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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 427**

**The Food for Particular Nutritional Uses  
(Addition of Substances for Specific Nutritional  
Purposes) (Scotland) Regulations 2009**

**Citation, commencement and extent** **S**

1.—(1) These Regulations may be cited as the Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (Scotland) Regulations 2009 and come into force on 1st January 2010.

(2) These Regulations extend to Scotland only.

**Interpretation** **S**

2.—(1) In these Regulations—

“the Act” means the Food Safety Act 1990;

“the Commission Regulation” means Commission Regulation (EC) No. 953/2009 on substances that may be added for specific nutritional purposes in foods for particular nutritional uses; and

“specified provision” means any provision of the Commission Regulation that is specified in Column 1 of the Schedule and whose subject-matter is described in Column 2 of the Schedule.

(2) Any expression used both in these Regulations and in the Commission Regulation has the meaning that it bears in the Commission Regulation.

**Offences, penalties and execution and enforcement** **S**

3.—(1) Any person who contravenes any of the specified provisions shall be guilty of an offence.

(2) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Each food authority shall execute and enforce these Regulations within its area.

**Application of various sections of the Food Safety Act 1990** **S**

4. The following provisions of the Act shall apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act or Part of the Act shall be construed as a reference to these Regulations—

(a) section 3 (presumptions that food intended for human consumption);

(b) section 20 (offences due to fault of another person);

(c) section 21 (defence of due diligence)<sup>M1</sup>, as it applies for the purpose of section 14 or 15;

(d) section 30(8) (analysis etc. of samples);

(e) section 33(1) (obstruction etc. of officers);

- (f) section 33(2), with the modification that the reference to “any such requirement as is mentioned in subsection (1)(b) above” shall be deemed to be a reference to any such requirement as is mentioned in that subsection as applied by sub-paragraph (e);
- (g) section 35(1) (punishment of offences) <sup>M2</sup>, in so far as it relates to offences under section 33(1) as applied by sub-paragraph (e);
- (h) section 35(2) and (3) <sup>M3</sup>, in so far as it relates to offences under section 33(2) as applied by sub-paragraph (f);
- (i) section 36 (offences by bodies corporate);
- (j) section 36A (offences by Scottish partnerships) <sup>M4</sup>; and
- (k) section 44 (protection of officers acting in good faith).

#### Marginal Citations

- M1** Section 21 was amended by [S.I. 2004/3279](#).
- M2** Section 35(1) is amended by the [Criminal Justice Act 2003 \(2003 c.44\)](#), [Schedule 26](#), paragraph 42, from a date to be appointed.
- M3** Section 35(3) was amended by [S.I. 2004/3279](#).
- M4** Section 36A was inserted by the [Food Standards Act 1999 \(1999 c.28\)](#), [Schedule 5](#), paragraph 16.

### Amendment to the Tryptophan in Food (Scotland) Regulations 2005 **S**

5.—(1) The Tryptophan in Food (Scotland) Regulations 2005 <sup>M5</sup> are amended in accordance with the following paragraphs.

- (2) In regulation 2 (interpretation)—
  - (a) in paragraph (1) for the definition “Directive [2001/15/EC](#)” substitute the following definition—
 

““Regulation 953/2009” means Commission Regulation ([EC](#)) No. [953/2009](#) on substances that may be added for specific nutritional purposes in foods for particular nutritional uses;”;
  - (b) after paragraph (2) insert the following paragraph—
 

“(3) The reference in regulation 5(2) to the Annex to Regulation 953/2009 is a reference to that Annex as amended from time to time.”.
- (3) For regulation 5(2)(c) (exceptions from prohibitions) substitute—
  - (c) laevorotatory tryptophan, its sodium, potassium, calcium or magnesium salts or its hydrochloride, added in compliance with Regulation 953/2009 to any food for a particular nutritional use referred to in the Annex to that Regulation;”.

#### Marginal Citations

- M5** [S.S.I. 2005/479](#).

### Revocation **S**

- 6. The following Regulations are revoked—
  - (a) the Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (Scotland) Regulations 2002 <sup>M6</sup>;

- (b) the Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes)(Scotland) Amendment Regulations 2004 <sup>M7</sup>; and
- (c) the Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (Scotland) Amendment Regulations 2006 <sup>M8</sup>.

**Marginal Citations**

**M6** [S.S.I. 2002/397](#), as amended by [S.S.I. 2004/90](#), [S.S.I. 2006/556](#) and [S.S.I. 2007/424](#).

**M7** [S.S.I. 2004/90](#).

**M8** [S.S.I. 2006/556](#).

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*SHONA ROBISON*  
Authorised to sign by the Scottish Ministers

**Changes to legislation:**

There are currently no known outstanding effects for the The Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (Scotland) Regulations 2009.