

**2020 No. 256**

**FOOD, ENGLAND**

**The Addition of Vitamins, Minerals and Other Substances  
(England) (Amendment) Regulations 2020**

*Made* - - - - at 10.50 a.m. on 10th March 2020

*Laid before Parliament* at 3.00 p.m. on 10th March 2020

*Coming into force* - - 3rd April 2020

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 16(1)(a) and (f), 17(2), 26(1)(a) and (3) and 48(1) of the Food Safety Act 1990(a) and now vested in him(b), as read with paragraph 1A of Schedule 2 to, the European Communities Act 1972(c).

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

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for certain references to provisions of Regulation (EC) No 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other

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- (a) 1990 c. 16. Section 1(1) and (2) (meaning of “food” and other basic expressions) was substituted by S.I. 2004/2990. Section 16(1) was amended by paragraphs 7 and 8 of Schedule 5 to the Food Standards Act 1999 (c. 28) (“the 1999 Act”). Section 17(2) was amended by paragraphs 7, 8 and 12(b) of Schedule 5 to the 1999 Act and by S.I. 2011/1043. Section 26(3) was amended by Schedule 6 to the 1999 Act. Section 48 was amended by paragraphs 7, 8 and 21 of Schedule 5 to the 1999 Act, paragraph 3(1) and (11) of the Schedule to the Food (Scotland) Act 2015 (asp 1) and S.I. 2004/2990.
- (b) Functions formerly exercisable by “the Ministers” (being, in relation to England and Wales and acting jointly, the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with health in England and food and health in Wales and, in relation to Scotland, the Secretary of State) are now exercisable in relation to England by the Secretary of State pursuant to paragraph 8 of Schedule 5 to the 1999 Act. Those functions, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672 as read with section 40(3) of the 1999 Act and thereafter transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32). Those functions, so far as exercisable in relation to Scotland, were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c. 46) as read with section 40(2) of the 1999 Act.
- (c) 1972 c. 68. The European Communities Act 1972 was repealed by section 1 of the European Union (Withdrawal) Act 2018 (c. 16) with effect from exit day, but saved with modifications until IP completion day by section 1A of that Act (as inserted by section 1 of the European Union (Withdrawal Agreement) Act 2020 (c. 1)). Section 2(2) of the European Communities Act 1972 was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7). Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 and S.I. 2007/1388.
- (d) S.I. 2003/2901, to which there are amendments not relevant to these Regulations.
- (e) S.I. 2005/2766, to which there are amendments not relevant to these Regulations.

substances to foods(a) to be construed as a reference to those provisions as amended from time to time.

In accordance with section 48(4A) of the Food Safety Act 1990, the Secretary of State has had regard to relevant advice given by the Food Standards Agency(b).

As required by Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 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(c) there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

### **Citation and commencement**

1. These Regulations may be cited as the Addition of Vitamins, Minerals and Other Substances (England) (Amendment) Regulations 2020 and come into force on 3rd April 2020.

### **Amendment of the Addition of Vitamins, Minerals and Other Substances (England) Regulations 2007**

2.—(1) The Addition of Vitamins, Minerals and Other Substances (England) Regulations 2007(d) are amended as follows.

(2) In regulation 2(1) (interpretation), in the definition of “the EC Regulation” for “I or II” substitute “I, II or III”.

(3) In regulation 4(2) (offences and penalties)—

(a) at the end of sub-paragraph (d) omit “and”;

(b) after sub-paragraph (e) insert—

“(f) Article 8(2)(a)(i) (prohibition of the addition of a substance listed in Annex III, Part A to foods or its use in the manufacture of foods); and

(g) Article 8(2)(a)(ii) (prohibition of the addition of a substance listed in Annex III, Part B to foods or its use in the manufacture of foods unless that substance is added or used in accordance with the conditions specified in that Part).”.

(4) After regulation 4 insert—

#### **“Transitional provision in relation to food containing substance listed in Annex III, Part B**

**4A.** An offence is not committed under paragraph (1) of regulation 4 by virtue of paragraph (2)(g) of that regulation in respect of the addition of a substance to, or its use in the manufacture of, any food if—

(a) the food is placed on the market before 1st April 2021; and

(b) the substance concerned falls within the entry in Annex III, Part B relating to trans fat other than trans fat naturally occurring in fat of animal origin.”.

Signed by authority of the Secretary of State for Health and Social Care

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(a) O.J. No. L 404, 30.12.2006, p. 26.

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

(c) O.J. No. L 31, 1.2.2002, p. 1, as last amended by Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union (O.J. No. L 198, 25.7.2019, p. 241).

(d) S.I. 2007/1631, amended by S.I. 2010/1886 and 2014/1855. Regulation 4 is amended by S.I. 2019/651.

At 10.50 a.m on 10th March 2020

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations, which apply in relation to England only, amend the Addition of Vitamins, Minerals and Other Substances (England) Regulations 2007 (S.I. 2007/1631) (“the 2007 Regulations”).

Regulation 2(1) of the 2007 Regulations is amended so that the definition of “the EC Regulation” includes a reference to Annex III as it may be amended from time to time of Regulation (EC) No 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other substances to foods (O.J. No. L 404, 30.12.2006, p. 26), as last amended by Commission Regulation (EU) 2019/650 of 24 April 2019 amending Annex III to Regulation (EC) No 1925/2006 of the European Parliament and of the Council as regards Yohimbe (*Pausinystalia yohimbe* (K. Schum) Pierre ex Beille) (O.J. No. L 110, 25.4.2019, p. 21).

Regulation 4(2) of the 2007 Regulations is amended so that it is an offence to add a substance listed in Annex III, Part A to the EC Regulation to foods, or to use such a substance in the manufacture of foods.

Regulation 4(2) of the 2007 Regulations is further amended so that it is an offence to add a substance listed in Annex III, Part B to the EC Regulation to foods, or to use such a substance in the manufacture of foods, unless that substance is added or used in accordance with the conditions specified in that Part.

A new transitional provision (regulation 4A) is inserted into the 2007 Regulations to provide that no offence is committed in respect of any food that does not comply with the provisions of Annex III, Part B relating to trans fat other than trans fat naturally occurring in fat of animal origin and which is placed on the market before 1st April 2021.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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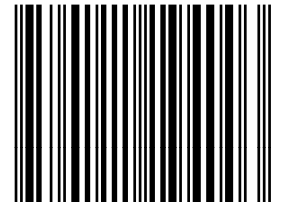
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