STATUTORY INSTRUMENTS

1999 No. 1483

FOOD

The Food Labelling (Amendment) (No. 2) Regulations 1999

Made - - - -	*25th May 1999*
Laid before Parliament	*4th June 1999*
Coming into force	*30th June 1999*

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Health and the Secretary of State for Wales, acting jointly, in relation to England and Wales, and the Secretary of State for Scotland in relation to Scotland, in exercise of the powers conferred on them by sections 6(4), 16(1)(e) and (f), 17(1), 26(1) and (3) and 48(1) of the Food Safety Act 1990**(a)** and of all other powers enabling them in that behalf, hereby make the following Regulations, after consultation in accordance with section 48(4) of that Act with such organisations as appear to them to be representative of interests likely to be substantially affected by the Regulations:

Title and commencement

1. These Regulations may be cited as the Food Labelling (Amendment) (No. 2) Regulations 1999 and shall come into force on 30th June 1999.

Amendment of the Food Labelling Regulations 1996

2. The Food Labelling Regulations 1996**(b)** shall be amended in accordance with regulations 3 to 7 of these Regulations.

3. In regulation 2(1) (interpretation) there shall be inserted in the definition of "Directive 79/112" at the end the words "and Commission Directive 1999/10/EC**(c)** providing for derogations from the provisions of Article 7 of Council Directive 79/112/EEC as regards the labelling of foodstuffs".

4. In regulation 3(5) (exemptions) there shall be substituted for the words "and regulation 41" the words "and regulation 42(1)".

5. In regulation 19 (indication of quantities of certain ingredients or categories of ingredients)–

(a) in paragraph (1) there shall be substituted for the words "paragraph (2) of" the words "paragraphs (2) and (2A) of";

(b) after paragraph (2) there shall be inserted the following paragraph–

"(2A) Sub-paragraphs (a) and (b) of paragraph (1) of this regulation shall not apply in the case of–

(a) any ingredient or category of ingredients covered by the indication "with sweetener(s)" or "with sugar(s) and sweetener(s)" if that indication accompanies the name of the food pursuant to regulation 34; or

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(a) 1990 c. 16; "the Ministers" is defined in section 4(1) of the Act; section 6(4)(a) of the Act was amended by the Deregulation and Contracting Out Act 1994 (c. 40), Schedule 9, paragraph 6.

(b) S.I. 1996/1499, the relevant amending instruments are S.I. 1998/1398, 1999/747, 1136.

(c) OJ No. L69, 16.3.1999, p. 22.

(b) any added vitamin or mineral if that substance is the subject of nutrition labelling relating to the food in question.";

(c) in paragraph (3)(a) there shall be inserted at the beginning the words "subject to paragraph (4) of this regulation,";

(d) at the end there shall be inserted the following paragraph–

"(4) Notwithstanding sub-paragraph (a) of paragraph (3) of this regulation–

(a) where the food has lost moisture as a result of treatment, the indication of quantity of the ingredient or category of ingredients used shall be expressed as a percentage which shall be determined by reference to the finished product unless that quantity, or the total quantity of the ingredients or categories of ingredients indicated, would exceed 100%, in which case the indication of quantity shall be on the basis of the weight of the ingredient or category of ingredients used to prepare 100g of the finished product;

(b) the indication of quantity of a volatile ingredient or category of volatile ingredients used shall be on the basis of its proportion by weight in the finished product;

(c) the indication of quantity of an ingredient or category of ingredients which has been used in concentrated or dehydrated form and which is reconstituted during preparation of the food may be on the basis of its proportion by weight before concentration or dehydration;

(d) where the food is in concentrated or dehydrated form and is intended to be reconstituted by the addition of water as directed in the labelling of the food, the indication of quantity of the ingredient or category of ingredients may be on the basis of its proportion by weight in the food when reconstituted as so directed.".

6. In regulation 26 (small packages and certain indelibly marked bottles) there shall be substituted for paragraph (3A) the following paragraph–

"(3A) The other particulars for the purposes of paragraph (3) of this regulation are those specified in regulation 32 and, in the case of any food to which paragraph (1) of this regulation applies, the particulars specified in regulations 33 and 34 and the GMO particulars.".

7. In regulation 50 (transitional provision) there shall be inserted at the end the following paragraph–

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

(a) the food concerned was prepacked before 14th February 2000, and

(b) the matters constituting the offence would not have constituted an offence under these Regulations if the amendments made by regulations 3, 5(c) and (d) and 6 of the Food Labelling (Amendment) (No. 2) Regulations 1999 had not been made when the food was prepacked.".

Jeff Rooker
Minister of State,
21st May 1999 Ministry of Agriculture, Fisheries and Food

Signed by authority of the Secretary of State for Health:

Tessa Jowell
Minister of State for Public Health,
24th May 1999 Department of Health

Signed by authority of the Secretary of State for Wales:

Jon Owen Jones
Parliamentary Under Secretary of State,
Welsh Office

25th May 1999

Sewel
Parliamentary Under Secretary of State,
Scottish Office

24th May 1999

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to Great Britain, amend the Food Labelling Regulations 1996, as amended ("the principal Regulations"). The Regulations implement Commission Directive 1999/10/EC providing for derogations from the provisions of Article 7 of Council Directive 79/112/EEC as regards the labelling of foodstuffs.

The principal Regulations require the quantity of certain ingredients or categories of ingredients of a food to be indicated (regulations 5(bA) and 19 of those Regulations). These Regulations–

(a) remove that obligation in the case of sweeteners, sugars, vitamins or minerals used in the preparation of a food in certain circumstances (regulation 5);

(b) provide some derogations from the existing method for calculating the quantity of ingredients or categories of ingredients (regulation 5);

(c) make a consequential amendment (regulation 3) and contain a transitional provision (regulation 7).

These Regulations also require prepacked food sold or supplied as an individual portion and intended as a minor accompaniment to another food or another service to be marked or labelled with particulars relating to packaging gases, added sweeteners or added sugars, unless exempted under regulation 26(1) of the principal Regulations (regulations 6 and 7). This implements Commission Directive 94/54/EC (OJ No. L300, 23.11.94, p. 14) concerning the compulsory indication on the labelling of certain foodstuffs of particulars other than those provided for in Directive 79/112/EEC, as amended by Council Directive 96/21/EC (OJ No. L88, 5.4.96, p. 5) and as read with Article 11(4) of Directive 79/112/EEC (OJ No. L33, 8.2.79, p. 1).

The Regulations also make a minor correction (regulation 4).

A Regulatory Impact Assessment has been prepared and placed in the Library of each House of Parliament. Copies may be obtained from the Food Labelling and Standards Division of the Ministry of Agriculture, Fisheries and Food, Ergon House, c/o Nobel House, 17 Smith Square, London SW1P 3JR.

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