
EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations, which apply to England only, provide for the execution and enforcement of the following EU Regulations —

- (a) Regulation (EC) No 2065/2003 of the European Parliament and of the Council on smoke flavourings used or intended for use in or on foods (OJNo. L309, 26.11.2003, p.1);
- (b) Regulation (EC) No 1332/2008 of the European Parliament and of the Council on food enzymes (OJ No. L354, 31.12.2008, p.7);
- (c) Regulation (EC) No 1333/2008 of the European Parliament and of the Council on food additives (OJ No. L354, 31.12.2008, p.16);
- (d) Regulation (EC) No 1334/2008 of the European Parliament and of the Council on flavourings and certain food ingredients with flavouring properties for use in and on foods (OJ No. L354, 31.12.2008, p.34).

2. These Regulations also implement Directive 2009/32/EC of the European Parliament and of the Council on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients (OJ No. L141, 6.6.2009, p.3).

3. These Regulations revoke, in whole or in part, the following Regulations —

- (a) The Extraction Solvents in Food Regulations 1993 (S.I. 1993/1658);
- (b) The Smoke Flavourings (England) Regulations 2005 (S.I. 2005/464);
- (c) The Food (Suspension of the Use of E128 Red 2G Food Colour) (England) Regulations 2007 (S.I. 2007/2266);
- (d) The Food Enzymes Regulations 2009 (S.I. 2009/3235);
- (e) The Food Additives (England) Regulations 2009 (S.I. 2009/3238);
- (f) The Flavourings in Food (England) Regulations 2010 (S.I. 2010/2817).

4. These Regulations, in Part 2, provide that it is an offence, subject to any applicable transitional arrangements, to contravene or to use or place on the market a product that contravenes specified requirements of —

- (a) Regulation (EC) No 1333/2008 relating to food additives (*regulation 3 and Table 1 of Schedule 1*);
- (b) Regulation (EC) No 1334/2008 relating to food flavourings and foods with flavouring properties (*regulation 4 and Table 1 of Schedule 2*);
- (c) Regulation (EC) No 2065/2003 relating to smoke flavourings (*regulation 5 and Table 1 of Schedule 3*); and
- (d) Regulation (EC) No 1332/2008 relating to food enzymes (*regulation 6 and Table 1 of Schedule 4*).

5. These Regulations also provide in Part 2 that in the case of certain types of non-compliance, relating to labelling, an authorised officer of an enforcement authority may serve a compliance notice requiring specified steps to be taken, failing which an offence will be committed (*regulation 7 and Table 2 of Schedules 1 to 4*). A person served with a compliance notice may appeal against it to a magistrates court (*regulation 8*).

Changes to legislation: There are currently no known outstanding effects for the The Food Additives, Flavourings, Enzymes and Extraction Solvents (England) Regulations 2013. (See end of Document for details)

6. Part 3 of these Regulations implement Directive [2009/32/EC](#) relating to extraction solvents, in particular by —
 - (a) specifying the circumstances where the controls on extraction solvents do not apply (*regulation 10*);
 - (b) defining what constitutes a permitted extraction solvent (*regulation 11*);
 - (c) prohibiting any person from using an extraction solvent other than a permitted extraction solvent, as defined, in the production of food (*regulation 12*);
 - (d) prohibiting any person from placing on the market an extraction solvent that is not a permitted extraction solvent or which is not accompanied by certain information on the packaging, container or label (*regulations 13 and 14*).
7. These Regulations in Part 4 —
 - (a) designate the Food Standards Agency as the competent authority for the purposes of applications for authorisation of a smoke flavouring (*regulation 15*);
 - (b) assign the duty of enforcing these Regulations to food authorities (*regulation 16*);
 - (c) provide for the maximum penalty to which a person may be liable on conviction for an offence under these Regulations (*regulation 17*);
 - (d) provide that, where food is certified as being food which it is an offence to 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 18*); and
 - (e) apply, with certain modifications, various provisions of the Food Safety Act 1990 for the purposes of these Regulations (*regulation 19*).
8. These Regulations in Part 5 —
 - (a) make a minor amendment to the Food Labelling Regulations 1996 (*regulation 20*);
 - (b) revoke certain instruments in whole or in part (*regulation 21 and Schedule 5*); and
 - (c) provide for the Food Standards Agency to carry out a review of the operation and effect of these Regulations within 5 years of them coming into force (*regulation 22*).
9. A full impact assessment has not been produced for this instrument as no impact on business or on the public or voluntary sectors is foreseen.

Changes to legislation:

There are currently no known outstanding effects for the The Food Additives, Flavourings, Enzymes and Extraction Solvents (England) Regulations 2013.