SCOTTISH STATUTORY INSTRUMENTS

2025 No. 303

FOOD

PUBLIC HEALTH

The Food (Promotion and Placement) (Scotland) Regulations 2025

Made - - - -	*29th October 2025*
Laid before the Scottish Parliament	*31st October 2025*
Coming into force - -	*1st October 2026*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 6(4), 16(1)(e) and (f), 26(3) and 48(1) of the Food Safety Act 1990(**a**) ("the 1990 Act"), section 52 of the Food (Scotland) Act 2015(**b**) ("the 2015 Act") and all other powers enabling them to do so.

In accordance with 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(**c**), the Scottish Ministers have consulted during the preparation, evaluation and revision of food law contained in these Regulations.

In accordance with section 48(4A)(**d**) of the 1990 Act and section 50(1)(a) of the 2015 Act, the Scottish Ministers have had regard to relevant advice given by Food Standards Scotland.

(**a**) 1990 c. 16. The definition of "food" in section 1 of the 1990 Act was amended by S.I. 2004/2990 to incorporate the definition of food in 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 ("Regulation (EC) No 178/2002"). Section 6(4) was amended by paragraph 6 of schedule 9 of the Deregulation and Contracting Out Act 1994 (c. 40), paragraph 10(3) of schedule 5 of the Food Standards Act 1999 (c. 28) ("the 1999 Act") and S.I. 2002/794. Section 6(4A) was inserted by paragraph 3(2) of the schedule of the 2015 Act. Section 16(1) and section 48(1) of the 1990 Act were amended by paragraph 8 of schedule 5 of the 1999 Act. Section 26(3) was amended by paragraph 1 of schedule 6 of the 1999 Act. Amendments made by schedule 5 of the 1999 Act which extend to Scotland are to be taken as pre-commencement enactments for the purposes of the Scotland Act 1998 (c. 46) (the "Scotland Act") by virtue of section 40(2) of the 1999 Act. The functions conferred on the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act. S.I. 2005/849 transferred functions under the 1990 Act to the Scottish Ministers, to enable Scottish Ministers to regulate to the full extent of the definition of food incorporated by S.I. 2004/2990. S.I. 2014/1559 subsequently modified Schedule 5 of the Scotland Act, to amend the legislative competence of the Scottish Parliament, by amending references to "food" and to the 1990 Act, so that food is defined by reference to the definition in Regulation (EC) No 178/2002.

(**b**) 2015 asp 1. Section 52 of the 2015 Act provides the Scottish Ministers with a power to specify in regulations offences under food legislation as relevant offences. The definitions of "relevant offence" and "specified" in section 52 of the 2015 Act, and the definition of "food legislation" in section 57, are relevant to the exercise of these powers.

(**c**) EUR 2002/178, to which there are amendments, but none are relevant to these Regulations.

(**d**) Section 48(4A) was inserted by paragraph 21 of schedule 5 of the Food Standards Act 1999 (c. 28). Section 48(6) provides that references to the Food Standards Agency in section 48 are to be read as references to Food Standards Scotland in its application to Scotland. Section 48(6) was inserted by paragraph 3 of schedule 1 of the 2015 Act.

Citation and commencement

1. These Regulations may be cited as the Food (Promotion and Placement) (Scotland) Regulations 2025 and come into force on 1 October 2026.

Interpretation

2.—(1) In these Regulations—

"consumer" has the meaning given in section 2(3) of the Consumer Rights Act 2015(**a**),

"food" has the meaning given in section 1(1) of the Food Safety Act 1990(**b**),

"online marketplace" means any software (including a website, part of a website or an application) that is used to offer the qualifying business's products for sale to consumers,

"prepacked food item" means an item referred to in Article 2(2)(e) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers(**c**),

"qualifying business" has the meaning given in regulation 4,

"qualifying person" means a person acting in the course of carrying on a qualifying business,

"relevant special offer" means an offer of a discounted price for multiple items promoted as intended to be consumed together as, or as part of, a single meal by one person or by two or more people together (such as "meal deal" or "dine in for two" offers),

"schedule food" means food falling within a category specified in the schedule (categories of specified food) of these Regulations,

"specified food" has the meaning given in regulation 3,

"store" includes a franchise or concession within a store,

"the Nutrient Profiling Technical Guidance" means the guidelines dated 1 January 2011 and published by the Secretary of State on 14 January 2011 about the application of the 2004-2005 Nutrient Profiling Model(**d**).

(2) For the purposes of these Regulations, a qualifying person offers a qualifying business's products for sale on an online marketplace if they determine (whether on behalf of the qualifying business or on behalf of another business) that the product is to be offered for sale and its price, irrespective of who undertakes on behalf of the qualifying business—

(a) to obtain payment from the purchaser, or

(b) to otherwise operate the online marketplace.

(3) For the purposes of these Regulations, a reference to offering a product for sale includes exposing it for sale.

Specified food

3.—(1) For the purposes of these Regulations, "specified food" is food contained in a prepacked food item which is—

(a) schedule food,

(b) less healthy (as defined in paragraph (4)), and

(c) not food to which paragraph (5) applies.

(**a**) 2015 c. 15.

(**b**) 1990 c. 16. Section 1(1) was amended by S.I. 2004/2990. The definition of "food" refers to 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 ("Regulation (EC) No 178/2002"). Article 2 of Regulation (EC) No 178/2002 defines "food" for the purposes of that Regulation.

(**c**) EUR 1169/2011.

(**d**) An electronic copy can be found at https://www.gov.uk/government/publications/the-nutrient-profiling-model. Hard copies can be obtained by request to the Tobacco, Gambling, Diet and Healthy Weight Unit, Scottish Government, St Andrew's House, 2 Regent Road, Edinburgh EH1 3DG.

(2) Where a prepacked food item contains more than one type of food, all of the food contained in the item is to be treated for the purposes of paragraph (1)(a) as schedule food where one (or more) of the types of food contained in the item would, on its own, be schedule food.

(3) Where a product contains multiple items of which one (or more) is a prepacked food item containing specified food, the entire product is to be treated as specified food.

(4) For the purposes of this regulation—

(a) food that is not a drink is less healthy if it scores 4 or more points in accordance with the Nutrient Profiling Technical Guidance,

(b) a drink is less healthy if it scores 1 or more points in accordance with the Nutrient Profiling Technical Guidance.

(5) This paragraph applies to food which is—

(a) provided by a charitable body, in the course of its charitable activities, free or for a price which is less than the cost of providing that food, or

(b) at a single event, offered for sale by or on behalf of a charitable body to raise funds for its charitable activities.

(6) For the purposes of paragraph (5)—

(a) "charitable activity" means an activity carried out for a charitable purpose, other than primarily for the purpose of raising funds,

(b) "charitable body" means a body—

(i) the purposes of which consist only of one or more charitable purposes, and

(ii) which provides public benefit in Scotland or elsewhere.

(c) "charitable purpose" is to be construed in accordance with section 7(2) of the Charities and Trustee Investment (Scotland) Act 2005(**a**),

(d) "public benefit" is to be construed in accordance with section 8 of that Act.

Qualifying business

4.—(1) For the purposes of regulations 5 (restriction on the volume price promotion of specified food), 7 (restriction on the placement of specified food in store) and 8 (restriction on the promotion of specified food online) a business is a "qualifying business" if—

(a) a person offers, in the course of carrying on the business, any specified food for sale (whether in store or on an online marketplace) to consumers,

(b) on the first day of the financial year during which any such offer for sale took place, the business had 50 or more employees, and

(c) the business is not—

(i) the provider of a care home service, in so far as it provides food to residents of the accommodation provided as part of that service, and charges for that food as part of the cost of the accommodation,

(ii) a school,

(iii) a restaurant.

(2) For the purposes of regulation 6 (restriction on the price promotion of certain drinks) a business is a qualifying business if—

(a) a person offers, in the course of carrying on the business, any drink to which regulation 6 applies for sale (in store) to consumers,

(b) on the first day of the financial year during which any such offer for sale took place, the business had 50 or more employees, and

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(**a**) 2005 asp 10.

(c) the business is not—

(i) the provider of a care home service, in so far as it provides food to residents of the accommodation provided as part of that service, and charges for that food as part of the cost of the accommodation,

(ii) a school.

(3) For the purposes of determining how many employees a business has, a business that is carried on pursuant to a franchise agreement is to be treated as part of the business of the franchisor and not as a separate business carried on by the franchisee.

(4) A "franchise agreement" exists where—

(a) one undertaking ("the franchisee") and another undertaking ("the franchisor") agree that the franchisee carries on a business activity which includes the sale or distribution of food ("the franchise business"), and

(b) paragraphs (5) and (6) apply to the franchise business.

(5) This paragraph applies if the following are agreed by the franchisor—

(a) the food provided in the franchise business,

(b) the internal or external appearance of the premises where the franchise business is carried on, and

(c) the business model used for the operation of the franchise business.

(6) This paragraph applies if the matters referenced in paragraph (5) are similar to those of other undertakings in respect of which the franchisor has entered into comparable contractual arrangements.

(7) For the purposes of this regulation—

(a) the employees of a business are the persons who are employed for the purposes of the business,

(b) a "care home service" has the meaning given by paragraph 2 of schedule 12 of the Public Services Reform (Scotland) Act 2010(**a**),

(c) "contract of employment" means a contract of service, whether express or implied, and (if it is express) whether oral or in writing,

(d) "employee" means an individual who has entered into, or works under, a contract of employment, whether that contract is for full-time or part-time employment,

(e) "restaurant" means a business whose premises are used mainly for the preparation or sale of food intended for immediate consumption, whether on or off the premises (including a café, coffee shop, fast food or takeaway business),

(f) "school" has the meaning given by section 135 of the Education (Scotland) Act 1980(**b**).

Restriction on the volume price promotion of specified food

5.—(1) A qualifying person must not offer specified food for sale as part of a volume price promotion—

(a) in store, or

(b) on an online marketplace.

(2) In this regulation "volume price promotion" means—

(a) a multibuy promotion, being the express offer of a financial incentive for buying multiple items compared with buying each item separately (including "3 for the price of 2", "3 for £10", or "buy six and save 25%"),

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(**a**) 2010 asp 8.

(**b**) 1980 c. 44. The definition of "school" was amended by section 2(2) of the Registered Establishments (Scotland) Act 1987 (c. 4) and by section 60 and schedule 3 of the Standards in Scotland's Schools Act 2000 (asp 6).

(b) a promotion that indicates that an item, or any part of an item, is free (including "50% extra free", or "buy one get one free").

(3) For the purposes of paragraph (2)(a), a multibuy promotion does not include a relevant special offer.

Restriction on the price promotion of certain drinks

6.—(1) This regulation applies to a drink which is not a prepacked food item and which is—

(a) schedule food falling within category 1 of the schedule,

(b) less healthy by virtue of scoring 1 or more points in accordance with the Nutrient Profiling Technical Guidance, and

(c) not food to which regulation 3(5) applies.

(2) A qualifying person must not offer a free refill promotion on a drink to which this regulation applies.

(3) In paragraph (2), "free refill promotion" means a promotion that offers the consumer the same drink or another drink to which this regulation applies (including free-top ups of any part of such a drink), for free after consumption of a first drink or any part of it.

Restriction on the placement of specified food in store

7.—(1) A qualifying person must not place specified food inside a store—

(a) within two metres of a checkout facility, unless the specified food is placed in (but not at the end of) an aisle,

(b) within two metres of a designated queuing area, unless the specified food is placed in (but not at the end of) an aisle,

(c) in a display—

(i) at the end of (but not in) an aisle, or

(ii) on a separate structure (such as an island bin, free-standing unit, side stack or clip strip) connected or adjacent to, or within 50cm of, the end of an aisle,

(d) at any point within the prohibited distance of the midpoint of any public entrance to the store's main shopping area,

(e) in a covered external area.

(2) This regulation does not apply to—

(a) stores with a relevant floor area of less than 185.8m^2,

(b) stores which only or mainly sell food from a single category listed in the schedule.

(3) In this regulation—

(a) "checkout facility" means a facility intended to be used by consumers to make a purchase, including a self-checkout terminal and a counter at which a cash register is used (including the area behind a counter),

(b) "covered external area" means a covered area, outside and connected to a store's main shopping area, through which the public passes to enter the main shopping area (such as a foyer, lobby or vestibule),

(c) "designated queuing area" means an area set aside and marked for the purpose of providing a place for consumers to wait to make a purchase,

(d) "food hall" means an area, within a store, dedicated (wholly or mainly) to the display of food items or to serving customers in connection with the sale of food items, where—

(i) the rest of the store is principally dedicated to non-food items,

(ii) there is a checkout facility dedicated to that area (whether or not it could also be used to purchase non-food items),

(iii) it is clearly distinct from the rest of the store (including, for example, by virtue of having dedicated internal or external entrances), and

(iv) it is occupied by the same business that is primarily responsible for managing and operating the rest of the store (is not "a concession").

(e) "prohibited distance" means the smaller of 15 metres or the following—

$$\sqrt{0.03 \times a}$$

where a—

(i) in the case of a public entrance to a store's main shopping area that opens directly onto a food hall, is the internal floor area of so much of the store that comprises the food hall, excluding any part of the food hall which would fall within paragraph (3)(f)(i) to (ii), or

(ii) in any other case, is the store's relevant floor area,

(f) "relevant floor area" means the internal floor area of so much of a store as consists of or is comprised in a building, excluding any part of the store which—

(i) is not used for displaying goods or for serving customers in connection with the sale of goods,

(ii) is used mainly for the preparation or sale of food intended for immediate consumption, whether on or off the premises (including, for example, a coffee shop or a canteen),

(iii) is a room used for consultation with customers in connection with any medical services (such as pharmacy or opticians' services), offered in the store, or

(iv) is occupied by a business other than the business primarily responsible for managing and operating the store ("a concession"), but only where the concession operates its own payment facilities.

Restriction on the promotion of specified food online

8.—(1) A qualifying person must not cause specified food to be offered for sale on an online marketplace—

(a) on a home page (whether or not the consumer enters the online marketplace through the home page),

(b) while a consumer is searching for or browsing products other than schedule food, unless paragraph (4) or (5) applies,

(c) while a consumer is searching for or browsing schedule food, unless—

(i) the specified food falls within the same schedule category, or

(ii) paragraph (4) or (5) applies,

(d) on a page not opened intentionally by the consumer (such as a "pop up" page or a "brand burst"),

(e) on a favourite products page, unless the consumer has previously purchased the specified food (whether in store or online) or intentionally identified it as a favourite product but specified food must not be given greater prominence than other products on a favourite products page,

(f) on a checkout page.

(2) Paragraph (1) does not prohibit offering specified food for sale on a page opened intentionally by a consumer for the purpose of browsing special offers generally.

(3) This regulation does not apply to a qualifying business which only or mainly sells food from a single category listed in the schedule.

(4) This paragraph applies where—

(a) a consumer is searching for or browsing food (whether or not specified food), and

(b) the qualifying person causes specified food to be offered for sale together with the food referred to in sub-paragraph (a) as part of a relevant special offer.

(5) This paragraph applies—

(a) where a consumer browses or searches for a general category of product which includes the specified food (such as categories relating to seasonality, or to nutritional or dietary characteristics),

(b) in relation to searching, where a search term entered by the consumer matches in whole or in part—

(i) the name under which the specified food is marketed, or

(ii) an ingredient listed on the packaging of a specified food.

(6) For the purposes of this regulation—

(a) "checkout page" means a page shown to a consumer as part of the checkout process, such as a page listing items the consumer has so far selected for purchase or a page dealing with payment, collection or delivery,

(b) "favourite products page" means a page opened by a consumer for the purpose of browsing products they have previously purchased or intentionally identified as favourite products,

(c) "home page" means any of—

(i) an online marketplace's highest level public page,

(ii) the highest level public page of an online marketplace's grocery section.

Enforcement

9.—(1) Each food authority must enforce and execute these Regulations in their area.

(2) In this regulation "food authority" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(**a**).

Offences and penalties

10.—(1) A person commits an offence if the person fails to comply with—

(a) regulation 5 (restriction on the volume price promotion of specified food),

(b) regulation 6 (restriction on the price promotion of certain drinks),

(c) regulation 7 (restriction on the placement of specified food in store),

(d) regulation 8 (restriction on the promotion of specified food online).

(2) A person who commits an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Application of sections of the Food Safety Act 1990

11.—(1) The provisions of the Food Safety Act 1990 set out in paragraph (2) apply for the purposes of these Regulations—

(a) as if any reference in those provisions to the Act, or to any Part of the Act, were a reference to these Regulations,

(b) with any modifications specified in paragraph (2).

(2) The provisions of the Act applying, as modified, are—

(a) section 3 (presumptions that food intended for human consumption),

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(**a**) 1994 c. 39. Section 2 was amended by paragraph 232(1) of schedule 22 of the Environment Act 1995 (c. 25).

(b) section 20 (offences due to fault of another person),

(c) section 21 (defence of due diligence), as if—

(i) subsections (2) to (4) applied in relation to an offence under these Regulations as they apply in relation to an offence under section 14 or 15, and

(ii) in subsection (4)(b) the references to "sale or intended sale" included "promotion or presentation",

(d) section 30(8) (which relates to documentary evidence),

(e) section 32 (powers of entry),

(f) section 33(1) (obstruction etc. of officers),

(g) section 33(2), as if the reference to "any such requirement as is mentioned in subsection (1)(b) above" were a reference to any such requirement as is mentioned in subsection (1)(b) as applied by sub-paragraph (f),

(h) section 34 (time limits for prosecutions), as if for "section 35(A1), (A2) or 2 below" there were substituted "regulation 10",

(i) section 35(1) (punishment of offences), in so far as it relates to offences under section 33(1) as applied by sub-paragraph (f),

(j) section 35(2), in so far as it relates to offences under section 33(2) as applied by sub-paragraph (g),

(k) section 36 (offences by bodies corporate),

(l) section 36A (offences by Scottish partnerships),

(m) section 44 (protection of officers acting in good faith).

Amendment of Food (Scotland) Act 2015 (Compliance Notices) Regulations 2023

12.—(1) The Food (Scotland) Act 2015 (Compliance Notices) Regulations 2023(**a**) are amended as follows.

(2) After paragraph 34 of the schedule (relevant offences for the purposes of Part 3 of the 2015 Act as it applies to compliance notices), insert—

"**The Food (Promotion and Placement) (Scotland) Regulations 2025**

35. An offence under regulation 10 of the Food (Promotion and Placement) (Scotland) Regulations 2025(**b**).".

JENNI MINTO
Authorised to sign by the Scottish Ministers

St Andrew's House
Edinburgh
29th October 2025

(**a**) S.S.I. 2023/161.
(**b**) S.S.I. 2025/303.

SCHEDULE

Regulation 3

Categories of specified food

Category 1: Prepared soft drinks containing added sugar ingredients (other than the exempt soft drinks listed in paragraph 4(1)).

The following provisions apply for the purposes of this category.

1.—(1) "Soft drink" means—

(a) a beverage of an alcoholic strength not exceeding 1.2%, or

(b) a liquid or a powder which, when prepared in a specified manner, constitutes a beverage of an alcoholic strength not exceeding 1.2%.

(2) A liquid or a powder is prepared in a specified manner if it is—

(a) diluted,

(b) combined with crushed ice, or processed so as to create crushed ice,

(c) combined with carbon dioxide, or

(d) prepared by way of a process that involves any combination of the processes mentioned in paragraphs (a) to (c).

2.—(1) A soft drink is "prepared" if it is—

(a) a soft drink within paragraph 1(1)(a), or

(b) a beverage that would result from preparing a liquid or a powder within paragraph 1(1)(b)—

(i) in a specified manner (see paragraph 1(2)), and

(ii) in accordance with the relevant dilution ratio.

(2) The "relevant dilution ratio" means—

(a) the dilution ratio stated on, or calculated by reference to information stated on, the packaging of the soft drink, or

(b) where no such dilution ratio or information is stated, the dilution ratio of similar drinks on the market.

3.—(1) A soft drink contains "added sugar ingredients" if any of the following are combined with other ingredients at any stage in the production of the soft drink—

(a) calorific mono-saccharides or di-saccharides,

(b) a substance containing calorific mono-saccharides or di-saccharides.

(2) But a soft drink does not contain "added sugar ingredients" only by reason of containing fruit juice, vegetable juice or milk (or any combination of them).

(3) For the purposes of sub-paragraph (2)—

(a) "fruit juice" is to be construed in accordance with regulation 5 (sugar content condition: fruit juice) of the Soft Drinks Industry Levy Regulations 2018(**a**) ("the SDIL Regulations"),

(b) "vegetable juice" is to be construed in accordance with regulation 6 (sugar content condition: vegetable juice) of the SDIL Regulations,

(c) "milk" is to be construed in accordance with regulation 7 (sugar content condition and exempt soft drinks: milk and milk-based drinks) of the SDIL Regulations.

(**a**) S.I. 2018/41.

4.—(1) The following are "exempt soft drinks"—

(a) alcohol substitute drinks which meet specified conditions, and

(b) soft drinks of a specified description which are for use for medicinal or other specified purposes.

(2) For the purposes of sub-paragraph 4(1)(a), the specified conditions are—

(a) condition 1 provided for by paragraph (2) of regulation 9 (exempt soft drinks: alcohol substitute drinks) of the SDIL Regulations, and

(b) one or more of conditions 2, 3 and 4 provided for by paragraphs (3) to (5) of regulation 9 of those Regulations.

(3) For the purposes of sub-paragraph (1)(b)—

(a) the specified purposes are the purposes provided for by paragraph (1) of regulation 10 (exempt soft drinks: for medicinal or other purposes) of the SDIL Regulations, and

(b) the specified descriptions are the descriptions provided for in paragraphs (2) and (3) of regulation 10 of those Regulations.

Category 2: Any of the following—

1. Savoury snacks whether intended to be consumed alone or as part of a complete meal including—

(a) products made from potato, other vegetables, grain or pulses,

(b) extruded, sheeted and pelleted products,

(c) bagged savoury crackers, rice cakes or biscuits,

such as crisps, pitta bread based snacks, pretzels, poppadums, salted popcorn and prawn crackers (but not raw, roasted, coated or flavoured nuts).

2. Pork rind-based snacks whether intended to be consumed alone or as part of a complete meal.

Category 3: Breakfast cereals including ready-to-eat cereals, granola, muesli, and oat-based cereals.

Category 4: Confectionery including chocolates and sweets.

Category 5: Ice cream, ice lollies, frozen yogurt, water ices and similar frozen products.

Category 6: Cakes and cupcakes.

Category 7: Sweet biscuits and bars based on one or more of nuts, seeds or cereal.

Category 8: Morning goods, including croissants, pains au chocolat and similar pastries, crumpets, pancakes, buns, teacakes, scones, waffles, Danish pastries and fruit loaves.

Category 9: Desserts and puddings, including pies, tarts and flans, cheesecake, gateaux, dairy desserts, sponge puddings, rice pudding, crumbles, fruit fillings, powdered desserts, custards, jellies and meringues.

Category 10: Sweetened (whether with sugar or otherwise) yoghurt and fromage frais.

Category 11: Pizza (except plain pizza bases).

Category 12: Roast potatoes, potato and sweet potato chips, fries and wedges, potato waffles, novelty potato shapes (such as smiley faces), hash browns, rostis, crispy potato slices, potato croquettes.

Category 13: Any of the following—

1. Products that are marketed as ready for cooking or reheating without requiring further preparation and intended to be consumed as a complete meal.

2. Products, other than products that contain pastry, in or with a sauce (but not a marinade, glaze, dressing, seasoning or similar accompaniment) that are marketed as ready for cooking or reheating without requiring further preparation and intended to be consumed as the main element of a meal.

3. Breaded or battered—

(a) vegetable, fish, shellfish, meat, or poultry products,

(b) substitute fish, shellfish, meat or poultry products,

including fish fingers, fish cakes, chicken nuggets and breaded meat substitute.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for restrictions on the promotion and placement of certain foods and drinks that are less healthy.

Regulation 2 sets out interpretative provisions.

Regulation 3 defines the food and drink to which the Regulations apply ("specified food"). Specified food is food contained in a prepacked food item which is schedule food (i.e. is listed in the schedule), less healthy (as defined in paragraph (4)) and not food to which paragraph (5) applies. Paragraph (5) applies to food provided by charitable bodies in certain circumstances, and at single charitable events. Whether food is "less healthy" is to be determined in accordance with the Nutrient Profile Technical Guidance.

Regulation 4 defines the businesses to which the regulations apply ("qualifying businesses"). Provision is made so that businesses with less than 50 employees are not qualifying businesses. Exceptions are also made for providers of care homes services, schools and restaurants (including a café, coffee shop, fast food or takeaway business). Restaurants are not exempt from regulation 6 (restrictions on the price promotion of certain drinks). Paragraphs (3) to (6) provides for how to determine the number of employees a businesses has when operating under a franchise agreement.

Regulation 5 prohibits qualifying businesses from offering certain volume price promotions of specified food. The restricted promotions are multi-buy promotions (including "3 for the price of 2", "3 for £10", or "buy six and save 25%"), or a promotion that indicates an item (or any part of an item) is free (including "50% extra free" or "buy one get one free").

Regulation 6 prohibits qualifying businesses from offering free refill promotions of certain soft drinks containing added sugar ingredients. It applies to drinks which are not prepacked, fall within category 1 of the schedule, are less healthy, and are not food to which regulation 3(5) applies (which makes provision for charitable activities). "Free refill promotion" is defined in paragraph (3).

Regulation 7 prohibits qualifying businesses from placing specified food in certain locations in a store. Paragraph (1) provides for restrictions relating to placing food within 2 metres of checkout facilities, within 2 metres of designated queuing areas, at end of aisle displays, on separate structures near end of aisle displays, within a prohibited distance from public entrances, and in covered external areas. Paragraph (2) exempts specialist retailers and stores with a relevant floor area of less than 185.8m^2.

Paragraph (3) provides definitions for the purposes of regulation 7. A store's "relevant floor area" is defined at paragraph (3)(f). It is the internal floor area of so much of a store as consists of or is comprised in a building, subject to certain exclusions. Excluded are areas not used for displaying goods or serving customers (e.g. storage areas), areas used mainly for preparation or sale of food for immediate consumption (e.g. a coffee shop or canteen), medical consulting rooms (e.g. a pharmacy or opticians within a store), and any area occupied by a concession. Areas occupied by concessions are considered to be separate stores under the Regulations.

The "prohibited distance" is defined at paragraph (3)(e) as the smaller of 15 metres or the distance (in metres) produced by applying the equation set out. In most cases, this calculation is based on a store's "relevant floor area". In the case of public entrances that open directly onto food halls, the calculation is not based on the relevant floor area of the larger store but is instead based only on the area used by the food hall (subject to certain exclusions). Excluded is any part which is used not for the sale of goods, or areas used for the preparation or sale of food for immediate consumption. There are no specific exclusions for areas occupied by concessions or medical services as they are not relevant to food halls. This alternative method of calculating the prohibited distance only applies for public entrances to a store that directly enter onto food halls, not other public entrances to the store or internal entrances within a store.

"Food halls" is defined at paragraph (3)(d). Food halls are distinct areas, within larger stores (occupied by the same business), which are dedicated (wholly or mainly) to the display or serving of customers in connection with the sale of food items, where the area has dedicated checkout facilities and is clearly distinct from the rest of the store (e.g. has dedicated entrances). Food halls that have these features are considered similar to stand alone food stores but within a larger store occupied by a single business.

Regulation 8 prohibits qualifying businesses from placing specified food in certain locations of an online marketplace. Paragraph (1) makes provision to restrict the offering of specified food for sale on a home page, while a consumer is searching or browsing for other products, on pages not opened intentionally (such as a "pop up" pages), on a favourite products page, or on a checkout page. Paragraph (2) provides that the regulation does not prohibit offering food for sale on any page opened intentionally by a consumer for the purposes of browsing special offers generally. An exemption is provided for specialist retailers at paragraph (3). Paragraphs (4) and (5) set out circumstances in which specified food can be offered for sale while a consumer is searching or browsing.

Regulation 9 requires each food authority to enforce and execute the Regulations in its area. The food authorities are the councils constituted under section 2 of the Local Government etc. (Scotland) Act 1994.

Regulation 10 makes it an offence to fail to comply with the restrictions in regulations 5, 6 ,7 and 8. The penalty on conviction of an offence is a fine up to level 4 on the standard scale.

Regulation 11 applies with modifications various provisions of the Food Safety Act 1990. Principally these relate to enforcement matters, including powers of entry and offences relating to the obstruction of officers.

Regulation 12 amends the Food (Scotland) Act 2015 (Compliance Notices) Regulations 2023 (the "2023 Regulations"), to specify that the offences created under regulation 10 of these Regulations are relevant offences for the purposes of Part 3 of the Food (Scotland) Act 2015 (the "2015 Act") as it applies to compliance notices. This enables compliance notices to be issued by food authorities in respect of offences under these Regulations, in accordance with the procedure set out in Part 3 of the 2015 Act and the 2023 Regulations.

A Business Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies can be obtained from the Tobacco, Gambling, Diet and Healthy Weight Unit, Scottish Government, St Andrew's House, 2 Regent Road, Edinburgh EH1 3DG.

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