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STATUTORY INSTRUMENTS

2017 No. 62

FOOD, ENGLAND

FOOD SAFETY

The Food for Specific Groups (Information and Compositional Requirements) (England) (Amendment) Regulations 2017

Made - - - - *26th January 2017*

Laid before Parliament *2nd February 2017*

Coming into force - - *1st March 2017*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(1) and sections 16(1), 17(1) and (2), 26(1) and (3) and 48(1) of the Food Safety Act 1990(2).

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to—

- (a) food and drink intended for sale for human consumption including the presentation, packaging, labelling, marketing and advertising of such food and drink(3); and
- (b) measures relating to food (including drink) including the primary production of food(4).

So far as these Regulations are made in exercise of the powers conferred by the Food Safety Act 1990, the Secretary of State has had regard to relevant advice given by the Food Standards Agency in accordance with section 48(4A) of that Act(5).

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

(1) 1972 c. 68.

(2) 1990 c.16: Section 16(1) (to which there are amendments not relevant to these Regulations) was amended by paragraph 8 of Schedule 5 to the Food Standards Act 1999 (c.28) (“the 1999 Act”). Section 17 was amended by paragraphs 8 and 12 of Schedule 5 to the 1999 Act and S.I. 2011/1043. Section 26 was partially repealed by Schedule 6 to the 1999 Act. Section 48(1) was amended by paragraph 8 of Schedule 5 to the 1999 Act. Functions formerly exercisable by “the Ministers” (being, in relation to England and Wales and acting jointly, the Minister of Agriculture, Fisheries and Food and Secretaries of State respectively concerned with health in England and food and health in Wales and, in relation to Scotland, the Secretary of State) are now exercisable in relation to England by the Secretary of State pursuant to paragraph 8 of Schedule 5 to the 1999 Act.

(3) S.I. 2005/2766, to which there are amendments not relevant to these Regulations.

(4) S.I. 2003/2901, to which there are amendments not relevant to these Regulations.

(5) Section 48(4A) was inserted by paragraph 21 of Schedule 5 to the 1999 Act.

food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety⁽⁶⁾, during the preparation and evaluation of these Regulations.

Citation, application, commencement and interpretation

1.—(1) These Regulations may be cited as the Food for Specific Groups (Information and Compositional Requirements) (England) (Amendment) Regulations 2017.

(2) These Regulations apply in England only.

(3) These Regulations come into force on 1st March 2017.

(4) In these Regulations—

“the Act” means the Food Safety Act 1990;

“the 2016 Regulations” means the Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016⁽⁷⁾.

Amendment of regulation 4 of the 2016 Regulations

2. In regulation 4(5) of the 2016 Regulations, for “applies,” substitute “applies to an appeal against an improvement notice served in relation to a specified EU requirement”.

Amendment of Schedule 2 to the 2016 Regulations

3. Schedule 2 (modification of provisions of the Act) to the 2016 Regulations is amended as follows—

(a) in paragraphs 3, 6 and 7 for “Food for Specific Groups (Compositional and Information Requirements)” substitute “Food for Specific Groups (Information and Compositional Requirements)”;

(b) in Part 3 (modification of section 35)—

(i) before paragraph 7, insert—

“**6A.** In section 35(1), after “section 33(1) above”, insert “as applied by regulation 4(6) and (7) of the Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016,”;

(ii) for paragraph 8, substitute—

“**8.** In section 35(2), after “any other offence under this Act”, insert “including an offence under section 33(2), as applied by regulation 4(6) and (7) of the Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016,”.

Amendment of Schedule 3 to the 2016 Regulations

4. Schedule 3 (amendments of statutory instruments) to the 2016 Regulations is amended as follows—

(a) in the following paragraphs (modification of section 10(1) of the Act), for “state the officer’s grounds for suspecting”, substitute “state the officer’s grounds for believing”—

(6) OJ No L 31 1.2.2002, p 1, last amended by Regulation (EU) No 652/2014 of the European Parliament and of the Council (OJ No L 189, 15.05.2014, p 1).

(7) [S.I. 2016/688](#).

- (i) paragraph 1(j), in paragraph 1 of the inserted Schedule 3 (the Foods Intended for Use in Energy Restricted Diets for Weight Reduction Regulations 1997⁽⁸⁾);
 - (ii) paragraph 2(c), in paragraph 1 of the inserted Schedule (the Medical Food (England) Regulations 2000⁽⁹⁾);
 - (iii) paragraph 3(c), in paragraph 1 of the inserted Schedule 9 (the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (England) Regulations 2003⁽¹⁰⁾);
 - (iv) paragraph 4(c), in paragraph 1 of the inserted Schedule (the Infant Formula and Follow-on Formula (England) Regulations 2007⁽¹¹⁾);
 - (v) paragraph 5(c), in paragraph 1 of the inserted Schedule 2 (the Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (England) Regulations 2009⁽¹²⁾);
- (b) in the following paragraphs (modification of section 10(1) of the Act), omit “in England”—
- (i) paragraph 3(c), in paragraph 1 of the inserted Schedule 9;
 - (ii) paragraph 4(c), in paragraph 1 of the inserted Schedule;
 - (iii) paragraph 5(c), in paragraph 1 of the inserted Schedule 2;
- (c) in the following paragraphs (modification of section 39(1) of the Act), for “either cancel or affirm the notice”, substitute “either cancel or affirm the notice”—
- (i) paragraph 1(j), in paragraph 10 of the inserted Schedule 3;
 - (ii) paragraph 2(c), in paragraph 10 of the inserted Schedule;
 - (iii) paragraph 3(c), in paragraph 10 of the inserted Schedule 9;
 - (iv) paragraph 4(c), in paragraph 10 of the inserted Schedule;
 - (v) paragraph 5(c), in paragraph 10 of the inserted Schedule 2;
- (d) in paragraph 5(a) (new regulation 3A of the Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (England) Regulations 2009), in the inserted regulation 3A for “Part 1 of the Schedule” substitute “Part 1 of Schedule 2”.

Amendment of Schedule 4 to the 2016 Regulations

5. In Schedule 4 to the 2016 Regulations, for “the Co-ordination of Regulatory Enforcement (Enforcement Action) Order 2004”, substitute “the Co-ordination of Regulatory Enforcement (Enforcement Action) Order 2009”⁽¹³⁾.

⁽⁸⁾ S.I. 1997/2182 amended by S.I. 2016/688.

⁽⁹⁾ S.I. 2000/845, amended by S.I. 2007/3521, 2011/3012, 2016/688; there are other amending instruments that are not relevant.

⁽¹⁰⁾ S.I. 2003/3207, amended by S.I. 2007/2591, 2011/2131, 2014/1855, 2016/688.

⁽¹¹⁾ S.I. 2007/3521, amended by S.I. 2008/2445, 2011/1043, 2011/3012, 2013/3243, 2016/688.

⁽¹²⁾ S.I. 2009/3051, amended by S.I. 2011/1043, 2016/688.

⁽¹³⁾ S.I. 2009/665 amended by S.I. 2016/688.

Signed by the authority of the Secretary of State for Health.

26th January 2017

Nicola Blackwood
Parliamentary Under-Secretary of State
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016 (“the 2016 Regulations”), which make provision to enforce, in England, the requirements of Regulation (EU) No 609/2013 of the European Parliament and of the Council on the provisions of food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control, and also insert an alternative improvement notice enforcement regime alongside existing domestic criminal sanctions into various Regulations.

The 2016 Regulations provide for the enforcement of requirements specified by Regulation (EU) No 609/2013 by applying, with modifications, certain provisions of the Food Safety Act 1990 ([1990 c.16](#)), to the 2016 Regulations.

These Regulations make minor amendments to correct typographical errors in the 2016 Regulations, and to correctly apply a modified s.35 of the Food Safety Act 1990.