

2009 No. 374

FOOD

**The Food Labelling (Declaration of Allergens) (Scotland)
Regulations 2009**

<i>Made</i>	- - - -	<i>28th October 2009</i>
<i>Laid before the Scottish Parliament</i>		<i>29th October 2009</i>
<i>Coming into force</i>	- -	<i>20th November 2009</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 16(1)(e), 17(1), 26(1)(a) and 48(1) of the Food Safety Act 1990(a), and all other powers enabling them to do so.

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

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(c).

Citation, commencement and extent

1. These Regulations—

- (a) may be cited as the Food Labelling (Declaration of Allergens) (Scotland) Regulations 2009;
- (b) come into force on 20th November 2009; and
- (c) extend to Scotland only.

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- (a) 1990 c. 16: section 1(1) and (2) (definition of “food”) was substituted by S.I. 2004/2990; sections 16, 17 and 48 were amended by paragraph 8 of Schedule 5 to the Food Standards Act 1999 (c.28) (“the 1999 Act”); section 17 was also amended by paragraph 12 of Schedule 5 to the 1999 Act and section 48 was also amended by paragraph 21 of Schedule 5 to the 1999 Act and 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 were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. Insofar as not so transferred and insofar as relating to food (including drink) including the primary production of food, 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 section 40(1) and paragraph 21 of Schedule 5 of the 1999 Act.
 - (c) O.J. No. L 31, 1.2.02, p.1, as 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), Commission Regulation (EC) No. 575/2006 (O.J. No. L 100, 7.4.06, p.3), Commission Regulation (EC) No. 202/2008 (O.J. No. L 60, 5.3.08, p.17) and Regulation (EC) No. 596/2009 of the European Parliament and of the Council (O.J. No. L 188, 18.7.09, p.14).

Amendment of the Food Labelling Regulations 1996

2.—(1) The Food Labelling Regulations 1996^(a) are amended in accordance with paragraph (2).

(2) At the beginning of sub-paragraph (a) of paragraph (15) of regulation 50 (transitional provision), insert—

“in the case of—

- (i) wine, in which lysozyme (produced from egg) is used or in which albumin (produced from egg) or a milk (casein) product is used as a fining agent, the food concerned was sold before 31st December 2010 or marked or labelled before that date; or
- (ii) any other food.”.

St Andrew’s House,
Edinburgh
28th October 2009

SHONA ROBISON
Authorised to sign by the Scottish Ministers

(a) S.I. 1996/1499; relevantly amended by S.I. 1998/1398, 1999/747, 1136 and 1483 and S.S.I. 2000/83, 2002/524, 2003/578, 2004/395 and 472, 2005/456 and 222, 2007/534, 2008/129, 180 and 395 and 2009/328.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Food Labelling Regulations 1996 (“the principal Regulations”) in so far as they apply in relation to Scotland. The principal Regulations extend to the whole of Great Britain.

These Regulations implement the amendment made to Commission Directive 2007/68/EC by Commission Regulation (EC) No. 415/2009 (O.J. No. L 125, 21.05.2009, p.52). This Directive itself amends Annex IIIa to Directive 2000/13/EC of the European Parliament and of the Council as regards certain food ingredients. The ingredients in question are those that are likely to cause an allergic reaction in some consumers.

These Regulations amend the principal Regulations in respect of the labelling requirements for foods containing allergenic ingredients, including labelling exemptions for certain processed forms of those ingredients, by extending from 31st May 2009 to 31st December 2010 the transitional period for egg-derived lysozyme and for albumin (produced from egg) or milk (casein) products when used as fining agents in wine, in respect of wines that are marked, labelled or sold before that date.

A regulatory impact assessment has not been prepared for this instrument as it has no impact on business or the public or third sectors.

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