STATUTORY RULES OF NORTHERN IRELAND

2007 No. 325

FOOD

The Miscellaneous Food Additives and the Sweeteners in Food (Amendment) Regulations (Northern Ireland) 2007

Made - - - -	*28th June 2007*
Coming into operation	*1st August 2007*

The Department of Health, Social Services and Public Safety(**1**) makes the following Regulations in exercise of the powers conferred by Articles 15(1)(a), 16(1), 25(1) and (3), and 47(2) of, and paragraph 1 of Schedule 1 to, the Food Safety (Northern Ireland) Order 1991(**2**).

It has had regard to relevant advice given by the Food Standards Agency as required by Article 47(3A) of that Order.

There has been open and transparent public consultation during the preparation of the Regulations as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council(**3**) 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.

Citation and commencement

1. These Regulations may be cited as the Miscellaneous Food Additives and the Sweeteners in Food (Amendment) Regulations (Northern Ireland) 2007 and come into operation on 1st August 2007.

Amendments to the Miscellaneous Food Additives Regulations (Northern Ireland) 1996

2. The Miscellaneous Food Additives Regulations (Northern Ireland) 1996(**4**)("the Additives Regulations") are amended in accordance with regulations 3 to 13.

(**1**) Formerly the Department of Health and Social Services; see S.I. 1999/283 (N.I.1) Article 3(6)

(**2**) S.I. 1991/762 (N.I.7) as amended by S.I. 1996/1663 (N.I.12), paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c.28 and S.R.2004 Nos. 482 and 505

(**3**) OJ No. L31, 1.2.2002, p. 1 as last amended by Commission Regulation (EC) No. 575/2006 (OJ No. L100, 8.4.2006, p.3) amending Regulation (EC) No. 178/2002 of the European Parliament and of the Council as regards the number and names of the Permanent Scientific Panels of the European Food Safety Authority (OJ No. L100, 8.4.2006, p.3). By virtue of Regulation 5 of the Food Safety (Northern Ireland) Order 1991 (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004 No.482), with effect from 7th December 2004 the consultation requirement contained in Article 47(3) of the 1991 Order is disapplied in any case in which consultation Is required by Article 9 of Regulation (EC) No. 178/2002

(**4**) S.R. 1996 No.50, amended by S.R. 1997 No. 340, S.R. 1999 No.244, S.R. 2001 No.45, S.R. 2001 No.46, S.R. 2001 No.419, S.R. 2003 No.158, S.R. 2003 No.300, S.R. 2003 No.301, S.R. 2003 No.305, S.R. 2003 No.313, S.R. 2003 No.383, S.R. 2003 No.519, S.R. 2003 No.535, S.R. 2004 No.439, S.R. 2005 No.19 and S.R. 2005 No.201

3. In paragraph (1) of regulation 2 (interpretation) —

(a) the definition of "carrier" and "carrier solvent", after "miscellaneous additive," insert "flavouring,";

(b) in the definition of "Directive 95/2/EC" for "and European Parliament and Council Directive 2003/114/EC" substitute ", European Parliament and Council Directive 2003/114/EC(**5**) and European Parliament and Council Directive 2006/52/EC(**6**);";

(c) in the definition of "Directive 96/77/EC", for "and Commission Directive 2004/45/EC" substitute ", Commission Directive 2004/45/EC and Commission Directive 2006/129/EC(**7**);"; and

(d) after the definition of "food additive" insert—

> ""food supplement" means a foodstuff the purpose of which is to supplement the normal diet and which is a concentrated source of vitamins or minerals or other substances with a nutritional or physiological effect, alone or in combination, marketed in dose form such as capsules, pastilles, tablets, pills and other similar forms, sachets of powder, ampoules of liquids, drop-dispensing bottles, and other similar forms of liquids and powders designed to be taken in measured small unit quantities;".

4. In regulation 11 (Transitional provision and exemptions), after paragraph (1F), insert—

"(1G) 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 15th August 2008; and

(b) the matter constituting the offence would not have constituted an offence under these Regulations if the amendments made by regulation 5(a), 6(a), 6(b) and (d) or 8 of the Miscellaneous Food Additives and the Sweeteners in Food (Amendment) Regulations (Northern Ireland) 2007 had not been made when the food additive or food was placed on the market or labelled.".

5. In Schedule 1 (Miscellaneous Additives Generally Permitted for use in Foods not referred to in Schedule 6, 7 or 8) —

(a) as Note (5) add—

> "(5) The substances E400, E401, E402, E403, E404, E406, E407, E407a, E410, E412, E413, E414, E415, E417, E418 and E440 may not be used in jelly cups, defined for the purpose of these Regulations as jelly confectionery of a firm consistency, contained in semi-rigid mini-cups or mini-capsules, intended to be ingested in a single bite by exerting pressure on the mini-cup or mini-capsule so as to project the confectionery into the mouth.";

(b) after the entry relating to E461 insert—

E 462	Ethyl cellulose

6. In Schedule 2 (Conditionally Permitted Preservatives and Antioxidants) Part A (sorbates, benzoates and p-hydroxybenzoates) —

(a) omit E 216 Propyl p-hydroxybenzoate and E 217 Sodium propyl p-hydroxybenzoate in the first table;

(**5**) OJ No. L24, 29.1.2004, p.58
(**6**) S.I. 1991/762 (N.I.7) as amended by S.I. 1996/1663 (N.I.12), paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c.28 and S.R.2004 Nos. 482 and 505
(**7**) OJ No. L346, 9.12.2006, p.15

(b) omit the entries for "Shrimps, cooked" and "Crayfish tails, cooked and pre-packed Marinated cooked molluscs" in the second table;

(c) in the first column (entitled "Food") of the second table, for "Dietetic foods intended for special medical purposes" substitute "Dietary foods for special medical purposes as defined in Directive 1999/21/EC(**8**)";

(d) add the following entries to the second table at the end:

"Crustaceans and molluscs, cooked		1000		2000		
Food supplements supplied in liquid form				2000"		

7. In Schedule 2 Part B (sulphur dioxide and sulphites), in the second table —

(a) for the entries relating to crustaceans and cephalopods substitute—

"Crustaceans and cephalopods:	
fresh, frozen and deep frozen	150*
crustaceans, *Panaeidae, Solenoceridae, Aristaeidae* family:	
— ≤ 80 units	150*
— > 80 units but ≤ 120 units	200*
— > 120 units	300*
Cooked	50*
cooked crustaceans, *Panaeidae, Solenoceridae, Arisateidae* family:	
— ≤ 80 units	135*
— > 80 units but ≤ 120 units	180*
— > 120 units	270*
* In edible parts"	

(b) for "Starches (excluding starches for weaning foods, follow-on furmulae and infant formulae)" substitute "Starches (excluding starches in infant formulae, follow-on formulae and processed cereal-based foods and baby foods)";

(c) at the end of the table add—

"Salsicha fresca	450
Table grapes	10
Fresh lychees	10 (measured on edible parts)"

8. In Schedule 2 Part C (other preservatives) the table relating to E 249, E 250, E 251 and E 252 is replaced by the table set out in Schedule 1.

(**8**) OJ No. L91, 7.4.1999, p.29

9. In Schedule 2 Part D (other antioxidants) the table is replaced by the table set out in Schedule 2.

10. In Schedule 3 (Other Permitted Miscellaneous Additives)—

(a) in the entry relating to E385 in the third and fourth columns (entitled respectively "Food" and "Maximum level") add—

"Libamáj, egézben és tömbben	250 mg/kg"

(b) after the entry relating to E 967 insert—

E 968	Erythritol	Food in general (except drinks and those foods referred to in Article 2(3) of Directive 95/2/EC	*quantum satis*
		Frozen and deep-frozen unprocessed fish, crustaceans, molluscs and cephalopods	*quantum satis*
		Liqueurs	*quantum satis*
			For purposes other than sweetening

(c) after the entry relating to E 425 insert—

E 426	Soybean hemicellulose	Dairy-based drinks intended for retail sale	5 g/l
		Food supplements	1.5 g/l
		Emulsified sauces	30 g/l
		Pre-packaged fine bakery wares intended for retail sale	10 g/l
		Pre-packaged ready-to-eat oriental noodles intended for retail sale	10 g/l
		Pre-packaged ready-to-eat rice intended for retail sale	10 g/kg
		Pre-packaged processed potato and rice products (including frozen, deep-frozen, chilled and dried processed	10 g/kg

		products) intended for retail sale	
		Dehydrated, concentrated, frozen and deep-frozen egg products	10 g/kg
		Jelly confectionery, except jelly mini-cups	10 g/kg

(d) in the third column of the entry relating to E 468, for "Solid dietary supplements" substitute "Food supplements supplied in solid form";

(e) in the third column of the entry relating to E 338 to E 452, for "Dietary supplements" substitute "Food supplements";

(f) in the third column of the entries relating to E 405, E 416, E 432 to E 436, E 473 and E 474, E 475, E 491 to E 495, E 551 to E 559 and E 901 to E 904, for "Dietary food supplements" substitute "Food supplements";

(g) in the third column of the entries relating to E 1201 and E 1202, for "Dietary food supplements in tablet and coated tablet form" substitute "Food supplements in tablet and coated tablet form";

(h) in the third column of the entries relating to E 405, E 432 to E 436, E 473 and E 474, E 475, E477, E481 and E482, and E 491 to E 495, for "Dietetic foods intended for special medical purposes" substitute "Dietary foods for special medical purposes as defined in Directive 1999/21/EC";

(i) in the fourth column of the entries relating to E 1505 to E 1520, after "In the case of beverages," insert "with the exception of cream liqueurs,";

(j) at the end of the table add—

"E 1204	Pullulan	Food supplements in capsule and tablet form	*quantum satis*
		Breath-freshening micro-sweets in the form of films	*quantum satis*
E 1452	Starch Aluminium Octenyl Succinate	Encapsulated vitamin preparations in food supplements	35 g/kg in food supplement"

11. In Schedule 4 (Permitted Carriers and Carrier Solvents) —

(a) after the entry relating to E 967, in the first column insert "E 968" and in the second column opposite insert "Erythritol";

(b) after the entry relating to E 461, in the first column insert "E 462" and in the second column opposite insert "Ethyl cellulose";

(c) in the third column of the entry related to E 551 and E 552, add the expression "For E 551: in E 171 titanium dioxide and E 172 iron oxides and hydroxides (max. 90% relative to the pigment).".

12. In Schedule 7 (Foods in which a limited number of Miscellaneous Additives listed in Schedule 1 may be used) —