STATUTORY INSTRUMENTS

2005 No. 899

FOOD, ENGLAND

The Food Labelling (Amendment) (England) Regulations 2005

Made - - - -	*22nd March 2005*
Laid before Parliament	*24th March 2005*
Coming into force	*20th May 2006*

The Secretary of State, in exercise of the powers conferred by sections 16(1)(e) and (f), 17(1), 26(1) and (3) and 48(1) of the Food Safety Act 1990(**a**) and now vested in him(**b**), having had regard in accordance with section 48(4A) 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(**c**) 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, makes the following Regulations:

Title, application and commencement

1. These Regulations may be cited as the Food Labelling (Amendment) (England) Regulations 2005; they apply in relation to England only and come into force on 20th May 2006.

Amendment of the Food Labelling Regulations 1996

2. The Food Labelling Regulations 1996(**d**) shall be amended (in so far as they apply in relation to England) in accordance with regulations 3 to 8.

3. In regulation 2(1) (interpretation), in the definition of "Directive 94/54" there shall be inserted at the end the words "and Commission Directive 2004/77/EC(**e**)".

4. In regulation 23(2A) (food which is not prepacked and similar food, and fancy confectionery products) there shall be inserted at the end the expression "or regulation 34C".

(**a**) 1990 c.16; section 1(1) and (2) (definition of "food") was substituted by S.I. 2004/2990; section 53(2) was amended by Schedule 6 to the Food Standards Act 1999 (1999 c. 28) and S.I. 2004/2990.

(**b**) 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 Food Standards Act 1999 and paragraphs 12 and 21 of that Schedule amend respectively sections 17(1) and 48 of the 1990 Act. Section 48 was also amended by S.I. 2004/2990. Functions of "the Ministers" so far as exercisable in relation to Wales were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) as read with section 40(3) of the 1999 Act and 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. Regulation 13(4) of S.I. 2000/656 expressly authorises the Secretary of State to amend existing Regulations made by the Minister of Agriculture, Fisheries and Food (whether with others or not) under the 1990 Act.

(**c**) OJ No. L31, 1.2.2002, p.1. That Regulation was last amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (OJ No. L245, 29.9.2003, p.4).

(**d**) S.I. 1996/1499; the relevant amending instruments are S.I. 1998/1398, 1999/747, 1136, 1483, 2000/768, 2254, 2003/474, 2075, 2647, 2004/2824.

(**e**) OJ No. L162, 30.4.2004, p.76.

5. In regulation 26 (small packages and certain indelibly marked bottles), in paragraphs (1)(a)(ii) and (3A) for the words "regulations 33 and 34" there shall be substituted the words "regulations 33, 34 and 34C".

6. In regulation 27(1) (certain food sold at catering establishments), for the words "regulations 32, 33, 34 and 34B" there shall be substituted the words "regulations 32, 33, 34, 34B and 34C".

7. After regulation 34B (foods containing allergenic ingredients or ingredients originating from allergenic ingredients) there shall be inserted the following regulation—

"Confectionery and drinks containing glycyrrhizinic acid or its ammonium salt

34C.—(1) This regulation applies to any confectionery or drink which contains glycyrrhizinic acid or its ammonium salt as a result of the addition of that acid or salt as such or of the liquorice plant *Glycyrrhiza glabra*, and references in this regulation to "relevant concentration" are to the concentration of that acid or salt in the food—

(a) manufactured as ready for consumption or,

(b) if it is not so manufactured, as reconstituted according to its manufacturer's instructions.

(2) In the case of —

(a) any confectionery which contains a relevant concentration of at least 100mg/kg but less than 4 g/kg,

(b) any drink which contains more than 1.2 per cent by volume of alcohol and a relevant concentration of at least 10 mg/l but less than 300 mg/l, and

(c) any drink which does not contain more than 1.2 per cent by volume of alcohol and which contains a relevant concentration of at least 10 mg/l but less than 50 mg/l,

that food shall be marked or labelled with the indication "contains liquorice", unless the term "liquorice" appears in the list of ingredients or in the name of the food.

(3) In the case of —

(a) any confectionery which contains a relevant concentration of at least 4g/kg,

(b) any drink which contains more than 1.2 per cent by volume of alcohol and a relevant concentration of at least 300 mg/l, and

(c) any drink which does not contain more than 1.2 per cent by volume of alcohol and which contains a relevant concentration of at least 50 mg/l,

that food shall be marked or labelled with the indication "contains liquorice – people suffering from hypertension should avoid excessive consumption".

(4) The indications required by paragraphs (2) and (3) of this regulation shall appear immediately after the list of ingredients or, in the absence of such a list, near the name of the food.".

8. In regulation 50 (transitional provision), there shall be inserted at the end the following paragraph —

"(13) In any proceedings for an offence under regulation 44(1)(a), it shall be a defence to prove that —

(a) the food concerned was marked or labelled before 20th May 2006; and

(b) the matters constituting the alleged offence would not have constituted an offence under these Regulations if the amendment made by regulation 7 of the Food Labelling (Amendment) (England) Regulations 2005 had not been in operation when the food was sold.".

Signed by authority of the Secretary of State for Health

Melanie Johnson
Parliamentary Under Secretary of State,
Department of Health

22nd March 2005

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations further amend the Food Labelling Regulations 1996 in so far as they apply in relation to England. Those Regulations extend to the whole of Great Britain. These Regulations implement in England Commission Directive 2004/77/EC amending Directive 94/54/EC as regards the labelling of certain foods containing glycyrrhizinic acid and its ammonium salt (OJ No. L162, 30.4.2004, p.76).

2. Glycyrrhizinic acid occurs naturally in the liquorice plant, and its ammonium salt is manufactured from aqueous extracts of that plant. These Regulations require confectionery and drinks containing certain levels of that acid or salt to be labelled with the indication "contains liquorice" and for this to be coupled with a warning in certain cases (regulation 7). There are exemptions from these labelling requirements in the case of food which is not prepacked, food which is prepacked for direct sale, fancy confectionery products, small packages and certain indelibly marked glass bottles (regulations 4 to 6). These Regulations also contain a transitional provision (regulation 8) and update the definition of "Directive 94/54" (regulation 3).

3. A full regulatory impact assessment of the effect that these Regulations will have on the costs of business has been prepared and placed in the Library of each House of Parliament together with a Transposition Note setting out how the main elements of Directive 2004/77/EC are transposed in these Regulations. Copies may be obtained from the Consumer Choice, Food Standards and Special Projects Division of the Food Standards Agency, Aviation House, 125 Kingsway, London WC2B 6NH.

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