

## SCOTTISH STATUTORY INSTRUMENTS

# 2009 No. 436

## The Food Additives (Scotland) Regulations 2009

PROSPECTIVE

### Application of various sections of the Food Safety Act 1990

**16.**—(1) The following provisions of the Act shall apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act or Part thereof shall be construed as a reference to these Regulations—

- (a) section 2 (extended meaning of “sale” etc.);
- (b) section 20 (offences due to fault of another person);
- (c) section 21 (defence of due diligence)(1) with the modification that—
  - (i) subsections (2) to (4) shall apply in relation to an offence under these Regulations as they apply in relation to an offence under section 14 (selling food not of the nature or substance or quality demanded) or 15 (falsely describing or presenting food), and
  - (ii) in subsection (4)(b) the references to “sale” are deemed to include references to “placing on the market”;
- (d) section 22 (defence of publication in the course of business);
- (e) section 30(8) (which relates to documentary evidence);
- (f) section 35(1) (punishment of offences), in so far as it relates to offences under section 33(1) as applied by paragraph (3)(b);
- (g) section 35(2) and (3)(2), in so far as it relates to offences under 33(2) as applied by paragraph (3)(c);
- (h) section 36 (offences by bodies corporate); and
- (i) section 36A (offences by Scottish partnerships)(3).

(2) In the application of section 32 of the Act (powers of entry) for the purposes of these Regulations, the references in subsection (1) to the Act are to be construed as including references to Regulation 1333/2008.

(3) The following provisions of the Act shall apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act is to be construed as including a reference to Regulation 1333/2008 and these Regulations—

- (a) section 3 (presumption that food is intended for human consumption) with the modification that the references to “sold” and “sale” are deemed to include references to “placed on the market” and “placing on the market” respectively;
- (b) section 33(1) (obstruction etc. of officers);

(1) Section 21 was amended by [S.I. 2004/3279](#).

(2) Section 35(3) was amended by [S.I. 2004/3279](#).

(3) Section 36A was inserted by section 40 of, and Schedule 5 to, the [Food Standards Act 1999 Act \(c.28\)](#).

**Status:** This version of this provision is prospective.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Food Additives (Scotland) Regulations 2009. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

(c) section 33(2), with the modification that the reference to “any such requirement as is mentioned in subsection (1)(b) above” is deemed to be a reference to any such requirement as is mentioned in that subsection as applied by sub-paragraph (b); and

(d) section 44 (protection of officers acting in good faith).

(4) Section 34 of the Act (time limit for prosecutions) shall apply to offences under these Regulations as it applies to offences punishable under section 35(2) of the Act.

#### **Commencement Information**

**II** Reg. 16 in force at 20.1.2010, see [reg. 1\(1\)](#)

**Status:**

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**Changes and effects yet to be applied to :**

- Regulations revoked in part by [S.S.I. 2013/266 Sch. 5](#)
- reg. 16 coming into force by [S.S.I. 2009/436 reg. 1\(1\)](#)