SCOTTISH STATUTORY INSTRUMENTS

2004 No. 244

FOOD

The Kava–kava in Food (Scotland) Amendment Regulations 2004

Made - - - -	*26th May 2004*
Laid before the Scottish Parliament	*26th May 2004*
Coming into force	*16th June 2004*

The Scottish Ministers, in exercise of the powers conferred by sections 16(1)(a) and (f), 18(1)(c), 26(1) and 48(1) of the Food Safety Act 1990(**a**) and of all other powers enabling them in that behalf and having had regard in accordance with section 48(4A)(**b**) of that Act to relevant advice given by the Food Standards Agency, and after consultation in accordance with section 48(4) and (4B)(**c**) of that Act, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Kava–kava in Food (Scotland) Amendment Regulations 2004 and shall come into force on 16th June 2004.

Amendments to the Kava-kava in Food (Scotland) Regulations 2002

2.—(1) The Kava–kava in Food (Scotland) Regulations 2002(**d**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2 (interpretation) after the definition of "the Act", insert–

> ""EEA Agreement" means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(**e**) as adjusted by the Protocol signed at Brussels on 17th March 1993(**f**);
>
> "EEA State" means a State which is a Contracting Party to the EEA Agreement; and
>
> "free circulation" has the same meaning as in Article 23.2, as read with Article 24, of the Treaty establishing the European Community;".

(3) In regulation 3 (prohibition on sale etc. of food consisting of or containing Kava–kava)–

(a) at the beginning insert "(1) Subject to paragraph (2),"; and

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(**a**) 1990 c. 16; sections 16(1) and 48(1) were amended by the 1999 Act, Schedule 5, paragraph 8; section 18(1) was amended by the Food Standards Act 1999 (c.28) ("the 1999 Act"), Schedule 5, paragraphs 8 and 12; amendments made by Schedule 5 of the 1999 Act shall be taken as pre-commencement enactments for the purposes of the Scotland Act 1998 (c.46) ("the 1998 Act") by virtue of section 40(2) of the 1999 Act. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.
(**b**) Section 48(4A) was inserted by paragraph 21 of Schedule 5 to the 1999 Act.
(**c**) Section 48(4B) was inserted by paragraph 21 of Schedule 5 to the 1999 Act.
(**d**) S.S.I. 2002/523.
(**e**) O.J. No. L 1, 3.1.94, p.1.
(**f**) O.J. No. L 1, 3.1.94, p.571.

(b) at the end insert–

"(2) The prohibition imposed by paragraph (1) shall not apply where the food consisting of or containing Kava–kava is imported from an EEA State, if the food–

(a) originates in an EEA State, or

(b) originates outside the European Economic Area, but is in free circulation in a member State,

and is being, or is to be, exported to an EEA State other than the United Kingdom.".

TOM McCABE
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
26th May 2004

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Kava–kava in Food (Scotland) Regulations 2002 (S.S.I. 2002/523) ("the principal Regulations") which prohibit the sale, possession for sale, offer, exposure or advertisement for sale, and the importation into Scotland of any food consisting of, or containing, Kava–kava (being a plant, or any part of or an extract from a plant, belonging to the species *Piper methysticum*.

These Regulations–

(a) provide an exception to the prohibition imposed by the principal Regulations for food imported from an EEA State, if it originates in an EEA State or originates outside the EEA but is in free circulation in member States, and is being, or is to be, exported to an EEA State other than the United Kingdom (regulation 2(3)); and

(b) insert relevant definitions in the principal Regulations (regulation 2(1)).

No regulatory impact assessment has been prepared in relation to these Regulations.

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