SCOTTISH STATUTORY INSTRUMENTS

2004 No. 413

FOOD

The Miscellaneous Food Additives Amendment (Scotland) Regulations 2004

Made - - - -	*23rd September 2004*
Laid before the Scottish Parliament	*24th September 2004*
Coming into force - -	*1st November 2004*

The Scottish Ministers in exercise of the powers conferred by sections 16(1)(a), 17(1), 26(1) and (3) and 48(1) of, and paragraph 1 of Schedule 1 to, 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, commencement and extent

1.—(1) These Regulations may be cited as the Miscellaneous Food Additives Amendment (Scotland) Regulations 2004 and shall come into force on 1st November 2004.

(2) These Regulations extend to Scotland only.

Amendment of the Miscellaneous Food Additives Regulations 1995

2. The Miscellaneous Food Additives Regulations 1995(**d**) are amended in accordance with regulations 3 and 4.

3. In regulation 2(1) (interpretation), in the definition of "Directive 96/77/EC", for "and Commission Directive 2002/82/EC", substitute–

> ", Commission Directive 2002/82/EC(**e**), Commission Directive 2003/95/EC(**f**) and Commission Directive 2004/45/EC(**g**)".

4. In regulation 11 (transitional provisions and exemptions), after paragraph (1D), insert–

(**a**) 1990 c.16; section 16(1) and 48(1) were amended by the Food Standards Act 1999 (c.28) ("the 1999 Act"), Schedule 5, paragraph 8; section 17(1) was amended by the 1999 Act, Schedule 5, paragraphs 8 and 12; section 26(3) was amended by the 1999 Act, Schedule 6; amendments made by Schedule 5 to the 1999 Act are to be taken as pre-commencement enactments for the purposes of the Scotland Act 1998 (c.46) 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 Scotland Act 1998.
(**b**) Section 48(4A) was inserted by the 1999 Act, Schedule 5, paragraph 21.
(**c**) Section 48(4B) was inserted by the 1999 Act, Schedule 5, paragraph 21.
(**d**) S.I. 1995/3187, amended by S.I. 1997/1413, 1999/1136, S.S.I. 2001/38, 103 and 450, 2003/132, 291, 293, 311 and 599 and 2004/6.
(**e**) O.J. No. L 292, 28.10.02, p.1.
(**f**) O.J. No. L 283, 31.10.03, p.71.
(**g**) O.J. No. L 113, 20.4.04, p.19.

"(1E) In any proceedings for an offence under these Regulations where it is alleged that a food additive failed to satisfy the purity criteria for that additive, it shall be a defence for the person charged to show either–

(a) that the food additive concerned is E 431, E 432, E 433, E 434, E 435 or E 436, or polyethylene glycol 6000 and the food additive or food concerned was put on the market or labelled before 1st November 2004; or

(b) that the food additive concerned is E 407, E 407a, E 1517 or E 1519 and the food additive or food concerned was put on the market or labelled before 1st April 2005;

and that the matter constituting the offence would not have constituted an offence under these Regulations if the amendment made by regulation 3 of the Miscellaneous Food Additives Amendment (Scotland) Regulations 2004 had not been in force when the matter occurred.".

TOM McCABE
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
23rd September 2004

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to Scotland only, amend the Miscellaneous Food Additives Regulations 1995 (as already amended) ("the principal Regulations").

The Regulations implement Commission Directives 2003/95/EC (O.J. No. L 283, 31.10.03) and 2004/45/EC (O.J. No. L 113, 20.04.04, p.1), amending Directive 96/77/EC laying down specific purity criteria on food additives other than colours and sweeteners.

The Regulations amend the existing requirements in the principal Regulations as regards the purity criteria for Polysorbates (E 431 to E 436), Beta-Cyclodextrin (E 459), Polyethylene Glycol 6000, Carrageenan (E 407) and Processed Eucheuma Seaweed (E 407a); specify new purity criteria for Glyceryl Diacetate (E 1517) and Benzyl Alcohol (E 1519); insert purity criteria for a new permitted additive Hydrogenated Poly-1-Decene (E 907); and add purity criteria for a new liquid category to Sodium Nitrate (E 251) (regulation 3).

Those new requirements will not apply to food additives which were put on the market and labelled before certain dates (regulation 4).

No regulatory impact assessment has been prepared in respect of these Regulations.

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