

SCOTTISH STATUTORY INSTRUMENTS

2013 No. 266

The Food Additives, Flavourings, Enzymes and Extraction Solvents (Scotland) Regulations 2013

PART 4

Administration and enforcement

[^{F1}Authority]

13. The ^{F2}... authority for the purpose of Article 7 of Regulation 2065/2003 is [^{F3}the Food Standards Scotland].

Textual Amendments

- F1** Reg. 13 heading substituted (31.12.2020) by [The Food Composition, Labelling and Standards \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/53\)](#), regs. 1(1), **6(4)**; 2020 c. 1, **Sch. 5 para. 1(1)**
- F2** Word in reg. 13 omitted (31.12.2020) by virtue of [The Food Composition, Labelling and Standards \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/53\)](#), regs. 1(1), **6(4)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in reg. 13 substituted (1.4.2015) by [The Food \(Scotland\) Act 2015 \(Consequential and Transitional Provisions\) Order 2015 \(S.S.I. 2015/100\)](#), arts. 1(2), 2, **sch. para. 35**

Enforcement authorities

14. It is the duty of each food authority within its area to execute and enforce these Regulations and the [^{F4}assimilated] Regulations.

Textual Amendments

- F4** Word in reg. 14 substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/374\)](#), reg. 1(1), **sch. 2 para. 26(3)**

Offences and penalties

15.—(1) Any person who contravenes regulation 10 or 11 commits an offence.

(2) Any person who commits an offence under regulation 3, 4, 5, 6 or 15(1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

[^{F5}Transitional provision: withdrawal from the EU

15A. A person is to be considered not to have contravened regulation 11(2), as it applies to regulation 12(1)(d), in the following circumstances—

- (a) an extraction solvent has the name or business name and address of the manufacturer or packer, or of a seller established in the territory of the European Union, appearing on the packaging, container or label,
- (b) this would have complied with regulation 11(2), as it applies to regulation 12(1)(d) immediately before IP completion day, and
- (c) the extraction solvent is placed on the market no later than [^{F6}31 December 2023].]

Textual Amendments

- F5** Reg. 15A inserted (31.12.2020) by S.S.I. 2019/285, regs. 1(1), **4(2)** (as amended by The Food and Feed (EU Exit) (Scotland) (Amendment) Regulations 2020 (S.S.I. 2020/372), regs. 1(2)(a), **9(4)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F6** Words in reg. 15A(c) substituted (30.9.2022) by The Food Information (Transitional Provisions) (Miscellaneous Amendments) (Scotland) Regulations 2022 (S.S.I. 2022/265), regs. 1(1), **11**

Condemnation of food

16.—(1) Paragraph (2) applies where it appears to an authorised officer that—

- (a) a product fails to comply with any of the requirements specified in the first column of Schedule 1, as read with transitional measures contained in or to be read with Regulation 1333/2008;
- (b) a product fails to comply with any of the requirements specified in the first column of Schedule 2, as read with Article 4 of Commission Implementing Regulation (EU) No 872/2012 and as read with transitional measures contained in or to be read with Regulation 1334/2008;
- (c) a product fails to comply with any of the requirements specified in the first column of Schedule 3, as read with Article 20 of Regulation 2065/2003;
- (d) a product fails to comply with any of the requirements specified in the first column of Schedule 4, as read with Articles 18 and 24 of Regulation 1332/2008; or
- (e) a food is placed on the market in contravention of the prohibition in regulation 11(1)(b).

(2) Where this paragraph applies, subsections (3) to (9) of section 9 of the Act apply with the following modifications—

- (a) references to “food” are to be read as including a reference to “product”;
- (b) references to “food safety requirements” are to be read as including a reference to—
 - (i) any of the requirements referred to in sub-paragraphs (1)(a) to (d);
 - (ii) the prohibition referred to in sub-paragraph (1)(e).

Application of various provisions of the Food Safety Act 1990

17.—(1) The following provisions of the Act 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 20 (offences due to fault of another person);

- (b) section 21 (defence of due diligence) ^{M1} with the modification that—
 - (i) subsections (2) to (4) apply in relation to an offence under regulation 3, 4, 5, 6 or 15 as they apply in relation to an offence under section 14 or 15; and
 - (ii) in subsection (4) the references to “sale” are deemed to include references to “placing on the market”;
- (c) section 30(8) (which relates to documentary evidence);
- (d) section 35(1) (punishment of offences), in so far as it relates to offences under section 33(1) as applied by paragraph (2)(b);
- (e) section 35(2) and (3) ^{M2}, in so far as it relates to offences under section 33(2) as applied by paragraph (2)(c);
- (f) section 36 (offences by bodies corporate); and
- (g) section 36A (offences by Scottish partnerships) ^{M3}.

(2) The following provisions of the Act apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act is to be construed as including a reference to the [^{F7}assimilated] Regulations and these Regulations—

- (a) section 3 (presumption that food intended for human consumption) with the modification that the references to “sold” and “sale” are deemed to include references to “placed on the market” and “placing on the market” respectively;
- (b) section 33(1) (obstruction etc. of officers);
- (c) section 33(2), with the modification that the reference to “any such requirement as is mentioned in subsection (1)(b) above” is deemed to be a reference to any such requirement as is mentioned in that subsection as applied by sub-paragraph (b); and
- (d) section 44 (protection of officers acting in good faith).

(3) Section 34 of the Act (time limit for prosecutions) applies to offences under these Regulations as it applies to offences punishable under section 35(2) of the Act.

Textual Amendments

- F7** Word in [reg. 17\(2\)](#) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/374\)](#), [reg. 1\(1\)](#), [sch. 2 para. 26\(4\)](#)

Marginal Citations

- M1** [Section 21](#) was amended by [S.I. 2004/3279](#).
M2 [Section 35\(3\)](#) was amended by [S.I. 2004/3279](#).
M3 [Section 36A](#) was inserted by the [Food Standards Act 1999 \(c.28\)](#), [Schedule 5](#), paragraph 16.

Changes to legislation:

There are currently no known outstanding effects for the The Food Additives, Flavourings, Enzymes and Extraction Solvents (Scotland) Regulations 2013, PART 4.