

S.I. No. 541/1998 — European Communities (Purity Criteria on Food Additives Other Than Colours and Sweeteners) Regulations, 1998

S.I. No. 541/1998:

EUROPEAN COMMUNITIES (PURITY CRITERIA ON FOOD ADDITIVES
OTHER THAN COLOURS AND SWEETENERS) REGULATIONS, 1998

EUROPEAN COMMUNITIES (PURITY CRITERIA ON FOOD ADDITIVES
OTHER THAN COLOURS AND SWEETENERS) REGULATIONS, 1998

I, Brian Cowen, Minister for Health and Children, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972), for the purposes of giving further effect to Council Directive No. 89/107/EEC of 21 December 1988¹ and effect to Commission Directive No 96/77/EC of 2 December 1996², hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Purity Criteria on Food Additives other than Colours and Sweeteners) Regulations, 1998.

2. (1) In these Regulations -

"authorised officer" means a person appointed as an authorised officer under Regulation 7;

"the Commission Directive" means Commission Directive No. 96/77/EC of 2 December 1996²;

"the Council Directive" means Council Directive No. 89/107/EEC of 21 December 1988¹;

"Directive No. 95/2/EC" means European Parliament and Council Directive No. 95/2/EC of 20 February 1995³;

"food additive" has the meaning assigned to it by Article 2(2) of the Council Directive;

"the Minister" means the Minister for Health and Children.

¹ O J No L40, 11.2 89, p 27

² O.J. No. L339, 30.12 96, p.1

³ O J. No. L61, 18 3.95, p.1

(2) A word or expression which is used in these Regulations and which is also used in the Commission or Council Directive or Directive No. 95/2/EC has, unless the context otherwise requires, the same meaning in these Regulations it has in the Directive concerned.

(3) (a) A reference in these Regulations to a Regulation is to a Regulation of these Regulations, unless it is indicated that reference to some other Regulations is intended.

(b) A reference in these Regulations to a paragraph or subparagraph is to the paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

3. These Regulations do not apply to products put on the market or labelled before 1 July 1997.

4. (1) A person may only use in the manufacture or preparation of foodstuffs an additive listed in the Annexes to Directive No. 95/2/EC in respect of a category of food additive listed in Annex 1 to the Council Directive which complies with the purity criteria as set out in the Annex to the Commission Directive.

(2) A person who fails to comply with this Regulation shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500.

5. A person who knowingly sells, offers to sell or distributes a product which contains an additive listed in the Annexes to Directive No. 95/2/EC in respect of a category of food additive listed in Annex 1 to the Council Directive which does not comply with the purity criteria as set out in the Annex to the Commission Directive shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500.

6. Where an offence under these Regulations is committed by a body corporate or by a person acting on behalf of a body corporate and is proved to have been so committed with the consent, connivance or approval of, or to have been facilitated by any neglect on the part of any director, manager, secretary or any other officer of such body or a person who was purporting to act in any such capacity, such person shall also be guilty of an offence and shall be liable to be proceeded against and punished as if he were guilty of the first-mentioned offence.

7. (1) The Minister may appoint such and so many of his or her officers as he or she thinks fit to be authorised officers for the purposes of ensuring compliance with these Regulations.

(2) The Chief Executive Officer of a health board may appoint such and so many officers of the health board as he or she thinks fit to be authorised

officers for the purposes of ensuring compliance with these Regulations in the functional area of the health board.

(3) An authorised officer shall be furnished with a warrant of the officer's appointment and, when exercising any power conferred on an authorised officer under these Regulations, shall, if requested by any person affected, produce the warrant to that person.

(4) An authorised officer may for the purpose of ensuring that these Regulations are being complied with, without prejudice to the generality of paragraph (1) -

(a) at all reasonable times enter any premises, at which there are reasonable grounds to believe that a product to which these Regulations apply is being or has been manufactured, prepared, distributed, supplied, put on the market or labelled for putting on the market or that records relating to the aforesaid are kept, and search and inspect the premises and any product, label or records found therein,

(b) secure for later inspection any premises or any part of a premises in which such product, labels or records are kept or there are reasonable grounds for believing that such product, labels or records are kept,

(c) require any person in charge thereof or so employed therein, to produce to the officer such records and in the case of such information in a non-legible form to reproduce it in a legible form or to give to the officer such information as the officer may reasonably require in relation to any entries in such records,

(d) inspect and take copies of or extracts from any such records (including in the case of information in non-legible form a copy of or extract from such information in a permanent legible form),

(e) remove and retain, where the officer has reasonable cause to suspect that there has been a contravention of these Regulations, the said product, labels or records for such period as may be reasonable for further examination or until the conclusion of any legal proceedings,

(f) as regards any product or any article or substance used in the manufacture or preparation of a product the officer finds at or in a premises, require any person in charge thereof or any person who appears to the officer to be in possession of the product or the article or substance, to supply without payment, for test, examination or analysis sufficient samples thereof,

(g) require any person to afford the officer such facilities and assistance within his or her control or responsibilities as are reasonably necessary to enable the officer to exercise any of the powers conferred on an authorised officer under this Regulation,

(h) examine any procedure connected with the manufacture of a product, and

(i) exercise such other powers as may be necessary to ensure that these Regulations are being complied with.

(5) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling unless he has obtained a warrant from the District Court under paragraph (8) authorising such entry.

(6) Where an authorised officer in the exercise of the officer's powers under this Regulation is prevented from entering any premises an application may be made to the District Court under paragraph (8) for a warrant authorising such entry.

(7) An authorised officer where he considers it necessary, may be accompanied by a member of the Garda Síochána when performing any powers conferred on an authorised officer under this Regulation.

(8) If a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for suspecting that there is information required by an authorised officer under this Regulation held on any premises or any part of any premises or there is a product which an authorised officer requires to inspect for purposes of these Regulations or that such inspection is likely to disclose evidence of a contravention of these Regulations, the judge may issue a warrant authorising an authorised officer, accompanied by other authorised officers or members of the Garda Síochána, at any time or times within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter, if need be by reasonable force, the premises and exercise all or any of the powers conferred on an authorised officer under this Regulation.

(9) An application under paragraph (8) shall be made to the judge of the District Court in whose district the premises is situated.

(10) A person who -

(a) obstructs or interferes with an authorised officer in the exercise of the officer's powers under this Regulation, or

(b) fails to comply with a request from an authorised officer under this Regulation, or

(c) makes a statement to such officer which the person knows is false or misleading,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500.

8. An offence under these Regulations may be prosecuted by -

(a) the Minister, or

(b) the health board in whose functional area the offence was committed.

9. The following Regulations are hereby revoked:

the European Communities (Antioxidant in Food) (Purity Criteria) Regulations, 1985 (S.I. No. 187 of 1985),

the European Communities (Preservatives in Food) (Purity Criteria) Regulations,

1989 (S.I. No. 262 of 1989),

the European Communities (Antioxidant in Food) (Purity Criteria) (Amendment) Regulations, 1992 (S.I. No. 63 of 1992), and

the European Communities (Preservatives in Food) (Purity Criteria) (Amendment) Regulations, 1992 (S.I. No. 64 of 1992).

GIVEN under my Official Seal, this 23rd day of December, 1998.

Brian Cowen, T.D.

Minister for Health and Children.

EXPLANATORY NOTE

These Regulations may be cited as the European Communities (Purity Criteria on Food Additives other than Colours and Sweeteners) Regulations 1998.

These Regulations implement European Commission Directive 96/77/EC laying down specific purity criteria on a number of food additives other than colours and sweeteners as set out in Directive 95/2/EC. This S.I. sets out new purity criteria for some of the categories of additives listed in 95/2/EC (mainly preservatives and antioxidants).

The following Regulations are revoked:

European Communities (Antioxidant in Food) (Purity Criteria) Regulations, 1985 [S.I. No. 187 of 1985]

European Communities (Preservatives in Food) (Purity Criteria) Regulations, 1989 [S.I. No. 262 of 1989]

European Communities (Antioxidant in Food) (Purity Criteria) (Amendment) Regulations, 1992 [S.I. No. 63 of 1992]

European Communities (Preservatives in Food) (Purity Criteria) (Amendment) Regulations, 1992 [S.I. No. 64 of 1992]

