1978 No. 112

FOOD AND DRUGS

Composition and Labelling

Antioxidants in Food Regulations (Northern Ireland) 1978

Made . . . . . 21*st April* 1978

Coming into operation . . . . 8*th June* 1978

The Department of Health and Social Services(a) in exercise of the powers conferred on it by sections 4, 7, 68 and 68A(b) of the Food and Drugs Act (Northern Ireland) 1958(c) and of every other power enabling it in that behalf and after consultation with such organisations as appear to it to be representative of interests substantially affected by these regulations, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Antioxidants in Food Regulations (Northern Ireland) 1978 and shall come into operation on 8th June 1978.

Interpretation

2.—(1) In these regulations

"the Act" means the Food and Drugs Act (Northern Ireland) 1958;

"anhydrous edible oils and fats" means oils and fats, intended for sale for human consumption, which have been derived from any animal, bird, fish or plant and from which all or almost all the water has been removed, and includes block suet and the fat content of shredded suet but does not include dairy products, essential oils or isolates from the concentrates of essential oils;

"antioxidant" means any substance which is capable of delaying, retarding or preventing the development in food of rancidity or other flavour deterioration due to oxidation but does not include—

(*a*) any permitted artificial sweetener,

(*b*) any permitted bleaching agent,

(*c*) any permitted colouring matter,

(*d*) any permitted emulsifier,

(*e*) any permitted improving agent,

(*f*) any permitted miscellaneous additive other than a permitted diluent combined with such an antioxidant,

(*g*) any permitted preservative,

(*h*) any permitted stabiliser,

(*j*) any permitted solvent other than a permitted diluent combined with such an antioxidant,

(a) *See* S.R. & O. (N.I.) 1964 No. 205 (p. 937) art. 5 and Sch. 2 Part I and 1973 c. 36 s. 40 and Sch. 5 para. 8

(b) Added by S.R. & O. (N.I.) 1972 No. 363 (p. 1767)

(c) 1958 c. 27 (N.I.)

(*k*) esters of L-ascorbic acid with straight-chain C_{14} and C_{18} fatty acids used or for use to dilute or dissolve colouring matter in accordance with the Colouring Matter in Food Regulations (Northern Ireland) 1973(**d**) as amended(**e**);

"appropriate designation" means, as respects any permitted antioxidant or permitted diluent, a name or description or a name and description sufficiently specific, in each case, to indicate to an intending purchaser the true nature of the permitted antioxidant or permitted diluent to which it is applied;

"block suet" means rendered beef suet free from fibrous tissue;

"butter fat" means the product obtained by removing all or almost all the water and milk solids other than fat from milk, cream or butter and includes anhydrous butter fat, butter oil, anhydrous butter oil and anhydrous milk fat;

"container" includes any form of packaging of food for sale as a single item, whether by way of wholly or partly enclosing the food or by way of attaching the food to some other article, and in particular includes a wrapper or confining band;

"dairy product" means any butter, butter fat, cream, dried cream, milk, condensed milk, evaporated milk, dried milk, cheese, dried cheese, dried whey or dried whey derivatives;

"Department" means the Department of Health and Social Services;

"diluent" means any substance used to dilute or dissolve antioxidant intended for use in food for human consumption;

"district council" means a council established under the Local Government Act (Northern Ireland) 1972(**f**);

"food" means food intended for sale for human consumption and includes drink, chewing gum and other products of a like nature and use, and articles and substances used as ingredients in the preparation of food or drink or of such products, but does not include—

(*a*) water, live animals or birds,

(*b*) fodder or feeding stuffs for animals, birds or fish, or

(*c*) articles or substances used only as drugs;

"permitted antioxidant" means any antioxidant specified in Part I of Schedule 1 which satisfies the specific purity criteria relating to that antioxidant specified or referred to in Part II of that Schedule and, so far as is not otherwise provided by any such specific purity criteria, satisfies the general purity criteria specified in Part III of that Schedule, or any mixture of two or more such antioxidants and (except in the definition of appropriate designation in this regulation and Schedules 1 and 4) shall be construed as including any permitted diluent combined with such antioxidant or mixture of such antioxidants;

"permitted artificial sweetener" means any artificial sweetener in so far as its use is permitted by the Artificial Sweeteners in Food Regulations (Northern Ireland) 1969(**g**);

(**d**) S.R. & O. (N.I.) 1973 No. 466 (II, p. 2705)
(**e**) The relevant amending regulations are S.R. 1975 No. 283 (II, p. 1370) and S.R. 1976 No. 382 (II, p. 2185)
(**f**) 1972 c. 9 (N.I.)
(**g**) S.R. & O. (N.I.) 1969 No. 346 (p. 1563)

"permitted bleaching agent" means any bleaching agent in so far as its use is permitted by the Bread and Flour Regulations (Northern Ireland) 1964(h), as amended(i);

"permitted colouring matter" means any colouring matter in so far as its use is permitted by the Colouring Matter in Food Regulations (Northern Ireland) 1973, as amended;

"permitted diluent" means any diluent described in Part I of Schedule 2 which satisfies the general purity criteria specified in Part II of that Schedule, or any of the permitted solvents ethyl alcohol (ethanol), propylene glycol and glycerol, or the permitted miscellaneous additive sorbitol and includes any combination of two or more such substances;

"permitted emulsifier" means any emulsifier in so far as its use is permitted by the Emulsifiers and Stabilisers in Food Regulations (Northern Ireland) 1975(j), as amended(k);

"permitted improving agent" means any improving agent in so far as its use is permitted by the Bread and Flour Regulations (Northern Ireland) 1964, as amended;

"permitted miscellaneous additive" means any acid, anti-caking agent, anti-foaming agent, base, buffer, firming agent, glazing agent, humectant, liquid freezant, packaging gas, propellent, release agent or sequestrant in so far as its use is, in each case, permitted by the Miscellaneous Additives in Food Regulations (Northern Ireland) 1974(l), as amended(m);

"permitted preservative" means any preservative in so far as its use is permitted by the Preservatives in Food Regulations (Northern Ireland) 1975(n), as amended(o);

"permitted solvent" means any solvent in so far as its use is permitted by the Solvents in Food Regulations (Northern Ireland) 1967(p);

"permitted stabiliser" means any stabiliser in so far as its use is permitted by the Emulsifiers and Stabilisers in Food Regulations (Northern Ireland) 1975, as amended;

"sell" includes offer or expose for sale or have in possession for sale, and "sale" and "sold" shall be construed accordingly;

"shredded suet" means the product consisting of rendered beef suet, free from fibrous tissue, which has been shredded, flaked or otherwise comminuted, with or without farinaceous material;

"specified food" means any food of a description specified in column 1 of Part I, Part II, Part III or Part IV of Schedule 3;

and other expressions have the same meaning as in the Act.

(2) All proportions mentioned are proportions calculated by weight of the product as sold.

(h) S.R. & O. (N.I.) 1964 No. 172 (p. 829)
(i) The relevant amending regulation is S.R. & O. (N.I.) 1972 No. 275 (p. 1448)
(j) S.R. 1975 No. 278 (II, p. 1323)
(k) The relevant amending regulation is S.R. 1976 No. 367 (II, p. 1763)
(l) S.R. 1974 No. 196 (I, p. 831)
(m) The relevant amending regulation is S.R. 1975 No. 275 (II, p. 1285)
(n) S.R. 1975 No. 277 (II, p. 1291)
(o) The relevant amending regulations are S.R. 1976 No. 368 (II, p. 1764) and S.R. 1977 No. 139
(p) S.R. & O. (N.I.) 1967 No. 282 (p. 979)

(3) Any reference to a label borne on a container shall be construed as including a reference to any legible marking on the container however effected.

(4) For the purposes of these regulations, the supply of food, otherwise than by sale, at, in or from any place where food is supplied in the course of a business shall be deemed to be a sale of that food.

Exemptions

3. The provisions of these regulations shall not apply to food having any antioxidant in it or on it, to any antioxidant or to any diluent combined with any antioxidant or antioxidants which, in each case, is intended at the time of sale, consignment or delivery, as the case may be, for exportation to any place outside the United Kingdom.

Sale, etc., of food containing antioxidants

4.—(1) Save as hereinafter provided and subject to paragraph (2), no food sold, consigned or delivered shall have in it or on it any added antioxidant other than a permitted antioxidant:

Provided that apples and pears may have in them or on them diphenylamine in any proportion not exceeding 10 milligrammes per kilogramme, which is present solely by reason of the use of that substance as a scald inhibitor.

(2) Save as hereinafter provided, no food sold, consigned or delivered shall have in it or on it any added permitted antioxidant specified in column 2 of Part I, Part II, Part III or Part IV of Schedule 3:

Provided that—

(*a*) any specified food described in column 1 of any Part of Schedule 3 may have in it or on it permitted antioxidant of a description specified in relation thereto in column 2 of such Part and in the proportion so specified in column 3 thereof;

(*b*) any food, other than a dairy product, containing as an ingredient any specified food described in column 1 of Part I of Schedule 3 may contain permitted antioxidant of a description specified in column 2 of that Part, in an amount not exceeding that appropriate to the quantity of that specified food in accordance with the descriptions and proportions specified in columns 2 and 3 respectively of that Part;

(*c*) any food, other than a dairy product, containing milk fat by reason of the use as an ingredient in the preparation of that food of any dairy product, other than a dairy product described in column 1 of Part I of Schedule 3, may contain permitted antioxidant of a description specified in column 2 of Part I of Schedule 3, in an amount not exceeding that appropriate to the quantity of that milk fat in accordance with the descriptions and proportions specified in columns 2 and 3 respectively of Part I of Schedule 3;

(*d*) any food containing as an ingredient any specified food described in column 1 of Part II or Part III of Schedule 3 may contain permitted antioxidant of a description specified in column 2 of such Part for that specified food, in an amount not exceeding that appropriate to the quantity of that specified food in accordance with the descriptions and proportions specified in columns 2 and 3 respectively of such Part.

(3) A person shall not sell, consign or deliver any food which does not comply with this regulation.

Sale, advertisement and labelling of antioxidants

5.—(1) A person shall not sell, consign, deliver or advertise for sale any antioxidant (including any antioxidant with which any other substance has been mixed) for use as an ingredient in the preparation of food unless such antioxidant is a permitted antioxidant.

(2) A person shall not sell, consign or deliver any permitted antioxidant (including any permitted antioxidant with which any other substance has been mixed) for use as an ingredient in the preparation of food except in a container bearing a label in accordance with the requirements of Schedule 4.

Food for babies and young children

6.—(1) Subject to paragraph (2), a person shall not—

(*a*) give with any food sold by him any label, whether attached to or borne on the container or not, or display with any food offered or exposed by him for sale any ticket or notice, being a label, ticket or notice which bears any words, device or description calculated to indicate either directly or indirectly that the food is intended for babies or young children, or

(*b*) publish, or be a party to the publication of, any advertisement for any food, being an advertisement which includes any words, device or description as aforesaid, or

(*c*) use on, or in connection with, the sale of any food any such words, device or description as aforesaid,

if the food has in it or on it any butylated hydroxyanisole, butylated hydroxytoluene, propyl gallate, octyl gallate, dodecyl gallate or ethoxyquin.

(2) This regulation shall not apply to—

(*a*) any specified food described in column 1 of item (*b*) of Part III of Schedule 3 which has in it or on it permitted antioxidant of a description specified in relation thereto in column 2 of that Part and in the proportion so specified in column 3 thereof;

(*b*) any food which has in it or on it permitted antioxidant of the description specified in column 2 of item (*b*) of Part III of Schedule 3 introduced in the preparation of that food by the use of a specified food described in column 1 thereof if that permitted antioxidant is present in the food in no greater proportion in relation to the quantity of the specified food used than the proportion specified in column 3 of that item.

Condemnation of food

7. Where any food is certified by a public analyst as being food which it is an offence against regulation 4 to sell, consign or deliver, that food may be treated for the purposes of section 9 of the Act (under which food may be seized and destroyed on the order of a justice of the peace) as being unfit for human consumption.

Penalties and enforcement

8.—(1) If any person contravenes or fails to comply with any of the foregoing provisions he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment and, in the case of a continuing offence, to a further fine not exceeding five pounds for each day during which the offence continues after conviction.