C), inserted by S.I. 2004/2990; amendments made by Schedule 5 of the 1999 Act shall be taken as pre-commencement enactments for the purposes of the Scotland Act 1998 (c.46) by virtue of section 40(2) of the 1999 Act. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998. Insofar as not so 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) Section 48(4A) was inserted by the 1999 Act, section 40(1) and Schedule 5, paragraph 21.

(c) O.J. No. L 31, 1.2.02, p.1, as amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (O.J. No. L 245, 29.9.03, p.4) and Commission Regulation (EC) No. 575/2006 (O.J. No. L 100, 7.4.06, p.3).

(d) S.I. 1996/1499; relevantly amended by S.I. 1998/1398, 1999/747, 1136 and 1483 and S.S.I. 2000/83, 2002/524, 2003/578, 2004/395 and 472, 2005/456 and 2005/222.

“(14) In any proceedings for an offence under regulation 44(1)(a) it shall be a defence to prove that—

- (a) the food concerned was sold before 23rd December 2008 or marked or labelled before that date; and
- (b) the matters constituting the alleged offence would not have constituted an offence under these Regulations if the amendments made by regulation 2(3) of the Food Labelling (Declaration of Allergens) (Scotland) Regulations 2007(a) had not been in force when the food was sold.”.

(3) In Schedule AA1 (allergenic ingredients)—

- (a) after paragraph 2 insert “**2(a)**. Molluscs”;
- (b) after paragraph 6 insert “**6(a)**. Lupin”.

St Andrew’s House,
Edinburgh
28th November 2007

SHONA ROBISON
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations extend to Scotland only. They amend the Food Labelling Regulations 1996 (“the principal Regulations”) which extend to the whole of Great Britain.

These Regulations implement Commission Directive No. 2006/142/EC (O.J. No. L 368, 23.12.06, p. 110) amending Annex IIIa of Directive 2000/13/EC of the European Parliament and of the Council listing the ingredients which must under all circumstances appear on the labelling of foodstuffs. Molluscs and lupin are added to the list contained in Schedule AA1 to the principal Regulations (regulation 2(3)). The Regulations also contain a transitional provision (regulation 2(2)).

A full Regulatory Impact Assessment of the effect that these Regulations are likely to have on business costs has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Food Standards Agency (Scotland), Labelling Division, 6th Floor, St Magnus House, 25 Guild Street, Aberdeen AB11 6NJ.

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