

2003 No. 1182

FOOD, ENGLAND

**The Sweeteners in Food (Amendment) (England)
Regulations 2003**

Made - - - - - *29th April 2003*

Laid before Parliament *6th May 2003*

Coming into force *27th May 2003*

The Secretary of State, in exercise of the powers conferred on him by sections 16(1)(a) and (e), 17(1), 26(1) and (3) and 48(1) of, and paragraph 1 of Schedule 1 to, 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, 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^(c) and in accordance with section 48(4) and (4B) of that Act, makes the following Regulations:

Title, commencement and extent

1. These Regulations may be cited as the Sweeteners in Food (Amendment) (England) Regulations 2003, shall come into force on 27th May 2003 and shall extend to England only.

Amendments to the Sweeteners in Food Regulations 1995

2.—(1) The Sweeteners in Food Regulations 1995^(d) shall be amended, in so far as they extend to England, in accordance with the following paragraphs of this regulation.

(2) In paragraph (1) of regulation 2 (interpretation) for the definition of “permitted sweetener” there is substituted the following definition—

““permitted sweetener” means the sweetener salt of aspartame–acesulfame so far as it satisfies the purity criteria for it set out at pages 19 to 21 of the Food and Agriculture Organisation’s Compendium of Food Additives Specifications Addendum 8 (2000) FAO

(a) 1990 c. 16.

(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 (1999 c. 28). 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. Paragraphs 12(a) and 21 of Schedule 5 to the Food Standards Act 1999 amend respectively sections 17(1) and 48 of the Food Safety Act 1990. Regulation 13(4) of the Food Standards Act 1999 (Transitional and Consequential Provisions and Savings) (England and Wales) Regulations 2000 (S.I. 2000/656) expressly authorises the Secretary of State to amend or revoke existing Regulations made or having effect as if made by the Minister of Agriculture, Fisheries and Food (whether with others or not) under the Food Safety Act 1990.

(c) OJ No. L31, 1.2.2002, p.1.

(d) S.I. 1995/3123, amended by S.I. 1996/1477, S.I. 1997/814, S.I. 1999/982, S.I. 2001/2294 and S.I. 2002/379.

Food and Nutrition Paper 52 Addendum 8 and any sweetener specified in Column 2 of Schedule 1 which satisfies the specific purity criteria for that sweetener set out—

(a) in the case of sucralose, at pages 119 to 124 of the Food and Agriculture Organisation's Compendium of Food Additives Specifications Addendum 2 (1993) FAO Food and Nutrition Paper 52 Addendum 2; and

(b) in the case of any sweetener other than sucralose, in the Annex to Directive 95/31/EC(a);”.

(3) The following sub-paragraph is substituted for sub-paragraph (c) of regulation 2(3)—

“(c) in column 4, the maximum usable dose indicated in relation to a food is—

(i) in the case of all permitted sweeteners except cyclamic acid and its Na and Ca salts, saccharin and its Na, K and Ca salts and salt of aspartame—acesulfame, the maximum amount, in milligrams, of permitted sweetener per kilogram or, as the case may be, per litre of that food which is ready to eat having been prepared according to any instructions for use, and

(ii) in the case of cyclamic acid and its Na and Ca salts and saccharin and its Na, K and Ca salts, the maximum amount of free acid contained in the cyclamic acid and its Na and Ca salts or, as the case may be, saccharin and its Na, K and Ca salts present in that food which is ready to eat having been prepared according to any instructions for use, measured in milligrams per kilogram or, as the case may be, per litre of the food.”.

(4) In paragraph (3) of regulation 3 (sale and use of sweeteners) the phrase “paragraphs (4) and (5)” is substituted for the phrase “paragraph (4)”.

(5) The following paragraph is inserted immediately after paragraph (4) of regulation 3—

“(5) The prohibition on using aspartame and acesulfame K in or on any food which is imposed by virtue of paragraph (3) above shall apply equally in relation to the use of salt of aspartame—acesulfame in or on that food.”.

Consequential amendments

3.—(1) Paragraph (2) of regulation 4 (consequential amendments) of the Sweeteners in Food (Amendment) (England) Regulations 2002(b) shall cease to have effect.

(2) In the provisions specified in paragraph (3), insofar as they extend to England, references to the Sweeteners in Food Regulations 1995 shall be construed as references to those Regulations as amended up to and including the amendments effected by these Regulations.

(3) The provisions are—

(a) the definition of “permitted sweetener” in paragraph (1) of regulation 2 (interpretation) of the Jam and Similar Products Regulations 1981(c);

(b) the definition of “additive” in paragraph (1) of regulation 2 (interpretation) of the Meat Products and Spreadable Fish Products Regulations 1984(d);

(c) the definition of “sweetener” in Part II of Schedule 1 (categories of food additives) to the Food Additives Labelling Regulations 1992(e);

(d) the definition of “sweetener” in paragraph (1) of regulation 2 (interpretation) of the Miscellaneous Food Additives Regulations 1995(f); and

(e) in the Food Labelling Regulations 1996(g)—

(i) paragraph (1) of regulation 34 (foods containing sweeteners, added sugar and sweeteners, aspartame or polyols), and

(ii) in Schedule 8 (misleading descriptions) Part I (general), the condition in column 2 opposite the description “ice cream” in column 1.

(a) OJ No. L178, 28.7.95, p.1, as amended by Directive 1998/66/EC (OJ No. L257, 19.9.98, p.35), Directive 2000/51/EC (OJ No. L198, 4.8.2000, p.41) and Directive 2001/52/EC (OJ No. L190, 12.7.2001, p.18).

(b) S.I. 2002/379.

(c) S.I. 1981/1063; the relevant amending instruments are S.I. 1983/1211 and S.I. 1995/3123.

(d) S.I. 1984/1566; the relevant amending instruments are S.I. 1995/3123, S.I. 1995/3124 and S.I. 1995/3187.

(e) S.I. 1992/1978; the relevant amending instrument is S.I. 1995/3123.

(f) S.I. 1995/3187, to which there are amendments not relevant to these Regulations.

(g) S.I. 1996/1499, to which there are amendments not relevant to these Regulations.

Signed by authority of the Secretary of State for Health

29th April 2003

Hazel Blears
Parliamentary Under Secretary of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations, which extend to England only, further amend the Sweeteners in Food Regulations 1995 (S.I. 1995/3123, as already amended) (“the 1995 Regulations”), which extend to the whole of Great Britain, by—

- (a) granting authorisation for the marketing and use as a sweetener of salt of aspartame–acesulfame, as permitted by 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 (OJ No. L40, 11.2.89, p.27). Article 5 permits member States to authorise sweeteners for the marketing and use within their own territories, pending consideration for inclusion in Directive 94/35/EC on sweeteners for use in foodstuffs (OJ No. L237, 10.9.94, p.3, as amended) (*regulation 2(2) and (5)*);
- (b) clarifying the meaning of “maximum usable dose” as used in relation to cyclamic acid and its Na and Ca salts and saccharin and its Na, K and Ca salts (*regulation 2(3)*);
- (c) making a consequential change to regulation 3(3) of the 1995 Regulations. (*regulation 2(4)*); and
- (d) updating references to the 1995 Regulations in other Regulations to take account of the amendments made to the 1995 Regulations by these Regulations (*regulation 3*).

2. Copies of the Food and Agriculture Organisation documents referred to in the new definition of “permitted sweetener” which is substituted by regulation 2(2) may be obtained from the Stationery Office (TSO), PO Box 29, St Crispins House, Norwich NR3 1GN. Alternatively copies may be obtained online from www.tso.co.uk.

3. No regulatory impact assessment has been prepared in relation to these Regulations.

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