STATUTORY INSTRUMENTS

2010 No. 1768

FOOD, ENGLAND

The Nutrition and Health Claims (England) (Amendment) Regulations 2010

Made - - - -	*7th July 2010*
Laid before Parliament	*13th July 2010*
Coming into force - -	*1st October 2010*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 16(1)(e) and (f), 17(2), 26(1)(a) and (3) and 48(1) of the Food Safety Act 1990(**a**), and now vested in him(**b**), as read with paragraph 1A of Schedule 2 to the European Communities Act 1972(**c**).

In accordance with section 48(4A) of the Food Safety Act 1990 he has had regard to relevant advice given by the Food Standards Agency.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for references to the Annex to the EU instrument mentioned in regulation 3 to be construed as references to that Annex as it may be amended from time to time.

As required by 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(**d**), there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

(**a**) 1990 c.16, section 1(1) and (2) (definition of "food") was substituted by S.I. 2004/2990. Sections 17 and 48 were amended by paragraphs 12 and 21 respectively of Schedule 5 to the Food Standards Act 1999 (1999 c.28), "the 1999Act". Section 48 was also amended by S.I. 2004/2990. Section 53(2) was amended by paragraph 19 of Schedule 16 to the Deregulation and Contracting Out Act 1994 (1994 c.40), Schedule 6 to the 1999 Act, S.I. 2004/2990 and S.I. 2004/3279.

(**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 1999 Act. 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 subsequently transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (2006 c.32). 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.

(**c**) 1972, c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (2006 c.51) and amended by Part 1 of Schedule 1 to the European Union (Amendment) Act 2008 (2008 c.7).

(**d**) OJ No. L31, 1.2.2002, p.1. That Regulation was last amended by Regulation (EC) No. 596/2009 of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468 with regard to the regulatory procedure with scrutiny: Adaptation to the regulatory procedure with scrutiny – Part Four (OJ No. L188, 18.7.2009, p.14).

Title and commencement

1. These Regulations may be cited as the Nutrition and Health Claims (England) (Amendment) Regulations 2010 and come into force on 1st October 2010.

Amendment to the Nutrition and Health Claims (England) Regulations 2007

2. The Nutrition and Health Claims (England) Regulations 2007(**a**) are amended in accordance with regulation 3.

3. In regulation 2(1) (interpretation) for the definition of "the Regulation" substitute the following definition —

> ""the Regulation" means Regulation (EC) No. 1924/2006 of the European Parliament and of the Council on nutrition and health claims made on foods, as the Annex to that Regulation may be amended from time to time(**b**);".

Signed by authority of the Secretary of State for Health.

Anne Milton
Parliamentary Under-Secretary of State,
Department of Health

7th July 2010

(**a**) S.I. 2007/2080.
(**b**) The full correct text of this Regulation is set out in a Corrigendum (OJ No. L12, 18.1.2007, p.3). The Regulation was last amended by Commission Regulation (EC) No. 116/2010 (OJ No. L37, 10.02.2010, p.16).

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations amend the definition of "the Regulation", meaning Regulation (EC) No. 1924/2006 of the European Parliament and of the Council on nutrition and health claims made on foods (OJ No. L12, 18.1.2007, p.3), contained in regulation 2 of the Nutrition and Health Claims (England) Regulations 2007 (S.I.2007/2080). The effect of the amendment is that a reference to the Regulation in S.I. 2007/2080 now includes any future amendments to its Annex, which consists of the list of authorised nutrition claims and conditions relating to their use (*regulation3*).

2. A full impact assessment has not been prepared for these Regulations as no impact on the voluntary or private sectors is foreseen.

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