

2020 No. 156

FOOD

The Food Information and Addition of Vitamins, Minerals and Other Substances (Scotland) Amendment Regulations 2020

<i>Made</i>	- - - -	<i>20th May 2020</i>
<i>Laid before the Scottish Parliament</i>		<i>21st May 2020</i>
<i>Coming into force</i>	- -	<i>19th June 2020</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 6(4), 16(1)(a) and (e), 17, 26(1) and (3) and 48(1) of the Food Safety Act 1990(a), section 2(2) and paragraph 1A of schedule 2 of 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—

- (a) Commission Implementing Regulation (EU) No 2018/775 laying down rules for the application of Article 26(3) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, as regards the rules for indicating the country of origin or place of provenance of the primary ingredient of a food(c), and

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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 of the Deregulation and Contracting Out Act 1994 (c.40), paragraph 10(3) of schedule 5 of the Food Standards Act 1999 (c.28) (“the 1999 Act”), and schedule 2 of 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 of the Food (Scotland) Act 2015 (asp 1). Section 16(1)(e) were amended by paragraph 8 of schedule 5 of the 1999 Act. Sections 17 and 48 were amended by paragraphs 12 and 21 respectively of schedule 5 of the 1999 Act. Section 17(2) was amended by section 40(1) of, and paragraphs 7, 8 and 12 of, schedule 5 of the 1999 Act and S.I. 2011/1043. Section 26(3) was amended by, and partially repealed by, paragraph 1 of schedule 6 of the 1999 Act.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 of the 1999 Act. 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) (“the 1998 Act”) by virtue of section 40(2) of the 1999 Act. The functions of the Secretary of State, in 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 so transferred, and in so far as relating to food (including drink) including the primary production of food, those functions were transferred to the Scottish Ministers by S.I. 2005/849.
 - (b) 1972 c.68 (“the 1972 Act”). The 1972 Act was repealed by section 1 of the European Union (Withdrawal) Act 2018 (c.16) (“the 2018 Act”) with effect from exit day (see section 20 of the 2018 Act), but saved, subject to modifications, until IP completion day by section 1A of that Act. Section 1A of the 2018 Act was inserted by the European Union (Withdrawal Agreement) Act 2020 (c.1) (“the 2020 Act”), and defines “IP completion day” by reference to section 39(1) to (5) of the 2020 Act. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7) (“the 2008 Act”), section 3(3) and schedule 1, Part 1. Paragraph 1A of schedule 2 was inserted by section 28 of the 2006 Act and amended by Part 1 of the Schedule to the 2008 Act and S.I. 2007/1388. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.
 - (c) OJ L 131, 29.5.2018, p.8.

- (b) Regulation (EC) No 1925/2006 of the European Parliament and of the Council on the addition of vitamins and minerals and of certain other substances to foods(a),

to be construed as a reference to those provisions of those Regulations as amended from time to time.

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

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

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Food Information and Addition of Vitamins, Minerals and Other Substances (Scotland) Amendment Regulations 2020.

(2) These Regulations come into force on 19 June 2020.

(3) In these Regulations, “the 2014 Regulations” means the Food Information (Scotland) Regulations 2014(d).

Amendment of the 2014 Regulations

2.—(1) The 2014 Regulations are amended in accordance with paragraphs (2) to (5).

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) at the end of the definition of “Regulation 828/2014” omit “; and”,

(ii) after the definition of “Regulation 828/2014” insert—

““Regulation 2018/775” means Commission Implementing Regulation (EU) 2018/775 laying down rules for the application of Article 26(3) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, as regards the rules for indicating the country of origin or place of provenance of the primary ingredient of a food;”,

(iii) at the end of the definition of “specified Regulation 828/2014 provision” insert “and”, and

(iv) after the definition of “specified Regulation 828/2014 provision” add—

““specified Regulation 2018/775 provision” means a provision specified in column 1 as read with the provisions in column 2, of the table in Part 3 of schedule 3”, and

(b) after paragraph (3A) insert—

“(3B) Any reference to Regulation 2018/775 or a provision of Regulation 2018/775 in a provision of these Regulations, is a reference to Regulation 2018/775 or that provision of Regulation 2018/775 as amended from time to time.”

(3) In regulation 10 (offences) after paragraph (aa) insert—

“(ab) any specified Regulation 2018/775 provision, subject to regulation 10A;”.

(a) OJ L 404, 30.12.2006, p.26, as last amended by Commission Regulation (EU) 2019/650 (OJ L 110, 25.4.2019, p.21).

(b) Section 48(4A) was inserted by paragraph 21 of schedule 5 of the 1999 Act.

(c) OJ L 31, 1.2.2002, p.1, as last amended by Regulation (EU) 2019/1243 of the European Parliament and of the Council (OJ L 198, 25.7.2019, p.241).

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

(4) After regulation 10 insert—

“Transitional Provision

10A. A person is not guilty of an offence under regulation 10(ab) if food placed on the market or labelled does not comply with any specified Regulation 2018/775 provision, provided that—

- (a) it was placed on the market or labelled prior to 19th June 2020, and
- (b) it complies with these Regulations as they applied prior to 19th June 2020.”.

(5) In schedule 3 (specified provisions of FIC and of Regulation 828/2014)—

- (a) for the title substitute “Specified provisions of FIC, Regulation 828/2014 and Regulation 2018/775”, and
- (b) after Part 2 (specified provisions of regulation 828/2014 applying on and from 20 July 2016) add—

“PART 3

Specified Regulation 2018/775 provisions enforceable on and from 19 June 2020

<i>Specified Regulation 2018/775 provision</i>	<i>Provisions of Regulation 2018/775 to be read with the specified Regulation 2018/775 provision</i>
Article 2 (indication of the country of origin or place of provenance of the primary ingredient)	Articles 1, 3 and 4
Article 3 (presentation of the information)	Articles 1 and 4”.

Amendment of the Addition of Vitamins, Minerals and Other Substances (Scotland) Regulations 2007

3.—(1) The Addition of Vitamins, Minerals and Other Substances (Scotland) Regulations 2007(a) are amended in accordance with paragraphs (2) and (3).

- (2) In regulation 4(1) (offences and penalties) after “subject to” insert “regulation 4A and”.
- (3) After regulation 4 insert—

“Transitional provision in relation to food containing substance listed in Annex III, Part B of the EC regulation

4A. A person is not guilty of an offence under paragraph (1) of regulation 4 by virtue of paragraph (2)(g) of that regulation if—

- (a) the food is placed on the market before 1st April 2021, and

(a) S.S.I. 2007/325, as relevantly amended by S.S.I. 2014/312 and S.S.I. 2020/7.

- (b) the substance concerned falls within the entry in Annex III, Part B relating to trans fat other than trans fat naturally occurring in fat of animal origin.”.

St Andrew's House,
Edinburgh
20th May 2020

JOE FITZPATRICK
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision to enforce, the requirements of Commission Implementing Regulation (EU) No 2018/775 on the provision of food information to consumers, as regards the rules for indicating the country of origin or place of provenance of the primary ingredient of a food (“Regulation 2018/775”).

Regulation 2 makes amendments to the Food Information (Scotland) Regulations 2014 to ensure that Articles 2 and 3 of Regulation 2018/775 can be enforced.

The effect of the amendments is that, subject to transitional provisions, it is an offence to fail to comply with Articles 2 and 3 of Regulation 2018/775.

Regulation 3 inserts a new transitional provision (regulation 4A) into the Addition of Vitamins, Minerals and Other Substances (Scotland) Regulations 2007. This has the effect that no offence is committed in respect of any food placed on the market before 1st April 2021 that does not comply with the provisions relating to artificial trans fats in Annex III, Part B of Regulation (EC) No 1925/2006 of the European Parliament and of the Council on the addition of vitamins and minerals and of certain other substances to foods. This reflects the transitional provision contained in article 4 of Commission Regulation (EU) 2019/649 of 24 April 2019 amending Annex III to Regulation (EC) No 1925/2006 of the European Parliament and of the Council as regards trans fat, other than trans fat naturally occurring in fat of animal origin.

A full business and regulatory impact assessment of the effect these Regulations will have on the costs of business, the voluntary sector and the public sector has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from Food Standards Scotland, Pilgrim House, Old Ford Road, Aberdeen, AB11 5RL.

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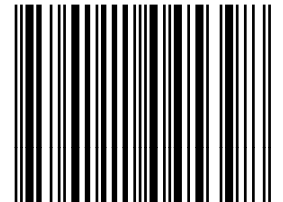
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