1974. No. 197 **[C]**

FOOD AND DRUGS

Composition and Labelling

Antioxidant in Food

REGULATIONS, DATED 5TH AUGUST 1974, MADE BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES UNDER SECTIONS 4, 7, 68 AND 68(*a*) OF THE FOOD AND DRUGS ACT (NORTHERN IRELAND) 1958.

The Department of Health and Social Services in exercise of the powers conferred upon it by sections 4, 7, 68 and 68(*a*) of the Food and Drugs Act (Northern Ireland) 1958(a), and of all other powers enabling it in that behalf, 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 Antioxidant in Food Regulations (Northern Ireland) 1974 and shall come into operation on 1st September, 1974.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

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

"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,

(*k*) lecithin,

(*l*) 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(b);

(a) 1958. c. 27. (b) S.R. & O. (N.I.) 1973, No. 466.

"appropriate designation" means, as respect 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;

"butter for manufacturing purposes" means butter sold or intended for sale, otherwise than by retail, for use in the manufacture or production of any other article of food;

"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 (other than butter for manufacturing purposes), milk, cream, condensed milk, evaporated milk, dried milk or cheese;

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

"district council" has the meaning assigned to it in section 1 of the Local Government Act (Northern Ireland) 1972(c);

"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;

"human consumption" includes use in the preparation of food for human consumption;

"partial glycerol esters" means any compound formed by incompletely esterifying the hydroxyl groups of glycerol with either—

(*a*) any single fatty acid, or

(*b*) any mixture of fatty acids, or

(*c*) any mixture of fatty acids with one of the following organic acids—acetic acid, lactic acid, citric acid, tartaric acid, diacetyltartaric acid or hydroxystearic acid,

in which the proportion of sodium salt, if any, of any fatty acid present does not exceed two per centum of the partial glycerol esters;

"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;

(c) 1972. c. 9. (N.I.).

"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(**d**);

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

"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;

"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) 1962(**f**);

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

"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(**g**);

"permitted preservative" means any preservative in so far as its use is permitted by the Preservatives in Food Regulations (Northern Ireland) 1974(**h**);

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

"permitted stabiliser" means any stabiliser in so far as its use is permitted by the Emulsifiers and Stabilisers in Food Regulations (Northern Ireland) 1962;

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

"specified food" means any food of a description specified in column 1 of Part I or of Part II of Schedule 3 to these regulations;

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

(2) Unless a contrary intention is expressed, all proportions mentioned in these regulations are proportions calculated by weight of the product as sold.

(3) Any reference in these regulations 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.

(**d**) S.R. & O. (N.I.) 1969, No. 346.
(**e**) S.R. & O. (N.I.) 1964, No. 172.
(**f**) S.R. & O. (N.I.) 1962, No. 90.
(**g**) S.R. (N.I.) 1974, No. 196.
(**h**) S.R. (N.I.) 1974, No. 176.
(**i**) S.R. & O. (N.I.) 1967, No. 282.

Exemptions

3. The provisions of these regulations shall not apply to food having any antioxidant in it or on it, or 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) 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.

(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 or of Part II of Schedule 3.

Provided that:

(*a*) any specified food described in column 1 of Part I of Schedule 3 may, subject to the provisions of paragraph 1 of that Part, have in it or on it permitted antioxidant of the description appearing in relation thereto in column 2 of that Part in the proportion specified in relation thereto in column 3 of that Part;

(*b*) any specified food described in column 1 of Part II of Schedule 3 may have in it or on it permitted antioxidant of the description and in the proportion specified in relation thereto in columns 2 and 3 respectively of that Part of that Schedule;

(*c*) any food containing as an added ingredient any specified food may contain any permitted antioxidant of the description specified for, in the amount appropriate to the quantity of, that specified food in accordance with sub-paragraphs (*a*) and (*b*) of this proviso;

(*d*) any food containing milk fat by reason of the addition as an added ingredient of any dairy product may contain permitted antioxidant of the description, and in the amount specified, in accordance with sub-paragraph (*a*) of this proviso in relation to a quantity of anhydrous edible fat equal by weight to that milk fat.

(3) No person shall sell, consign, deliver or have in his possession for the purpose of sale any food which does not comply with this regulation.

Sale and advertisement and labelling of antioxidants

5.—(1) No person shall sell, consign, deliver or have in his possession for the purpose of sale 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) No person shall 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 which complies with the requirements of Schedule 4.

Food for babies and young children

6. No person shall—

(*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 mainly 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, octyl gallate, dodecyl gallate, propyl gallate or ethoxyquin.

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, deliver or possess for the purpose of sale, 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 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.

(2) Each district council shall enforce and execute such provisions in its area.

(3) The requirements of section 47(3) of the Act (which requires notice to be given to the Department of Health and Social Services of intention to institute proceedings for an offence against any provisions of these regulations relating to the labelling, advertising or description of food) shall not apply as respects any proceedings instituted by a district council for an offence against any such provisions of these regulations.

Defences

9.—(1) In any proceedings for an offence against these regulations in relation to the publication of an advertisement, it shall be a defence for the defendant to prove that, being a person whose business it is to publish or arrange for the publication of advertisements, he received the advertisement for publication in the ordinary course of business.

(2) In any proceedings against the manufacturer or importer of any antioxidant for use as an ingredient in the preparation of food, or of any food having added antioxidant in it or on it, for an offence against these regulations in relation to the publication of an advertisement, it shall rest on the defendant to prove that he did not publish and was not a party to the publication of, the advertisement.