

# Statutory Instrument 1995 No. 3123

## The Sweeteners in Food Regulations 1995

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### STATUTORY INSTRUMENTS

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**1995No. 3123**

### **FOOD**

### **The Sweeteners in Food Regulations 1995**

*Made* 3rd December 1995

*Laid before Parliament* 11th December 1995

*Coming into force* 1st January 1996

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)(a) and (e), 17(1), 26(1) and (3) and 48(1) of, and paragraph 1 of Schedule 1 to, the Food Safety Act 1990<sup>[1]</sup> and of all other powers enabling them in that behalf, hereby make the following Regulations, after consultation in accordance with section 48(4) of the said Act with such organisations as appear to them to be representative of interests likely to be substantially affected by the Regulations:

#### **Title and commencement**

**1.** These Regulations may be cited as the Sweeteners in Food Regulations 1995, and shall come into force on 1st January 1996.

#### **Interpretation**

2. —(1) In these Regulations, unless the context otherwise requires—  
"the Act" means the Food Safety Act 1990;  
"Directive 94/35/EC" means European Parliament and Council Directive 94/35/EC<sup>[2]</sup> on sweeteners for use in foodstuffs;  
"Directive 95/31/EC" means Commission Directive 95/31/EC<sup>[3]</sup> laying down specific criteria of purity concerning sweeteners for use in foodstuffs;  
"food" means food sold, or intended for sale, for human consumption, and in regulation 6 and for the purposes of regulation 9 includes a sweetener;  
"food additive" means any substance not normally consumed as a food in itself and not normally used as a characteristic ingredient of food, whether or not it has nutritive value, the intentional addition of which to food for a technological purpose in the manufacture, processing, preparation, treatment, packaging, transport or storage of such food results, or may reasonably be expected to result, in it or its by-products becoming directly or indirectly a component of such foods;  
"infants" means children under the age of twelve months;  
"member State" means a member State of the European Community;  
"permitted sweetener" means any sweetener specified in Column 2 of Schedule 1 which satisfies the specific purity criteria for that sweetener set out in the annex to Directive 95/31/EC;  
"sell" includes possess for sale, and offer, expose or advertise for sale, and  
"sale" and "sold" shall be construed accordingly;  
"sweetener" means any food additive which is used or intended to be used—  
    (a) to impart a sweet taste to food, or  
    (b) as a table-top sweetener;  
"young children" means children aged between one and three years,

and other expressions used in these Regulations and in Directive 94/35/EC have, in so far as the context admits, the same meaning as they bear in that Directive. (2) Any reference in these Regulations to a numbered regulation or Schedule shall, unless the context otherwise requires, be construed as a reference to the regulation or Schedule bearing that number in these Regulations.

(3) In Schedule 1—

- (a) in Column 3, the description "with no added sugar" means that the food to which it refers does not contain any—
  - (i) added monosaccharide,
  - (ii) added disaccharide,
  - (iii) other added food used for its sweetening properties;
- (b) in Column 3, the description "energy-reduced" means that the food to which it refers has an energy value reduced by at least 30 per cent compared with the original or a similar food;
- (c) in Column 4, the maximum usable dose indicated in relation to a food is the maximum amount, in milligrams, of permitted sweetener per kilogram or, as the case may be, per litre of that food which is ready to eat having been prepared according to any instructions for use;
- (d) in Column 4, "quantum satis" means that no maximum level of permitted sweetener in or on a corresponding food is specified but that in or on such food a permitted sweetener may be used in accordance with good manufacturing practice at a level not higher than is necessary to achieve the intended purpose and provided that such use does not mislead the consumer.

**Sale and use of sweeteners**

- 3.—(1) Subject to regulation 4, no person shall sell any sweetener which is intended—  
    (a) for sale to the ultimate consumer, or

(b) for use in or on any food,  
other than a permitted sweetener.

(2) No person shall use in or on any food any sweetener other than a permitted sweetener.

(3) Subject to paragraph (4) below, no person shall use any permitted sweetener in or on any food listed in Column 3 of Schedule 1 other than a permitted sweetener listed in relation to that food in Column 2 of Schedule 1 in an amount not exceeding the maximum usable dose for such permitted sweetener in or on such food as listed in Column 4 of Schedule 1.

(4) No person shall use any permitted sweetener in or on any food for infants or young children as specified in Council Directive 89/398/EEC<sup>[4]</sup> on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses.

**Sale of table-top sweeteners**

4. No person shall sell any table-top sweetener unless—
- (a) it contains no sweetener other than a permitted sweetener, and
  - (b) it is marked or labelled—
    - (i) with the description "x-based table-top sweetener", substituting for x the name of any permitted sweetener which it contains,
    - (ii) where it contains polyols, with the warning "excessive consumption may induce laxative effects", and
    - (iii) where it contains aspartame, with the warning "contains a source of phenylalanine".

**Sale of food containing sweeteners**

5. No person shall sell any food having in it or on it any added sweetener other than a permitted sweetener which has been used in or on that food without contravening any of the provisions of paragraphs (2), (3) and (4) of regulation 3.

**Condemnation of food**

6. Where any food is certified by a food analyst as being food which it is an offence against these Regulations to sell, 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 failing to comply with food safety requirements, and section 8(3) shall apply for the purposes of these Regulations as it applies for the purposes of the Act.

**Offences, penalties and enforcement**

7.—(1) If any person contravenes or fails to comply with any of the provisions of these Regulations 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.

(3) Subject to paragraph (4) below, each food authority shall enforce and execute these Regulations in its area.

- (4) In this regulation "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) until 1st April 1996, the council of a district in Wales; or

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

**Defence in relation to exports**

8. In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove—

- (a) that the food or, as the case may be, sweetener 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 such food or sweetener complies with that legislation; and
- (b) in the case of export to another member State, that the legislation complies with Council Directive 89/107/EEC<sup>[5]</sup> on the approximation of the laws of the Member States concerning food additives authorised for use in foodstuffs intended for human consumption, Directive 94/35/EC and Directive 95/31/EC.

**Application of various provisions of the Food Safety Act 1990**

9. The following provisions of the Act shall apply for the purposes of these Regulations as they apply for the purposes of section 8, 14 or 15 of the Act and, unless the context otherwise requires, any reference in them to the Act shall be construed for the purposes of these Regulations as a reference to these Regulations

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- (a) section 2 (extended meaning of "sale" etc.);
- (b) section 3 (presumption that food intended for human consumption);
- (c) section 20 (offences due to fault of another person);
- (d) section 21 (defence of due diligence);
- (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 36 (offences by bodies corporate);
- (i) section 44 (protection of officers acting in good faith).

**Revocations and amendments**

10.—(1) The Regulations specified in Columns 1 and 2 of Schedule 2 shall be revoked to the extent specified in Column 3 of that Schedule.

(2) In paragraph (1) of regulation 2 (interpretation) of both the Jam and Similar Products Regulations 1981<sup>[6]</sup> and the Jam and Similar Products (Scotland) Regulations 1981<sup>[7]</sup>, for the definition of "permitted sweetener" there shall be substituted the following definition—

""permitted sweetener" means any sweetener in so far as its use is permitted by the Sweeteners in Food Regulations 1995;" .

(3) In the definition of "additive" in paragraph (1) of regulation 2 (interpretation) of both—

- (a) the Meat Products and Spreadable Fish Products Regulations 1984<sup>[8]</sup>, for the words "the Sweeteners in Food Regulations 1983", and
- (b) the Meat Products and Spreadable Fish Products (Scotland) Regulations 1984<sup>[9]</sup>, for the words "the Sweeteners in Food (Scotland) Regulations 1983",

there shall be substituted, in each case, the words "the Sweeteners in Food Regulations 1995".

(4) In the Food Additives Labelling Regulations 1992<sup>[10]</sup>, in Part II of Schedule 1 (categories of food additives), in subparagraph (n), for the date "1983" there shall be substituted the date "1995".

**Transitional provision and exemption**

11.—(1) In any proceedings for an offence against these Regulations it shall be a defence to prove that—

- (a)
  - (i) the act was committed before 30th June 1996, or
  - (ii) the act was that of selling a sweetener or a food which, in either case, was put on the market or labelled before 30th June 1996; and
- (b) the matters constituting the offence would not have constituted an offence under any Regulations now revoked or amended by these Regulations if those Regulations had been in operation (in the case of Regulations now being amended, as if such amendments had not been made) when the act was committed or the sweetener or, as the case may be, the food was put on the market or labelled.

(2) These Regulations shall not apply to any sweetener or, as the case may be, food which—

- (a) is brought into Great Britain before 30th June 1996 from a member State in which it was lawfully produced and sold or in which it was in free circulation and lawfully sold; and
- (b) is suitably labelled to give the nature of the sweetener or, as the case may be, the food.

(3) For the purpose of paragraph (2) above, "free circulation" shall be construed in accordance with Article 9.2 of the Treaty establishing the European Community.

*Angela Browning*

Parliamentary Secretary, Ministry of Agriculture, Fisheries and Food

3rd December 1995

Signed by authority of the Secretary of State for Health:

*Cumberlege*

Parliamentary Under Secretary of State, Department of Health

17th November 1995

Signed by authority of the Secretary of State for Wales:

*Rod Richards*

Parliamentary Under Secretary of State, Welsh Office

23rd November 1995

*Lindsay*

Parliamentary Under Secretary of State, Scottish Office

21st November 1995

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*Notes:*

[1] 1990 c. 16; "the Ministers" is defined in section 4(1) of the Act; section 6(4)(a) of the

Act was amended by the Deregulation and Contracting Out Act 1994 (c. 40), Schedule 9, paragraph 6. [back](#)

[2] OJ No. L237, 10.9.94, p.3. [back](#)

[3] OJ No. L178, 28.7.95, p.1. [back](#)

[4] OJ No. L186, 30.6.89, p.27. [back](#)

[5] OJ No. L40, 11.2.89, p.27. [back](#)

[6] S.I. 1981/1063; relevant amendment is S.I. 1983/1211. [back](#)

[7] S.I. 1981/1320; relevant amendment is S.I. 1983/1497. [back](#)

[8] S.I. 1984/1566, to which there are amendments not relevant to these Regulations. [back](#)

[9] S.I. 1984/1714, to which there are amendments not relevant to these Regulations. [back](#)

[10] S.I. 1992/1978. [back](#)

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*Prepared 20th September 2000*