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STATUTORY INSTRUMENTS

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**2007 No. 3521**

**FOOD, ENGLAND**

**The Infant Formula and Follow-on  
Formula (England) Regulations 2007**

*Made - - - - 13th December 2007*

*Laid before Parliament 20th December 2007*

*Coming into force in accordance with regulation 1*

The Secretary of State makes the following Regulations apart from regulations 2(6) and 24 in exercise of the powers conferred by sections 16(1)(e), 17(1), 26(1)(a) and (3) and 48(1) of the Food Safety Act 1990<sup>(1)</sup> and now vested in him<sup>(2)</sup>.

The Secretary of State makes regulations 2(6) and 24 in exercise of the powers conferred on him by section 2(2) of and paragraph 1A of Schedule 2 to the European Communities Act 1972<sup>(3)</sup>.

The Secretary of State has been designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to food (including drink) including the primary production of food<sup>(4)</sup>.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for any reference to an Annex to Commission Directive [2006/141/EC](#) on infant formulae and follow-on formulae and amending Directive [1999/21/EC](#)<sup>(5)</sup> to be construed as a reference to that Annex as amended from time to time.

In accordance with section 48(4A) of the Food Safety Act 1990, the Secretary of State has had regard to relevant advice given by the Food Standards Agency.

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- (1) [1990 c.16](#) section 1(1) and (2) (definition of “food”) was substituted by [S.I. 2004/2990](#). Sections 17 and 48 were amended by paragraphs 12 and 21 respectively of Schedule 5 to the Food Standards Act 1999 ([1999 c. 28](#)), “the 1999 Act”. Section 48 was also amended by [S.I. 2004/2990](#). Section 26(3) was amended by Schedule 6 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](#)), Schedule 6 to the 1999 Act and [S.I. 2004/2990](#).
- (2) Functions formerly exercisable by “the Ministers” (being, in relation to England and Wales and acting jointly, the Minister of Agriculture, Fisheries and Food and the 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. Those functions, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by [S.I. 1999/672](#) as read with section 40(3) of the 1999 Act and thereafter transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 ([2006 c.32](#)). Those functions, so far as exercisable in relation to Scotland, were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 ([1998 c.46](#)) as read with section 40(2) of the 1999 Act.
- (3) [1972 c.68](#). Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 ([2006 c.51](#)).
- (4) [S.I. 2003/2901](#).
- (5) OJNo. L401, 30.12.2006, p.1.

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>(6)</sup> there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

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<sup>(6)</sup> OJ No. L31, 1.2.2002, p.1, as last amended by Commission Regulation (EC) No. 575/2006 amending Regulation (EC) No. 178/2002 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 (OJ No. L100, 8.4.2006, p.3).