

2013 No. 83

FOOD

**The Food (Miscellaneous Amendment and Revocation)
(Scotland) Regulations 2013**

Made - - - - 27th February 2013

Laid before the Scottish Parliament 28th February 2013

Coming into force - - 6th April 2013

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 16(1)(a), (b), (c) and (f), (2) and (3), 17(1) and (2), 26(1), (2)(a) and (3) and 48(1)(a) of the Food Safety Act 1990(a), paragraph 1A of Schedule 2 to the European Communities Act 1972(b) 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 the references to Regulation 2023/2006 and Regulation 10/2011 in regulation 2 to be construed as references to Commission Regulation (EC) No. 2023/2006(c) and Commission Regulation (EU) No. 10/2011(d) respectively, as amended from time to time.

In accordance with section 48(4A) of the Food Safety Act 1990, they have had regard to relevant advice given by the Food Standards Agency(e).

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

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- (a) 1990 c.16. Section 1(1) and (2) (definition of “food”) was substituted by S.I. 2004/2990. Sections 16(1) and (2), 17(1) and (2) and 48(1) were amended by Schedule 5 to the Food Standards Act 1999 (c.28). Section 26(3) was amended by Schedule 6 to the 1999 Act. Section 48(4) is disappplied in respect of these Regulations by virtue of section 48(4C) which was inserted by S.I. 2004/2990. By virtue of section 40(2) of the 1999 Act, amendments made by Schedule 5 to that Act are to be taken as pre-commencement enactments for the purposes of the Scotland Act 1998 (c.46). The functions of the Secretary of State, in so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. In so far as not transferred, and in so far as relating to food (including drink) including the primary production of food, relevant 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).
- (b) 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51) and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7). The functions conferred on the Minister of the Crown under section 2(2), in so far as exercisable 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, and in so far as relating to food (including drink) including the primary production of food, relevant functions were transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005.
- (c) OJ L 384, 29.12.2006, p.75, as amended by Commission Regulation (EC) No. 282/2008 (OJ L 86, 28.3.2008, p.9).
- (d) OJ L 12, 15.1.2011, p.1, as last amended by Commission Regulation (EU) No. 118/2012 (OJ L 338, 12.12.2012, p.11).
- (e) Section 48(4A) was inserted by paragraph 21 of Schedule 5 to the 1999 Act.

food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(a).

Citation, extent and commencement

1. These Regulations may be cited as the Food (Miscellaneous Amendment and Revocation) (Scotland) Regulations 2013, extend to Scotland only and come into force on 6th April 2013.

Amendment of the Materials and Articles in Contact with Food (Scotland) Regulations 2012

2. For regulation 20 of the Materials and Articles in Contact with Food (Scotland) Regulations 2012(b), substitute—

“20.—(1) Each food authority in its area must execute and enforce—

- (a) Regulation 1935/2004, Regulation 1895/2005, Regulation 450/2009 and Regulation 10/2011;
- (b) the provisions of Regulation 2023/2006 specified in regulation 5; and
- (c) these Regulations.

(2) The Food Standards Agency may also execute and enforce—

- (a) Articles 16(1) and 17(2) of Regulation 1935/2004; and
- (b) Article 13 of Regulation 450/2009.”.

Revocations

3. The Regulations specified in Schedule 1 are revoked.

Consequential amendments

4. Schedule 2 has effect.

St Andrew’s House,
Edinburgh
27th February 2013

MICHAEL MATHESON
Authorised to sign by the Scottish Ministers

(a) OJ L 31, 1.2.2002, p.1, as last amended by Regulation (EC) No. 596/2009 of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny: Adaptation to the regulatory procedure with scrutiny – Part Four (OJ L 188, 18.7.2009, p.14).

(b) S.S.I. 2012/318.

SCHEDULE 1

Regulation 3

Revocations

<i>Regulations revoked</i>	<i>References</i>
The Arsenic in Food (Scotland) Regulations 1959	S.I. 1959/928
The Arsenic in Food (Scotland) Amendment Regulations 1960	S.I. 1960/2344
The Arsenic in Food (Scotland) Amendment Regulations 1973	S.I. 1973/1039
The Chloroform in Food (Scotland) Regulations 1980	S.I. 1980/289

SCHEDULE 2

Regulation 4

Consequential Amendments

The Food and Drugs (Scotland) Act 1956 (Transfer of Enforcement Functions) Regulations 1983

1.—(1) The Food and Drugs (Scotland) Act 1956 (Transfer of Enforcement Functions) Regulations 1983(a) is amended as follows.

(2) In the table in Schedule 2, omit the entry for the Chloroform in Food (Scotland) Regulations 1980.

(3) In the table in Schedule 3, omit the entry for the Arsenic in Food (Scotland) Regulations 1959.

The Food (Revision of Penalties and Mode of Trial) (Scotland) Regulations 1985

2.—(1) The Food (Revision of Penalties and Mode of Trial) (Scotland) Regulations 1985(b) is amended as follows.

(2) In the table in Schedule 1, omit the entries for the Arsenic in Food (Scotland) Regulations 1959 and the Chloroform in Food (Scotland) Regulations 1980.

(3) In the table in Schedule 2, omit the entry for the Chloroform in Food (Scotland) Regulations 1980.

The Food Safety Act 1990 (Consequential Modifications) (Scotland) Order 1990

3.—(1) The Food Safety Act 1990 (Consequential Modifications) (Scotland) Order 1990(c) is amended as follows.

(2) In the table in Part 1 of Schedule 1, omit the entry for the Chloroform in Food (Scotland) Regulations 1980.

(3) In the table in Part 2 of Schedule 1, omit the entry for the Arsenic in Food (Scotland) Regulations 1959.

(4) In the table in Schedule 2, omit the entries for the Arsenic in Food (Scotland) Regulations 1959 and the Chloroform in Food (Scotland) Regulations 1980.

(5) In the table in Part 1 of Schedule 3, omit the entry for the Arsenic in Food (Scotland) Regulations 1959.

(6) In the table in Part 2 of Schedule 3, omit the entry for the Chloroform in Food (Scotland) Regulations 1980.

(7) In the table in Schedule 4, omit the entries for the Arsenic in Food (Scotland) Regulations 1959 and the Chloroform in Food (Scotland) Regulations 1980.

(8) In the table in Schedule 6, omit the entries for the Arsenic in Food (Scotland) Regulations 1959 and the Chloroform in Food (Scotland) Regulations 1980.

(9) In the table in Schedule 8, omit the entries for the Arsenic in Food (Scotland) Regulations 1959 and the Chloroform in Food (Scotland) Regulations 1980.

(a) S.I. 1983/270.

(b) S.I. 1985/1068.

(c) S.I. 1990/2625.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend regulation 20 of the Materials and Articles in Contact with Food (Scotland) Regulations 2012 (“the 2012 Regulations”) to make its meaning clearer.

Paragraph 1A of Schedule 2 to the European Communities Act 1972 is cited in the enabling powers for these Regulations because reference is made in regulation 2 to certain EU instruments which are defined in the 2012 Regulations as meaning those EU instruments as amended from time to time.

In addition, these Regulations revoke—

- (a) the Arsenic in Food (Scotland) Regulations 1959 and related amending instruments; and
- (b) the Chloroform in Food (Scotland) Regulations 1980.

Schedule 2 to these Regulations makes amendments consequential to the revocations.

A Business and Regulatory Impact Assessment has not been produced for this instrument as it has no impact on the costs of business.

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