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SCOTTISH STATUTORY INSTRUMENTS

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**2019 No. 33**

**FOOD**

**The Food Standards and Hygiene (Miscellaneous Amendments) (Scotland) Regulations 2019**

*Made* - - - - 5th February 2019  
*Laid before the Scottish Parliament* - - - - 7th February 2019  
*Coming into force* - - 28th March 2019

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

Insofar as these Regulations are made in exercise of powers under the Food Safety Act 1990, the Scottish Ministers have had regard to relevant advice given by Food Standards Scotland in accordance with section 48(4A) of that Act<sup>(2)</sup>.

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<sup>(3)</sup>.

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Food Standards and Hygiene (Miscellaneous Amendments) (Scotland) Regulations 2019, and come into force on 28 March 2019.

(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(1) and 48(1) were amended by paragraph 8 of schedule 5 of the Food Standards Act 1999 (c.28) (“the 1999 Act”) and section 16(1) was also amended by section 34(1) of the Food (Scotland) Act 2015 (asp 1) (“the 2015 Act”). Section 17(1) was amended by the 1999 Act, schedule 5, paragraphs 8 and 12(a), and S.I. 2011/1043. Section 17(2) was amended by the 1999 Act, schedule 5, paragraphs 8 and 12(b) and S.I. 2011/1043. Amendments made by schedule 5 of the 1999 Act shall be taken as pre-commencement enactments for the purposes of the Scotland Act 1998 (c.46) 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, and in so far as relating to food (including drink) including the primary production of food, those functions were transferred to the Scottish Ministers by S.I. 2005/849.

(2) Section 48(4A) was inserted by paragraph 21 of schedule 5 of the 1999 Act. Section 48(6) was added by paragraph 3(11) of schedule 1 of the 2015 Act. By virtue of section 48(6), in the application of section 48 to Scotland, references to the Food Standards Agency are to be read as references to Food Standards Scotland.

(3) OJ L 31, 1.2.2002, p.1.

### **Amendment of the Bread and Flour Regulations 1998**

- 2.—(1) The Bread and Flour Regulations 1998<sup>(4)</sup> are amended in accordance with paragraph (2).
- (2) In regulation 2(1) (interpretation)—
- (a) omit the definition of “flour treatment agent”,
  - (b) in the definition of “food additive”, for “the Miscellaneous Food Additives Regulations 1995” substitute “Article 3(2)(a) of Regulation (EC) No. 1333/2008 of the European Parliament and of the Council on food additives<sup>(5)</sup> as last amended by Commission Regulation (EU) 2018/1497<sup>(6)</sup>”, and
  - (c) in the definition of “Regulation (EU) No 1169/2011”, at the end insert “, as last amended by Regulation (EU) 2015/2283 of the European Parliament and of the Council on novel foods<sup>(7)</sup>”.

### **Amendment of the Coffee Extracts and Chicory Extracts (Scotland) Regulations 2001**

- 3.—(1) The Coffee Extracts and Chicory Extracts (Scotland) Regulations 2001<sup>(8)</sup> are amended in accordance with paragraphs (2) to (4).
- (2) In regulation 2 (interpretation) in the definition of “Regulation (EU) No 1169/2011”, at the end insert “, as last amended by Regulation (EU) 2015/2283 of the European Parliament and of the Council on novel foods<sup>(9)</sup>”.
- (3) In regulation 7(4) (penalties and enforcement) for the words “paragraphs 1 and 2 of the Annex to Council Directive 85/591/EEC concerning the introduction of Community methods of sampling and analysis for the monitoring of foodstuffs for human consumption” substitute “Annex 3 to Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules<sup>(10)</sup>”.
- (4) Omit regulation 8 (transitional provision).

### **Amendment of the Cocoa and Chocolate Products (Scotland) Regulations 2003**

- 4.—(1) The Cocoa and Chocolate Products (Scotland) Regulations 2003<sup>(11)</sup> are amended in accordance with paragraphs (2) and (3).
- (2) In regulation 2, in the definition of “Regulation (EU) No 1169/2011”, at the end insert “, as last amended by Regulation (EU) 2015/2283 of the European Parliament and of the Council on novel foods<sup>(12)</sup>”.
- (3) Omit regulation 10 (transitional provision).

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(4) S.I. 1998/141.

(5) OJ L 354, 31.12.08, p.16.

(6) OJ L 253, 9.10.2018, p.36.

(7) OJ L 304, 22.11.2011, p.18, last amended by Regulation (EU) 2015/2283 of the European Parliament and of the Council (OJ L 327, 11.12.2015, p.1).

(8) S.S.I. 2001/38, relevant amending instrument S.S.I. 2014/312.

(9) OJ L 304, 22.11.2011, p.18, last amended by Regulation (EU) 2015/2283 of the European Parliament and of the Council (OJ L 327, 11.12.2015, p.1).

(10) OJ L 165, 30.4.2004, p.1.

(11) S.S.I. 2003/291, relevant amending instrument S.S.I. 2014/312.

(12) OJ L 304, 22.11.2011, p.18, last amended by Regulation (EU) 2015/2283 of the European Parliament and of the Council (OJ L 327, 11.12.2015, p.1).

### **Amendment of the Specified Sugar Products (Scotland) Regulations 2003**

5.—(1) The Specified Sugar Products (Scotland) Regulations 2003(13) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 5 (labelling and description of specified sugar products), in the words before sub-paragraph (a), after “[Commission Regulation \(EC\) No. 608/2004](#), insert “, as last amended by Regulation (EU) 2015/2283 of the European Parliament and of the Council on novel foods(14)”.

(3) Omit regulation 10 (transitional provision).

### **Amendment of the Condensed Milk and Dried Milk (Scotland) Regulations 2003**

6.—(1) The Condensed Milk and Dried Milk (Scotland) Regulations 2003(15) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 2 (interpretation)—

(a) after the definition of “preparation” insert—

““Regulation (EU) No 1169/2011” means Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, as last amended by Regulation (EU) 2015/2283 of the European Parliament and of the Council on novel foods(16);”, and

(b) omit the definition of “the 1996 Regulations”.

(3) In regulation 5 (labelling and description of designated products) for “the generality of Part II of the 1996 Regulations,” substitute “Regulation (EU) No 1169/2011”.

(4) In regulation 6 (manner of marking or labelling) omit paragraph (1).

(5) In schedule 1, in paragraph 4 of the Notes, after “animal origin” insert “, as last amended by Commission Regulation (EU) 2017/1981 amending Annex III to Regulation (EC) No 853/2004 of the European Parliament and of the Council as regards temperature conditions during transport of meat(17),”.

### **Amendment of the Jam and Similar Products (Scotland) Regulations 2004**

7.—(1) The Jam and Similar Products (Scotland) Regulations 2004(18) are amended in accordance with paragraphs (2) to (8).

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

(a) omit the definition of “the 1996 Regulations”,

(b) after the definition of “ginger” insert—

““ingredient” has the same meaning as Article 2(2)(f) of Regulation (EU) No 1169/2011;

“labelling” has the same meaning as Article 2(2)(j) of Regulation (EU) No 1169/2011;”, and

(c) after the definition of “preparation” insert—

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(13) [S.S.I. 2003/527](#), relevant amending instrument [S.S.I. 2014/312](#).

(14) [OJ L 304](#), 22.11.2011, p.18, last amended by Regulation (EU) 2015/2283 of the European Parliament and of the Council ([OJ L 327](#), 11.12.2015, p.1).

(15) [S.S.I. 2003/311](#), relevant amending instruments are [S.I. 1998/1398](#) and [S.S.I. 2008/12](#).

(16) [OJ L 304](#), 22.11.2011, p.18, last amended by Regulation (EU) 2015/2283 of the European Parliament and of the Council ([OJ L 327](#), 11.12.2015, p.1).

(17) [OJ L 285](#), 1.11.2017, p.10.

(18) [S.S.I. 2004/133](#), relevant amending instruments are [S.I. 1998/1398](#), [S.S.I. 2009/436](#), [S.S.I. 2016/266](#).

““Regulation (EU) No 1169/2011” means Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, as last amended by Regulation (EU) 2015/2283 of the European Parliament and of the Council on novel foods(19);”.

- (3) In regulation 5(1) (labelling and description of specified jam or similar products)—
  - (a) omit “Without prejudice to the generality of Part II of the 1996 Regulations,”, and
  - (b) in sub-paragraph (b), for “the 1996 Regulations” substitute “Regulation (EU) No 1169/2011”.
- (4) In regulation 5(2) (labelling and description of specified jam or similar products)—
  - (a) omit “Without prejudice to the generality of Part II of the 1996 Regulations,”, and
  - (b) in sub-paragraph (c), for “Schedule 7 to the 1996 Regulations” substitute “Articles 30 to 35 of Regulation (EU) No 1169/2011”.
- (5) Omit regulation 6 (manner of marking or labelling).
- (6) In the heading of the first schedule (specified jam or similar products and their reserved descriptions) after “SCHEDULE” insert “1”.
- (7) In the heading of the second schedule (permitted additional ingredients and authorised treatments for the products described in items 1 to 7 of schedule 1) after “SCHEDULE” insert “2”.
- (8) In the second schedule—
  - (a) in paragraph 2(d), for “[Directive 95/2/EC](#) on food additives other than colours or sweeteners” substitute “Regulation (EU) No 1333/2008 of the European Parliament and of the Council on food additives(20).”

### **Amendment of the Food Hygiene (Scotland) Regulations 2006**

**8.**—(1) The Food Hygiene (Scotland) Regulations 2006(21) are amended in accordance with paragraph (2) to (3).

- (2) In regulation 2 (interpretation)—
  - (a) in paragraph (1) for “and Regulation 2015/1375” substitute “, “Regulation 2015/1375” and “Regulation 2017/2158(22)””, and
  - (b) in paragraph (5) after “Schedule 1” insert “, except Regulation 2017/2158,”.
- (3) In schedule 1 (definitions of EU legislation) after the definition of “Regulation 2074/2005” insert—
 

““Regulation (EU) 2017/2158” means Commission Regulation (EU) 2017/2158 establishing mitigation measures and benchmark levels for the reduction of the presence of acrylamide in food (23).”.

### **Amendment of the Fishery Products (Official Controls Charges) (Scotland) Regulations 2007**

**9.**—(1) The Fishery Products (Official Controls Charges) (Scotland) Regulations 2007(24) are amended in accordance with paragraph (2).

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(19) OJ L 304, 22.11.2011, p.18, last amended by Regulation (EU) 2015/2283 of the European Parliament and of the Council (OJ L 327, 11.12.2015, p.1).

(20) OJ L 354, 31.12.2008, p.16.

(21) [S.S.I. 2006/3](#).

(22) OJ 304, 21.11.2017, p.24.

(23) OJ L 281 31.10.2017, p.21.

(24) [S.S.I. 2007/537](#).

(2) In the schedule (definitions of EU legislation), at the end of the definition of “Regulation 2074/2005” insert “, as amended by Commission Regulation 2017/1973(25)”.

#### **Amendment of the Spreadable Fats, Milk and Milk Products (Scotland) Regulations 2008**

**10.**—(1) The Spreadable Fats, Milk and Milk Products (Scotland) Regulations 2008(26) are amended in accordance with paragraph (2).

(2) In regulation 2(1) (interpretation) in the definition of “Council Regulation 2013” for “the Regulation of the European Parliament and of the Council adopted on 16 December 2013” substitute “Regulation (EU) No 1308/2013 of the European Parliament and of the Council(27) as last amended by Regulation (EU) 2017/2393 of the European Parliament and of the Council(28)”.

#### **Amendment of the Fruit Juices and Fruit Nectars (Scotland) Regulations 2013**

**11.**—(1) The Fruit Juices and Fruit Nectars (Scotland) Regulations 2013(29) are amended in accordance with paragraphs (2) to (4).

(2) Omit regulation 21 (transitional provisions).

(3) In schedule 7, (specification for fruit nectar)—

(a) in paragraph 1 for “juice” substitute “product”, and

(b) in paragraph 2, before sub-paragraph (a), for “juices” substitute “products”.

(4) In schedule 9 (authorised additional substances) after paragraph 9 insert—

“**10.** Plant proteins for clarification from—

(a) wheat,

(b) peas,

(c) potatoes, or

(d) any combination of them.”.

#### **Amendment of the Products Containing Meat etc. (Scotland) Regulations 2014**

**12.**—(1) The Products Containing Meat etc. (Scotland) Regulations 2014(30) are amended in accordance with paragraph (2).

(2) In paragraph 1 of the schedule, in the definition of “curing salt”, in sub paragraph (c) for “Regulation (EC) No 1333/2008 of the European Parliament and of the Council on food additives” substitute “Regulation (EC) No 1333/2008 of the European Parliament and of the Council on food additives(31) as last amended by Commission Regulation (EU) 2018/1497(32)”.

#### **Amendment of the Country of Origin of Certain Meats (Scotland) Regulations 2016**

**13.**—(1) The Country of Origin of Certain Meats (Scotland) Regulations 2016(33) are amended in accordance with paragraph (2).

(2) In regulation 2(1) (interpretation) omit the definitions of:—

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(25) OJ L 281 31.10.2017, p.21.

(26) S.S.I. 2008/216, relevantly amended by S.I. 2013/3235.

(27) OJ L 347, 20.12.2013, p.671.

(28) OJ L 350, 29.12.2017, p.15.

(29) S.S.I. 2013/305.

(30) S.S.I. 2014/289.

(31) OJ L 354, 31.12.2008, p.16.

(32) OJ L 253, 9.10.2018, p.36.

(33) S.S.I. 2016/84.

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**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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- (a) “batch”,
- (b) “batch code”,
- (c) “mass caterer”, and
- (d) “trimmings”.

St Andrew’s House, Edinburgh  
5th February 2019

*JOE FITZPATRICK*  
Authorised to sign by the Scottish Ministers

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## EXPLANATORY NOTE

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

These Regulations make miscellaneous amendments to the Regulations described below.

Regulation 2 amends the Bread and Flour Regulations 1998 to update EU law references.

Regulation 3 amends the Coffee Extracts and Chicory Extracts (Scotland) Regulations 2001 to update EU law references and delete a spent transitional provision.

Regulations 4 and 5 amend the Cocoa and Chocolate Products (Scotland) Regulations 2003 and the Specified Sugar Products (Scotland) Regulations 2003, respectively, to update EU law references and delete spent transitional provisions.

Regulation 6 amends the Condensed Milk and Dried Milk (Scotland) Regulations 2003 to update EU law references.

Regulation 7 amends the Jam and Similar Products (Scotland) Regulations 2004 to update EU law references and to make some minor technical amendments.

Regulation 8 amends the Food Hygiene (Scotland) Regulations 2006 to update EU law references.

Regulation 9 amends the Fishery Products (Official Controls Charges) (Scotland) Regulations 2007 to implement [Commission Regulation \(EU\) No 2017/1973](#) amending Regulation (EC) No 2074/2005 (OJ L 338, 22.12.2005 p.27.).

Regulation 10 amends the Spreadable Fats, Milk and Milk Products (Scotland) Regulations 2008 to update EU law references.

Regulation 11 amends the Fruit Juices and Fruit Nectars (Scotland) Regulations 2013 to implement Commission Delegated Regulation (EU) No 1040/2014 (OJ L 288, 2.10.2014 p.1.) amending [Directive 2001/112/EC](#) (OJ L 10, 12.1.2002, p.58.), to delete spent transitional provision and to update EU law references.

Regulation 12 amends the Products Containing Meat etc. (Scotland) Regulations 2014 to update EU law references.

Regulation 13 amends the Country of Origin of Certain Meats (Scotland) Regulations 2016 to remove unnecessary provisions.

Food Standards Scotland do not consider that there will be any impact on businesses or local authorities regarding the proposed amendments except in relation to regulation 8 with regard to the mitigation measures and benchmark levels for the reduction of the presence of acrylamide in certain foods (Regulation (EU) No 2017/2158) so a Business and Regulatory Impact Assessment has only been carried out in respect of this and placed in the Scottish Parliament Information Centre. Copies may be obtained from Food Standards Scotland, Pilgrim House, Old Ford Road, Aberdeen, AB11 5RL.