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STATUTORY INSTRUMENTS

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**1992 No. 1978**

**The Food Additives Labelling Regulations 1992**

**Title and commencement**

1. These Regulations may be cited as the Food Additives Labelling Regulations 1992 and shall come into force on 14th September 1992.

**Interpretation**

2. In these Regulations, unless the context otherwise requires—

“the Act” means the Food Safety Act 1990;

“container”, in relation to food additives, has the same meaning as in the Act, except that it also includes a vehicle in which those food additives, not being in any other container, are placed;

“food” has the same meaning as in the Act, except that it is limited to food intended for sale for human consumption;

“food additive” means such food as comprises material (with or without nutritive value)—

- (a) which is within a category (or more than one category) listed in Part I, as supplemented by Part II, of Schedule 1 below,
- (b) which is neither normally consumed as a food in itself nor normally used as a characteristic ingredient of food,
- (c) which is not within a category (or more than one category) listed in Schedule 2 below, and
- (d) the intentional addition of which to other food for a technological purpose in the manufacture, processing, preparation, treatment, packaging, transport or storage of that other food results, or may be reasonably expected to result, in that material or its by-products becoming directly or indirectly a component of that other food;

“sell” includes offer or expose for sale or have in possession for sale, “sale” shall be construed accordingly and, in relation to food additives—

- (a) “consumer sale” means a sale of them—
  - (i) to the ultimate consumer, or
  - (ii) in a container in which they are ready for delivery to the ultimate consumer, and
- (b) “business sale” means a sale of them other than a consumer sale;

“supplementary material” means, in relation to a food additive, material (whether or not it comes within a category, or more than one category, listed in Schedule 2 below) the presence of which in or on the food additive may reasonably be expected to facilitate storage, sale, standardisation, dilution or dissolution of the food additive; and

“ultimate consumer” has the meaning which it has in the Food Labelling Regulations 1984<sup>(1)</sup>.

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(1) S.I.1984/1305; relevant amending instruments are S.I. 1990/2486, 1992/1971.

### **Exemption**

3.—(1) The provisions of these Regulations shall not apply to any food additive once it has become part of other food.

(2) For the purposes of paragraph (1) above a food additive becomes part of other food when it is added to other food which comprises or contains material other than food additives, but the addition of supplementary material to a food additive shall not of itself cause that food additive to become part of other food for those purposes.

### **Sale and labelling of food additives**

4.—(1) No person shall make a business sale of any food additives to any person for use as ingredients in the preparation of food unless the food additives are in a container and the requirements for business sales of food additives are observed in relation to that sale.

(2) No person shall make a consumer sale of food additives to any person unless the food additives are in a container and the requirements for consumer sales of food additives are observed in relation to that sale.

(3) Schedule 3 below shall have effect for the purposes of establishing when the requirements for any sale to which this regulation applies are observed in relation to that sale.

### **Penalties and enforcement**

5.—(1) If any person contravenes or fails to comply with any of the foregoing provisions of these Regulations he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Subject to paragraph (3) of this regulation, each food authority shall enforce within its area the provisions of these Regulations.

(3) In this regulation “food authority” does not include—

- (a) the council of a district in a non—metropolitan county in England and Wales, or
- (b) the appropriate Treasurer referred to in section 5(1)(c) of the Act.

### **Defence in relation to exports**

6. In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove that the food additive in respect of which the offence is alleged to have been committed was intended for export and complied with the importing country’s domestic legislation relevant to the alleged offence.

### **Application of various provisions of the Food Safety Act 1990**

7. The following provisions of the Act shall apply for the purposes of these Regulations as they apply for the purposes of section 14 or 15 of the Act and, unless the context otherwise requires, any reference in them to the Act shall be construed for the purposes of these Regulations as a reference to these Regulations—

- (a) section 2 (extended meaning of “sale” etc.);
- (b) section 3 (presumption that food is intended for human consumption);
- (c) section 20 (offences due to fault of another person);
- (d) section 21 (defence of due diligence);
- (e) section 22 (defence of publication in the course of business);
- (f) section 30(8) (which relates to documentary evidence);

- (g) section 36 (offences by bodies corporate).

### **Revocation and amendment of specified regulations — England and Wales**

**8.—(1)** Regulation 7(2) of, and Schedule 4 to, the Colouring Matter in Food Regulations 1973(2) shall be revoked.

(2) Each regulation specified in a lettered sub—paragraph of paragraph (3) below shall be amended by—

- (a) the insertion, in Key paragraph A specified in paragraph (i) of that sub—paragraph, after the word “shall”, of the words “, save in the case of a permitted additive sale”, and
- (b) the addition, as Key paragraph B specified in paragraph (ii) of that sub—paragraph, of the following passage:

“For the purposes of this regulation a permitted additive sale takes place where a sale, to which the Food Additives Labelling Regulations 1992 apply, takes place without contravention of those Regulations.”.

(3) The regulations to which paragraph (2) above applies are—

- (a) regulation 5 of the Antioxidants in Food Regulations 1978(3), within which—
- (i) paragraph (2)
- is Key paragraph A, and
- (ii) paragraph (3) is Key paragraph B,
- (b) regulation 5 of the Miscellaneous Additives in Food Regulations 1980(4), within which—
- (i) paragraph (2) is Key paragraph A, and
- (ii) paragraph (3) is Key paragraph B,
- (c) regulation 7 of the Sweeteners in Food Regulations 1983(5), within which—
- (i) each of paragraphs (1) and (2) is Key paragraph A, and
- (ii) paragraph (4) is Key paragraph B,
- (d) regulation 6 of the Preservatives in Food Regulations 1989(6), within which—
- (i) paragraph (2) is Key paragraph A, and
- (ii) paragraph (3) is Key paragraph B, and
- (e) regulation 5 of the Emulsifiers and Stabilisers in Food Regulations 1989(7), within which—
- (i) paragraph (2) is Key paragraph A, and
- (ii) paragraph (3) is Key paragraph B.

(4) Regulation 2 of the Food Labelling Regulations 1984 shall be amended by the substitution, in the definition of “the additives regulations” therein, for the words “and the Flavourings in Food Regulations 1992”, of the words “, the Flavourings in Food Regulations 1992 and the Food Additives Labelling Regulations 1992”.

(5) Regulation 6 of the Emulsifiers and Stabilisers in Food Regulations 1989 shall be revoked.

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(2) S.I. 1973/1340; relevant amending instruments are S.I. 1975/1488, 1976/2086, 1978/1787, 1987/1987, 1990/2486.

(3) S.I. 1978/105; relevant amending instruments are S.I. 1980/1831, 1983/1211, 1984/1304, 1990/2486.

(4) S.I. 1980/1834; relevant amending instruments are S.I. 1982/14, 1983/1211, 1984/1304, 1990/2486.

(5) S.I. 1983/1211; the relevant amending instrument is S.I. 1990/2486.

(6) S.I. 1989/533; the relevant amending instrument is S.I. 1990/2486.

(7) S.I. 1989/876; the relevant amending instrument is S.I. 1990/2486.

## Revocation and amendment of specified regulations — Scotland

9.—(1) Regulation 7(2) of, and Schedule 4 to, the Colouring Matter in Food (Scotland) Regulations 1973<sup>(8)</sup> shall be revoked.

(2) Each regulation specified in a lettered sub—paragraph of paragraph (3) below shall be amended by—

- (a) the insertion, in Key paragraph A specified in paragraph (i) of that sub—paragraph, after the word “shall”, of the words “, save in the case of a permitted additive sale”, and
- (b) the addition, as Key paragraph B specified in paragraph (ii) of that sub—paragraph, of the following passage:

“For the purposes of this regulation a permitted additive sale takes place where a sale, to which the Food Additives Labelling Regulations 1992 apply, takes place without contravention of those Regulations.”.

(3) The regulations to which paragraph (2) above applies are—

- (a) regulation 5 of the Antioxidants in Food (Scotland) Regulations 1978<sup>(9)</sup>, within which—
  - (i) paragraph (2) is Key paragraph A, and
  - (ii) paragraph (3) is Key paragraph B,
- (b) regulation 5 of the Miscellaneous Additives in Food (Scotland) Regulations 1980<sup>(10)</sup>, within which—
  - (i) paragraph (2) is Key paragraph A, and
  - (ii) paragraph (3) is Key paragraph B,
- (c) regulation 7 of the Sweeteners in Food (Scotland) Regulations 1983<sup>(11)</sup>, within which—
  - (i) each of paragraphs (1) and (2) is Key paragraph A, and
  - (ii) paragraph (4) is Key paragraph B,
- (d) regulation 6 of the Preservatives in Food (Scotland) Regulations 1989<sup>(12)</sup>, within which—
  - (i) paragraph (2) is Key paragraph A, and
  - (ii) paragraph (3) is Key paragraph B, and
- (e) regulation 5 of the Emulsifiers and Stabilisers in Food (Scotland) Regulations 1989<sup>(13)</sup>, within which—
  - (i) paragraph (2) is Key paragraph A, and
  - (ii) paragraph (3) is Key paragraph B.

(4) Regulation 2 of the Food Labelling (Scotland) Regulations 1984<sup>(14)</sup> shall be amended by the substitution, in the definition of “the additives regulations” therein, for the words “and the Flavourings in Food Regulations 1992”, of the words “, the Flavourings in Food Regulations 1992 and the Food Additives Labelling Regulations 1992”.

(5) Regulation 6 of the Emulsifiers and Stabilisers in Food (Scotland) Regulations 1989 shall be revoked.

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<sup>(8)</sup> S.I. 1973/1310; relevant amending instruments are S.I. 1975/1595, 1976/2232, 1979/107, 1987/1985, 1990/2625.

<sup>(9)</sup> S.I. 1978/492; relevant amending instruments are S.I. 1980/1886, 1983/1497, 1984/1518, 1990/2625.

<sup>(10)</sup> S.I. 1980/1889; relevant amending instruments are S.I. 1982/515, 1983/1497, 1984/1518, 1990/2625.

<sup>(11)</sup> S.I. 1983/1497; the relevant amending instrument is S.I. 1990/2625.

<sup>(12)</sup> S.I. 1989/581; the relevant amending instrument is S.I. 1990/2625.

<sup>(13)</sup> S.I. 1989/945; amended by S.I. 1990/2625.

<sup>(14)</sup> S.I. 1984/1519; relevant amending instruments are S.I. 1990/2625, 1992/1971.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on

L.S.

4th August 1992.

*Derek Andrews*  
Permanent Secretary, Ministry of Agriculture,  
Fisheries and Food

Signed by authority of the Secretary of State for Health:

6th August 1992

*Cumberlege*  
Parliamentary Under Secretary of State,  
Department of Health

5th August 1992

*David Hunt*  
Secretary of State for Wales

6th August 1992

*Hector Monro*  
Parliamentary Under Secretary of State, Scottish  
Office