Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016. 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*

STATUTORY INSTRUMENTS

2016 No. 688

FOOD, ENGLAND

FOOD SAFETY

The Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016

Made - - - -	*28th June 2016*
Laid before Parliament	*29th June 2016*
Coming into force - -	*20th July 2016*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 [F1].

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to—

(a) food and drink intended for sale for human consumption including the presentation, packaging, labelling, marketing and advertising of such food and drink [F2]; and

(b) measures relating to food (including drink) including the primary production of food [F3].

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 all provisions of Regulation (EU) No 609/2013 of the European Parliament and of the Council [F4], mentioned in these Regulations to be construed as a reference to those provisions as amended from time to time

The Secretary of State makes these Regulations in exercise of the powers conferred by—

(a) paragraph 1A of Schedule 2 to the European Communities Act 1972 [F5], so far as relating to regulations 2(1) and (4) and Schedule 1;

(b) so far as relating to regulations 2(1) and 4 to 6 and Schedules 2 to 4—

(i) sections 6(4), 16(1), 17(1) and (2), 26(1) and (3), and 48(1) of the Food Safety Act 1990 [F6];

(ii) section 28(6) of the Regulatory Enforcement and Sanctions Act 2008 [F7], with the consent of the Welsh Ministers; and

(c) sections 6(4), 17(2), 26(3) and 48(1) of the Food Safety Act 1990, so far as relating to regulations 2(1) to (3), 3 and 4, and Schedule 2.

So far as these Regulations are made in exercise of the powers conferred by the Food Safety Act 1990, the Secretary of State has had regard to relevant advice given by the Food Standards Agency in accordance with section 48(4A) of that Act [F8].

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 [F9] during the preparation and evaluation of the following Regulations.

F1 1972 c. 68.
F2 S.I. 2005/2766, to which there are amendments not relevant to these Regulations.
F3 S.I. 2003/2901, to which there are amendments not relevant to these Regulations.
F4 Regulation (EU) No 609/2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control, and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009. OJ No L 181, 29.6.2013, p35.
F5 Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51) and amended by Part 1 of the Schedule to the European Union (Amendment) Act (c. 7) and SI 2007/1388.
F6 1990 c.16: Section 6(4) was amended by paragraph 6 of Schedule 9 to the Deregulation and Contracting Out Act 1994 (c. 40) and paragraph 10(1) and (3) of Schedule 5 to the Food Standards Act 1999 ("the 1999 Act") and partially repealed by Schedule 6 to the 1999 Act and S.I. 2002/794. Section 16(1) was amended by paragraph 8 of Schedule 5 to the 1999 Act. Section 17 was amended by paragraphs 8 and 12 of Schedule 5 to the 1999 Act and S.I. 2011/1043. Section 26 was partially repealed by Schedule 6 to the 1999 Act. Section 48(1) was amended by paragraph 8 of Schedule 5 to the 1999 Act. Functions formerly exercisable by "the Ministers" (being, in relation to England and Wales and acting jointly, the Minister of Agriculture, Fisheries and Food and 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.
F7 2008 c. 13.
F8 Section 48(4A) was inserted by paragraph 21 of Schedule 5 to the Food Standards Act 1999 (c.28).
F9 OJ No L 31 1.2.2002, p 1, last amended by Regulation (EU) No 652/2014 of the European Parliament and of the Council (OJ No L 189, 15.05.2014, p 1).

Citation, application and commencement

1.—(1) These Regulations may be cited as the Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016.

(2) These Regulations apply in England only.

(3) These Regulations come into force on 20th July 2016.

Interpretation

2.—(1) In these Regulations—

"the Act" means the Food Safety Act 1990;

[[F10]"the Delegated Regulation" means Commission Delegated Regulation (EU) 2016/128 supplementing Regulation (EU) No. 609/2013 of the European Parliament and of the Council as regards the specific compositional and information requirements for food for special medical purposes;**]**

"food authority" means—

(a) a county council;

(b) a metropolitan district council;

(c) a non-metropolitan district council for an area for which there is no county council;

(d) a London borough council;

(e) the Common Council of the City of London (in their capacity as a local authority); and

(f) the Council of the Isles of Scilly;

[F11"food for special medical purposes" has the same meaning in these Regulations as in the EU Regulation;**]**

[F11"infant" means a child under the age of 12 months;**]**

"the EU Regulation" means Regulation (EU) No 609/2013 of the European Parliament and of the Council on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009;

"specified EU requirement" means any provision of the EU Regulation **[**F12or the Delegated Regulation**]** specified in column 1 of Schedule 1, as read with the provisions in column 2.

(2) Where any functions under the Act are assigned to a port health authority by an order under section 2 or 7 of the Public Health (Control of Disease) Act 1984 F13, any reference in these Regulations to a food authority shall be construed, so far as relating to those functions, as a reference to the port health authority to which they are assigned.

(3) Except where otherwise provided, any reference in these Regulations to—

(a) a regulation is a reference to a regulation of these Regulations;

(b) an Article or Annex is a reference to an Article or Annex of the EU Regulation.

(4) Any reference to a provision of the EU Regulation contained in the table in Schedule 1 describing specified EU requirements, except a reference to Article 1(1), is a reference to that provision as amended from time to time.

[F14(5) Any reference to a provision of the Delegated Regulation contained in the table in Schedule 1 is a reference to that provision as amended from time to time.

F15(6) . . . . . .**]**

F10 Words in reg. 2(1) inserted (22.2.2019) by The Food for Specific Groups (Information and Compositional Requirements) (Amendment) (England) Regulations 2019 (S.I. 2019/44), regs. 1, **3(2)(a)(i)**

F11 Words in reg. 2(1) inserted (22.2.2019) by The Food for Specific Groups (Information and Compositional Requirements) (Amendment) (England) Regulations 2019 (S.I. 2019/44), regs. 1, **3(2)(a)(ii)**

F12 Words in reg. 2(1) inserted (22.2.2019) by The Food for Specific Groups (Information and Compositional Requirements) (Amendment) (England) Regulations 2019 (S.I. 2019/44), regs. 1, **3(2)(a)(iii)**

F13 1984 c. 22. Section 7(3) was amended by the Food Safety Act 1990.

F14 Reg. 2(5)(6) inserted (22.2.2019) by The Food for Specific Groups (Information and Compositional Requirements) (Amendment) (England) Regulations 2019 (S.I. 2019/44), regs. 1, **3(2)(b)**

F15 Reg. 2(6) omitted (22.2.2020) by virtue of The Food for Specific Groups (Food for Special Medical Purposes for Infants, Infant Formula and Follow-on Formula) (Information and Compositional Requirements) (Amendment etc.) (England) Regulations 2020 (S.I. 2020/43), reg. 1(1), **Sch. 4 para. 2**

Enforcement

3. Each food authority must enforce and execute these Regulations within its area.

Application of provisions of the Act

4.—(1) Section 10 of the Act (improvement notices) applies in relation to the enforcement of a specified EU requirement for the purposes of these Regulations, with the modifications specified in Part 1 of Schedule 2.

(2) Section 32 of the Act (powers of entry) applies in relation to the enforcement of a specified EU requirement for the purposes of these Regulations with the modifications specified in Part 2 of Schedule 2.

(3) Section 35 of the Act (punishment of offences) applies in relation to the enforcement of a specified EU requirement for the purposes of these Regulations with the modifications specified in Part 3 of Schedule 2.

(4) Section 37(1), (3), (5) and (6) of the Act (appeals) applies to an improvement notice served in relation to a specified EU requirement with the modifications specified in Part 4 of Schedule 2.

(5) Section 39 of the Act (appeals against improvement notices) **[**[F16]applies to an appeal against an improvement notice served in relation to a specified EU requirement**]** with the modifications specified in Part 5 of Schedule 2.

(6) The provisions of the Act specified in paragraph (7) apply in relation to the enforcement of a specified EU requirement for the purposes of these Regulations, insofar as they relate to the provisions of the Act specified in and modified by paragraphs (1) to (5).

(7) The provisions of the Act specified for the purposes of this paragraph are—

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

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

(c) section 21 [F17] (defence of due diligence);

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

(e) section 29 (procurement of samples);

(f) section 30(8) (which relates to evidence of certificates given by a food analyst or examiner);

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

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

(i) section 36A [F18] (offences by Scottish partnerships);

(j) section 44 (protection of officers acting in good faith);

and any reference in those provisions to a section of the Act, including a reference to "any of the preceding provisions of this Part", is to be read as a reference to such sections of the Act that apply by virtue of, and with the modifications made by, these Regulations.

F16 Words in reg. 4(5) substituted (1.3.2017) by The Food for Specific Groups (Information and Compositional Requirements) (England) (Amendment) Regulations 2017 (S.I. 2017/62), regs. 1(3), **2**

F17 Section 21(2) was amended by S.I. 2004/3279.

F18 Section 36A was inserted by paragraph 16 of Schedule 5 to the Food Standards Act 1999 (c. 28).

Revocation

5. The following are revoked—

(a) The Notification of Marketing of Food for Particular Nutritional Uses (England) Regulations 2007 [F19];

(b) regulations 26 and 27 of the Infant Formula and Follow-on Formula (England) Regulations 2007 [F20];

(c) The Food for Particular Nutritional Uses (Miscellaneous Amendments) (England) Regulations 2010 [F21]; and

(d) regulation 3 of the Transfer of Functions (Food) Regulations 2011 [F22].

F19 S.I. 2007/181.
F20 S.I. 2007/3521, amended by S.I. 2008/2445, 2011/1043, 2011/3012, 2013/3243.
F21 S.I. 2010/295.
F22 S.I. 2011/3012.

Amendments to statutory instruments

6. Schedules 3 and 4 have effect.

Review

7.—(1) The Secretary of State must from time to time—

(a) carry out a review of the regulatory provision made by these Regulations, and

(b) publish a report setting out the conclusions of the review.

(2) The review must have regard to how the EU Regulation is implemented in other member States.

(3) The report must in particular—

(a) set out the objectives intended to be achieved by the regulatory provision made by these Regulations;

(b) assess the extent to which those objectives are achieved;

(c) assess whether those objectives remain appropriate, and

(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(4) The first report under this regulation must be published before 20th July 2021.

(5) Subsequent reports under this regulation must be published at intervals not exceeding five years.

(6) In this regulation, "regulatory provision" has the meaning given by section 32(4) of the Small Business, Enterprise and Employment Act 2015 [F23].

F23 2015 c. 26.

[F24Transitional Arrangements

8. Food for special medical purposes that does not comply with any specified provision of the Delegated Regulation specified in Schedule 1 may continue to be marketed until stocks of such food are exhausted provided that—

(a) it complies with the provisions of the EU Regulation specified in Schedule 1;

(b) it was placed on the market or labelled—