

2011 No. 305

FOOD

**The Food Additives (Scotland) Amendment (No. 2)
Regulations 2011**

Made - - - - - *16th August 2011*
Laid before the Scottish Parliament *18th August 2011*
Coming into force - - - *1st September 2011*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 16(1)(a) and (f), 17(1) and 48(1) of the Food Safety Act 1990(a) and all other powers enabling them to do so.

In accordance with section 48(4A) of that Act, the Scottish Ministers have had regard to relevant advice given by the Food Standards Agency(b).

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(c).

Citation and commencement

1. These Regulations may be cited as the Food Additives (Scotland) Amendment (No. 2) Regulations 2011 and come into force on 1st September 2011.

Amendment of the Food Additives (Scotland) Regulations 2009

2.—(1) The Food Additives (Scotland) Regulations 2009(d) are amended as follows.

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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), 17(1) and 48(1) were amended by paragraph 8 of Schedule 5 to the Food Standards Act 1999 (c.28) (“the 1999 Act”). Section 17(1) was also amended by paragraph 12 of Schedule 5 to the 1999 Act. Section 48(4) is disapplied 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 1998 Act”). The functions of the Secretary of State 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) Section 48(4A) was inserted by paragraph 21 of Schedule 5 to the 1999 Act.
- (c) O.J. 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 (O.J. L 188, 18.7.2009, p.14).
- (d) S.S.I. 2009/436, as amended by S.S.I. 2011/99.

(2) In regulation 2(1)(interpretation), in the definition of “permitted colour”, for the words from “the” in the second place that word occurs to the end of that definition, substitute, “Annex I to Commission Directive 2008/128/EC laying down specific purity criteria concerning colours for use in foodstuffs(a), as amended by Commission Directive 2011/3/EU amending Directive 2008/128/EC laying down specific purity criteria on colours for use in foodstuffs(b)”.

MICHAEL MATHESON

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
16th August 2011

(a) O.J. L 6, 10.1.2009, p.20.
(b) O.J. L 13, 18.1.2011, p.59.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Commission Directive 2011/3/EU amending Directive 2008/128/EC laying down specific purity criteria on colours for use in foodstuffs (O.J. L 13, 18.1.2011, p.59).

Commission Directive 2011/3/EU revises the purity criteria for lycopene derived from red tomatoes and permits the use of two new sources of lycopene (synthetic lycopene and lycopene from *Blakeslea trispora*) in accordance with prescribed purity criteria. These Regulations implement this by making an amendment to regulation 2 (interpretation) of the Food Additives (Scotland) Regulations 2009 so that the reference to Commission Directive 2008/128/EC laying down specific purity criteria concerning colours for use in foodstuffs (O.J. L 6, 10.1.2009, p.20) is a reference to that Directive as amended by Commission Directive 2011/3/EU.

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

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