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## EXPLANATORY NOTE

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

These Regulations amend the Infant Formula and Follow on Formula (Scotland) Regulations 2007 (“the 2007 Regulations”).

The amendments are necessary to give effect to the decision of the Court of Session in the Petition of the Infant and Dietetic Food Association Limited and others for Judicial Review of a decision by the Scottish Ministers to make and lay before the Scottish Parliament the Infant Formula and Follow on Formula (Scotland) Regulations 2007. The Court’s judgement was issued on 10th June 2008, and held that the 2007 Regulations, in relation to the enforcement of the labelling requirements, were invalid. These Regulations seek to correct that position.

These Regulations amend the 2007 Regulations to–

- (a) revise the list of regulations with which the marketing of infant formula and follow on Formula must comply (regulation 2(2));
- (b) provide that the presentation of infant formula and follow on formula shall comply with the provisions of specific regulations (regulation 2(3));
- (c) revise the list of regulations with which infant formula exported to third countries must comply (regulation 2(4));
- (d) revise the list of regulations with which export of follow on formula to third countries must comply (regulation 2(5)); and
- (e) create transitional arrangements that apply in relation to the enforcement of–
  - (i) the labelling requirements for infant formula and follow-on formula, and
  - (ii) the requirements that apply in relation to the shape, appearance and packaging of infant formula and follow-on formula (regulation 2(6)).

These Regulations also provide transitional arrangements with regard to the Foods for Special Medical Purposes (Scotland) Regulations 2000 (regulation 3) and correct a typographical error in the Schedule to the 2007 Regulations (regulation 2(7)).

No regulatory impact assessment has been produced for this instrument.