

---

SCOTTISH STATUTORY INSTRUMENTS

---

**2005 No. 542**

**FOOD**

**The Food Labelling Amendment  
(No. 3) (Scotland) Regulations 2005**

*Made - - - - 1st November 2005*  
*Laid before the Scottish*  
*Parliament - - - - 2nd November 2005*  
*Coming into force in accordance with regulation 1(2)*

The Scottish Ministers, in exercise of the powers conferred by sections 6(4), 16(1)(e) and (f), 17(1), 26(1) and (3) and 48(1) of the Food Safety Act 1990<sup>(1)</sup> and of all other powers enabling them in that behalf, having had regard in accordance with section 48(4A)<sup>(2)</sup> of that Act to relevant advice given by the Food Standards Agency and after 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<sup>(3)</sup>, hereby make the following Regulations:

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Food Labelling Amendment (No. 3) (Scotland) Regulations 2005.

(2) These Regulations shall come into force—

(a) in the case of regulation 8, on 24th November 2005; and

(b) in the case of all other provisions of these Regulations, on 25th November 2005.

(3) These Regulations extend to Scotland only.

---

(1) 1990 c. 16; section 1(1) and (2) (definition of “food”) was substituted by S.I.2004/2990; section 17(1) was amended by the Food Standards Act 1999 (c. 28) (“the 1999 Act”), section 40(1) and Schedule 5, paragraphs 8 and 12(a); section 48(1) was amended by the 1999 Act, section 40(1) and Schedule 5, paragraph 8; 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, 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, 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).

(2) Section 48(4A) was inserted by the 1999 Act, section 40(1) and Schedule 5, paragraph 21.

(3) O.J. No. L 31, 1.2.02, p.1, as last 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).

**Amendment of the Food Labelling Regulations 1996**

2. The Food Labelling Regulations 1996(4) are amended in accordance with regulations 3 to 7.
3. In regulation 2(1) (interpretation), in the definition of “Directive 2000/13”(5), for the words from “and Commission Directive 2002/67/EC” to the end, substitute “, Commission Directive 2002/67/EC(6) on the labelling of foodstuffs containing quinine and of foodstuffs containing caffeine and Commission Directive 2005/26/EC(7) establishing a list of food ingredients or substances provisionally excluded from Annex IIIa of Directive 2000/13/EC, which was itself amended by Commission Directive 2005/63/EC(8) correcting Directive 2005/26/EC concerning the list of food ingredients or substances provisionally excluded from Annex IIIa of Directive 2000/13/EC of the European Parliament and of the Council”.
4. For regulation 13(8)(c) (order of list of ingredients)(9), substitute—
- “(c) are not—
- (i) additives;
- (ii) allergenic ingredients; or
- (iii) ingredients originating from an allergenic ingredient referred to in paragraphs 1 to 11 of Schedule AA1, other than, until 25th November 2007, ingredients which originate from an allergenic ingredient and are listed in column 2 of Schedule 2A in relation to that allergenic ingredient; and”.
5. In regulation 34B (foods containing allergenic ingredients or ingredients originating from allergenic ingredients)(10)—
- (a) in paragraph (1), for “Subject to paragraph (2)” substitute “Subject to paragraphs (2) and (3)”;
- (b) at the beginning of paragraph (2)(b), insert “subject to paragraph (3),”; and
- (c) at the end, insert—
- “(3) Paragraphs (1) and (2)(b) shall not apply before 25th November 2007 in respect of any ingredient which originates from an allergenic ingredient and is listed in column 2 of Schedule 2A in relation to that allergenic ingredient.”.
6. In regulation 50(12)(b) (transitional provision)(11), after “2004”, insert “(as read with the Food Labelling Amendment (No. 3) (Scotland) Regulations 2005)”.
7. After Schedule 2 (indications of treatment), insert as Schedule 2A the contents of the Schedule to these Regulations.

**Revocation**

8. The Food Labelling Amendment (No. 2) (Scotland) Regulations 2005(12) are revoked.

(4) S.I. 1996/1499, relevantly amended by S.I. 1998/1398, 1999/747, 1136 and 1483 and S.S.I. 2002/524, 2003/578, 2004/472 and 2005/456.

(5) The definition of “Directive 2000/13” was substituted by S.S.I. 2004/472 and amended by S.S.I. 2005/456.

(6) O.J. No. L 191, 19.7.02, p.20.

(7) O.J. No. L 75, 22.3.05, p.33.

(8) O.J. No. L 258, 4.10.05, p.3.

(9) Regulation 13(8)(c) was inserted by S.S.I. 2004/472, regulation 5.

(10) Regulation 34B was inserted by S.S.I. 2004/472, regulation 12.

(11) Regulation 50(12)(b) was inserted by S.S.I. 2004/472, regulation 13.

(12) S.S.I. 2005/456.

St Andrew's House, Edinburgh  
1st November 2005

*LEWIS MACDONALD*  
Authorised to sign by the Scottish Ministers

*Status: This is the original version (as it was originally made).*

## SCHEDULE

Regulation 7

## SCHEDULE 2A TO BE INSERTED IN THE FOOD LABELLING REGULATIONS 1996

“SCHEDULE 2A

Regulations 13(8)(c) and 34B(3)

LIST OF INGREDIENTS WHICH ORIGINATE FROM  
ALLERGENIC INGREDIENTS AND IN RESPECT OF WHICH  
THE ALLERGEN LABELLING REQUIREMENTS DO NOT APPLY

<i>Column 1</i> <i>Allergenic ingredient</i>	<i>Column 2</i> <i>Exempt ingredients originating from allergenic ingredient</i>
Cereals containing gluten	Wheat based glucose syrups including dextrose. <sup>1</sup>  Wheat based maltodextrins. <sup>1</sup>  Glucose syrups based on barley.  Cereals used in distillates for spirits.
Eggs	Lysozym (produced from egg) used in wine.  Albumin (produced from egg) used as fining agent in wine and cider.
Fish	Fish gelatine used as a carrier for vitamin or carotenoid preparations and flavours.  Fish gelatine or Isinglass used as fining agent in beer, cider and wine.
Soybean	Fully refined soybean oil and fat. <sup>1</sup>  Natural mixed tocopherols (E306), natural D alpha tocopherol, natural D alpha tocopherol acetate, natural D alpha tocopherol succinate from soybean sources.  Phytosterols and phytosterol esters derived from vegetable oils obtained from soybean sources.  Plant stanol ester produced from vegetable oil sterols from soybean sources.
Milk	Whey used in distillates for spirits.  Lactitol.

## Note

- 1** And their products, in so far as the process that they have undergone is not likely to increase the level of allergenicity assessed by the European Food Safety Authority for the relevant product from which they originated.

<i>Column 1</i> <i>Allergenic ingredient</i>	<i>Column 2</i> <i>Exempt ingredients originating from allergenic ingredient</i>
	Milk (casein) products used as fining agents in cider and wines.
Nuts	Nuts used in distillates for spirits.
	Almonds and walnuts used as flavour in spirits.
Celery	Celery leaf and seed oil.
	Celery seed oleoresin.
Mustard	Mustard oil.
	Mustard seed oil.
	Mustard seed oleoresin.”
Note	
1	And their products, in so far as the process that they have undergone is not likely to increase the level of allergenicity assessed by the European Food Safety Authority for the relevant product from which they originated.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which extend to Scotland only, amend the Food Labelling Regulations 1996, which extend to the whole of Great Britain. They implement Commission Directive [2005/26/EC](#) establishing a list of food ingredients or substances provisionally excluded from Annex IIIa of Directive [2000/13/EC](#) of the European Parliament and of the Council (O.J. No. L 75, 22.3.05, p.33) (“the first Directive”).

By Article 2 of the first Directive Member States are obliged to adopt and publish regulations necessary to comply with this Directive by 21st September 2005. This was achieved in Scotland by the Food Labelling Amendment (No. 2) (Scotland) Regulations 2005 ([S.S.I. 2005/456](#)).

Commission Directive [2005/63/EC](#) correcting Directive [2005/26/EC](#) concerning the list of food ingredients or substances provisionally excluded from Annex IIIa of Directive [2000/13/EC](#) of the European Parliament and the Council (O.J. No. L 258, 4.10.05, p.3) subsequently amended the first Directive. These Regulations now give effect to the first Directive as so amended. They do so by revoking the Food Labelling Amendment (No. 2) (Scotland) Regulations 2005 (regulation 8) and remaking them with the amendments necessary to implement Directive [2005/63/EC](#).

The principal change made by these Regulations is to correct the entry relating to the use of fish gelatine as described in Column 2 of new Schedule 2A (the Schedule).

These Regulations—

**Status:** This is the original version (as it was originally made).

- (a) confer an exemption until 25th November 2007 from the allergen labelling requirements in regulation 34B(1) and (2)(b) of the Food Labelling Regulations 1996 in the case of certain ingredients originating from allergenic ingredients (regulations 5 and 7 and the Schedule);
- (b) make some consequential amendments (regulations 4 and 6); and
- (c) update the definition of “Directive [2000/13/EC](#)” (regulation 3).

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