

Statutory Instrument 1998 No. 141

The Bread and Flour Regulations 1998

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STATUTORY INSTRUMENTS

1998 No. 141

FOOD

The Bread and Flour Regulations 1998

<i>Made</i>	<i>22nd January 1998</i>
<i>Laid before Parliament</i>	<i>28th January 1998</i>
<i>Coming into force</i>	<i>19th February 1998</i>

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Health and the Secretary of State for Wales, acting jointly, in relation to England and Wales, and the Secretary of State for Scotland in relation to Scotland, in exercise of the powers conferred on them by sections 6(4), 16(1), 18(1)(c), 26(1)(a) and (3) and 48(1) of the Food Safety Act 1990[1] and of all other powers enabling them in that behalf, after consultation in accordance with section 48(4) of that Act with such organisations as appear to them to be representative of interests likely to be substantially affected by the Regulations, hereby make the following Regulations:

Title and commencement

1. These Regulations may be cited as the Bread and Flour Regulations 1998 and shall come into force on 19th February 1998.

Interpretation

2. - (1) In these Regulations, unless the context otherwise requires -

"the Act" means the Food Safety Act 1990;

"bread" means a food of any size, shape or form which -

(a) is usually known as bread, and

(b) consists of a dough made from flour and water, with or without other ingredients, which has been fermented by yeast or otherwise leavened and subsequently baked or partly baked,

but does not include buns, bunloaves, chapatis, chollas, pitta bread, potato bread or bread specially prepared for coeliac sufferers;

"EEA Agreement" means the Agreement on the European Economic Area[2] signed at Oporto on 2 May 1992, as adjusted by the Protocol[3] signed at Brussels on 17 March 1993;

"EEA State" means a State which is a Contracting Party to the EEA Agreement;

"enzyme preparation" means any food additive which consists of one or more enzymes with or without the addition of supplementary material to facilitate the storage, sale, standardisation, dilution or dissolution of the enzyme or enzymes;

"flour" means the product which is derived from, or separated during, the milling or grinding of cleaned cereal whether or not the cereal has been malted or subjected to any other process, and includes meal, but does not include other cereal products, such as separated cereal bran, separated cereal germ, semolina or grits;

"flour bleaching agent" means any food additive primarily used to remove colour from flour;

"flour treatment agent" means any food additive, other than an enzyme preparation, which is added to flour or dough to improve its baking quality;

"food additive" has the meaning assigned to it by the Miscellaneous Food Additives Regulations 1995[4];

"food authority" does not include -

(a) the council of a district in a non-metropolitan county in England except where the county functions have been transferred to that council pursuant to a structural change;

(b) the appropriate Treasurer referred to in section 5(1)(c) of the Act (which deals with the Inner Temple and the Middle Temple);

"ingredient" has the meaning assigned to it by the Food Labelling Regulations 1996[5];

"labelling" has the meaning assigned to it by the Food Labelling Regulations 1996;

"the labelling regulations" means the Food Labelling Regulations 1996;

"member State" means a member State of the European Community;

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

(2) Any reference in these Regulations to a numbered regulation or Schedule shall, unless the reference is to a regulation of, or Schedule to, specified regulations, be construed as a reference to the regulation or Schedule so numbered in these Regulations.

Exemptions

3. - (1) These Regulations, except in so far as they relate to advertising, shall not apply to any food which is not intended for sale for human consumption.

(2) These Regulations shall not apply in respect of -

(a) any bread brought into Great Britain from an EEA State in which it was lawfully produced and sold;

(b) any flour brought into Great Britain from a member State in which it was lawfully produced and sold;

(c) any bread or flour lawfully produced in another member State and brought into Great Britain from a member State in which it was lawfully sold;

(d) any bread or flour lawfully produced outside the European Community and brought into Great Britain from a member State in which it was in free circulation and lawfully sold,

which is suitably labelled to give the nature of the bread or flour.

(3) For the purposes of paragraph (2) above, "free circulation" has the same meaning as in Article 9.2 of the Treaty establishing the European Community.

Composition of flour

4. - (1) Subject to paragraph (2) below, flour derived from wheat and from no other cereal, whether or not mixed with other flour, shall contain the substances specified in column 1 of Schedule 1 in accordance with the proportions and conditions prescribed in column 2 of that Schedule and with Schedule 2.

(2) The requirements specified for item 1 in column 2 of Schedule 1 shall not apply in the case of -

(a) wholemeal flour,

(b) self-raising flour which has a calcium content of not less than 0.2 per cent, and

(c) wheat malt flour.

(3) The substances specified in items 2-4 of Schedule 1 shall, in the case of -

(a) wholemeal flour, be naturally present in the quantities specified in column 2 of that Schedule, and not added;

(b) flour other than wholemeal, be added where such addition is necessary in accordance with the conditions prescribed in column 2 of that Schedule.

(4) Subject to paragraph (5) below -

(a) no manufacturer of flour shall sell any flour which does not comply with this regulation; and

(b) no importer of flour shall -

(i) import into Great Britain any flour, or

(ii) sell any flour imported by him,

which does not comply with this regulation.

(5) Paragraph (4) above shall not apply as respects any sale or importation into Great Britain of flour for use in the manufacture of communion wafers, matzos, gluten, starch or any concentrated preparation for use for the purpose of facilitating the addition to flour of the substances referred to in Schedule 1.

Additional ingredients

5. - (1) Subject to paragraph (2) below, no person shall use as an ingredient in the preparation of flour or bread any flour bleaching agent or flour treatment agent other than a flour bleaching agent or flour treatment agent specified in an entry in column 1 of Schedule 3.

(2) No person shall use as an ingredient in the preparation of flour or bread any flour bleaching agent or flour treatment agent specified in an entry in column 1 of Schedule 3 unless -

(a) the flour or bread is of a type specified in the related entry in column 2 of that Schedule; and

(b) the quantity of the flour bleaching agent or flour treatment agent used in the flour or bread does not exceed the maximum quantity specified in the related entry in column 3 of that Schedule.

(3) Notwithstanding regulation 17 of the labelling regulations, where a flour treatment agent has been used as an ingredient of any bread an indication of the presence of flour treatment agent shall appear -

(a) in the list of ingredients of the bread as prescribed by regulation 14 of the labelling regulations, where the bread is marked or labelled with a list of ingredients; or

(b) on a label, ticket or notice as prescribed by regulation 36 of the labelling regulations, where by virtue of regulation 23 of the labelling regulations the bread is not marked or labelled with a list of ingredients.

Restrictions on the use of the words 'wholemeal' and 'wheat germ'

6. - (1) There shall not be used in the labelling or advertising of bread, as part of the name of the bread, whether or not qualified by other words -

- (a) the word 'wholemeal' unless all the flour used as an ingredient in the preparation of the bread is wholemeal;**
- (b) the word 'wheat germ' unless the bread has an added processed wheat germ content of not less than 10 per cent calculated on the dry matter of the bread.**

(2) No person shall sell or advertise for sale any bread in contravention of this regulation.

Offences and penalties

7. - (1) If any person contravenes or fails to comply with regulation 4(4), 5 or 6(2) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Where an offence under these Regulations is committed in Scotland by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

Enforcement

8. Each food authority shall enforce and execute these Regulations in its area.

Defence in relation to exports

9. In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove that the food in respect of which the offence is alleged to have been committed was intended for export to a country which has legislation analogous to these Regulations and that the food complies with that legislation.

Application of various sections of the Act

10. The following provisions of the Act shall apply for the purposes of these Regulations and unless the context otherwise requires any reference in them to the Act or Part thereof shall be construed as a reference to these Regulations -

- (a) section 2 (extended meaning of 'sale' etc.);**
- (b) section 3 (presumption that food is intended for human consumption);**
- (c) section 20 (offences due to fault of another person);**
- (d) section 21 (defence of due diligence) as it applies for the purposes of section 8, 14 or 15;**
- (e) section 22 (defence of publication in the course of business);**
- (f) section 30(8) (which relates to documentary evidence);**
- (g) section 33 (obstruction etc. of officers);**
- (h) section 35(1) to (3) (punishment of offences) in so far as it relates to offences under section 33(1) and (2) as applied by paragraph (g) above;**

- (i) section 36 (offences by bodies corporate); and
- (j) section 44 (protection of officers acting in good faith).

Amendments

11. In the labelling regulations in paragraph (1) of regulation 2 (interpretation) in the definition of "the Bread and Flour Regulations" for the date "1995" there shall be substituted the date "1998".

Revocations

12. The Regulations specified in column 1 of Schedule 4 are hereby revoked to the extent specified in column 3 of that Schedule.

Jeff Rooker
Minister of State, Ministry of Agriculture, Fisheries and Food

20th January 1998

Signed by authority of the Secretary of State for Health

Tessa Jowell
Minister of State for Public Health, Department of Health

20th January 1998

Signed by authority of the Secretary of State for Wales

Win Griffiths
Parliamentary Under Secretary of State, Welsh Office

22nd January 1998

Sewel
Parliamentary Under Secretary of State, Scottish Office

20th January 1998

SCHEDULE 1

Regulation 4(1) to (3)

ESSENTIAL INGREDIENTS OF FLOUR

Column 1	Column 2
Substance	Required quantity, in milligrams per hundred grams of flour, and

	<i>conditions of use</i>
1. Calcium carbonate	(a) not less than 235, and (b) not more than 390, (c) conforming to the following - {t} cols="c2"{
Description	Fine white microcrystalline or amorphous powder
Content	Not less than 97 per cent of CaCO ₃ on a volatile matter-free basis
Volatile matter	Not more than 1 per cent (determined by drying at 105°C to constant weight)
Matter insoluble in hydrochloric acid	Shall comply with the requirement for aluminium, iron, phosphate and matter insoluble in hydrochloric acid in the monograph for chalk in the British Pharmacopoeia 1973 at page 93
Arsenic	Not more than 5 mg per kg
Lead	Not more than 20 mg per kg
Other inorganic impurities	Not more than 100 mg per kg of any of the following substances, namely antimony, copper, chromium, zinc or barium sulphate, or more than 200 mg per kg of any combination of those substances
Particle size	Not more than 0.1 per cent to remain on a sieve of nominal aperture size 150 µm and not more than 0.2 per cent to remain on a sieve of nominal aperture size 63 µm.

2. Iron

- (a) not less than 1.65**
- (b) in the form of any, or any combination of two or more, of the following -**
- (i) ferric ammonium citrate conforming to the criteria in the monograph for ferric ammonium citrate contained in the British Pharmacopoeia 1973 at page 201;**
 - (ii) green ferric ammonium citrate conforming to the criteria for ammonium ferric citrate contained in the British Pharmaceutical Codex 1973 at page 194;**
 - (iii) ferrous sulphate conforming to the criteria in the monograph for ferrous sulphate contained in the British Pharmacopoeia 1988 at page 245;**
 - (iv) dried ferrous sulphate conforming to the criteria in the monograph for dried ferrous sulphate contained in the British Pharmacopoeia 1988 at**

page 245;

(v) iron powder conforming to the description, specification and requirements contained in Schedule 2.

3. Thiamin (Vitamin B1)

(a) not less than 0.24

(b) in a form conforming to the criteria in the monograph for thiamine hydrochloride contained in the British Pharmacopoeia 1980 at page 451.

4. Nicotinic acid

(a) not less than 1.60

(b) in a form conforming to the criteria in the monograph for nicotinic acid contained in the British Pharmacopoeia 1973 at page 318

or

Nicotinamide

(a) not less than 1.60

(b) in a form conforming to the criteria in the monograph for nicotinamide contained in the British Pharmacopoeia 1980 at page 303.

SCHEDULE 2

Regulation 4(1)

SPECIFICATION FOR IRON POWDER

Definition

Iron powder shall consist essentially of finely-divided metallic iron containing not less than 90 per cent by weight of iron and conform to the following requirements.

<i>Chemical name</i>	Iron
<i>Symbol</i>	Fe

Description

Fine greyish-black powder of such granularity that not more than 0.1 per cent by weight shall remain on a British Standard 410:1969 wire sieve nominal aperture size 150 µm and not more than 5 per cent by weight on a British Standard 410:1969 wire sieve nominal aperture size 53 µm.

Assay

Accurately weigh 0.25 g of sample into a stoppered flask. Add a hot solution of 1.25 g of copper sulphate pentahydrate in 20 ml of water and shake for ten minutes. Filter rapidly and wash the filter with water; acidify the mixed filtrate and washings with sulphuric acid, and titrate with N/10 potassium permanganate. Each ml of N/10 potassium permanganate is equivalent to 0.005585 g of iron.

Solubility

Not less than 95 per cent of the iron content when determined by the following method.

Accurately weigh 0.1 g of sample into a 750 ml conical flask. Add 450 ml 0.2 per cent weight in weight hydrochloric acid previously warmed to 37°C. Stir continuously for three hours, maintaining the temperature at 37°C. Cool to room temperature and dilute to 500 ml with distilled water. Filter; determine the iron content of the filtrate by a suitable method. Calculate the total iron in solution as a percentage of the metallic iron content of the sample taken.

SCHEDULE 3

Regulation 5

INGREDIENTS PERMITTED IN FLOUR AND BREAD

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Ingredient</i>	<i>Types of flour and bread in which ingredient may be used</i>	<i>Maximum quantity in milligrams per kilogram of flour</i>
E220 Sulphur dioxide E223 Sodium metabisulphite	All flour intended for use in the manufacture of biscuits or pastry except wholemeal	The total quantity of these additives used must not exceed 200 calculated as sulphur dioxide
E300 L-Ascorbic acid	All flour except wholemeal. All bread	200
920 L-Cysteine hydrochloride	(a) All flour used in the manufacture of biscuits, except wholemeal or flour to which E220 Sulphur dioxide or E223 Sodium metabisulphite has been added	300
	(b) Other flour, except wholemeal. All bread, except wholemeal	75
925 Chlorine	All flour intended for use in the manufacture of cakes, except wholemeal	2,500
926 Chlorine dioxide	All flour, except wholemeal. All bread, except wholemeal	30

SCHEDULE 4

Regulation 12

REVOCATIONS

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Regulations Revoked</i>	<i>References</i>	<i>Extent of Revocation</i>
The Bread and Flour Regulations 1995	S.I. 1995/3202	The whole Regulations
The Food Labelling Regulations 1996	S.I. 1996/1499	Paragraph (22) of regulation 49
The Bread and Flour (Amendment) Regulations 1996	S.I. 1996/1501	The whole Regulations

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Bread and Flour Regulations 1995 ("the 1995 Regulations").

These Regulations -

- (a) provide for exemptions from the Regulations (regulation 3);
- (b) require that wheat flour (subject to certain exceptions) be fortified with specified essential ingredients (regulation 4, Schedules 1 and 2);
- (c) restrict the use of specified ingredients in the preparation of flour and bread and require that an indication of the presence of a flour treatment agent be given in the case both of prepacked and of non-prepacked bread (regulation 5, Schedule 3);
- (d) reserve the names 'wholemeal' and 'wheat germ' for bread which complies with specified compositional requirements and prohibit the sale or advertising for sale using these names of bread which does not comply with the compositional requirements (regulation 6);
- (e) create offences and prescribe penalties (regulation 7);
- (f) specify the enforcement authorities (regulation 8);
- (g) provide a defence in relation to exports in implementation of Article 2 and 3 of, as read with the ninth recital to, Council Directive 89/397/EEC (O.J. No. L186, 30.6.89, p. 23) on the official control of foodstuffs (regulation 9);
- (h) apply various sections of the Food Safety Act 1990 (regulation 10); and

(i) amend and revoke specified Regulations (regulations 11 and 12).

The British Pharmacopoeia 1973, 1980 and 1988 and the British Pharmaceutical Codex 1973, referred to in Schedule 1 may be inspected at the British Library Lending Division Boston Spa, Wetherby, West Yorks LS23 7BQ, Tel. 01937 546 060 and by appointment at the library of the Ministry of Agriculture, Fisheries and Food, 3 Whitehall Place, London SW1A 2HH, Tel. 0171-270 8419.

In addition the British Pharmacopoeia 1973, 1980 and 1988 may be inspected at the Erskine Medical Library, University of Edinburgh, Hugh Robson Building, George Square, Edinburgh EH8 9XE, Tel. 0131-650 3685. The British Pharmaceutical Codex 1973 may be inspected at the National Library of Scotland, the Lending Division, 33 Salisbury Place, Edinburgh EH9 1SL, Tel. 0131-226 4531 Ext. 3329.

Notes:

[1] 1990 c. 16; "the Ministers" is defined in section 4(1) of the Act. Section 6(4) of the Act was amended by paragraph 6 of Schedule 9 to the Deregulation and Contracting Out Act 1994 (c. 40).

[2] OJ No. L1, 3.1.94, p. 1.

[3] OJ No. L1, 3.1.94, p. 571.

[4] S.I. 1995/3187; to which there is an amendment not relevant to these Regulations.

[5] S.I. 1996/1499.

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