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SCOTTISH STATUTORY INSTRUMENTS

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**2007 No. 78**

**FOOD**

**The Food Supplements (Scotland)  
Amendment Regulations 2007**

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| <i>Made</i>                                    | - - - - | <i>14th February 2007</i> |
| <i>Laid before the Scottish<br/>Parliament</i> | - - - - | <i>15th February 2007</i> |
| <i>Coming into force</i>                       | - -     | <i>6th April 2007</i>     |

The Scottish Ministers, in exercise of the powers conferred by sections 16(1)(a) and (e) and 17(1) of the Food Safety Act 1990<sup>(1)</sup> and of all other powers enabling them in that behalf, having had regard in accordance with section 48(4A)(2) of that Act to relevant advice given by the Food Standards Agency and after 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>, hereby make the following Regulations:

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Food Supplements (Scotland) Amendment Regulations 2007 and come into force on 6th April 2007.

(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; section 17(1) was amended by the Food Standards Act 1999 (c. 28) (“the 1999 Act”), section 40(1) and Schedule 5, paragraphs 8 and 12(a); section 48(4) is disapplied in respect of these Regulations by virtue of section 48(4C), inserted by S.I. 2004/2990; amendments made by Schedule 5 to the 1999 Act shall be taken as pre commencement enactments for the purposes of the Scotland Act 1998 (c. 46) (“the 1998 Act”) by virtue of section 40(2) of the 1999 Act. The functions of the Secretary of State, 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, those 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).
- (2) Section 48(4A) was inserted by the 1999 Act, section 40(1) and Schedule 5, paragraph 21.
- (3) O.J. No. L 31, 1.2.02, p.1, as amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council amending Regulation (EC) No. 178/2002 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 (O.J. No. L 245, 29.9.03, p.4) and Commission Regulation (EC) No. 575/2006 of the European Parliament and of the Council as regards the number and names of the permanent Scientific Panels of the European Food Safety Authority (O.J. No. L 100, 8.4.06, p.3).

## **Amendment of the Food Supplements (Scotland) Regulations 2003**

**2.** The Food Supplements (Scotland) Regulations 2003<sup>(4)</sup> are amended in accordance with regulations 3 to 5.

**3.** In regulation 2(1) (interpretation), in the definition of “Directive 2002/46”, insert at the end “, as amended by Commission Directive [2006/37/EC](#)<sup>(5)</sup> amending Annex II to Directive [2002/46/EC](#) of the European Parliament and of the Council as regards the inclusion of certain substances”.

**4.** In Schedule 1 (vitamins and minerals which may be used in the manufacture of food supplements), in section 1 (vitamins), for “Folic acid”, substitute “Folate”.

**5.** In Schedule 2 (form of vitamin and mineral substances which may be used in the manufacture of food supplements)—

- (a) in section A (vitamins), at item 10, for the heading “FOLIC ACID”, substitute “FOLATE” and under that revised heading, after the entry relating to pteroylmonoglutamic acid, insert “(b) calcium-L-methylfolate”; and
- (b) in section B (minerals), before “Cupric carbonate”, insert “Ferrous bisglycinate”.

St Andrew’s House,  
Edinburgh  
14th February 2007

*LEWIS MACDONALD*  
Authorised to sign by the Scottish Ministers

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(4) [S.S.I. 2003/278](#), to which there are amendments not relevant to these Regulations.  
(5) O.J. No. L 94, 1.4.06, p.32.

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## EXPLANATORY NOTE

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

These Regulations amend the Food Supplements (Scotland) Regulations 2003 (“the 2003 Regulations”), which implement in Scotland Directive [2002/46/EC](#) of the European Parliament and of the Council on the approximation of the laws of the Member States relating to food supplements (O.J. No. L 183, 12.7.2002, p.51). These Regulations implement in Scotland Commission Directive [2006/37/EC](#) amending Annex II to Directive [2002/46/EC](#) as regards the inclusion of certain substances. Commission Directive [2006/37/EC](#) is the first instrument to amend Directive [2002/46/EC](#).

The 2003 Regulations prohibit the sale of a food supplement in the manufacture of which a vitamin or mineral has been used, unless that vitamin or mineral is listed in Schedule 1 to those Regulations and is in a form listed in Schedule 2 (“the positive lists”). This requirement is subject to a transitional provision (see regulation 5 of, and the Schedules to, the 2003 Regulations).

These Regulations—

- (a) add another form of the vitamin folate and another form of the mineral iron to the positive list in Schedule 2 to the 2003 Regulations (regulation 5);
- (b) make a consequential amendment (regulation 4); and
- (c) update the definition of “Directive 2002/46” in the 2003 Regulations (regulation 3).

A full regulatory impact assessment, which includes a compliance cost assessment of the effect which these Regulations would have on business costs, has been prepared for these Regulations and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Food Standards Agency (Scotland), 6th Floor, St Magnus House, 25 Guild Street, Aberdeen AB11 6NJ.