
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 435

FOOD

The Food Enzymes (Scotland) Regulations 2009

Made - - - - 10th December 2009
*Laid before the Scottish
Parliament* - - - - 11th December 2009
Coming into force - - 20th January 2010

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 16(1)(a), (e) and (f), 17(2), 26(1) and (3), and 48(1) of the Food Safety Act 1990^{M1}, and all other powers enabling them to do so.

In accordance with section 48(4A) of that Act, they have had regard to relevant advice given by the Food Standards Agency^{M2}.

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^{M3}.

Marginal Citations

- M1** 1990 c.16: section 1(1) and (2) (definition of “food”) was substituted by S.I. 2004/2990; sections 16, 17 and 48 were amended by paragraph 8 of Schedule 5 to the Food Standards Act 1999 (c.28) (“the 1999 Act”); section 17 was also amended by paragraph 12 of Schedule 5 to the 1999 Act and section 48 was also amended by (i) paragraph 21 of Schedule 5 to the 1999 Act and (ii) S.I. 2004/2990; section 26(3) was amended by Schedule 6 to the 1999 Act, and is read with section 45 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6); amendments made by Schedule 5 to 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 were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. Insofar as not so transferred and insofar as relating to food (including drink) including the primary production of food, 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).
- M2** Section 48(4A) was inserted by section 40(1) of, and paragraph 21 of Schedule 5 to, the 1999 Act.
- M3** O.J. No. L 31, 1.2.02, p.1. That Regulation was last amended by Commission Regulation (EC) No. 596/2009 of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468 with regard to

the regulatory procedure with scrutiny: Adaptation to the regulatory procedure with scrutiny – Part Four (O.J. No. L 188, 18.7.2009, p.14).

Citation, extent and commencement

1. These Regulations may be cited as the Food Enzymes (Scotland) Regulations 2009, extend to Scotland only and come into force on 20th January 2010.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Food Safety Act 1990;

“the EC Regulation” means Regulation (EC) No. 1332/2008 of the European Parliament and of the Council on food enzymes and amending Council Directive 83/417/EEC, Council Regulation (EC) No. 1493/1999, Directive 2000/13/EC, Council Directive 2001/112/EC and Regulation (EC) No. 258/97^{M4}.

(2) Any other expression used in these Regulations and in the EC Regulation has the same meaning in these Regulations as it bears in the EC Regulation.

(3) Unless indicated otherwise, any reference to a numbered Article is a reference to the Article so numbered in the EC Regulation.

Marginal Citations

M4 O.J. No. L 354, 31.12.08, p.7.

Offences, penalties and savings

^{F1}3.

Textual Amendments

F1 Reg. 3 revoked (31.10.2013) by [The Food Additives, Flavourings, Enzymes and Extraction Solvents \(Scotland\) Regulations 2013 \(S.S.I. 2013/266\)](#), reg. 1, **Sch. 5**

Enforcement and competent authorities

^{F2}4.

Textual Amendments

F2 Reg. 4 revoked (31.10.2013) by [The Food Additives, Flavourings, Enzymes and Extraction Solvents \(Scotland\) Regulations 2013 \(S.S.I. 2013/266\)](#), reg. 1, **Sch. 5**

Application of various sections of the Food Safety Act 1990

^{F3}5.

Textual Amendments

F3 Reg. 5 revoked (31.10.2013) by [The Food Additives, Flavourings, Enzymes and Extraction Solvents \(Scotland\) Regulations 2013 \(S.S.I. 2013/266\)](#), reg. 1, **Sch. 5**

Condemnation of food

^{F4}**6.**

Textual Amendments

F4 Reg. 6 revoked (31.10.2013) by [The Food Additives, Flavourings, Enzymes and Extraction Solvents \(Scotland\) Regulations 2013 \(S.S.I. 2013/266\)](#), reg. 1, **Sch. 5**

Amendment of the Food Labelling Regulations 1996

^{F5}**7.**

Textual Amendments

F5 Reg. 7 revoked (13.12.2014) by [The Food Information \(Scotland\) Regulations 2014 \(S.S.I. 2014/312\)](#), reg. 1, **Sch. 4 Pt. 1**

[^{F6}Amendment of the Caseins and Caseinates (Scotland) Regulations 1986

8. In the Schedule to the Caseins and Caseinates (Scotland) Regulations 1986, in column 2 of Part II (technological adjuvants and bacterial cultures) after “rennet” and “other milk-coagulating enzymes” in each case add “meeting the requirements of Regulation (EC) No. 1332/2008 of the European Parliament and of the Council on food enzymes”.]

Textual Amendments

F6 Reg. 8 substituted (12.2.2010) by [The Food Enzymes \(Scotland\) Amendment Regulations 2010 \(S.S.I. 2010/26\)](#), regs. 1, **2(2)**

Amendment of the Fruit Juices and Fruit Nectars (Scotland) Regulations 2003

^{F7}**9.**

Textual Amendments

F7 Reg. 9 revoked (20.11.2013) by [The Fruit Juices and Fruit Nectars \(Scotland\) Regulations 2013 \(S.S.I. 2013/305\)](#), **regs. 1(2), 19(b)**

Amendment of the Novel Food and Novel Food Ingredients Regulations 1997

10. In regulation 2(1) (interpretation) of the Novel Foods and Novel Food Ingredients Regulations 1997 ^{M5}, for the definition of “Regulation (EC) No 258/97” substitute—

““Regulation (EC) No 258/97” means Regulation (EC) No 258/97 of the European Parliament and of the Council concerning novel foods and food ingredients ^{M6} as last amended by Regulation (EC) No 1332/2008 of the European Parliament and of the Council on food enzymes;”.

Marginal Citations

M5 S.I. 1997/1335, as amended by S.I. 1999/1756, S.S.I. 2000/62 and 83, and S.S.I. 2004/432.

M6 O.J. No. L43, 14.2.1997, p.1, as amended by Regulations (EC) No. 1829/2003 (O.J. No. L268, 18.10.2003, p.1), No. 1882/2003 (O.J. No. L 284, 31.10.2003, p.1) and No. 1332/2008 (O.J. No. L 354, 31.12.2008, p.7).

St Andrew's House,
Edinburgh

SHONA ROBISON
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the execution and enforcement in Scotland of Regulation (EC) No. 1332/2008 of the European Parliament and of the Council on food enzymes and amending Council Directive 83/417/EEC, Council Regulation (EC) No. 1493/1999, Directive 2000/13/EC, Council Directive 2001/112/EC and Regulation (EC) No. 258/97 (“the EC Regulation”).

These Regulations provide that it is an offence—

- (a) once the list of food enzymes mentioned in Article 17 of the EC Regulation has been adopted, to place on the market or use as food enzymes any that are not on that list (regulation 3(2)(a));
- (b) to place on the market a food enzyme (or any food containing such an enzyme) that is not compliant with the EC Regulation and its implementing measures (regulation 3(2)(b));
- (c) to fail to label food enzymes or enzyme preparations in accordance with the relevant requirements for business to business transactions (regulation 3(2)(c)) or for sales to the final consumer (regulation 3(2)(d)); or
- (d) to fail to provide certain technical information to the Commission in specified circumstances (regulation 3(2)(e)).

These Regulations also—

- (a) designate the authorities having the duty to enforce these Regulations and the EC Regulation (regulation 4);
- (b) apply certain specified provisions of the Food Safety Act 1990 for the purpose of these Regulations (regulation 5); and
- (c) provide that where food does not comply with these Regulations such that it would be an offence to place it on the market, it may be treated as failing to comply with food safety requirements for the purposes of seizure and destruction under section 9 of the Food Safety Act 1990 (regulation 6).

The Regulations make consequential amendments to the Food Labelling Regulations 1996 (regulation 7), the Caseins and Caseinates Regulations 1985 (regulation 8), the Novel Foods and Novel Food Ingredients Regulations 1997 (regulation 10) and the Fruit Juices and Fruit Nectars (Scotland) Regulations 2003 (regulation 9).

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Food Standards Agency (Scotland), 6th Floor, St Magnus House, 25 Guild Street, Aberdeen AB11 6NJ.

Changes to legislation:

There are currently no known outstanding effects for the The Food Enzymes (Scotland) Regulations 2009.