STATUTORY INSTRUMENTS

2024 No. 1162

FOOD, ENGLAND

The Bread and Flour (Amendment) (England) Regulations 2024

Made - - - -	*13th November 2024*
Laid before Parliament	*14th November 2024*
Coming into force in accordance with regulation 2	

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 6(4)(**a**), 16(1)(a) and (e)(**b**), 18(1)(c)(**c**), 26(1)(a) and (3)(**d**) and 48(1)(**e**) of the Food Safety Act 1990(**f**) and now vested in the Secretary of State(**g**).

The Secretary of State has had regard to relevant advice from the Food Standards Agency in accordance with section 48(4A)(**h**) of the Food Safety Act 1990.

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(**i**), during the preparation and evaluation of these Regulations.

Citation, interpretation, extent and application

1.—(1) These Regulations may be cited as the Bread and Flour (Amendment) (England) Regulations 2024.

(2) In these Regulations, "the Bread and Flour Regulations" means the Bread and Flour Regulations 1998(**j**).

(3) These Regulations extend to England and Wales but apply in relation to England only.

(**a**) Section 6(4) was amended by paragraph 6 of Schedule 9 to the Deregulation and Contracting Out Act 1994 (c. 40), paragraph 10(1) and (3) of Schedule 5, and Schedule 6, to the Food Standards Act 1999 (c. 28) ("the 1999 Act") and S.I. 2002/794.
(**b**) Section 16(1) was amended by paragraph 8 of Schedule 5 to the 1999 Act.
(**c**) Section 18(1) was amended by paragraphs 7 and 8 of Schedule 5 to the 1999 Act.
(**d**) Section 26(3) was amended by Schedule 6 to the 1999 Act.
(**e**) Section 48(1) was amended by paragraph 8 of Schedule 5 to the 1999 Act.
(**f**) 1990 c. 16.
(**g**) 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.
(**h**) Section 48(4A) was inserted by paragraph 21 of Schedule 5 to the 1999 Act.
(**i**) EUR 2002/178, to which there are amendments not relevant to these Regulations.
(**j**) S.I. 1998/141; relevant amending instruments are S.I. 2014/1855, 2018/575, 2021/616.

Commencement

2.—(1) The following provisions of these Regulations come into force on 13th December 2024—

(a) regulation 1 and this regulation;

(b) regulation 3, paragraph (1), for the purpose of commencing the provisions of that regulation mentioned in sub-paragraph (c);

(c) regulation 3, paragraphs (2) to (5) and paragraph (8).

(2) The following provisions of these Regulations come into force on 13th December 2026—

(a) regulation 3, paragraph (1), for the purpose of commencing the provisions of that regulation mentioned in sub-paragraph (b);

(b) regulation 3, paragraphs (6) and (7).

Amendment of the Bread and Flour Regulations

3.—(1) The Bread and Flour Regulations are amended in accordance with the following paragraphs.

(2) In regulation 2(1) (interpretation)(**a**)—

(a) after the definition of "bread", insert—

""common wheat" means Triticum aestivum L.;";

(b) omit the definition of "flour treatment agent";

(c) after the definition of "third country", insert—

""wholemeal flour" means the flour consisting of the whole of the product obtained from the milling or grinding of cleaned cereals.".

(3) In regulation 4 (composition of flour)(**b**)—

(a) in paragraph (1)—

(i) for the words "paragraph (2)" substitute "paragraphs (1A) and (2)",

(ii) before the word "wheat" insert "common";

(b) after paragraph (1), insert—

"(1A) The requirements specified in paragraph (1) shall not apply to—

(a) wholemeal flour; or

(b) flour produced by a small mill which is a production site which has—

(i) a maximum annual production capacity of 500 metric tonnes of flour, and

(ii) produced less than 500 metric tonnes of flour for each of the last three calendar years.";

(c) in paragraph (2) omit sub-paragraph (a);

(d) for paragraph (3) substitute—

"(3) The substances specified in items 2-4 of Schedule 1 shall be added where such addition is necessary in accordance with the conditions prescribed in column 2 of that Schedule.".

(4) Omit regulation 7 (offences and penalties).

(5) For regulation 10 (application of various sections of the Act) substitute—

(**a**) Regulation 2 was amended by S.I.2014/1855, S.I. 2018/575 and S.I. 2021/616.
(**b**) There are amendments to regulation 4 none of which is relevant.

"Application and modification of provisions of the Act

10. For the purposes of these Regulations, the provisions of the Act specified in column 1 of the table in Schedule 5 apply and are to have effect subject to the modifications specified in column 2 of that table."

(6) After regulation 10, insert—

"Transitional provisions

10A. An authorised officer of a food authority must not serve an improvement notice under section 10(1) of the Act, as applied and modified by regulation 10 and Schedule 5, if—

(a) the improvement notice would relate to a product that was placed on the market or labelled before 13th December 2026; and

(b) the matters constituting the alleged contravention would not have constituted an offence under the Bread and Flour Regulations as they applied immediately before 13th December 2026.".

(7) For Schedule 1 substitute the following—

"SCHEDULE 1 Regulation 4(1) to (3)

Essential Ingredients of Flour

	Column 1 *Substance*	*Column 2* *Required quantity, in milligrams per hundred grams of flour, and conditions of use*
(1)	Calcium carbonate	(a) not less than 300, and (b) not more than 455, (c) conforming with the criteria for E 170 calcium carbonate in the Annex to Commission Regulation (EU) 231/2012 laying down specifications for food additives listed in Annexes 2 and 3 to Regulation (EC) No 1333/2008 of the European Parliament and of the Council(**a**).
(2)	Iron	(a) not less than 2.10, (b) in the form of any, or any combination of two or more, of the following— (i) ferric ammonium citrate conforming to the criteria in the monograph for ferric ammonium citrate contained in the British Pharmacopoeia 1973 at page 201; (ii) ferrous sulphate conforming to the criteria in the monograph for ferrous sulphate heptahydrate contained in the British Pharmacopoeia 2023 at page I-1037; (iii) dried ferrous sulphate conforming to the criteria in the monograph for dried ferrous sulphate contained in the British Pharmacopoeia 2023 at page I-1036; (iv) iron powder conforming to the description, specification and requirements contained in Schedule

(**a**) EUR 2012/231.

		2.
(3)	Thiamin (Vitamin B1)	(a) not less than 0.24, (b) in a form conforming to the criteria in the monograph for thiamin hydrochloride contained in the British Pharmacopoeia 2023 at page II-1129.
(4)	Niacin	(a) not less than 2.40, (b) in a form conforming to the criteria in the monograph for nicotinic acid contained in the British Pharmacopoeia 2023 at page II-404, or in a form conforming to the criteria in the monograph for nicotinamide contained in the British Pharmacopoeia 2023 at page II-399.
(5)	Folic Acid	(a) 0.250, (b) in the form of pteroylmonoglutamic acid conforming to the criteria in the monograph for folic acid hydrate contained in the British Pharmacopoeia 2023 at page I-1110".

(8) After Schedule 4 insert the following—

"SCHEDULE 5

Regulation 10

Application and modification of provisions of the Act

Column 1 *Provision of the Act*	*Column 2* *Modifications*
Section 3 (presumptions that food intended for human consumption)	In subsection (1), for "this Act" substitute "the Bread and Flour Regulations 1998".
Section 10(1) and (2) (improvement notices)	For subsection (1) (improvement notices) substitute— "(1) If an authorised officer of a food authority has reasonable grounds for believing that a person is failing to comply with any of regulations 4 to 6 of the Bread and Flour Regulations 1998, the authorised officer may, by a notice served on that person (in this Act referred to as an "improvement notice")— (a) state the officer's grounds for believing that the person is failing to comply with the relevant provision; (b) specify the matters which constitute the person's failure so to comply; (c) specify the measures which, in the officer's opinion, the person must take in order to secure compliance; and (d) require the person to take those measures, or measures that are at least equivalent to them, within such period (not being less than 14 days) as may be specified in the notice. (1A) If an authorised officer of a food authority has reasonable grounds for

	believing that a person is failing to comply with regulation 4(4) of the Bread and Flour Regulations 1998 due to an act or default of some other person, the authorised officer may, by a notice served on that other person (in this Act referred to as an "improvement notice")— (a) state the officer's grounds for believing there has been a failure to comply with regulation 4(4); (b) specify the matters which constitute the act or default which have caused the failure so to comply; (c) specify the measures which, in the officer's opinion, the person served must take in order to secure compliance; and (d) require that person to take those measures, or measures that are at least equivalent to them, within such period (not being less than 14 days) as may be specified in the notice.".
Section 20 (offences due to fault of another person)	For "any of the preceding provisions of this Part" substitute "section 10(2), as applied by regulation 10 of, and Schedule 5 to, the Bread and Flour Regulations 1998,".
Section 21(1) and (5) (defence of due diligence)	In subsection (1), for "any of the preceding provisions of this Part" substitute "section 10(2), as applied by regulation 10 of, and Schedule 5 to, the Bread and Flour Regulations 1998".
Section 30(8) (evidence of certificates given by a food analyst or examiner)	For "this Act" substitute "the Bread and Flour Regulations 1998".
Section 33 (obstruction etc. of officers)	In subsection (1), for "this Act" (in each place occurring) substitute "the Bread and Flour Regulations 1998".
Section 35(1)(**a**) and (2)(**b**) (punishment of offences)	In subsection (1), after "section 33(1) above", insert ", as applied and modified by regulation 10 of, and Schedule 5 to, the Bread and Flour Regulations 1998". After subsection (1), insert— "(1A) A person guilty of an offence under section 10(2), as applied by regulation 10 of, and Schedule 5 to, the Bread and Flour Regulations 1998 shall be liable, on summary conviction, to a fine.". In subsection (2) for "any other offence under this Act" substitute "an offence under section 33(2), as applied by regulation 10 of, and Schedule 5 to, the Bread and Flour Regulations 1998,".
Section 36 (offences by body corporate)	In subsection (1), for "this Act" substitute

(**a**) Section 35(1) is amended by paragraph 42 of Schedule 26 to the Criminal Justice Act 2003 (c.44) from a date to be appointed. There are other amendments to section 35(1) not relevant to these Regulations.

(**b**) Section 35(2) was amended by S.I. 2015/664. There are other amendments to section 35(2) not relevant to these Regulations.

	"section 10(2), as applied by regulation 10 of, and Schedule 5 to, the Bread and Flour Regulations 1998.".
Section 36A(**a**) (offences by Scottish partnerships)	For "this Act" substitute "section 10(2), as applied by regulation 10 of, and Schedule 5 to, the Bread and Flour Regulations 1998,".
Section 37(1) and (6) (appeals)	For subsection (1) substitute— "(1) Any person who is aggrieved by a decision of an authorised officer of a food authority to serve an improvement notice under section 10(1), as applied and modified by regulation 10 of, and Schedule 5 to, the Bread and Flour Regulations 1998, may appeal to the First-tier Tribunal.". In subsection (6)— (a) for "(3) or (4)" substitute "(1)", and (b) in paragraph (a), for "a magistrates' court or to the sheriff" substitute "the First-tier Tribunal".
Section 39 (appeals against improvement notices)	For subsection (1) substitute— "(1) On an appeal against an improvement notice served under section 10(1), as applied and modified by regulation 10 of, and Schedule 5 to, the Bread and Flour Regulations 1998, the First-tier Tribunal may either cancel or affirm the notice and, if it affirms it, may do so either in its original form or with such modifications as the First-tier Tribunal may in the circumstances think fit.". In subsection (3), omit "for want of prosecution".
Section 44 (protection of officers acting in good faith)	For "this Act" (in each place occurring) substitute "the Bread and Flour Regulations 1998"."

Daniel Zeichner
Minister of State
13th November 2024 Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

(**a**) Section 36A was inserted by paragraph 16 of Schedule 5 to the Food Standards Act 1999 (c. 28).

These Regulations amend the Bread and Flour Regulations 1998 (S.I. 1998/141) ("the 1998 Regulations").

Regulation 3(2) introduces definitions of "common wheat" and "wholemeal flour" to the 1998 Regulations.

Regulation 3(3) and (7) make changes to the essential ingredients of flour in Schedule 1 to the 1998 Regulations to provide for the mandatory addition of folic acid and changes to the required quantities of calcium carbonate, iron and niacin. There are exemptions provided for wholemeal flour and flour produced by a small mill.

Regulation 3(4), (5), and (8) revoke regulation 7 and substitute regulation 10 of the 1998 Regulations in relation to offences and penalties and the application and modification of certain sections of the Food Safety Act 1990 (c.16). Provision is made for the application and modification of certain sections of that Act as set out in a new Schedule 5 to the 1998 Regulations to provide for enforcement by way of improvement notices and for the offence of failing to comply with an improvement notice.

Regulation 3(6) makes transitional provision to enable stocks lawfully placed on the market or labelled before 13th December 2026 to continue to be sold until exhausted.

A de minimis assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector has been prepared and is published on legislation.gov.uk.

The British Pharmacopeia 1973 and 2023, referred to in Schedule 1, may, for 1973, be inspected at the British Library Lending Division Boston Spa, Wetherby, West Yorkshire, L23 7BQ Tel 01937 546 060 and, for 2023, at shelfmark (B) 615.1141 in the Science 3 Reading Room, British Library, St Pancras site, 96 Euston Road, London, NW1 2DB.

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