Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Scotland) Regulations 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCOTTISH STATUTORY INSTRUMENTS

2004 No. 8

FOOD

The Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Scotland) Regulations 2004

Made - - - -	*15th January 2004*
Laid before the Scottish Parliament - - - -	*15th January 2004*
Coming into force - -	*6th March 2005*

The Scottish Ministers, in exercise of the powers conferred on them by sections 6(4), 16(1)(a), (e) and (f), 17(1), 26(1)(a) and (3) and 48(1) of the Food Safety Act 1990 [F1] and of all other powers enabling them in that behalf, having had regard in accordance with section 48(4A) [F2] of that Act to relevant advice given by the Food Standards Agency and after consultation in accordance with section 48(4) and (4B) [F3] of that Act, hereby make the following Regulations:

F1 1990 c. 16; section 6(4) was amended by the Deregulation and Contracting Out Act 1994 (c. 40), **Schedule 9**, paragraph 6 and by the Food Standards Act 1999 (c. 28) ("the 1999 Act"), Schedule 5, paragraph 10(3); sections 16(1) and 48(1) were amended by the 1999 Act, Schedule 5, paragraph 8; section 17(1) was amended by the 1999 Act, Schedule 5, paragraphs 8 and 12; section 26(3) was amended by the 1999 Act, Schedule 6; amendments made by Schedule 5 to the 1999 Act shall be taken as pre commencement enactments for the purposes of the Scotland Act 1998 (c. 46) ("the 1998 Act") by virtue of section 40(2) of the 1999 Act. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

F2 Section 48(4A) was inserted by the 1999 Act, Schedule 5, paragraph 21.

F3 Section 48(4B) was inserted by the 1999 Act, Schedule 5, paragraph 21

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Scotland) Regulations 2004 and shall come into force on 6th March 2005.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations–

"the Act" means the Food Safety Act 1990;

"baby foods" means foods for particular nutritional use fulfilling the particular requirements of infants and young children in good health and intended for use by infants while they are being weaned, and by young children as a supplement to their diet or for their progressive adaptation to ordinary food, but excludes processed cereal-based foods;

[F4"the Directive" means Commission Directive 2006/125/EC on processed cereal based foods and baby foods for infants and young children;**]**

"EEA Agreement" means the Agreement on the European Economic Area F5 signed at Oporto on 2nd May 1992 as adjusted by the Protocol F6 signed at Brussels on 17th March 1993;

"EEA State" means a State which is a Contracting Party to the EEA Agreement;

"infants" means children under the age of twelve months;

"pesticide residue" means the residue in processed CEREAL-BASED foods or baby foods of a plant protection product **[**F7which has the same meaning as in Article 2(1) of Regulation(EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC, and "residue" shall be read in accordance with Article 3(1) of that Regulation**]**, including its metabolites and products resulting from its degradation or reaction;

"processed cereal-based foods" means foods for particular nutritional use within the categories specified in Part I of Schedule 1 fulfilling the particular requirements of infants and young children in good health and intended for use by infants while they are being weaned, and by young children as a supplement to their diet or for their progressive adaptation to ordinary food;

"sell" includes possess for sale and offer, expose or advertise for sale; and

"young children" means children aged between one and three years.

(2) Other expressions used in these Regulations and in the Directive have the same meaning in these Regulations as they have in the Directive.

(3) Where any Schedule contains any note, the provisions of that Schedule shall be interpreted and applied in accordance with such note.

F4 Words in reg. 2(1) substituted (15.10.2007) by The Food for Particular Nutritional Uses (Scotland) (Miscellaneous Amendments) Regulations 2007 (S.S.I. 2007/424), regs. 1(1), **6(2)**
F5 O.J. No. L 1, 3.1.94, p.1.
F6 O.J. No. L 1, 3.1.94, p.571.
F7 Words in reg. 2 substituted (24.9.2011) by The Plant Protection Products Regulations 2011 (S.I. 2011/2131), reg. 1(1), **Sch. 4** (with reg. 29)

Exemption

3. These Regulations shall not apply to any baby food which is a milk intended for young children.

Restrictions on the sale of processed CEREAL-BASED foods and baby foods

4. No person shall sell any processed cereal-based food or baby food unless–

(a) it complies with the requirements of regulations 5 to 7 as to manufacture and composition; and

(b) it is labelled in accordance with regulation 8.

General requirements as to manufacture and composition

5.—(1) No processed cereal-based food or baby food shall be manufactured from any ingredient other than those whose suitability for particular nutritional use by infants and young children has been established by generally accepted scientific data.

(2) No processed cereal-based food or baby food shall contain any substance in such quantity as to endanger the health of infants or young children.

(3) The composition of a processed CEREAL-BASED food shall comply with the criteria specified in Part II of Schedule 1 as read with Schedule 2.

(4) The composition of a baby food shall comply with the criteria specified in Schedule 3.

Added nutritional substances and nutrients

6.—(1) In the manufacture of any processed cereal-based food or baby food, no nutritional substance shall be added other than a nutritional substance specified in Schedule 4.

(2) No processed cereal-based food or baby food shall contain any added nutrient specified in column 1 of Part I of Schedule 5 in an amount exceeding the maximum limit specified opposite that nutrient in column 2 of that Part.

(3) No processed CEREAL-BASED food or baby food specified in column 1 of Part II of Schedule 5 shall contain any added nutrient specified opposite that food in column 2 of that Part in an amount exceeding the maximum limit specified opposite that food in column 3 of that Part.

Pesticide residues

7.—(1) No processed CEREAL-BASED food or baby food shall contain–

(a) any pesticide residue of a pesticide specified in Schedule 6; or

(b) any omethoate, where it is a metabolite of a pesticide not specified in Schedule 6, or any product resulting from degradation or reaction of that metabolite,

at a level exceeding 0.003 mg/kg.

(2) No processed CEREAL-BASED food or baby food shall contain any pesticide residue of a pesticide specified in column 1 of Schedule 7 at a level exceeding that specified in column 2 of that Schedule in relation to that pesticide.

(3) No processed CEREAL-BASED food or baby food shall contain any pesticide residue of any individual pesticide which is not specified in Schedule 6 or column 1 of Schedule 7 at a level exceeding 0.01 mg/kg.

(4) The levels referred to in paragraphs (1) to (3) apply to the processed CEREAL-BASED food or baby food–

(a) manufactured as ready for consumption; or

(b) if it is not so manufactured, as reconstituted according to its manufacturer's instructions.

(5) Analytical methods for determining levels of pesticide residues for the purposes of this regulation shall be generally acceptable standardised methods.

Labelling

8.—(1) Without prejudice to the generality of **[**[F8]Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers**]**, processed CEREAL-BASED foods and baby foods shall be labelled with–

(a) a statement as to the appropriate age (which shall be not less than four months) from which the food may be used, regard being had to its composition, texture or other particular properties;

(b) information as to the presence or absence of gluten if the age stated pursuant to sub-paragraph (a) is less than six months;

(c) the available energy value expressed in kJ and kcal, and the protein, carbohydrate and fat content, expressed in numerical form, per 100 g or 100 ml of the food as sold and, where appropriate, per specified quantity of the food as proposed for consumption;

(d) the average quantity, expressed in numerical form, per 100 g or 100 ml of the food as sold and, where appropriate, per specified quantity of the food as proposed for consumption, of each mineral substance and of each vitamin in respect of which a maximum or a minimum compositional requirement is specified in–

(i) Part II of Schedule 1 in the case of processed CEREAL-BASED foods; and

(ii) Schedule 3 in the case of baby foods; and

(e) if preparation of the food is necessary, appropriate instructions for preparation and a statement as to the importance of following those instructions.

(2) Subject to paragraph (1)(d), no processed CEREAL-BASED food or baby food shall be labelled with the average quantity of any nutrient specified in Schedule 4 unless–

(a) that average quantity is expressed in numerical form, per 100 g or 100 ml of the food as sold and, where appropriate, per specified quantity of the food as proposed for consumption; and

(b) in the case of a mineral substance or vitamin, it is a mineral substance or vitamin other than one referred to in paragraph (1)(d).

(3) Where, pursuant to paragraph (1)(d) or paragraph (2), any processed cereal based food or baby food is labelled with the average quantity, per 100 g or 100 ml of the food as sold and, where appropriate, per specified quantity of the food as proposed for consumption, of any vitamin or mineral which is specified in column 1 of Schedule 8, the labelling of the food shall not express that average quantity as a percentage of the reference value specified in column 2 of Schedule 8 in relation to that vitamin or mineral unless the quantity present is equal to 15 per cent or more of the reference value.

F8 Words in reg. 8(1) substituted (13.12.2014) by The Food Information (Scotland) Regulations 2014 (S.S.I. 2014/312), reg. 1(2), **sch. 5 para. 11**

Enforcement

9. Each food authority shall enforce and execute these Regulations in its area.

Offence and penalty

10. If any person contravenes regulation 4, that person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Defence in relation to exports

F9 11. . . . . . .

F9 Reg. 11 revoked (1.1.2006) by The Official Feed and Food Controls (Scotland) Regulations 2005 (S.S.I. 2005/616), reg. 1(b), **sch. 6**

Application of various provisions of the Act

12. The following provisions of the Act shall apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act or Part thereof shall be construed as a reference to these Regulations–

(a) section 2 (extended meaning of "sale" etc.);

(b) section 3 (presumptions that food intended for human consumption);

(c) section 20 (offences due to fault of another person);

(d) section 21 (defence of due diligence) as it applies for the purposes of sections 8, 14 or 15;

(e) section 22 (defence of publication in the course of business);

(f) section 30(8) (which relates to documentary evidence);

(g) section 33 (obstruction etc. of officers);

(h) section 35(1) to (3) (punishment of offences) in so far as it relates to offences under section 33(1) and (2) as applied by paragraph (g) above;

(i) section 36 (offences by bodies corporate);

(j) section 36A (offences by Scottish partnerships); and

(k) section 44 (protection of officers acting in good faith).

Amendment of the Tryptophan in Food (Scotland) Regulations 1990

F10 13. . . . . . .

F10 Reg. 13 revoked (11.11.2005) by The Tryptophan in Food (Scotland) Regulations 2005 (S.S.I. 2005/479), regs. 1(1), **10(3)**

Revocations

14.—(1) The Processed CEREAL-BASED Foods and Baby Foods for Infants and Young Children Regulations 1997 **F11**, the Processed CEREAL-BASED Foods and Baby Foods for Infants and Young Children (Amendment) Regulations 1999 **F12** and the Processed CEREAL-BASED Foods and Baby Foods for Infants and Young Children Amendment (Scotland) Regulations 2000 **F13** are hereby revoked.

F11 S.I. 1997/2042.
F12 S.I. 1999/275.
F13 S.S.I. 2000/214

TOM McCABE
St Andrew's House, Edinburgh — Authorised to sign by the Scottish Ministers