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STATUTORY INSTRUMENTS

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**2004 No. 2990**

**FOOD**

**The Food Safety Act 1990 (Amendment) Regulations 2004**

*Made* - - - - - *16th November 2004*  
*Laid before Parliament* *16th November 2004*  
*Coming into force* - - - *7th December 2004*

The Secretary of State, being a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to measures relating to food (including drink) including the primary production of food, in exercise of the powers conferred by the said section 2(2), after consultation as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council<sup>(3)</sup> 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, makes the following Regulations:

**Title, extent and commencement**

1.—(1) These Regulations may be cited as the Food Safety Act 1990 (Amendment) Regulations 2004; they extend to Great Britain and come into force on 7th December 2004.

(2) Regulation 7 also extends to Northern Ireland.

**Amendment of the Food Safety Act 1990**

2. The Food Safety Act 1990<sup>(4)</sup> shall be amended in accordance with regulations 3 to 6.

3. In section 1 (meaning of “food” and other basic expressions) for subsections (1) and (2) there shall be substituted the following subsections —

“(1) In this Act “food” has the same meaning as it has in Regulation (EC) No. 178/2002.

(2) In this Act “Regulation (EC) No. 178/2002” means Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and

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(1) S.I.2003/2901. As regards functions transferred to the Scottish Ministers by the Scotland Act 1998 (1998 c. 46), these Regulations extend to Scotland pursuant to section 57(1) of that Act.  
(2) 1972 c. 68.  
(3) OJ No. L31, 1.2.2002, p.1. That Regulation was last amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (OJ No. L245, 29.9.2003, p.4).  
(4) 1990 c. 16; section 1(2) was amended by paragraph 8 of Schedule 5 to the Food Standards Act 1999 (1999 c. 28) and was modified by S.I. 1994/3144; section 40 was amended by paragraphs 8 and 17 of Schedule 5, and by Schedule 6, to the 1999 Act; section 48 was amended by paragraphs 8 and 21 of Schedule 5 to the 1999 Act; section 53(2) was amended by paragraph 19 of Schedule 16 to the Deregulation and Contracting Out Act 1994 (1994 c. 40) and Schedule 6 to the 1999 Act.

requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.”.

4. In section 40 (power to issue codes of practice) —
  - (a) in subsection (4)(a) there shall be inserted at the beginning the words “subject to subsection (4B) below,”;
  - (b) after subsection (4A) there shall be inserted —

“(4B) Subsection (4)(a) above shall not apply in any case in which consultation is required by Article 9 of Regulation (EC) No. 178/2002.”.
5. In section 48 (regulations and orders) —
  - (a) in subsection (4) there shall be inserted at the beginning the words “Subject to subsection (4C) below,”;
  - (b) after subsection (4B) there shall be inserted —

“(4C) Subsection (4) above shall not apply in any case in which consultation is required by Article 9 of Regulation (EC) No. 178/2002.”.
6. In section 53(2) (general interpretation) —
  - (a) for the entry for “food” there shall be substituted —

“food	section 1(1)”;
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  - (b) after the entry for “public analyst” there shall be inserted —

“Regulation (EC) No. 178/2002	section 1(2)”.
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**Consequential amendment**

7. Paragraph (14) of regulation 9 of the Medicines for Human Use (Marketing Authorisations Etc.) Regulations 1994<sup>(5)</sup> (amendment of section 1 of the Food Safety Act 1990) shall be omitted.

Signed by authority of the Secretary of State for Health

16th November 2004

*Melanie Johnson*  
Parliamentary Under Secretary of State,  
Department of Health

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(5) S.I. 1994/3144, to which there are amendments not relevant to these Regulations.

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## EXPLANATORY NOTE

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

1. These Regulations amend the Food Safety Act 1990 (“the Act”). The amendments are occasioned by Regulation (EC) No. 178/2002 of the Council and European Parliament (OJ No. L31, 1.2.2002, p.1) 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.

2. The Regulations replace the existing definition of “food” in the Act with the definition which applies for the purposes of (EC) Regulation 178/2002 (regulation 3). That definition is to be found in Article 2 of that Regulation.

3. Pursuant to Article 4(2) and (3) of (EC) Regulation 178/2002 the Regulations also disapply provisions in sections 40 and 48 of the Act regarding public consultation in circumstances where similar provisions in Article 9 of (EC) Regulation 178/2002 require public consultation (regulations 4 and 5).

4. The Regulations also make consequential amendments to the general interpretation provisions in section 53 of the Act (regulation 6) and a consequential amendment to a redundant provision in the Medicines for Human Use (Marketing Authorisations Etc.) Regulations 1994 (regulation 7).

5. A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.