

**EUROPEAN COMMUNITIES (FLAVOURINGS FOR USE IN FOODSTUFFS FOR
HUMAN
CONSUMPTION) REGULATIONS 1992**

The Minister for Health in exercise of the powers conferred on her by section 3 of the European Communities Act, 1972 (No. 27 of 1972) hereby makes the following Regulations:—

REG 1

1. These Regulations may be cited as the European Communities (Flavourings for use in foodstuffs for human consumption) Regulations, 1992.

REG 2

2. These Regulations shall come into force on the 31st day of January, 1992.

REG 3

3. (1) In these Regulations "the Council Directive" means Council Directive 88/388/EEC¹ as amended by Commission Directive 91/71/EEC².

(1) Official Journal of the European Communities OJ No. L184 15.7.88 pages 61- 66.

(2) Official Journal of the European Communities OJ No. L. 42 15.2.91. pages 25 and 26.

(2) In these Regulations words and phrases shall have the same meaning as in the Council Directive.

(3) In these Regulations any reference to an article or Schedule shall, except where otherwise indicated, be construed as a reference to an article contained in these Regulations or, as the case may be, to a Schedule thereto, any reference in an article to a sub-article shall be construed as a reference to a sub-article of that article.

(4) The expression "authorised officer" means an officer of a health board authorised by the health board or an officer of the Minister for Health authorised by the Minister to enforce any provisions of these Regulations.

(5) In any proceedings for an offence under these Regulations, it shall be a defence for the person charged to show that the food in respect of which the offence is alleged to have been committed was intended for export and complied with the domestic food legislation of the importing country relevant to the alleged offence.

(6) For the purpose of ensuring compliance with these Regulations the control system established under the Health (Official Control of Food) Regulations, 1991 shall apply.

REG 4

4. (1) With effect from the 31st day of January, 1992 a person shall not import or market or use

- (a) a flavouring which is used or intended for use in or on foodstuffs for human consumption to impart odour or taste, or
- (b) a foodstuff containing a flavouring except in conformity with these Regulations.

REG 5

5. The provisions of these Regulations shall not apply to

- (1) edible substances and products intended to be consumed as such, with or without reconstitution,
- (2) substances which have exclusively a sweet, sour or salt taste,
- (3) material of vegetable or animal origin, having inherent flavouring properties, where they are not used as flavouring sources.

REG 6

6. (1) A flavouring shall not contain

- (i) any element or substance in a toxicologically dangerous quantity, or
- (ii) more than
 - (a) 3mg/kg of arsenic, or
 - (b) 10mg/kg of lead, or
 - (c) 1mg/kg of cadmium, or
 - (d) 1mg/kg of mercury.

(2) The use of a flavouring shall not result in

- (a) the presence in foodstuffs of the substances listed in Schedule 1 in quantities greater than those specified therein, or
- (b) the presence of substances listed in Schedule II in quantities greater than those specified therein.

REG 7

7. (1) Flavourings not intended for sale to the final consumer shall not be marketed unless their packagings or containers are labelled in accordance with the provisions of article 9 of the Council Directive.

(2) Flavourings intended for sale to the final consumer shall not be marketed unless their labels indicate the obligatory information required in accordance with the provisions of Article 9a of the Council Directive.

(3) The particulars required in this Article shall be given in the Irish or English language unless other measures have been taken to ensure that the purchaser is informed and this information should be easily visible, clearly legible and indelible.

REG 8

8. The word 'natural', or any word having substantially the same meaning, shall be used only for flavourings in which the flavouring component contains exclusively flavouring substances as defined in Article 1 (2) (b) (i) of the Council Directive or flavouring preparations as defined in Article 1 (2) (c) of the Council Directive. If the sales description of the flavourings contain a reference to a foodstuff or a flavouring source, the word 'natural' or any other word having substantially the same meaning may not be used unless the flavouring component, has been isolated by appropriate physical processes, enzymatic or microbiological process or traditional food-preparation processes solely or almost solely from the foodstuff or the flavouring source concerned.

REG 9

9. Where there is detailed evidence

(1) that the presence of one of the substances listed in the Schedules to these Regulations while complying with the provisions of article 6 (2), or

(2) that the use of a flavouring, while complying with these Regulations, or

(3) that the presence of a substance, similar to one referred to in the Schedules to these Regulations constitutes a danger to human health, the Minister shall take such action as she deems necessary in order to ensure public health pending the outcome of recourse to the procedure set down in article 8 of the Council Directive.

REG 10

10. These Regulations shall be enforced and executed in the functional area of a health board by the health board.

REG 11

11. A person who contravenes these Regulations shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 and, in the case of a continuing offence, to a further fine not exceeding £100 for each day on which the offence is continued.

REG 12

12. (1) Where a sample of any foodstuff or flavouring has been certified under the provisions of the Health (Official Control of Food) Regulations, 1991 not to comply with these Regulations, an authorised officer may seize, remove and detain such foodstuff as

being a foodstuff which is unfit for human consumption.

(2) With the consent in writing of the owner or person responsible for such foodstuff, an authorised officer may destroy or otherwise dispose of it so as to prevent its use for human consumption.

(3) An authorised officer who has seized any foodstuff in pursuance of the provisions of this article may, on giving notice in writing to the owner or person responsible for such foodstuff of his intention to do so, apply to a Justice of the District Court for an order directing that such food be destroyed or otherwise disposed of as being a foodstuff which is unfit for human consumption.

(4) A Justice of the District Court to whom the application is made for an order under sub-article (3) of this article shall, if satisfied that such foodstuff does not comply with these Regulations, order that it be destroyed or otherwise disposed of after such period, not exceeding fourteen days, as may be specified in such order, as being a foodstuff which is unfit for human consumption and an authorised officer shall destroy or dispose of it accordingly.

REG 13

13. A person shall give to any authorised officer all reasonable assistance that the officer may require in the performance of his duties under these Regulations and such assistance shall include the giving of information relating to the composition and use of any foodstuff and the identity of the person from whom or the place from which any such foodstuff has been obtained and the person to whom and the place to which it has been consigned or the manner in which it has otherwise been disposed of.

GIVEN under the Official Seal of the Minister for Health on the 30th day of January, 1992.

MARY O'ROURKE,
Minister for Health.

SCHEDULE I.

Maximum limits for certain undesirable substances present in foodstuffs as consumed as a result of the use of flavourings.

Substance Foodstuffs Beverages
3,4 benzopyrene 0,03 ug/kg 0,03 ug/kg

SCHEDULE II.

Maximum limits for certain substances obtained from flavourings and other food ingredients with flavouring properties present in foodstuffs as consumed in which flavourings have been used.

Substances Foodstuffs mg/kg Beverages mg/kg Exceptions and/or special

restrictionsAgaric acid(1)2020100mg/kg in alcoholic beverages and foodstuffs containing mushroomsAloin(1)0,10,150 mg/kg in alcoholic beveragesBeta asarone(1)0,10,11 mg/kg in alcoholic beverages and seasonings used in snack foodsBerberine(1)0,10,110 mg/kg in alcoholic beveragesCoumarin(1)2210 mg/kg in certain types of caramel confectionery 50 mg/kg in chewing gum 10 mg/kg in alcoholic beveragesHydrocyanic acid(1)1150 mg/kg in nougat, marzipan or its substitutes or similar products 1 mg/% volume of alcohol in alcoholic beverages 5mg/kg in canned stone fruitHypericine(1)0,10,110mg/kg in alcoholic beverages 1 mg/kg in confectioneryPulegone(1)25100250 mg/kg in mint or peppermint-flavoured beverages 350 mg/kg in mint confectioneryQuassine(1)5510mg/kg in confectionery in pastille form 50 mg/kg in alcoholic beveragesSafrole and isosafrole(1)112 mg/kg in alcoholic beverages with not more than 25% volume of alcohol 5 mg/kg in alcoholic beverages with more than 25% volume of alcohol 15 mg/kg in foodstuffs containing mace and nutmegSantonin(1)0,10,11 mg/kg in alcoholic beverages with more than 25% volume of alcoholThuyone (alpha and beta)(1)0,50,55 mg/kg in alcoholic beverages with not more than 25% volume of alcohol 10 mg/kg in alcoholic beverages with more than 25% volume of alcohol 25 mg/kg in foodstuffs containing preparations based on sage 35 mg/kg in bitters.

(1)May not be added as such to foodstuffs or to flavourings. May be present in a foodstuff either naturally or following the addition of flavourings prepared from natural raw materials.

EXPLANATORY NOTE.

The Regulations, which come into operation on 31 January 1992, lay down the human health requirements and limits that apply to the use of flavourings in foodstuffs.

The Regulations implement Directive (88/388/EEC) as amended by Council Directive 91/71/EEC.