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SCOTTISH STATUTORY INSTRUMENTS

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**2016 No. 191**

**FOOD**

**The Food Information (Scotland) Amendment Regulations 2016**

<i>Made</i>	- - - - -	<i>2nd June 2016</i>
<i>Laid before the Scottish Parliament</i>	- - - - -	<i>3rd June 2016</i>
<i>Coming into force</i>	- -	<i>20th July 2016</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 6(4), 16(1), 17, 18, 26, and 48(1) of, and paragraph 1 of schedule 1 of, the Food Safety Act 1990(1), section 2(2) of, and paragraph 1A of schedule 2 of, the European Communities Act 1972(2) and all other powers enabling them to do so.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972, and it appears to the Scottish Ministers that it is expedient for any reference to specified provisions of—

- (a) Regulation (EU) No 1169/2011(3) of the European Parliament and of the Council on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004; and

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- (1) 1990 c.16. Section 1(1) and (2) (definition of “food”) was substituted by S.I. 2004/2990. 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 schedule 2 of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794). Section 6(4A) was inserted by paragraph 3(2) of the schedule to the Food (Scotland) Act 2015 (asp 1). Sections 16(1)(e) and (f) were amended by paragraph 8 of schedule 5 of the 1999 Act. Sections 17 and 48 were amended by paragraphs 12 and 21 respectively of Schedule 5 to the 1999 Act. Section 17(2) was amended by section 40(1) of and paragraphs 7, 8 and 12 of schedule 5 of the 1999 Act and S.I. 2011/1043. Section 26(3) was amended by, and partially repealed by, paragraph 1 of schedule 6 of the 1999 Act. Section 48 was also amended by S.I. 2004/2990. Section 48(1) was amended by paragraphs 7 and 8 of schedule 5 of the 1999 Act. Section 53(2) was amended by paragraph 19 of schedule 16 of the Deregulation and Contracting Out Act 1994 (c.40), schedule 6 of the 1999 Act, S.I. 2004/2990 and S.I. 2004/3279. Amendments made by schedule 5 of the 1999 Act which extend to Scotland shall be taken as pre-commencement enactments for the purposes of the Scotland Act 1998 (c.46) by virtue of section 49(2) of the 1999 Act. The functions of the Secretary of State, so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998. In so far as not transferred, those functions were transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005 (S.I. 2005/849).
- (2) 1972 c.68. Section 2(2) was amended by paragraph 15(3) of schedule 8 of the Scotland Act 1998 (c.46) (“the 1998 Act”), section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”) and Part 1 of the schedule of the European Union (Amendment) Act 2008 (c.7). Paragraph 1A of schedule 2 was inserted by section 28 of the 2006 Act. The powers in section 2(2) of the 1972 Act are exercised as regards regulation 2 of this instrument. The functions conferred on the Minister of the Crown under section 2(2) of the 1972 Act, so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.
- (3) OJ L 304, 22.11.2011, p.18.

- (b) Commission Implementing Regulation (EU) No 828/2014 on the requirements for the provision of information to consumers on the absence or reduced presence of gluten in food<sup>(4)</sup>,

to be construed as a reference to those provisions of those Regulation as amended from time to time. So far as the following Regulations are made in exercise of powers under the Food Safety Act 1990, the Scottish Ministers have had regard to relevant advice given by Food Standards Scotland in accordance with section 48(4A)<sup>(5)</sup> and (6) of that Act.

There has been consultation, 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, during the preparation and evaluation of the following Regulations<sup>(6)</sup>.

### **Citation commencement interpretation and extent**

1.—(1) These Regulations may be cited as the Food Information (Scotland) Amendment Regulations 2016.

(2) These Regulations come into force on 20th July 2016.

(3) In these Regulations, “the 2014 Regulations” means the Food Information (Scotland) Regulations 2014<sup>(7)</sup>.

### **Amendment of the 2014 Regulations**

2.—(1) The 2014 Regulations are amended in accordance with this regulation.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1), after the definition of “prepacked food”, insert—

““Regulation 828/2014” means Commission Implementing Regulation (EU) No 828/2014 on the requirements for the provision of information to consumers on the absence or reduced presence of gluten in food;”<sup>(8)</sup>;

(b) in paragraph (1), in the definition of “specified FIC provision”, after “column 2, of” insert “the tables in Parts 1 and 2 of”;

(c) in paragraph (1), after the definition of “specified FIC provision”, add—

““specified Regulation 828/2014 provision” means a provision specified in column 1, as read with column 2, of the table in Part 1A of schedule 3”;

(d) after paragraph (3), insert—

“(3A) Any reference to Regulation 828/2014 or a provision of Regulation 828/2014 in a provision of these Regulations listed in paragraph (4), is a reference to Regulation 828/2014 or that provision of Regulation 828/2014 as amended from time to time.”

(e) in paragraph (4)—

(i) in sub-paragraph (a), after “FIC”, insert “and “Regulation 828/2014””; and

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(4) OJ L 228, 31.7.2014, p.5.

(5) Section 48(4A) was inserted by paragraphs 7 and 21 of schedule 5 of the Food Standards Act 1999.

(6) OJ L 31, 1.2.2002, p.1, last amended by Regulation (EU) No 652/2014 (OJ L 189, 27.6.2014, p.1).

(7) S.S.I. 2014/312.

(8) OJ L 228, 31.7.2014, p.5.

- (ii) in sub-paragraph (i), for “(specified FIC provisions)” substitute “(specified provisions of FIC and Regulation 828/2014)”.
- (3) In regulation 10, after sub-paragraph (a), insert—
  - “(aa) any specified Regulation 828/2014 provision;”.
- (4) In regulation 12 (application of provisions of the Act)—
  - (a) in sub-paragraph (3)(a)—
    - (i) after “provision” insert “of information”; and
    - (ii) after “consumers” insert “, or Commission Implementing Regulation (EU) No 828/2014 on the requirements for the provision of information to consumers on the absence or reduced presence of gluten in food;” and
  - (b) in sub-paragraph (3)(c)(i) after “FIC provision”, insert “or a specified Regulation 828/2014 provision”.
- (5) In schedule 3 (specified FIC provisions)—
  - (a) for the title substitute “Specified provisions of FIC and of Regulation 828/2014”;
  - (b) after Part 1 (Specified FIC provisions applying on and from 13th December 2014), insert—

## “PART 1A

### Specified provisions of Regulation 828/2014 applying on and from 20th July 2016

<i>Specified provision of Regulation 828/2014</i>	<i>Provisions to be read with the specified provision of Regulation 828/2014</i>
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Article 3(1)	Articles 1(3), 6, 7 and 36(1) and (2) of FIC and Articles 2, 3(2) and (3) and the Annex to Regulation 828/2014.
Article 4	Article 2 of Regulation 828/2014”

### Revocations

3. The Foodstuffs Suitable for People Intolerant to Gluten (Scotland) Regulations 2010 are revoked(9).

St Andrew’s House,  
Edinburgh  
2nd June 2016

*AILEEN CAMPBELL*  
Authorised to sign by the Scottish Ministers

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision to enforce in Scotland the requirements of Commission Implementing Regulation (EU) No 828/2014 on the requirements for the provision of information to consumers on the absence or reduced presence of gluten in food (“Regulation 828/2014”).

Regulation 2 makes amendments to the Food Information (Scotland) Regulations 2014 to ensure that Articles 3(1) and 4 of Regulation 828/2014 can be enforced. In particular, they have the effect of making it an offence to fail to comply with those Articles and they ensure that powers of entry are available under section 32 of the Food Safety Act 1990 for the purposes of enforcing those Articles.

Regulation 3 revokes the Foodstuffs Suitable for People Intolerant to Gluten (Scotland) Regulations 2010.

A full business and regulatory impact assessment of the effect these Regulations will have on the costs of business, the voluntary sector and the public sector has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from Food Standards Scotland, Pilgrim House, Old Ford Road, Aberdeen, AB11 5RL.