

1990 No.1792 (S.171)

**FOOD**

**COMPOSITION**

**The Tryptophan in Food (Scotland) Regulations 1990**

*Made* - - - - - *29th August 1990*

*Laid before Parliament* *10th September 1990*

*Coming into force* *1st October 1990*

The Secretary of State, in exercise of the powers conferred on him by sections 4, 26(3) and 56 of the Food and Drugs (Scotland) Act 1956(a), it appearing to him to be necessary or expedient in the interests of the public health to make the following Regulations, after consultation in accordance with section 56(6) of the said Act with such organisations as appear to him to be representative of interests substantially affected by these Regulations, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Tryptophan in Food (Scotland) Regulations 1990 and shall come into force on 1st October 1990.

**Interpretation**

2. In these Regulations unless the context otherwise requires—

“the Act” means the Food and Drugs (Scotland) Act 1956;

“appropriate medical certificate” means a certificate in writing given by a registered medical practitioner that a person requires food to which tryptophan has been added to treat a condition from which a registered medical practitioner has diagnosed him to be suffering;

“food containing tryptophan” means food intended for human consumption which does not comply with paragraph (1) of regulation 3 in that tryptophan has been added to it otherwise than in accordance with paragraph (4)(a) of that regulation;

“hospital” includes a clinic, nursing home, or similar institution; and

“pharmacist” means a person lawfully conducting a retail pharmacy business within the meaning of section 69 of the Medicines Act 1968(b);

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(a) 1956 c.30; section 4(1) was amended by the European Communities Act 1972 (c.68), Schedule 4, paragraph 3(1); section 26(3) was amended by the Local Government (Scotland) Act 1973 (c.65), Schedule 27, Part II, paragraph 123(a) and by the Local Government and Planning (Scotland) Act 1982 (c.43), Schedule 4, Part I; section 56 was amended by the Weights and Measures Act 1963 (c.31), Schedule 9, Parts I and II; section 56 was also amended by the Criminal Justice Act 1982 (c.48), Schedule 15, paragraph 8; section 56(8A) was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), section 41 and is to be read with section 289GA(2) of the Criminal Procedure (Scotland) Act 1975 (c.21), as inserted by section 66 of the Criminal Justice (Scotland) Act 1987 (c.41).

(b) 1968 c.67.

“tryptophan” means dextrorotatory tryptophan, laevorotatory tryptophan, or racemic tryptophan, or any salt or peptide prepared from any of those forms, and references to adding tryptophan to food—

- (a) do not include references to adding food which contains only tryptophan occurring naturally in it to any other such food or to food which contains no tryptophan;
- (b) but otherwise include references to adding food to which tryptophan has been added to any other food.

#### **Prohibition on sale, etc of food containing Tryptophan**

3.—(1) Subject to paragraph (4) of this regulation, the addition of tryptophan to food intended for sale for human consumption is prohibited.

(2) Subject to paragraph (4) of this regulation, the sale or offer for sale of food containing tryptophan is prohibited.

(3) The exposure for sale of food containing tryptophan is prohibited.

(4) Food containing tryptophan may be sold or offered for sale by either a pharmacist or a person acting in the course of the activities of a hospital to a person in respect of whom there is an appropriate medical certificate or to someone acting on that person's behalf, and either a pharmacist or any such person acting in the course of the activities of a hospital may in those circumstances—

- (a) add tryptophan to food intended for sale for human consumption; and
- (b) sell, or offer for sale, food containing tryptophan for the purposes of its being sold for human consumption.

(5) A pharmacist or a person acting in the course of the activities of a hospital who contravenes or fails to comply with paragraph (2) of this regulation by reason only that a document purporting to be the appropriate medical certificate is not genuine does not commit an offence if, having exercised all due diligence, he has reasonable cause to believe that the document was an appropriate medical certificate.

#### **Certificate of public analyst**

4. Where any food is certified by a public analyst as having had tryptophan added to it the food may be treated for the purposes of section 9 of the Act (under which food may be seized) as being unfit for human consumption.

(2) In its application for the purposes of these Regulations, section 9(3) of the Act shall have effect as if after the words “he shall” there were inserted the words “if he is satisfied that it is intended for sale in contravention of regulation 3(2) of the Tryptophan in Food (Scotland) Regulations 1990”.

#### **Offences, penalties and enforcement**

5.—(1) Subject to paragraph (5) a person who contravenes or fails to comply with paragraphs (1), (2) or (3) of Regulation 3 of these Regulations shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum.

(2) Each islands and district council shall enforce and execute these Regulations in its area.

#### **Application of various provisions of the Food and Drugs (Scotland) Act 1956**

6.—(1) Subject to paragraphs (2) and (3) of this regulation, the following provisions of the Act shall apply for the purposes of these Regulations as if references therein to proceedings, or a prosecution, under or taken or brought under the Act included references to proceedings, or a prosecution, as the case may be, taken or brought for an offence under these Regulations:—

- (a) section 41(2), (3) and (5) (which relates to proceedings);
- (b) section 42(1) and (3) (which relates to evidence of analysis);
- (c) section 44 (which relates to analysis by the Government Chemist);
- (d) section 46 (which relates to a warranty pleaded as a defence); and
- (e) section 47 (which relates to offences in relation to warranties and certificates of analysis).

(2) In its application for the purposes of these Regulations section 44 of the Act shall apply for the purposes of these Regulations as if the reference therein to section 41(5) of the Act included a reference to that subsection as applied by paragraph (1) of this regulation.

St. Andrew's House, Edinburgh  
29th August 1990

*Sanderson of Bowden*  
Minister of State,  
Scottish Office

## EXPLANATORY NOTE

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

These Regulations, which apply to Scotland only, prohibit the addition of Tryptophan (an amino acid) to food intended for human consumption, and its consequent sale or supply (regulation 3(1) and (2)), subject to an exception for those who require the food on medical grounds (regulation 3(4)). These Regulations also prohibit the exposure for sale of food intended for human consumption containing added tryptophan (regulation 3(3)). Contravention of or failure to comply with these prohibitions is made an offence and provision is made for district and islands councils to enforce the Regulations (regulation 5). The Regulations also make provision for the application of specified procedural provisions of the Food and Drugs (Scotland) Act 1956 to these Regulations (regulation 6).

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