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SCOTTISH STATUTORY INSTRUMENTS

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**2007 No. 325**

**FOOD**

**The Addition of Vitamins, Minerals and Other  
Substances (Scotland) Regulations 2007**

<i>Made</i>	- - - -	<i>6th June 2007</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>8th June 2007</i>
<i>Coming into force</i>	- -	<i>7th August 2007</i>

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)(a) and (3), and 48(1) of the Food Safety Act 1990(1) and all other powers enabling them to do so.

In accordance with section 48(4A)(2) of that Act they have had regard to relevant advice given by the Food Standards Agency.

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(3).

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Addition of Vitamins, Minerals and Other Substances (Scotland) Regulations 2007, and come into force on 7th August 2007.

(2) These Regulations extend to Scotland only.

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- (1) 1990 c. 16; section 1(1) and (2) (definition of “food”) was substituted by S.I.2004/2990; sections 16 and 48(1) were amended by the Food Standards Act 1999 (c. 28) (“the 1999 Act”), Schedule 5, paragraph 8; section 17 was amended by the 1999 Act, Schedule 5, paragraphs 8 and 12; section 26(3) was repealed in part by the 1999 Act, Schedule 6; section 48(4) is disapplied in respect of these Regulations by virtue of section 48(4C) which was inserted by S.I. 2004/2990; 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, in 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 paragraph 21 of Schedule 5 to the 1999 Act.
- (3) O.J. No. L 31, 1.2.02, p.1. The Regulation was 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) and Regulation (EC) No. 575/2006 of the European Parliament and of the Council (O.J. No. L 100, 8.4.06, p.3).

## Interpretation

2.—(1) In these Regulations—

“the Act” means the Food Safety Act 1990; and

“the EC Regulation” means Regulation (EC) No. 1925/2006 of the European Parliament and of the Council on the addition of vitamins and minerals and of certain other substances to foods<sup>(4)</sup>.

(2) Expressions used in these Regulations and in the EC Regulation have the same meaning in these Regulations as they do in the EC Regulation.

(3) Any reference to a numbered Article or Annex is a reference to the Article or Annex so numbered in the EC Regulation.

## Enforcement

3. Each food authority within its area shall execute and enforce the provisions of these Regulations and of the EC Regulation.

## Offences and Penalties

4.—(1) Subject to the transitional measures contained in Article 18 (relating to foods placed on the market or labelled before 1st July 2007), any person who contravenes or fails to comply with the provisions of the EC Regulation specified in paragraph (2) is guilty of an offence and liable—

- (a) on conviction on indictment to a term of imprisonment not exceeding two years or to a fine or both;
- (b) on summary conviction to a term of imprisonment not exceeding three months or to a fine not exceeding the statutory maximum or both.

(2) The specified provisions referred to in paragraph (1) are—

- (a) Article 3(1) (requirement that only vitamins or minerals listed in Annex I and in form listed in Annex II may be added to food) as read with Article 17(1) (transitional application of national rules);
- (b) Article 4 (prohibition on addition of vitamins and minerals to certain foods);
- (c) Article 5(2) (requirement to observe purity criteria);
- (d) Article 6(6) (requirement for added vitamins and minerals to be in the food in at least a significant amount as defined); and
- (e) Article 7(1), (2) and (3) (restrictions and conditions applying to labelling, presentation and advertising of foods to which vitamins or minerals have been added).

## Application of various provisions of the Act

5. 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 of it is to be construed as a reference to these Regulations—

- (a) section 2 (extended meaning of “sale” etc.);
- (b) section 3 (presumption that food is intended for human consumption);
- (c) section 20 (offences due to the fault of another person);
- (d) section 21 (defence of due diligence) as it applies for the purposes of section 14 or 15;

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(4) O.J. No. L 404, 30.12.06, p.26.

- (e) section 22 (defence of publication in the course of a business);
- (f) section 30(8) (which relates to documentary evidence);
- (g) section 34 (time limit for prosecutions);
- (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).

### **Obstruction of officers and provision of information etc**

6.—(1) Any person who—

- (a) intentionally obstructs any person acting in the execution of these Regulations;
- (b) without reasonable cause, fails to give to any person acting in the execution of these Regulations any assistance or information which that person may reasonably require;

is guilty of an offence and liable on summary conviction to a term of imprisonment not exceeding 3 months or a fine not exceeding level 5 on the standard scale or both.

(2) Any person who, in purported compliance with any requirement mentioned in paragraph (1) (b), knowingly or recklessly supplies information that is false or misleading in any material particular, is guilty of an offence and liable—

- (a) on conviction on indictment, to a term of imprisonment not exceeding two years or to a fine or both;
- (b) on summary conviction, to a term of imprisonment not exceeding 3 months or to a fine not exceeding the statutory maximum or both.

(3) Nothing in paragraph (1)(b) shall be construed as requiring any person to answer any question or give any information if to do so might incriminate that person.

St Andrew's House,  
Edinburgh  
6th June 2007

*SHONA ROBISON*  
Authorised to sign by the Scottish Ministers

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Regulations, which extend to Scotland only, make provision to enforce Regulation (EC) No. 1925/2006 of the European Parliament and of the Council on the addition of vitamins and minerals and of certain other substances to foods (“the EC Regulation”).

The Regulations—

- (a) specify that the food authority (which in Scotland is the relevant local authority for each local authority area) is to execute and enforce these Regulations and the EC Regulation (regulation 3);
- (b) specify offences and penalties for contravention of certain provisions of the EC Regulation, namely:
  - (i) Article 3(1), which makes it a requirement that only listed vitamins and minerals may be added to food;
  - (ii) Article 4, which prohibits the addition of vitamins and minerals to certain foods;
  - (iii) Article 5(2) which relates to purity criteria for certain vitamins and minerals;
  - (iv) Article 6(6), which requires minimum amounts of certain added vitamins and minerals to be in the food; and
  - (v) Article 7(1), (2) and (3), which relates to the labelling, presentation and advertising of foods to which vitamins and minerals have been added (regulation 4);
- (c) apply provisions of the Food Safety Act 1990 (regulation 5); and
- (d) specify offences and penalties that relate to the obstruction of those working to implement these Regulations and other matters to do with providing information and assistance (regulation 6).

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