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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 328**

**The Food Labelling (Nutrition Information) (Scotland) Regulations 2009**

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Food Labelling (Nutrition Information) (Scotland) Regulations 2009 and come into force on 30th October 2009.

(2) These Regulations extend to Scotland only.

**Amendment of the Food Labelling Regulations 1996**

2.—(1) The Food Labelling Regulations 1996<sup>(1)</sup> are amended in accordance with paragraphs (2) to (6).

(2) In regulation 2(1) (interpretation)—

(a) in the definition of “Directive 90/496” after the words “Commission Directive 2003/120/EC”<sup>(2)</sup> insert “and Commission Directive 2008/100/EC”<sup>(3)</sup>; and

(b) after the definition of “fat” insert the following:—

““fibre”, in the context of nutrition labelling, means carbohydrate polymers with three or more monomeric units, which are neither digested nor absorbed in the human small intestine and belong to the following categories:—

- (a) edible carbohydrate polymers naturally occurring in the food as consumed;
- (b) edible carbohydrate polymers which have been obtained from food raw material by physical, enzymatic or chemical means and which have a beneficial physiological effect demonstrated by generally accepted scientific evidence; or
- (c) edible synthetic carbohydrate polymers which have a beneficial physiological effect demonstrated by generally accepted scientific evidence;”.

(3) In regulation 50 (transitional provision), after paragraph (15) add the following as paragraph (16):—

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

(a) the food concerned—

- (i) if sold, was sold before the 31st October 2012, and
- (ii) if advertised for sale, was advertised for sale before 31st October 2012 but not on or after 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 of the Food

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(1) S.I. 1996/1499; relevantly amended by S.I. 1998/1398, 1999/747, 1136 and 1483 and S.S.I. 2000/83, 2002/524, 2003/578, 2004/269, 395 and 472, 2005/456 and 222, 2007/534 and 2008/129, 180 and 395.

(2) Inserted by S.S.I. 2004/269.

(3) O.J. No. L 285, 29.10.08, p.9.

Labelling (Nutrition Information) (Scotland) Regulations 2009 had not been in force when the food was sold or advertised, as the case may be.”.

(4) For the entries in Table A (vitamins in respect of which claims may be made) in Schedule 6, Part II (restricted claims), substitute the entries set out in Schedule 1 to these Regulations.

(5) For the entries in Table B (minerals in respect of which claims may be made) in Schedule 6, Part II (restricted claims), substitute the entries set out in Schedule 2 to these Regulations.

(6) In Schedule 7, Part I (presentation of prescribed nutrition labelling), paragraph 5—

(a) at the end of sub-paragraph (g) for the full stop substitute a semi-colon; and

(b) after sub-paragraph (g) add the following sub-paragraphs:—

“(h) 1 gram of fibre shall be deemed to contribute 8kJ (2 kcal);

(i) 1 gram of erythritol shall be deemed to contribute 0kJ (0kcal).”.

St Andrew’s House,  
Edinburgh  
23rd September 2009

*SHONA ROBISON*  
Authorised to sign by the Scottish Ministers