

2007 No. 3256

FOOD, ENGLAND

**The Food Labelling (Declaration of Allergens) (England)
Regulations 2007**

<i>Made</i>	- - - -	<i>21st November 2007</i>
<i>Laid before Parliament</i>		<i>28th November 2007</i>
<i>Coming into force</i>	- -	<i>23rd December 2007</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 16(1)(e), 17(1), 26(1)(a) and 48(1) of the Food Safety Act 1990(a), and now vested in him(b).

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

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(c), there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

Title, application and commencement

1. These Regulations may be cited as the Food Labelling (Declaration of Allergens) (England) Regulations 2007, apply in relation to England only and come into force on 23rd December 2007.

(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 and S.I. 2004/2990.

(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 thereafter transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 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) OJ No. L31, 1.2.2002, p.1. That Regulation was last amended by Commission Regulation (EC) No. 575/2006 (OJ No. L100, 8.4.2006, p3).

Amendment of the Food Labelling Regulations 1996

2.—(1) The Food Labelling Regulations 1996^(a) are amended (in so far as they apply in relation to England) in accordance with paragraphs (2) and (3).

(2) In regulation 50 (transitional provision), after paragraph (13) insert the following —

“(14) In any proceedings for an offence under regulation 44(1)(a) it shall be a defence to prove that —

- (a) the food concerned was sold before 23 December 2008 or marked or labelled before that date; and
- (b) the matters constituting the alleged offence would not have constituted an offence under these Regulations if the amendments made by regulation 2(3) of the Food Labelling (Declaration of Allergens) (England) Regulations 2007^(b) had not been in operation when the food was sold.”

(3) In Schedule AA1 (allergenic ingredients) —

- (a) after paragraph 2 insert “**2(a)** Molluscs”;
- (b) after paragraph 6 insert “**6(a)** Lupin”.

Signed by authority of the Secretary of State for Health

21st November 2007

Dawn Primarolo
Minister of State,
Department of Health

(a) S.I. 1996/1499, as last amended by S.I. 2007/2080. Schedule AA1 and the associated regulation 34B were inserted by S.I. 2004/2824. Regulation 34B was amended by S.I. 2005/2057.
(b) S.I. 2007/3256

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations further amend the Food Labelling Regulations 1996 (S.I. 1996/1499) (“the principal Regulations”) in so far as they apply in relation to England. The principal Regulations extend to the whole of Great Britain.

2. These Regulations implement in England Commission Directive No. 2006/142/EC (OJ No. L368, 23.12.2006, pp.110-111) amending Annex IIIa of Directive 2000/13/EC of the European Parliament and of the Council listing the ingredients which must under all circumstances appear on the labelling of foodstuffs. Two new ingredients are added to that list.

3. A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Labelling, Standards and Additives Division of the Food Standards Agency, Aviation House, 125 Kingsway, London WC2B 6NH and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

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