
STATUTORY INSTRUMENTS

1997 No. 1413

FOOD

**The Miscellaneous Food Additives
(Amendment) Regulations 1997**

<i>Made</i>	- - - -	<i>4th June 1997</i>
<i>Laid before Parliament</i>		<i>5th June 1997</i>
<i>Coming into force</i>	- -	<i>1st July 1997</i>

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Health and the Secretary of State for Wales, acting jointly, in relation to England and Wales, and the Secretary of State for Scotland in relation to Scotland, in exercise of the powers conferred on them by sections 6(4), 16(1) (a), 17(1), 26(1) and (3) and 48(1) of, and paragraph 1 of Schedule 1 to, the Food Safety Act 1990⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Regulations, after consultation in accordance with section 48(4) of the said Act with such organisations as appear to them to be representative of interests likely to be substantially affected by the Regulations:

Title, commencement and interpretation

1.—(1) These Regulations may be cited as the Miscellaneous Food Additives (Amendment) Regulations 1997 and shall come into force on 1st July 1997.

(2) In these Regulations “the principal Regulations” means the Miscellaneous Food Additives Regulations 1995⁽²⁾.

Amendment of the principal Regulations

2. The principal Regulations shall be amended in accordance with regulations 3 to 11 below.
3. In regulation 2(1) (interpretation)—
 - (a) in the definition of “Directive [95/2/EC](#)” there shall be inserted at the end the words “, as amended by European Parliament and Council Directive [96/85/EC](#)⁽³⁾”;
 - (b) after that definition there shall be inserted the following definition—

(1) 1990 c. 16; “the Ministers” is defined in section 4(1) of the Act; section 6(4)(a) of the Act was amended by the Deregulation and Contracting Out Act 1994 (c. 40), Schedule 9, paragraph 6.
(2) S.I.1995/3187.
(3) OJ No. L86, 28.3.97, p. 4.

““Directive [96/77/EC](#)” means Commission Directive [96/77/EC](#)(4) laying down specific purity criteria on food additives other than colours and sweeteners;”;

- (c) there shall be substituted for the definition of “purity criteria” the following definition—
- ““purity criteria”, in relation to a miscellaneous additive, means—
- (a) in the case of a miscellaneous additive for which purity criteria are set out in the Annex to Directive [96/77/EC](#), those purity criteria;
 - (b) in any other case, the purity criteria (if any) specified or referred to in Schedule 5;”.

4. In regulation 4 (use of miscellaneous additives in or on compound foods) there shall be substituted for paragraph (1) the following paragraph—

“(1) Subject to paragraphs (3) and (4) below, where a permitted miscellaneous additive is present in or on a compound food and that compound food contains, as an ingredient, a food in or on which that miscellaneous additive was or could have been used without contravening any of the provisions of paragraphs (2) to (5) or (7) of regulation 3, that miscellaneous additive shall for the purposes of those paragraphs be deemed to have been used in or on that compound food without contravening any of the provisions of those paragraphs.”.

5. In regulation 8 (defence in relation to exports) there shall be substituted in paragraph (b) for the words “and Directive [95/2/EC](#)” the words “, Directive [95/2/EC](#) and Directive [96/77/EC](#)”.

6. In regulation 9 (application of various provisions of the Act) there shall be inserted after paragraph (g) the following paragraph—

“(gA) section 35(1) to (3) (punishment of offences) in so far as it relates to offences under section 33(1) and (2);”.

7. In regulation 11 (transitional provision and exemptions)—

- (a) there shall be inserted after paragraph (1) the following paragraph—

“(1A) In any proceedings for an offence under these Regulations in respect of any food additive or food, it shall be a defence to prove that—

- (a) the food additive or food concerned was put on the market or labelled before 1st July 1997, and
- (b) the matter constituting the offence would not have constituted an offence under these Regulations if the amendments made by regulations 3(b) and (c), 5 and 11 of the Miscellaneous Food Additives (Amendment) Regulations 1997 had not been made when the food additive or, as the case may be, the food was put on the market or labelled.”;

- (b) there shall be substituted for paragraph (2) the following paragraph—

“(2) These Regulations shall not apply in respect of any food additive or, as the case may be, food which is brought into Great Britain having been lawfully put on the market or labelled in another member State before 25th March 1997.”;

- (c) in paragraph 3(a) the words “on or after 25th March 1997” shall be omitted;
- (d) in paragraph (4) there shall be substituted for the words “paragraphs (2) and (3) above” the words “paragraph (3) above”.

8. In Schedule 1 (miscellaneous additives generally permitted for use in foods not referred to in Schedule 6, 7 or 8) there shall be inserted after the entry relating to E 407 Carrageenan the following entry—

“E 407a	Processed eucheuma seaweed”.
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9. In Schedule 2 (conditionally permitted preservatives and antioxidants) in Part C (other preservatives), there shall be inserted in column 1 (EC No. and name) immediately above the entry “E 235 Natamycin” a horizontal line.

10. In Schedule 3 (other permitted miscellaneous additives)—

- (a) in column 1 (EC No.) the entry “E 451” shall be realigned with the word “Triphosphates” in column 2 (name);
- (b) in the entries relating to E 420, E 421, E 953, E 965, E 966 and E 967 there shall be inserted between column 3 (food) and column 4 (maximum level) a dividing line;
- (c) at the end there shall be substituted for the entries relating to propane, butane and iso-butane the following entries—

“Propane(5)	Garlic flavoured oil	<i>quantum satis</i> ”.
Butane(5)	spray for producing garlic bread and pizza	
Iso-Butane(5)	Vegetable oil pan spray for professional use only	
	Water-based emulsion sprays	

11. In Schedule 5 (purity criteria) the entries relating to the miscellaneous additives listed in the Schedule to these Regulations shall be omitted.

Amendment of the Fruit Juices and Fruit Nectars Regulations 1977 and the Fruit Juices and Fruit Nectars (Scotland) Regulations 1977

12. In the Fruit Juices and Fruit Nectars Regulations 1977(6) and the Fruit Juices and Fruit Nectars (Scotland) Regulations 1977(7) there shall be substituted in the proviso to regulation 11(1) (permitted additional ingredients in fruit juice, concentrated fruit juice, dried fruit juice and fruit nectar) for sub-paragraph (a) the following sub-paragraph—

- “(a) any such food may contain any permitted miscellaneous additive, so however that no fruit juice shall contain both added sugar and added acid;”.

(5) Authorised until 31st December 1997 in accordance with Article 5 of Directive [89/107/EEC](#) (OJ No. L40, 11.2.89, p. 27) pending consideration for inclusion in Directive [95/2/EC](#).

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(6) S.I. [1977/927](#); the relevant amending instruments are S.I. [1982/1311](#), [1995/3187](#).

(7) S.I. [1977/1026](#), amended by S.I. [1982/1619](#), [1995/3187](#).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

28th May 1997

Jeff Rooker
Minister of State, Ministry of Agriculture,
Fisheries and Food

Signed by authority of the Secretary of State for Health:

30th May 1997

Tessa Jowell
Minister of State for Public Health,
Department of Health

Signed by authority of the Secretary of State for Wales:

4th June 1997

Win Griffiths
Parliamentary Under—Secretary of State, Welsh
Office

2nd June 1997

Sewel
Parliamentary Under—Secretary of State,
Scottish Office

SCHEDULE

Regulation 11

MISCELLANEOUS ADDITIVES FOR WHICH SPECIFIC PURITY CRITERIA SPECIFIED OR REFERRED TO IN SCHEDULE 5 TO THE PRINCIPAL REGULATIONS ARE OMITTED

E 200	Sorbic acid
E 202	Potassium sorbate
E 203	Calcium sorbate
E 210	Benzoic acid
E 211	Sodium benzoate
E 212	Potassium benzoate
E 213	Calcium benzoate
E 214	Ethyl p-hydroxybenzoate
E 215	Sodium ethyl p-hydroxybenzoate
E 216	Propyl p-hydroxybenzoate
E 217	Sodium propyl p-hydroxybenzoate
E 218	Methyl p-hydroxybenzoate
E 219	Sodium methyl p-hydroxybenzoate
E 220	Sulphur dioxide
E 221	Sodium sulphite (anhydrous or heptahydrate)
E 222	Sodium hydrogen sulphite
E 223	Sodium metabisulphite
E 224	Potassium metabisulphite
E 226	Calcium sulphite
E 227	Calcium hydrogen sulphite
E 228	Potassium hydrogen sulphite
E 230	Biphenyl, diphenyl
E 231	Orthophenyl phenol
E 232	Sodium orthophenyl phenol
E 233	Thiabendazole
E 234	Nisin
E 239	Hexamethylene tetramine
E 249	Potassium nitrite
E 250	Sodium nitrite
E 251	Sodium nitrate
E 252	Potassium nitrate
E 260	Acetic acid

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E 261	Potassium acetate
E 262(i)	Sodium acetate
E 262(ii)	Sodium diacetate
E 263	Calcium acetate
E 270	Lactic acid
E 280	Propionic acid
E 281	Sodium propionate
E 282	Calcium propionate
E 283	Potassium propionate
E 290	Carbon dioxide
E 300	Ascorbic acid
E 301	Sodium ascorbate
E 302	Calcium ascorbate
E 304	Fatty acid esters of ascorbic acid
E 304(i)	Ascorbyl palmitate
E 306	Tocopherol-rich extract
E 307	Alpha-tocopherol
E 308	Gamma-tocopherol
E 309	Delta-tocopherol
E 310	Propyl gallate
E 311	Octyl gallate
E 312	Dodecyl gallate
E 320	Butylated hydroxyanisole (BHA)
E 321	Butylated hydroxytoluene (BHT)
E 322	Lecithins
E 325	Sodium lactate
E 326	Potassium lactate
E 327	Calcium lactate
E 330	Citric acid
E 331(i)	Monosodium citrate
E 331(ii)	Disodium citrate
E 331(iii)	Trisodium citrate
E 332(i)	Monopotassium citrate
E 332(ii)	Tripotassium citrate
E 333(i)	Monocalcium citrate

E 333(ii)	Dicalcium citrate
E 333(iii)	Tricalcium citrate
E 334	L-(+)-Tartaric acid
E 335(i)	Monosodium L-(+)-tartrate
E 335(ii)	Disodium L-(+)-tartrate
E 336(i)	Monopotassium L-(+)-tartrate
E 336(ii)	Dipotassium L-(+)-tartrate
E 337	Sodium Potassium L-(+)-tartrate
E 338	Phosphoric acid
E 339(i)	Monosodium phosphate
E 339(ii)	Disodium phosphate
E 339(iii)	Trisodium phosphate
E 340(i)	Monopotassium phosphate
E 340(ii)	Dipotassium phosphate
E 340(iii)	Tripotassium phosphate
E 341(i)	Monocalcium phosphate
E 341(ii)	Dicalcium phosphate
E 341(iii)	Tricalcium phosphate
E 385	Calcium disodium ethylenediamine N N N'N' tetra-acetate

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to Great Britain, amend the Miscellaneous Food Additives Regulations 1995 (“the principal Regulations”).

These Regulations—

- (a) implement European Parliament and Council Directive [96/85/EC](#) amending Directive [95/2/EC](#) on food additives other than colours and sweeteners, by adding processed eucheuma seaweed to the list of miscellaneous additives generally permitted for use in foods not referred to in Schedule 6, 7 or 8 to the principal Regulations (regulations 3(a) and 8);
- (b) implement Commission Directive [96/77/EC](#) laying down specific purity criteria on food additives other than colours and sweeteners (regulations 3(b) and (c), 7(a) and 11 and Schedule) and make a consequential amendment (regulation 5);

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- (c) clarify the provisions in the principal Regulations relating to the use of miscellaneous additives in or on compound foods (regulation 4);
- (d) add to the list of permitted uses for propane, butane and iso-butane on a temporary basis in accordance with Article 5 of Directive [89/107/EEC](#) on the approximation of the laws of the Member States concerning food additives authorised for use in foodstuffs intended for human consumption (regulation 10(c));
- (e) make a few corrections to the principal Regulations to reflect provisions in Directive [95/2/EC](#), notably relating to using up old stocks of products from other Member States (regulations 7(b) to (d), 9 and 10(a) and (b));
- (f) apply specified provisions of the Food Safety Act 1990 for the purposes of the principal Regulations (regulation 6);
- (g) make a correction to the Fruit Juices and Fruit Nectars Regulations 1977 and the Fruit Juices and Fruit Nectars (Scotland) Regulations 1977, as amended, to reflect Article 4(3) of Council Directive [93/77/EEC](#) relating to fruit juices and certain similar products (OJ No. L244, 30.9.93, p. 23) (regulation 12).