

2006 No. 556

FOOD

**The Food for Particular Nutritional Uses (Addition of
Substances for Specific Nutritional Purposes) (Scotland)
Amendment Regulations 2006**

Made - - - - *22nd November 2006*

Laid before the Scottish Parliament *23rd November 2006*

Coming into force - - *31st December 2006*

The Scottish Ministers, in exercise of the powers conferred by sections 16(1)(f), 17(1) and 48(1) of the Food Safety Act 1990(a) and of all other powers enabling them in that behalf, having had regard in accordance with section 48(4A)(b) 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(c), hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (Scotland) Amendment Regulations 2006 and come into force on 31st December 2006.

(2) These Regulations extend to Scotland only.

Amendment of the Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (Scotland) Regulations 2002

2. The Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (Scotland) Regulations 2002(d) are amended in accordance with regulations 3 to 5.

(a) 1990 c.16; section 1(1) and (2) (definition of “food”) was substituted by S.I. 2004/2990; sections 16(1) and 48(1) were amended by the Food Standards Act 1999 (c.28) (“the 1999 Act”), section 40(1) and Schedule 5, paragraph 8; section 17(1) was amended by the 1999 Act, section 40(1) and Schedule 5, paragraphs 8 and 12(a); section 26(3) was amended by the 1999 Act, section 40(4) and Schedule 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, 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).

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

(c) O.J. No. L 31, 1.2.02, p.1, as last amended by Commission Regulation (EC) No. 575/2006 amending Regulation (EC) No. 178/2002 of the European Parliament and of the Council as regards the number and names of the permanent Scientific Panels of the European Food Safety Authority (O.J. No. L 100, 8.4.06, p.3).

(d) S.S.I. 2002/397, as amended by S.S.I. 2004/90; there are other amending instruments not relevant to these Regulations.

3. In regulation 2(1) (interpretation), in the definition of “Directive 2001/15”, after “Directive 2004/5/EC”, insert “and Commission Directive 2006/34/EC^(a)”.

4. In Schedule 1 (substances which may be added for specific nutritional purposes in designated PNU foods)–

- (a) in Category 1 (vitamins), for the heading “FOLIC ACID”, substitute “FOLATE” and under that revised heading, after the entry relating to pteroylmonoglutamic acid, insert “— calcium-L-methylfolate”; and
- (b) in Category 2 (minerals), under the heading “IRON”, after the entry relating to elemental iron (carbonyl + electrolytic + hydrogen reduced), insert “— ferrous bisglycinate”.

5. In Schedule 2 (additional substances which may be added for specific nutritional purposes in foods for special medical purposes), insert at the beginning–

“Category 2. Minerals

— magnesium L-aspartate”.

LEWIS MACDONALD

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
22nd November 2006

(a) O.J. No. L 83, 22.3.06, p.14.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (Scotland) Regulations 2002, as amended (“the principal Regulations”).

These Regulations implement Commission Directive 2006/34/EC (O.J. No. L 83, 22.3.06, p.14) amending the Annex to Directive 2001/15/EC as regards the inclusion of certain substances.

The principal Regulations apply to food for most particular nutritional uses (see the definition of “designated PNU food” in regulation 2(1) of those Regulations). They restrict the sale of such food where there has been added to it, for a specific nutritional purpose, a substance falling within one of the following six categories: vitamins, minerals, amino acids, carnitine and taurine, nucleotides, choline and inositol. In such a case the substance must be listed under the relevant category in Schedule 1 or, as regards foods for special medical purposes, Schedule 1 or 2. There is a time-limited derogation in respect of substances listed in Schedule 3 (see regulation 3(5)) of the principal Regulations, as amended).

These Regulations—

- (a) add certain substances in the categories “vitamins” and “minerals” to the lists of substances which may be added for specific nutritional purposes in designated PNU foods (without any time limit) (regulation 4);
- (b) add a substance in the category “minerals” to the list of substances which may be added for specific nutritional purposes in foods for special medical purposes (without any time limit) (regulation 5); and
- (c) update the definition of “Directive 2001/15” (regulation 3).

A Regulatory Impact Assessment, which includes a compliance cost assessment of the effect which these Regulations would have on business costs has been prepared and has been 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.

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£3.00

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