

2024 No.

FOOD, ENGLAND

The Bread and Flour (Amendment) (England) Regulations 2024

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Secretary of State makes the following Regulations in exercise of the powers conferred on them by sections 6(4)(a), 16(1)(a) and (e)(b), 18(1)(c)(c), 26(1)(a) and (3)(d) and 48(1)(e) of the Food Safety Act 1990(f) and now vested in the Secretary of State(g).

The Secretary of State has had regard to relevant advice from the Food Standards Agency in accordance with section 48(4A)(h) of the Food Safety Act 1990.

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(i), during the preparation and evaluation of the following Regulations.

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Bread and Flour (Amendment) (England) Regulations 2024.

(2) These Regulations come into force in accordance with paragraphs (3) and (4).

(3) The following regulations come into force on 1st October 2024—

(a) this regulation;

(b) regulation 2(1) for the purpose of commencing the regulations mentioned in sub-paragraphs (c) to (h);

-
- (a) Section 6(4) was amended by paragraph 6 of Schedule 9 to the Deregulation and Contracting Out Act 1994 (c. 40), paragraph 10(1) and (3) of Schedule 5, and Schedule 6, to the Food Standards Act 1999 (c. 28) and S.I. 2002/794.
- (b) Section 16(1) was amended by paragraph 8 of Schedule 5 to the Food Standards Act 1999.
- (c) Section 18(1) was amended by paragraphs 7 and 8 of Schedule 5 to the Food Standards Act 1999.
- (d) Section 26(3) was amended by Schedule 6 to the Food Standards Act 1999.
- (e) Section 48(1) was amended by paragraph 8 of Schedule 5 to the Food Standards Act 1999.
- (f) 1990 c. 16.
- (g) 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.
- (h) Section 48(4A) was inserted by paragraph 21 of Schedule 5 to the Food Standards Act 1999.
- (i) EUR 2002/178, to which there are amendments not relevant to these Regulations.

- (c) regulation 2(2);
 - (d) regulation 2(3);
 - (e) regulation 2(4);
 - (f) regulation 2(5) insofar as it inserts regulation 9A into the Bread and Flour Regulations 1998;
 - (g) regulation 2(6);
 - (h) regulation 2(8).
- (4) The following regulations come into force on 1st October 2026—
- (a) regulation 2(1) for the purpose of commencing the regulations mentioned in sub-paragraphs (b) and (c);
 - (b) regulation 2(5) insofar as it inserts regulation A10 into the Bread and Flour Regulations 1998;
 - (c) regulation 2(7).
- (5) These Regulations extend to England and Wales and apply in England only.

Amendment of the Bread and Flour Regulations 1998

2.—(1) The Bread and Flour Regulations 1998 are amended in accordance with the following provisions.

- (2) In regulation 2(1) (interpretation)—
- (a) after the definition of “bread”, insert—

““common wheat” means *Triticum aestivum* L.”
 - (b) after the definition of “third country”, insert—

““wholemeal flour” means the flour consisting of the whole of the product obtained from the milling or grinding of cleaned cereals.”.
- (3) In regulation 4 (composition of flour)—
- (a) in paragraph (1)—
 - (i) for the words “paragraph (2)” substitute “paragraphs (1A) and (2)”,
 - (ii) before the word “wheat” insert “common”;
 - (b) after paragraph (1), insert—

“(1A) The requirements specified in paragraph (1) shall not apply to—

 - (a) wholemeal flour; or
 - (b) flour produced by a small mill.

(1B) For the purposes of paragraph (1A)(b), a “small mill” is a production site which has a maximum annual production capacity of 500 metric tonnes of flour, and has produced less than 500 metric tonnes of flour for each of the last three calendar years.”;
- (c) in paragraph (2) omit sub-paragraph (a); and
 - (d) in paragraph (3)—
 - (i) omit “, in the case of—”,
 - (ii) omit sub-paragraph (a),
 - (iii) in sub-paragraph (b), omit “flour other than wholemeal.”.
- (4) Omit regulation 7 (offences and penalties).
- (5) After regulation 8 (enforcement) insert—

“Application and modification of provisions of the Act

9A. The provisions of the Act specified in column 1 of the table in Schedule 5 apply, with the modifications specified in column 2 of that table, for the purposes of these Regulations.

Transitional provisions

A10. An authorised officer of a food authority must not serve an improvement notice under section 10(1) of the Act, as applied and modified by regulation 9A, as read with Schedule 5, if—

- (a) the improvement notice would relate to a product that was placed on the market or labelled before 1st October 2026; and
 - (b) the matters constituting the alleged contravention would not have constituted an offence under the Bread and Flour Regulations 1998 as they stood immediately before 1st October 2026.”.
- (6) Omit regulation 10 (application of various sections of the Act).
- (7) For Schedule 1 substitute the Schedule 1 set out in Schedule 1 to these Regulations.
- (8) After Schedule 4 insert the Schedule 5 set out in Schedule 2 to these Regulations.

Mark Spencer
Minister of State

Date

Department for Environment, Food and Rural Affairs

SCHEDULE 1

Regulation 2(7)

“SCHEDULE 1

Regulation 4(1) to (3)

Essential Ingredients of Flour

	<i>Column 1</i> <i>Substance</i>	<i>Column 2</i> <i>Required quantity, in milligrams per hundred grams of flour, and conditions of use</i>
(1)	Calcium carbonate	(a) not less than 300, and (b) not more than 455, (c) conforming with the criteria for E 170 calcium carbonate in the Annex to Commission Regulation (EU) 231/2012(a).
(2)	Iron	(a) not less than 2.10 (b) in the form of any, or any combination of two or more, of the following— (i) ferric ammonium citrate conforming to the criteria in the monograph for ferric ammonium citrate contained in the British Pharmacopoeia 1973 at page 201; (ii) ferrous sulphate conforming to the criteria in the

(a) EUR 2012/231.

		monograph for ferrous sulfate heptahydrate contained in the British Pharmacopoeia 2023 at page I-1037; (iii) dried ferrous sulphate conforming to the criteria in the monograph for dried ferrous sulfate contained in the British Pharmacopoeia 2023 at page I-1036; (iv) iron powder conforming to the description, specification and requirements contained in Schedule 2.
(3)	Thiamin (Vitamin B1)	(a) not less than 0.24 (b) in a form conforming to the criteria in the monograph for thiamine hydrochloride contained in the British Pharmacopoeia 2023 at page II-1129.
(4)	Niacin	(a) not less than 2.40 (b) in a form conforming to the criteria in the monograph for nicotinic acid contained in the British Pharmacopoeia 2023 at page II-404, or in a form conforming to the criteria in the monograph for nicotinamide contained in the British Pharmacopoeia 2023 at page II-399.
(5)	Folic Acid	(a) 0.250 (b) in the form of pteroylmonoglutamic acid conforming to the criteria in the monograph for folic acid hydrate contained in the British Pharmacopoeia 2023 at page I-1110.”

SCHEDULE 2

Regulation 2(8)

“SCHEDULE 5

Regulation 9A

Application and modification of provisions of the Act

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Modifications</i>
Section 3 (presumptions that food intended for human consumption)	In subsection (1), for “this Act” substitute “the Bread and Flour Regulations 1998”
Section 10(1) and (2) (improvement notices)	For subsection (1) (improvement notices) substitute— “(1) If an authorised officer of a food authority has reasonable grounds for believing that a person is failing to comply with any of regulations 4 to 6 of the Bread and Flour Regulations 1998, the authorised officer may, by a notice served on that person (in this Act referred to as an “improvement notice”)— (a) state the officer’s grounds for believing that the person is failing to comply with the relevant provision; (b) specify the matters which constitute the person’s failure so to comply; (c) specify the measures which, in the officer’s opinion, the person must take in

	<p>order to secure compliance; and</p> <p>(d) require the person to take those measures, or measures that are at least equivalent to them, within such period (not being less than 14 days) as may be specified in the notice.</p> <p>(1A) If an authorised officer of a food authority has reasonable grounds for believing that a person is failing to comply with regulation 4(4) of the Bread and Flour Regulations 1998 due to an act or default of some other person, the authorised officer may, by a notice served on that other person (in this Act referred to as an “improvement notice”)—</p> <p>(a) state the officer’s grounds for believing there has been a failure to comply with regulation 4(4);</p> <p>(b) specify the matters which constitute the act or default which have caused the failure so to comply;</p> <p>(c) specify the measures which, in the officer’s opinion, the person served must take in order to secure compliance; and</p> <p>(d) require that person to take those measures, or measures that are at least equivalent to them, within such period (not being less than 14 days) as may be specified in the notice.”</p>
Section 20 (offences due to fault of another person)	For “any of the preceding provisions of this Part” substitute “section 10(2), as applied by regulation 9A of, and Schedule 5 to, the Bread and Flour Regulations 1998,”
Section 21(1) and (5) (defence of due diligence)	In subsection (1), for “any of the preceding provisions of this Part” substitute “section 10(2), as applied by regulation 9A of, and Schedule 5 to, the Bread and Flour Regulations 1998”
Section 30(8) (evidence of certificates given by a food analyst or examiner)	For “this Act” substitute “the Bread and Flour Regulations 1998”
Section 33 (obstruction etc. of officers)	In subsection (1), for “this Act” (in each place occurring) substitute “the Bread and Flour Regulations 1998”
Section 35(1)(a) and (2)(b) (punishment of offences)	<p>In subsection (1), after “section 33(1) above”, insert “, as applied and modified by regulation 9A of, and Schedule 5 to, the Bread and Flour Regulations 1998”</p> <p>After subsection (1), insert—</p> <p>“(1A) A person guilty of an offence under section 10(2), as applied by regulation 9A of, and Schedule 5 to, the Bread and Flour</p>

(a) Section 35(1) is amended by paragraph 42 of Schedule 26 to the Criminal Justice Act 2003 (c.44) from a date to be appointed. There are other amendments to section 35(1) not relevant to these Regulations.

(b) Section 35(2) was amended by S.I. 2015/664. There are other amendments to section 35(2) not relevant to these Regulations.

	Regulations 1998” shall be liable, on summary conviction, to a fine.”
	In subsection (2) for “any other offence under this Act” substitute “an offence under section 33(2), as applied by regulation 9A of, and Schedule 5 to, the Bread and Flour Regulations 1998,”
Section 36 (offences by body corporate)	In subsection (1), for “this Act” substitute “section 10(2), as applied by regulation 9A of, and Schedule 5 to, the Bread and Flour Regulations 1998”.
Section 36A(a) (offences by Scottish partnerships)	For “this Act” substitute “section 10(2), as applied by regulation 9A of, and Schedule 5 to, the Bread and Flour Regulations 1998,”
Section 37(1) and (6) (appeals)	For subsection (1) substitute— “(1) Any person who is aggrieved by a decision of an authorised officer of a food authority to serve an improvement notice under section 10(1), as applied and modified by regulation 9A of, and Schedule 5 to, the Bread and Flour Regulations 1998, may appeal to the First-tier Tribunal.” In subsection (6)— (a) for “(3) or (4)” substitute “(1)”, and (b) in paragraph (a), for “a magistrates’ court or to the sheriff” substitute “the First-tier Tribunal”
Section 39 (appeals against improvement notices)	For subsection (1) substitute— “(1) On an appeal against an improvement notice served under section 10(1), as applied and modified by regulation 9A of, and Schedule 5 to, the Bread and Flour Regulations 1998, the First-tier Tribunal may either cancel or affirm the notice and, if it affirms it, may do so either in its original form or with such modifications as the First-tier Tribunal may in the circumstances think fit.” In subsection (3), omit “for want of prosecution ”
Section 44 (protection of officers acting in good faith)	For “this Act” (in each place occurring) substitute “the Bread and Flour Regulations 1998”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Bread and Flour Regulations 1998 (“the 1998 Regulations”).

Regulation 2(2) introduces definitions of “common wheat” and “wholemeal flour” to the 1998 Regulations.

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

Regulation 2(3) and (7) and Schedule 1 make changes to the essential ingredients of flour in Schedule 1 of the 1998 Regulations to provide for the mandatory addition of folic acid and changes to the required quantities of calcium carbonate, iron and niacin. There are exemptions provided for wholemeal flour and flour produced by a small mill.

Regulation 2(4), (5), (6) and (8) and Schedule 2 revoke regulations 7 and 10 of the 1998 Regulations in relation to offences and penalties and the application and modification of certain sections of the Food Safety Act 1990. It is replaced by the application and modification of certain sections of the Food Safety Act 1990 as set out in a new Schedule 5 to the 1998 Regulations to provide for enforcement by way of improvement notices and the offence of failing to comply with an improvement notice.

Regulation 2(5) makes transitional provision.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector has been prepared and placed in the libraries of both Houses of Parliament. It is also available at www.defra.gov.uk.

The British Pharmacopeia 1972 and 2023, referred to in Schedule 1, may be inspected at the British Library Lending Division Boston Spa, Wetherby, West Yorkshire, L23 7BQ Tel 01937 546 060.