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STATUTORY INSTRUMENTS

2005 No. [ ]

FOOD, ENGLAND

The Food Labelling (Amendment) (England) (No. 2) Regulations 2005

Made - - - -	*2005*
Laid before Parliament	*2005*
Coming into force	*25th November 2005*

The Secretary of State, in exercise of the powers conferred by sections 16(1)(e) and (f), 17(1), 26(1) and (3) and 48(1) of the Food Safety Act 1990(**a**) and now vested in him(**b**), having had regard in accordance with section 48(4A) of that Act to relevant advice given by the Food Standards Agency and after consultation as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council(**c**) 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, makes the following Regulations:

Title, application and commencement

1. These Regulations may be cited as the Food Labelling (Amendment) (England) (No. 2) Regulations 2005; they apply in relation to England only and come into force on 25th November 2005.

Amendment of the Food Labelling Regulations 1996

2. The Food Labelling Regulations 1996(**d**) shall be amended (in so far as they apply in relation to England) in accordance with regulations 3 to 7.

3. In regulation 2(1) (interpretation), in the definition of "Directive 2000/13", for the words from "and Commission Directive 2002/67/EC" to the end there shall be substituted the words ",

(**a**) 1990 c.16; section 1(1) and (2) (definition of "food") was substituted by S.I. 2004/2990; section 53(2) was amended by Schedule 6 to the Food Standards Act 1999 (1999 c. 28) 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 Food Standards Act 1999 and paragraphs 12 and 21 of that Schedule amend respectively sections 17(1) and 48 of the 1990 Act. Section 48 was also amended by S.I. 2004/2990. Functions of "the Ministers" so far as exercisable in relation to Wales were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) as read with section 40(3) of the 1999 Act and those functions so far as exercisable in relation to Scotland were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (1998 c. 46) as read with section 40(2) of the 1999 Act. Regulation 13(4) of S.I. 2000/656 expressly authorises the Secretary of State to amend existing Regulations made by the Minister of Agriculture, Fisheries and Food (whether with others or not) under the 1990 Act.

(**c**) OJ No. L31, 1.2.2002, p.1. That Regulation was last amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (OJ No. L245, 29.9.2003, p.4).

(**d**) S.I. 1996/1499; the relevant amending instruments are S.I. 1998/1398, 1999/747, 1136, 1483, 2003/474, 2647, 2004/2824.

Commission Directive 2002/67/EC(**a**) on the labelling of foodstuffs containing quinine, and of foodstuffs containing caffeine and Commission Directive 2005/26/EC(**b**) establishing a list of food ingredients or substances provisionally excluded from Annex IIIa of Directive 2000/13/EC".

4. In regulation 13(8)(c) (order of list of ingredients) there shall be inserted at the end the words "other than, until 25th November 2007, ingredients which originate from an allergenic ingredient and are listed in column 2 of Schedule 2A in relation to that allergenic ingredient".

5. In regulation 34B (foods containing allergenic ingredients or ingredients originating from allergenic ingredients) —

(a) in paragraph (1) for the words "Subject to paragraph (2)" there shall be substituted the words "Subject to paragraphs (2) and (3)";

(b) in paragraph (2)(b) there shall be inserted at the beginning the words "subject to paragraph (3) of this regulation,";

(c) there shall be inserted at the end the following paragraph —

"(3) Paragraphs (1) and (2)(b) of this regulation shall not apply before 25th November 2007 as respects any ingredient which originates from an allergenic ingredient and is listed in column 2 of Schedule 2A in relation to that allergenic ingredient.".

6. In regulation 50(12)(b)(iii) (transitional provision) there shall be inserted after the number "12" the words "(as read with regulation 5 of the Food Labelling (Amendment) (England) (No. 2) Regulations 2005)".

7. After Schedule 2 (indications of treatment) there shall be inserted as Schedule 2A the contents of the Schedule to these Regulations.

Signed by authority of the Secretary of State for Health

Parliamentary Under Secretary of State
2005 Department of Health

(**a**) OJ No. L191, 19.7.2002, p.20.
(**b**) OJ No. L75, 22.3.2005, p.33 .

SCHEDULE

Regulation 7

NEW SCHEDULE 2A TO BE INSERTED IN THE FOOD LABELLING REGULATIONS 1996

"SCHEDULE 2A Regulations 13(8)(c) and 34B(3)

LIST OF INGREDIENTS WHICH ORIGINATE FROM ALLERGENIC INGREDIENTS AND IN RESPECT OF WHICH THE ALLERGEN LABELLING REQUIREMENTS DO NOT APPLY

Column 1 *Allergenic ingredient*	*Column 2* *Exempt ingredients originating from allergenic ingredient*
Cereals containing gluten	Wheat based glucose syrups including dextrose[1]. Wheat based maltodextrins[1]. Glucose syrups based on barley. Cereals used in distillates for spirits.
Eggs	Lysozym (produced from egg) used in wine. Albumin (produced from egg) used as fining agent in wine and cider.
Fish	Fish gelatine used as carrier for vitamins and flavours. Fish gelatine or Isinglass used as fining agent in beer, cider and wine.
Soybean	Fully refined soybean oil and fat[1]. Natural mixed tocopherols (E306), natural D–alpha tocopherol, natural D–alpha tocopherol acetate, natural D–alpha tocopherol succinate from soybean sources. Vegetable oils derived phytosterols and phytosterol esters from soybean sources. Plant stanol ester produced from vegetable oil sterols from soybean sources.
Milk	Whey used in distillates for spirits. Lactitol. Milk (casein) products used as fining agents in cider and wines.
Nuts	Nuts used in distillates for spirits. Almonds and walnuts used as flavour in spirits.
Celery	Celery leaf and seed oil. Celery seed oleoresin.
Mustard	Mustard oil. Mustard seed oil. Mustard seed oleoresin.

Note

[1] And their products, in so far as the process that they have undergone is not likely to increase the level of allergenicity assessed by the European Food Safety Authority for the relevant product from which they originated."

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations further amend the Food Labelling Regulations 1996 in so far as they apply in relation to England. Those Regulations extend to the whole of Great Britain. These Regulations implement in England Commission Directive 2005/26/EC establishing a list of food ingredients or substances provisionally excluded from Annex IIIa of Directive 2000/13/EC of the European Parliament and of the Council (OJ No. L75, 22.3.2005, p.33).

2. These Regulations —

(a) confer an exemption until 25th November 2007 from the allergen labelling requirements in regulation 34B of the principal Regulations in the case of certain ingredients originating from allergenic ingredients (regulations 5 and 7 and Schedule);

(b) make some consequential amendments (regulations 4 and 6) and update the definition of "Directive 2000/13" (regulation 3).

3. A full regulatory impact assessment of the effect that these Regulations will have on the costs of business has been prepared and placed in the Library of each House of Parliament together with a Transposition Note setting out how the main elements of Directive 2005/26/EC are transposed in these Regulations. Copies may be obtained from the Consumer Choice, Food Standards and Special Projects Division of the Food Standards Agency, Aviation House, 125 Kingsway, London WC2B 6NH.