

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply in relation to Scotland only. They revoke the Food Additives Labelling Regulations 1992 (S.I. 1992/1978), the Sweeteners in Food Regulations 1995 (S.I. 1995/3123), the Colours in Food Regulations 1995 (S.I. 1995/3124) and the Miscellaneous Food Additives Regulations 1995 (S.I. 1995/3187) (each of which extends to the whole of Great Britain) and re-enact with changes and on a transitional basis certain provisions of the last three of those instruments.

These Regulations provide for the execution and enforcement of Regulation (EC) No. 1333/2008 of the European Parliament and of the Council on food additives (O.J. No. L354, 31.12.2008, p.16) (“the Regulation”) and give effect to Commission Directive 2009/10/EC amending Directive 2008/84/EC laying down specific purity criteria on food additives other than colours and sweeteners (O.J. No. L44, 14.2.2009, p.62).

These Regulations prohibit—

- (a) the use in or on any food of any colour other than a permitted colour and the use of any permitted colour unless specified requirements are satisfied (the terms “colour” and “permitted colour” are defined in regulation 2(1)) (regulation 3);
- (b) the use for health marking and other marking of certain meat and meat products of colours other than certain permitted colours (regulation 4);
- (c) the use of a colour for the decorative colouring of eggshells or the marking of eggshells as provided for in a specified EU instrument other than a permitted colour (regulation 5);
- (d) the sale—
 - (i) of any colour for use in or on any food unless the colour is a permitted colour,
 - (ii) direct to consumers of any colour other than a specified permitted colour (the term “specified permitted colour” is defined in regulation 2(1)), or
 - (iii) of any food having in or on it any colour other than a permitted colour that has been used in or on the food without contravening specified provisions of these Regulations (regulation 6);
- (e) the use in or on any food of any miscellaneous additive other than a permitted miscellaneous additive (the terms “miscellaneous additive” and “permitted miscellaneous additive” are defined in regulation 2(1)) (regulation 8(1));
- (f) subject to a specified EU provision, the use of a permitted miscellaneous additive listed elsewhere in the EU instrument in which that provision appears in or on a food listed in a specified part of that instrument (regulation 8(2));
- (g) subject to a specified EU provision in the case of the prohibition imposed by regulation 8(3), the use of certain permitted miscellaneous additives in or on specified foods unless specified requirements are satisfied (regulation 8(3), (4) and (5));

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- (h) the use of any miscellaneous additive primarily as a carrier or carrier solvent unless the additive is a permitted miscellaneous additive listed in a specified EU provision and its use complies with the restrictions, if any, mentioned in relation to the additive in that provision (the terms “carrier” and “carrier solvent” are defined in regulation 2(1)) (regulation 8(6));
- (i) subject to a specified EU provision, the use of any permitted miscellaneous additive in or on food for infants or young children unless it is listed in a specified EU provision and it is used only in accordance with the conditions contained in that provision (the term “food for infants or young children” is defined in regulation 2(1)) (regulation 8(7));
- (j) the use in or on any food for infants or young children of any relevant food additive in combination with a miscellaneous additive used primarily as a carrier or carrier solvent unless the miscellaneous food additive is listed in a specified EU provision and its presence in or on the food is in accordance with the conditions contained in that provision (the term “relevant food additive” is defined in regulation 2(1)) (regulation 8(8));
- (k) the sale of any miscellaneous additive for use in or on food other than a permitted miscellaneous additive (regulation 9(1));
- (l) the sale of any miscellaneous additive for use primarily as a carrier or carrier solvent unless the additive is a certain type of permitted miscellaneous additive (regulation 9(2));
- (m) the sale direct to consumers of any miscellaneous additive other than a permitted miscellaneous additive (regulation 9(3));
- (n) the sale of any food having in or on it any miscellaneous additive other than a permitted miscellaneous additive which has been used or is present in or on the food without contravening specified provisions of these Regulations (regulation 9(4));
- (o) the sale of any relevant food additive in combination with a miscellaneous additive used primarily as a carrier or carrier solvent unless the miscellaneous additive has been used in respect of the relevant food additive without contravening the requirements of regulation 8(6) (regulation 9(5));
- (p) the placing on the market of any sweetener intended for sale to the ultimate consumer or for use in or on any food other than a permitted sweetener (the terms “sweetener” and “permitted sweetener” are defined in regulation 2(1)) (regulation 11(1));
- (q) the use of any sweetener in or on any food other than a permitted sweetener which—
 - (i) is used in or on a food listed in a specified EU provision in an amount not exceeding the maximum usable dose for the sweetener that is listed in relation to that food in that provision, and
 - (ii) is listed in relation to that food in that provision (regulation 11(2));
- (r) the sale of any food having in or on it any sweetener other than a permitted sweetener which has been used in or on the food without contravening regulation 11(2) (regulation 12).

These Regulations also—

- (a) re-enact with changes on a transitional basis (as noted above) certain provisions included in the Sweeteners in Food Regulations 1995, the Colours in Food Regulations 1995 and the Miscellaneous Food Additives Regulations 1995 (regulations 7, 10 and 13);
- (b) provide that a person who contravenes or fails to comply with specified provisions of these Regulations or (subject to a transitional provision contained in Article 34 of the Regulation) the Regulation, is guilty of a summary offence and liable on conviction to a fine not exceeding level 5 on the standard scale (regulation 14);

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- (c) make provision for the execution and enforcement of these Regulations and the Regulation (regulation 15);
- (d) apply with modifications for the purposes of these Regulations certain provisions of the Food Safety Act 1990 (regulation 16);
- (e) provide that, where food is certified as being food which it is an offence under these Regulations to use, sell or place on the market, the food will be treated for the purposes of section 9 of the Food Safety Act 1990 as failing to comply with food safety requirements (regulation 17);
- (f) make consequential amendments to the Mineral Hydrocarbons in Food Regulations 1966 ([S.I. 1966/1073](#)), the Fruit Juices and Fruit Nectars (Scotland) Regulations 2003 ([S.S.I. 2003/293](#)), the Condensed Milk and Dried Milk (Scotland) Regulations 2003 ([S.S.I. 2003/311](#)), the Meat Products (Scotland) Regulations 2004 ([S.S.I. 2004/6](#)) and the Jam and Similar Products (Scotland) Regulations 2004 ([S.S.I. 2004/133](#)) (regulation 18); and
- (g) make a minor amendment to the Specified Sugar Products (Scotland) Regulations 2003 ([S.S.I. 2003/527](#)) (regulation 19).

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Food Standards Agency (Scotland), 6th Floor, St Magnus House, 25 Guild Street, Aberdeen AB11 6NJ

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Changes and effects yet to be applied to :

- Sch. coming into force by [S.S.I. 2009/436 reg. 1\(1\)](#)
- Sch. Table words inserted by [S.S.I. 2012/119 reg. 2\(6\)](#)
- Regulations revoked in part by [S.S.I. 2013/266 Sch. 5](#)
- reg. 1 coming into force by [S.S.I. 2009/436 reg. 1\(1\)](#)
- reg. 2 coming into force by [S.S.I. 2009/436 reg. 1\(1\)](#)
- reg. 2(1) words inserted by [S.S.I. 2011/99 reg. 2\(2\)\(a\)](#)
- reg. 2(1) words inserted by [S.S.I. 2011/99 reg. 2\(2\)\(b\)](#)
- reg. 2(1) words inserted by [S.S.I. 2012/119 reg. 2\(2\)\(d\)](#)
- reg. 2(1) words inserted by [S.S.I. 2012/119 reg. 2\(2\)\(e\)](#)
- reg. 2(1) words substituted by [S.S.I. 2011/305 reg. 2](#)
- reg. 2(1) words substituted by [S.S.I. 2012/119 reg. 2\(2\)\(a\)](#)
- reg. 2(1) words substituted by [S.S.I. 2012/119 reg. 2\(2\)\(b\)](#)
- reg. 2(1) words substituted by [S.S.I. 2012/119 reg. 2\(2\)\(c\)](#)
- reg. 2(5) substituted by [S.S.I. 2012/119 reg. 2\(3\)](#)
- reg. 3 coming into force by [S.S.I. 2009/436 reg. 1\(1\)](#)
- reg. 4 coming into force by [S.S.I. 2009/436 reg. 1\(1\)](#)
- reg. 5 coming into force by [S.S.I. 2009/436 reg. 1\(1\)](#)
- reg. 6 coming into force by [S.S.I. 2009/436 reg. 1\(1\)](#)
- reg. 7 coming into force by [S.S.I. 2009/436 reg. 1\(1\)](#)
- reg. 8 coming into force by [S.S.I. 2009/436 reg. 1\(1\)](#)
- reg. 9 coming into force by [S.S.I. 2009/436 reg. 1\(1\)](#)
- reg. 10 coming into force by [S.S.I. 2009/436 reg. 1\(1\)](#)
- reg. 11 coming into force by [S.S.I. 2009/436 reg. 1\(1\)](#)
- reg. 12 coming into force by [S.S.I. 2009/436 reg. 1\(1\)](#)
- reg. 13 coming into force by [S.S.I. 2009/436 reg. 1\(1\)](#)
- reg. 14 coming into force by [S.S.I. 2009/436 reg. 1\(1\)](#)
- reg. 14(2) words inserted by [S.S.I. 2012/119 reg. 2\(4\)\(a\)](#)
- reg. 14(2)(b)(c) omitted by [S.S.I. 2012/119 reg. 2\(4\)\(b\)](#)
- reg. 15 coming into force by [S.S.I. 2009/436 reg. 1\(1\)](#)
- reg. 16 coming into force by [S.S.I. 2009/436 reg. 1\(1\)](#)
- reg. 17 coming into force by [S.S.I. 2009/436 reg. 1\(1\)](#)
- reg. 18 coming into force by [S.S.I. 2009/436 reg. 1\(1\)](#)
- reg. 18(1) substituted by [S.S.I. 2012/119 reg. 2\(5\)](#)
- reg. 18(4) revoked by [S.S.I. 2014/289 reg. 8\(c\)](#)
- reg. 19 coming into force by [S.S.I. 2009/436 reg. 1\(1\)](#)
- reg. 20 coming into force by [S.S.I. 2009/436 reg. 1\(1\)](#)