
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 307

FOOD

**The Nutrition and Health Claims
(Scotland) Amendment Regulations 2010**

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| <i>Made</i> | - - - - | <i>24th August 2010</i> |
| <i>Laid before the Scottish Parliament</i> | - - - - | <i>25th August 2010</i> |
| <i>Coming into force</i> | - - | <i>1st October 2010</i> |

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 16(1)(e) and (f), 17(2), 26(1)(a) and (3) and 48(1) of the Food Safety Act 1990⁽¹⁾, as read with paragraph 1A of Schedule 2 to the European Communities Act 1972⁽²⁾, and all other powers enabling them to do so.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Scottish Ministers that it is expedient for references to the Annex to the EU instrument mentioned in regulation 2 to be construed as references to that Annex as it may be amended from time to time.

In accordance with section 48(4A) of the Food Safety Act 1990 the Scottish Ministers have had regard to relevant advice given by the Food Standards Agency⁽³⁾.

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⁽⁴⁾.

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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 the Food Standards Act 1999 (c.28) (“the 1999 Act”), section 40(1) and Schedule 5, paragraph 8; section 17(2) was amended by the 1999 Act, section 40(1) and Schedule 5, paragraphs 8 and 12; section 26(3) was amended by the 1999 Act, section 40(4) and Schedule 6; 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. Insofar as not transferred and insofar as relating to food (including drink) including the primary production of food, 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) 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51) and amended by paragraph 1 of Schedule 1 to S.I. 2007/1388 and Part 1 of Schedule 1 to the European Union (Amendment) Act 2008 (c.7).
- (3) Section 48(4A) was inserted by the 1999 Act, Schedule 5, paragraph 21. Section 48(4) was disapplied in respect of these Regulations by virtue of section 48(4C) which was inserted by regulation 5(b) of the Food Safety Act 1990 (Amendment) Regulations 2004 (S.I. 2004/2990).
- (4) 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 (O.J. No. L 245, 29.9.2003, p.4), Commission Regulation (EC) No. 575/2006 (O.J. No. L 100, 8.4.2006, p.3), Commission Regulation (EC) No. 202/2008 (O.J. No. L 60, 5.3.2008, p.17) and Regulation (EC) No. 596/2009 of the European Parliament and of the Council (O.J. No. L 188, 18.7.2009, p.14).

Citation and commencement

1. These Regulations may be cited as the Nutrition and Health Claims (Scotland) Amendment Regulations 2010 and come into force on 1st October 2010.

Amendment to the Nutrition and Health Claims (Scotland) Regulations 2007

2. In regulation 2(1) (interpretation) of the Nutrition and Health Claims (Scotland) Regulations 2007⁽⁵⁾ for the definition of “the Regulation” substitute—

““the Regulation” means Regulation (EC) No. 1924/2006 of the European Parliament and of the Council on nutrition and health claims made on foods, as the Annex to that Regulation may be amended from time to time⁽⁶⁾.”.

St Andrew’s House,
Edinburgh
24th August 2010

SHONA ROBISON
Authorised to sign by the Scottish Ministers

⁽⁵⁾ S.S.I. 2007/383.

⁽⁶⁾ The full correct text of this Regulation is set out in a Corrigendum (O.J. No. L12, 18.1.2007, p.3). The Regulation was last amended by Commission Regulation (EC) No. 116/2010 (O.J. No. L37, 10.02.2010, p.16).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the definition of “the Regulation” contained in regulation 2 of the Nutrition and Health Claims (Scotland) Regulations 2007 (“the 2007 Regulations”). The effect of the amendment is that the reference in the 2007 Regulations to the Regulation now includes any subsequent amendments to its Annex, which consists of the list of authorised nutrition claims and conditions relating to their use.

A full business regulatory impact assessment has not been prepared for these Regulations as no impact on the voluntary or private sectors is foreseen.