

2019 No. 1218

FOOD, ENGLAND

**The Food Information (Amendment) (England) Regulations
2019**

<i>Made</i>	- - - -	<i>4th September 2019</i>
<i>Laid before Parliament</i>		<i>5th September 2019</i>
<i>Coming into force</i>	- -	<i>1st October 2021</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 16(1)(e), 26(3) and 48(1) of the Food Safety Act 1990(a), and, in relation to regulation 2(4), (6) and (10), by paragraph 1A of Schedule 2 to the European Communities Act 1972 (“the 1972 Act”)(b).

The Secretary of State is a Minister designated for the purposes of section 2(2) of the 1972 Act in relation to food and drink intended for sale for human consumption, including the presentation, packaging, labelling, marketing and advertising of such food and drink(c).

These Regulations make provision for a purpose mentioned in section 2(2) of the 1972 Act and it appears to the Secretary of State that it is expedient for references to Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers(d) mentioned in regulation 2(4) and (6) of these Regulations to be construed as references to that instrument as amended from time to time.

The Secretary of State has had regard to relevant advice given by the Food Standards Agency in accordance with section 48(4A) of the Food Safety Act 1990(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 food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(f) during the preparation, evaluation and revision of food law in relation to these Regulations.

(a) 1990 c.16. Section 16(1) was amended by paragraph 8 of Schedule 5 to the Food Standards Act 1999 (c.21) (“the 1999 Act”). Section 26(3) was amended by Schedule 6 to the 1999 Act. Section 48(1) was amended by paragraph 8 of Schedule 5 to the 1999 Act.

(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 was amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7) and S.I. 2007/1388. It is prospectively repealed by section 1 of the European Union (Withdrawal) Act 2018 (c.16) from exit day (see section 20 of that Act).

(c) S.I. 2005/2766. It is prospectively revoked by S.I. 2018/1011 from exit day.

(d) OJ No L 304, 22.11.2011, p.18, as last amended by Regulation (EU) No. 2015/2283 (OJ No 327, 11.12.2015, p.1).

(e) Section 48(4A) was inserted by paragraph 21 of Schedule 5 to the 1999 Act.

(f) OJ No L 31, 1.2.2002, p.1, as last amended by Regulation (EU) No. 2017/228 (OJ No L 35, 10.2.17 p.10).

Citation and commencement

1. These Regulations may be cited as the Food Information (Amendment) (England) Regulations 2019 and come into force on 1st October 2021.

Amendment of the Food Information Regulations 2014

2.—(1) The Food Information Regulations 2014(a) are amended as follows.

(2) In regulation 1 (citation, extent, application, commencement and expiry), omit paragraph (9).

(3) In regulation 5 (foods that are not prepacked etc. containing an allergenic substance or product etc.), in paragraph (2)—

(a) in sub-paragraph (a), after “prepacked,”, insert “or”;

(b) in sub-paragraph (b), omit the final “or”;

(c) omit sub-paragraph (c).

(4) After regulation 5, insert—

“Foods that are prepacked for direct sale – duty to list ingredients

5A. —(1) A food business operator who offers for sale a food to which this regulation applies must provide directly on the package or on a label attached to the package the particulars required by—

(a) Article 9(1)(b) (list of ingredients), as read with—

(i) Article 13(1) to (3), as read with any delegated acts made under Article 13(4),

(ii) Article 15,

(iii) Article 16(2), so far as it relates to the particulars required by Article 9(1)(b),

(iv) Article 17, as read with Parts A and C of Annex 6 and, in the case of an ingredient using a minced meat designation as a name, the following points of Part B of Annex 6—

(aa) point 1, and

(bb) point 3, as read with regulation 4 and Schedule 2,

(v) Article 18, as read with Annex 7 and paragraph (1)(a)(iv) of this regulation,

(vi) Article 19(1), as read with any delegated acts made under Article 19(2), and

(vii) Article 20;

(b) Article 9(1)(c) (labelling of certain substances or products causing allergies or intolerances), as read with Article 21(1) and Annex 2.

(2) This regulation applies to a food that—

(a) is offered for sale to a final consumer or to a mass caterer otherwise than by means of distance communication, and

(b) is prepacked for direct sale.”.

(5) In regulation 6 (foods that are not prepacked etc. – general requirement to name them), in paragraph (2)—

(a) in sub-paragraph (a), after “prepacked,”, insert “or”;

(b) in sub-paragraph (b), omit the final “or”;

(c) omit sub-paragraph (c).

(6) After regulation 6, insert—

(a) S.I. 2014/1855, amended by S.I. 2015/1348. It is prospectively amended by S.I. 2019/150 from exit day.

“Foods that are prepacked for direct sale – general requirement to name them

6A.—(1) A food business operator who offers for sale a food to which this regulation applies must provide the particulars required by Article 9(1)(a) (the name of the food), as read with—

- (a) Article 17(1) to (4),
- (b) Part A of Annex 6, and
- (c) in the case of a food offered for sale using a minced meat designation as a name—
 - (i) Article 17(5),
 - (ii) point 1 of Part B of Annex 6, and
 - (iii) point 3 of Part B of Annex 6, as read with regulation 4 and Schedule 2.

(2) This regulation applies to a food that—

- (a) is offered for sale to a final consumer or to a mass caterer, and
- (b) is prepacked for direct sale.

(3) The particulars in paragraph (1) must be provided directly on the package or on a label attached to the package, except in the case of an offer for sale made by means of distance communication.”.

(7) In regulation 10(1) (offence)—

- (a) in sub-paragraph (a), omit the final “or”;
- (b) in sub-paragraph (b), after “5(5)”, insert “, or”;
- (c) after sub-paragraph (b) insert—

“(c) regulation 5A(1)(b).”.

(8) In regulation 12 (application of provisions of the Act), in paragraph (1)(a)—

- (a) after paragraph (ii), insert—

“(iia) regulation 5A(1);”;
- (b) after paragraph (iii), insert—

“(iiia) regulation 6A(1) or (3);”.

(9) In regulation 15(4) (review)—

- (i) for “The first” substitute “A”;
- (ii) for “2019” substitute “2024”.

(10) In Schedule 1 (provisions of these Regulations that contain ambulatory references to FIC by virtue of regulation 2(3)), at the appropriate place, insert—

“Regulation 5A(1);”;

“Regulation 6A(1)”.

(11) In Schedule 4, in Part 1, in paragraph 1 (modification of section 10(1) of the Act), in the modified section 10(1A)(d)—

- (a) after sub-paragraph (i), insert—

“(ia) regulation 5A(1);”;
- (b) after sub-paragraph (ii), insert—

“(iia) regulation 6A(1) or (3);”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Food Information Regulations 2014 (S.I. 2014/1855) (“the Regulations”).

New regulation 5A, inserted by regulation 2(4) of this instrument, provides that food that is prepacked for direct sale, whether supplied to a final consumer or to a mass caterer, must have a list of ingredients provided directly on the package or on a label attached to the package. There is an exemption for packaging or containers the largest surface of which has an area of less than 10cm². There is also an exemption where an offer for sale is made by means of distance communication.

New regulation 6A, inserted by regulation 2(6) of this instrument, provides that food that is prepacked for direct sale, whether supplied to a final consumer or to a mass caterer, must have the name of the food provided directly on the package or on a label attached to the package. There is an exemption where an offer for sale is made by means of distance communication.

Other provisions make amendments in consequence of these changes.

Following a Post Implementation Review, the Secretary of State has decided that the Regulations should continue in force. Accordingly, by virtue of regulation 2(2) and (9) of this instrument, the sunset clause at regulation 1(9) has been removed and the deadline for publishing a report on the next review under regulation 15 has been set for 13th December 2024. The Post Implementation Review is published on www.legislation.gov.uk.

A full impact assessment of the effect these Regulations will have on the costs of business, the voluntary sector and the public sector is available from the Food Standards and Consumers Team, Department for Environment, Food and Rural Affairs, 2 Marsham Street, London, SW1P 4DF and is published with the Explanatory Memorandum alongside these Regulations on www.legislation.gov.uk.

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