

2013 No. 336

FOOD

**The Food (Miscellaneous Amendments) (Scotland) Regulations
2013**

Made - - - - 20th November 2013

Laid before the Scottish Parliament 22nd November 2013

Coming into force - - 1st January 2014

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and all other powers enabling them to do so.

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(b).

Citation, extent and commencement

1. These Regulations may be cited as the Food (Miscellaneous Amendments) (Scotland) Regulations 2013, extend to Scotland only and come into force on 1st January 2014.

Amendments to the Food Hygiene (Scotland) Regulations 2006

2.—(1) The Food Hygiene (Scotland) Regulations 2006(c) are amended as follows.

(2) In regulation (2)(1) (interpretation)—

(a) omit ““Regulation 1162/2009,””; and

(b) for “and Regulation 28/2012” substitute “, “Regulation 28/2012”, “Regulation 702/2013” and “Regulation 1079/2013””.

(a) 1972 c.68. Section 2(2) was amended by paragraph 15(3) of Schedule 8 to the Scotland Act 1998 (c.46) (“the 1998 Act”), which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1) of the 2006 Act and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7). The functions conferred on the Minister of the Crown under section 2(2), in so far as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. Insofar as not transferred, and insofar as relating to food (including drink) including the primary production of food, relevant 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) OJ L 31, 1.2.2002, p.1, as last amended by Regulation (EC) No. 596/2009 of the European Parliament and of the Council adopting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny: Adaptation to the regulatory procedure with scrutiny—Part Four (OJ L 188, 18.7.2009, p.14)

(c) S.S.I.2006/3, as relevantly amended by S.S.I. 2007/11, S.S.I. 2010/69, S.I. 2011/1043 and S.S.I. 2012/75.

- (3) In Schedule 1 (definitions of EU legislation)—
- (a) omit the definition of “Regulation 1162/2009”;
 - (b) in the definition of “Regulation 853/2004” for “Regulation 1162/2009” substitute “Regulation 1079/2013”;
 - (c) in the definition of “Regulation 854/2004” for “Regulation 1162/2009” substitute “Regulation 1079/2013”;
 - (d) in the definition of “Regulation 882/2004” for “Regulation 1162/2009” substitute “Regulation 702/2013”;
 - (e) at the end, insert—
 - ““Regulation 702/2013” means Commission Implementing Regulation (EU) No 702/2013 on transitional measures for the application of Regulation (EC) No 882/2004 of the European Parliament and of the Council as regards the accreditation of official laboratories carrying out official testing for *Trichinella*(a);
 - “Regulation 1079/2013” means Commission Regulation (EU) No 1079/2013 laying down transitional measures for the application of Regulations (EC) No 853/2004 and (EC) No 854/2004 of the European Parliament and of the Council(b).”.

Amendments to the Official Feed and Food Controls (Scotland) Regulations 2009

3.—(1) The Official Feed and Food Controls (Scotland) Regulations 2009(c) are amended as follows.

(2) In regulation 2(1) (interpretation) for “Regulation 1162/2009” substitute “Regulation 702/2013”.

- (3) In Schedule 1 (definitions of EU Legislation)—
- (a) omit the definition of “Regulation 1162/2009”;
 - (b) in the definition of “Regulation 853/2004” for “Regulation 1162/2009” substitute “Regulation 1079/2013”;
 - (c) in the definition of “Regulation 882/2004” for “Regulation 1162/2009” substitute “Regulation 702/2013”;
 - (d) at the end, insert—
 - ““Regulation 702/2013” means Commission Implementing Regulation (EU) No 702/2013 on transitional measures for the application of Regulation (EC) No 882/2004 of the European Parliament and of the Council as regards the accreditation of official laboratories carrying out official testing for *Trichinella*.”.

Amendment to the Food Safety Act 1990

4. In section 9(5)(a) of the Food Safety Act 1990(d) (inspection and seizure of suspected food), for “4(a)” substitute “4(b)”.

MICHAEL MATHESON
Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
20th November 2013

(a) OJ L 199, 24.7.2013, p.3.
(b) OJ L 292, 1.11.2013, p. 10.
(c) S.S.I. 2009/446, as last amended by S.S.I. 2011/93.
(d) 1990 c.16, as amended by S.I. 2004/3279 and S.S.I. 2005/616.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Commission Regulation (EU) No 1079/2013 laying down transitional measures for the application of Regulations (EC) No 853/2004 and (EC) No 854/2004 of the European Parliament and of the Council (“the Commission Regulation”). They also implement Commission Implementing Regulation (EU) No 702/2013 on transitional measures for the application of Regulation (EC) No 882/2004 of the European Parliament and of the Council as regards the accreditation of official laboratories carrying out official testing for *Trichinella* (“the Commission Implementing Regulation”). In addition they correct a minor error in the Food Safety Act 1990 (“the 1990 Act”).

These Regulations implement the Commission Regulation by amending the Food Hygiene (Scotland) Regulations 2006 to extend transitional measures until 31 December 2016, by omitting the definition of and references to Commission Regulation (EC) No 1162/2009 (“Regulation 1162/2009”), which is being repealed, and inserting references to the Commission Regulation and the Commission Implementing Regulation (regulation 2).

The Regulations implement the Commission Implementing Regulation by amending the Official Feed and Food Controls (Scotland) Regulations 2009 to extend transitional measures until 31 December 2016, by omitting the definition of and references to Regulation 1162/2009, and inserting references to the Commission Implementing Regulation (regulation 3).

These Regulations make a minor amendment to section 9(5)(a) of the 1990 Act to correct an erroneous reference to a paragraph number (regulation 4).

A business and regulatory impact assessment has not been prepared for this instrument as no impact is foreseen on business or on the public or voluntary sectors.

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