
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 7

**The Infant Formula and Follow-on Formula
Amendment (Scotland) Regulations 2004**

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Infant Formula and Follow-on Formula Amendment (Scotland) Regulations 2004 and shall come into force on 6th March 2005.

(2) These Regulations extend to Scotland only.

Amendment of the Infant Formula and Follow-on Formula Regulations 1995

2. The Infant Formula and Follow-on Formula Regulations 1995⁽¹⁾ are amended in accordance with regulations 3 to 10.

3. In regulation 1(2) (interpretation), in the definition of “the Directive”, for “and Commission Directive 1999/50/EC” substitute “, Commission Directive 1999/50/EC⁽²⁾ and Commission Directive 2003/14/EC⁽³⁾”.

4. In regulations 2(b)(ii) and 3(b) (conditions for the sale of infant formulae and Follow-on Formulae), for “regulation 12” substitute “regulations 12 and 12A”.

5. In regulations 5(1)(a) and 6(1)(a) (export of infant formulae and Follow-on Formulae to third countries), for “11 and 12” substitute “11, 12 and 12A”.

6. In regulations 8(2) and 9(2) (composition of infant formulae and Follow-on Formulae), omit the words from “and it shall not” to the end.

7. After regulation 12 (composition of infant formulae and Follow-on Formulae) insert—

“12A.—(1) No infant formula or Follow-on Formula shall contain—

- (a) any pesticide residue of a pesticide specified in Schedule 7A; or
- (b) any omethoate, where it is a metabolite of a pesticide not specified in Schedule 7A, or any product resulting from degradation or reaction of that metabolite,

at a level exceeding 0.003 mg/kg.

(2) No infant formula or Follow-on Formula shall contain any pesticide residue of a pesticide specified in column 1 of Schedule 7B at a level exceeding that specified in column 2 of that Schedule in relation to that pesticide.

(3) No infant formula or Follow-on Formula shall contain any pesticide residue of any individual pesticide which is not specified in Schedule 7A or column 1 of Schedule 7B at a level exceeding 0.01 mg/kg.

(4) The levels referred to in paragraphs (1) to (3) apply to the infant formula or Follow-on Formula—

(1) S.I. 1995/77; amended by S.I. 1997/451 and S.S.I. 2000/217.

(2) O.J. No. L 139, 2.6.99, p.29.

(3) O.J. No. L 41, 14.2.03, p.37.

- (a) manufactured as ready for consumption; or
- (b) if it is not so manufactured, as reconstituted according to its manufacturer's instructions.

(5) Analytical methods for determining levels of pesticide residues for the purposes of this regulation shall be generally acceptable standardised methods.”

- 8. Omit regulation 22(3) (offences and enforcement).
- 9. For regulation 23 (application of provisions of the Food Safety Act 1990) substitute—

“Application of various provisions of the Act

23. The following provisions of the Act shall apply for the purposes of these Regulations (except regulation 21) with the modification that any reference in those provisions to the Act or Part thereof shall be construed as a reference to these Regulations (except regulation 21)—

- (a) section 2 (extended meaning of “sale” etc.);
- (b) section 3 (presumptions that food intended for human consumption);
- (c) section 20 (offences due to fault of another person);
- (d) section 21 (defence of due diligence) as it applies for the purposes of section 8, 14 or 15;
- (e) section 30(8) (which relates to documentary evidence);
- (f) section 33 (obstruction etc. of officers);
- (g) section 35(1) to (3) (punishment of offences) in so far as it relates to offences under section 33(1) and (2) as applied by paragraph (f) above;
- (h) section 36 (offences by bodies corporate);
- (i) section 36A (offences by Scottish partnerships); and
- (j) section 44 (protection of officers acting in good faith).”

10. After Schedule 7 (the mineral elements in cows' milk) insert as Schedules 7A and 7B the contents of the Schedule to these Regulations.

St Andrew's House, Edinburgh
15th January 2004

TOM McCABE
Authorised to sign by the Scottish Ministers