

2007 No. 325

FOOD

**The Miscellaneous Food Additives and the Sweeteners in Food
(Amendment) Regulations (Northern Ireland) 2007**

Made - - - - - *28th June 2007*

Coming into operation - *1st August 2007*

The Department of Health, Social Services and Public Safety(**a**) makes the following Regulations in exercise of the powers conferred by Articles 15(1)(a), 16(1), 25(1) and (3), and 47(2) of, and paragraph 1 of Schedule 1 to, the Food Safety (Northern Ireland) Order 1991(**b**).

It has had regard to relevant advice given by the Food Standards Agency as required by Article 47(3A) of that Order.

There has been open and transparent public consultation during the preparation of the Regulations as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council(**c**) laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

Citation and commencement

1. These Regulations may be cited as the Miscellaneous Food Additives and the Sweeteners in Food (Amendment) Regulations (Northern Ireland) 2007 and come into operation on 1st August 2007.

Amendments to the Miscellaneous Food Additives Regulations (Northern Ireland) 1996

2. The Miscellaneous Food Additives Regulations (Northern Ireland) 1996(**d**)("the Additives Regulations") are amended in accordance with regulations 3 to 13.

3. In paragraph (1) of regulation 2 (interpretation) —

(a) the definition of "carrier" and "carrier solvent", after "miscellaneous additive," insert "flavouring,";

(a) Formerly the Department of Health and Social Services; see S.I. 1999/283 (N.I.1) Article 3(6)
(b) S.I. 1991/762 (N.I.7) as amended by S.I. 1996/1663 (N.I.12), paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c.28 and S.R.2004 Nos. 482 and 505
(c) OJ No. L31, 1.2.2002, p. 1 as last amended by Commission Regulation (EC) No. 575/2006 (OJ No. L100, 8.4.2006, p.3) amending Regulation (EC) No. 178/2002 of the European Parliament and of the Council as regards the number and names of the Permanent Scientific Panels of the European Food Safety Authority (OJ No. L100, 8.4.2006, p.3). By virtue of Regulation 5 of the Food Safety (Northern Ireland) Order 1991 (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004 No.482), with effect from 7th December 2004 the consultation requirement contained in Article 47(3) of the 1991 Order is disapplied in any case in which consultation is required by Article 9 of Regulation (EC) No. 178/2002
(d) S.R. 1996 No.50, amended by S.R. 1997 No. 340, S.R. 1999 No.244, S.R. 2001 No.45, S.R. 2001 No.46, S.R. 2001 No.419, S.R. 2003 No.158, S.R. 2003 No.300, S.R. 2003 No.301, S.R. 2003 No.305, S.R. 2003 No.313, S.R. 2003 No.383, S.R. 2003 No.519, S.R. 2003 No.535, S.R. 2004 No.439, S.R. 2005 No.19 and S.R. 2005 No.201

- (b) in the definition of “Directive 95/2/EC” for “and European Parliament and Council Directive 2003/114/EC” substitute “, European Parliament and Council Directive 2003/114/EC(a) and European Parliament and Council Directive 2006/52/EC(b);”;
- (c) in the definition of “Directive 96/77/EC”, for “and Commission Directive 2004/45/EC” substitute “, Commission Directive 2004/45/EC and Commission Directive 2006/129/EC(c);”; and
- (d) after the definition of “food additive” insert—

““food supplement” means a foodstuff the purpose of which is to supplement the normal diet and which is a concentrated source of vitamins or minerals or other substances with a nutritional or physiological effect, alone or in combination, marketed in dose form such as capsules, pastilles, tablets, pills and other similar forms, sachets of powder, ampoules of liquids, drop-dispensing bottles, and other similar forms of liquids and powders designed to be taken in measured small unit quantities;”.

4. In regulation 11 (Transitional provision and exemptions), after paragraph (1F), insert—

“(1G) In any proceedings for an offence under these Regulations in respect of any food additive or food, it shall be a defence to prove that —

- (a) the food additive or food concerned was put on the market or labelled before 15th August 2008; and
- (b) the matter constituting the offence would not have constituted an offence under these Regulations if the amendments made by regulation 5(a), 6(a), 6(b) and (d) or 8 of the Miscellaneous Food Additives and the Sweeteners in Food (Amendment) Regulations (Northern Ireland) 2007 had not been made when the food additive or food was placed on the market or labelled.”.

5. In Schedule 1 (Miscellaneous Additives Generally Permitted for use in Foods not referred to in Schedule 6, 7 or 8) —

- (a) as Note (5) add—

“(5) The substances E400, E401, E402, E403, E404, E406, E407, E407a, E410, E412, E413, E414, E415, E417, E418 and E440 may not be used in jelly cups, defined for the purpose of these Regulations as jelly confectionery of a firm consistency, contained in semi-rigid mini-cups or mini-capsules, intended to be ingested in a single bite by exerting pressure on the mini-cup or mini-capsule so as to project the confectionery into the mouth.”
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- (b) after the entry relating to E461 insert—

E 462	Ethyl cellulose
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6. In Schedule 2 (Conditionally Permitted Preservatives and Antioxidants) Part A (sorbates, benzoates and p-hydroxybenzoates) —

- (a) omit E 216 Propyl p-hydroxybenzoate and E 217 Sodium propyl p-hydroxybenzoate in the first table;
- (b) omit the entries for “Shrimps, cooked” and “Crayfish tails, cooked and pre-packed Marinated cooked molluscs” in the second table;
- (c) in the first column (entitled “Food”) of the second table, for “Dietetic foods intended for special medical purposes” substitute “Dietary foods for special medical purposes as defined in Directive 1999/21/EC(d);”;
- (d) add the following entries to the second table at the end:

(a) OJ No. L24, 29.1.2004, p.58
 (b) S.I. 1991/762 (N.I.7) as amended by S.I. 1996/1663 (N.I.12), paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c.28 and S.R.2004 Nos. 482 and 505
 (c) OJ No. L346, 9.12.2006, p.15
 (d) OJ No. L91, 7.4.1999, p.29

“Crustaceans and molluscs, cooked		1000		2000		
Food supplements supplied in liquid form				2000”		

7. In Schedule 2 Part B (sulphur dioxide and sulphites), in the second table —

(a) for the entries relating to crustaceans and cephalopods substitute—

“Crustaceans and cephalopods: fresh, frozen and deep frozen crustaceans, <i>Panaeidae</i> , <i>Solenoceridae</i> , <i>Aristaeidae</i> family: — ≤ 80 units — > 80 units but ≤ 120 units — > 120 units Cooked cooked crustaceans, <i>Panaeidae</i> , <i>Solenoceridae</i> , <i>Aristaeidae</i> family: — ≤ 80 units — > 80 units but ≤ 120 units — > 120 units * In edible parts”	150* 150* 200* 300* 50* 135* 180* 270*
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(b) for “Starches (excluding starches for weaning foods, follow-on formulae and infant formulae)” substitute “Starches (excluding starches in infant formulae, follow-on formulae and processed cereal-based foods and baby foods)”;

(c) at the end of the table add—

“ <i>Salsicha fresca</i>	450
Table grapes	10
Fresh lychees	10 (measured on edible parts)”

8. In Schedule 2 Part C (other preservatives) the table relating to E 249, E 250, E 251 and E 252 is replaced by the table set out in Schedule 1.

9. In Schedule 2 Part D (other antioxidants) the table is replaced by the table set out in Schedule 2.

10. In Schedule 3 (Other Permitted Miscellaneous Additives)—

(a) in the entry relating to E385 in the third and fourth columns (entitled respectively “Food” and “Maximum level”) add—

“Libamáj, egézben és tömbben	250 mg/kg”
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(b) after the entry relating to E 967 insert—

E 968	Erythritol	Food in general (except drinks and those foods referred to in Article 2(3) of Directive 95/2/EC	<i>quantum satis</i>
		Frozen and deep- frozen unprocessed fish, crustaceans, molluscs and cephalopods	<i>quantum satis</i>
		Liqueurs	<i>quantum satis</i>

			For purposes other than sweetening
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(c) after the entry relating to E 425 insert—

E 426	Soybean hemicellulose	Dairy-based drinks intended for retail sale	5 g/l
		Food supplements	1.5 g/l
		Emulsified sauces	30 g/l
		Pre-packaged fine bakery wares intended for retail sale	10 g/l
		Pre-packaged ready-to-eat oriental noodles intended for retail sale	10 g/l
		Pre-packaged ready-to-eat rice intended for retail sale	10 g/kg
		Pre-packaged processed potato and rice products (including frozen, deep-frozen, chilled and dried processed products) intended for retail sale	10 g/kg
		Dehydrated, concentrated, frozen and deep-frozen egg products	10 g/kg
		Jelly confectionery, except jelly mini-cups	10 g/kg

- (d) in the third column of the entry relating to E 468, for “Solid dietary supplements” substitute “Food supplements supplied in solid form”;
- (e) in the third column of the entry relating to E 338 to E 452, for “Dietary supplements” substitute “Food supplements”;
- (f) in the third column of the entries relating to E 405, E 416, E 432 to E 436, E 473 and E 474, E 475, E 491 to E 495, E 551 to E 559 and E 901 to E 904, for “Dietary food supplements” substitute “Food supplements”;
- (g) in the third column of the entries relating to E 1201 and E 1202, for “Dietary food supplements in tablet and coated tablet form” substitute “Food supplements in tablet and coated tablet form”;
- (h) in the third column of the entries relating to E 405, E 432 to E 436, E 473 and E 474, E 475, E477, E481 and E482, and E 491 to E 495, for “Dietetic foods intended for special medical purposes” substitute “Dietary foods for special medical purposes as defined in Directive 1999/21/EC”;
- (i) in the fourth column of the entries relating to E 1505 to E 1520, after “In the case of beverages,” insert “with the exception of cream liqueurs,”;
- (j) at the end of the table add—

“E 1204	Pullulan	Food supplements in capsule and tablet form	<i>quantum satis</i>
		Breath-freshening micro-sweets in	<i>quantum satis</i>

E 1452	Starch Aluminium Octenyl Succinate	the form of films Encapsulated vitamin preparations in food supplements	35 g/kg in food supplement”
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11. In Schedule 4 (Permitted Carriers and Carrier Solvents) —

- (a) after the entry relating to E 967, in the first column insert “E 968” and in the second column opposite insert “Erythritol”;
- (b) after the entry relating to E 461, in the first column insert “E 462” and in the second column opposite insert “Ethyl cellulose”;
- (c) in the third column of the entry related to E 551 and E 552, add the expression “For E 551: in E 171 titanium dioxide and E 172 iron oxides and hydroxides (max. 90% relative to the pigment).”.

12. In Schedule 7 (Foods in which a limited number of Miscellaneous Additives listed in Schedule 1 may be used) —

- (a) for the entry relating to ripened cheese, substitute—

“Ripened cheese	E 170 calcium carbonate E 504 Magnesium carbonates E 509 Calcium chloride E 575 Glucono-delta-lactone E 500ii Sodium hydrogen carbonate	<i>quantum satis</i> <i>quantum satis</i> (only for sour milk cheese)”
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- (b) in the entry relating to “*pain courant français*”, in column 1 add “*Friss búzankenyér, fehér és félbarna kenyerek*”;
- (c) in the entry relating to “*foie gras, foie gras entler, blocs de foie gras*”, in column 1 add “*Libamáj, libamáj egézben, libamáj tömbben*”.

13. In Schedule 8 (Miscellaneous Additives permitted in Foods for Infants and Young Children) —

- (a) in paragraphs 1, 1A and 1B of the introductory notes, for “weaning foods” substitute in each case “processed cereal-based foods and baby foods”;
- (b) in Part III (miscellaneous additives permitted in weaning foods for infants and young children in good health) —
 - (i) where it appears in the title and in the third column of the entries relating to E 170 to E 526, E 500 to E 503, E 338, E 410 to E 440, E 1404 to E 1450, and E 1451, for “weaning foods” substitute “processed cereal-based foods and baby foods”; and
 - (ii) after the entry relating to E 472c insert—

“E 473	Sucrose esters of fatty acids	Products containing hydrolysed proteins, peptides and amino acids	120 mg/kg”
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Amendment of the Sweeteners in Food Regulations (Northern Ireland) 1996

14. (1) The Sweeteners in Food Regulations 1996(a) are amended in accordance with paragraphs (2) and (3).

- (2) In regulation 2 (interpretation) —

(a) S.R. 1996 No.48, amended by S.R. 1997 No.257, S.R. 1999 No.216, S.R. 2002 No.39, S.R. 2003 No.257. and S.R. 2005 No.18

- (a) in the definition of “Directive 94/35/EC”, for the expression “and by Directive 2003/115/EC” substitute “ and by European Parliament and Council Directives 2003/115/EC(a) and 2006/52/EC(b).”;
 - (b) in the definition of “Directive 95/31/EC”, for the expression “and by Directive 2004/46/EC” substitute “and by Directives 2004/46/EC and 2006/128/EC(c).”.
- (3) In Schedule 1 (Permitted sweeteners and the foods in or on which they may be used) —
- (a) in column 1 after “E 967” add “E 968”; and
 - (b) in column 2 after “Xylitol” add “Erythritol”.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 28th June 2007.



Don Hill

A senior officer of the Department of Health, Social Services and Public Safety

(a) OJ No. L24, 29.1.2004, p.65
(b) OJ No. L204, 26.7.2006, p.10
(c) OJ No. L346, 9.12.2006, p.6

SCHEDULE 1

Regulation 8

Entries to be substituted in Part C of Schedule 2 to the Additives Regulations

<i>EC No.</i>	<i>Name</i>	<i>Food</i>	<i>Maximum amount that may be added during manufacture (expressed as NaNO₂)</i>	<i>Maximum residual level (expressed as NaNO₂)</i>
E 249	Potassium nitrite ^(x)	Meat Products	mg/kg 150	mg/kg
E 250	Sodium nitrite ^(x)	Sterilised meat products (Fo > 3,00) ^(y)	100	
		Traditional immersion cured meat products ⁽¹⁾ : <i>Wiltshire bacon</i> ^(1.1) ; <i>Entremeada, entrecosto, chispe, orelheira e cabeça (salgados)</i> <i>Toucinho fumado</i> ^(1.2) ; and similar products		175
		<i>Wiltshire ham</i> ^(1.1) ; and similar products		100
		<i>Rohschinken, nassgepökelt</i> ^(1.6) ; and similar products		50
		<i>Cured tongue</i> ^(1.3)		50
		Traditional dry cured meat products ⁽²⁾ : <i>Dry cured bacon</i> ^(2.1) ; and similar products		175
		<i>Dry cured ham</i> ^(2.1) ; <i>Jamón curado, paleta curada, lomo embuchado y cecina</i> ^(2.2) ; <i>Presunto, presunto da pà and paio do lombo</i> ^(2.3) ; and similar products		100
		<i>Rohschinken, trockengepökelt</i> ^(2.5) ; and similar products		50
		Other traditionally cured meat products ⁽³⁾ ; <i>Vysočina</i> <i>Selský salám</i>	180	

		<i>Turistický trvanlivý salám</i> <i>Poličan</i> <i>Herkules</i> <i>Lovecký salám</i> <i>Dunajská klobása</i> <i>Paprikás^(3.5)</i> ; and similar products <i>Rohschinken, trocken-</i> <i>/nassgepökelt^(3.1)</i> ; and similar products <i>Jellied veal and brisket^(3.2)</i>		50
<i>EC No.</i>	<i>Name</i>	<i>Food</i>	<i>Maximum amount that may be added during manufacture, (expressed as NaNO₃)</i>	<i>Maximum residual level (expressed as NaNO₃)</i>
			mg/kg	mg/kg
E 251	Potassium nitrate ⁽²⁾	Non-heat-treated meat products	150	
E 252	Sodium nitrate ⁽²⁾	Traditional immersion cured meat products ⁽¹⁾ ; <i>Kylmäsavustettu poronliha/Kallrökt renkött^(1.4)</i> ; <i>Wiltshire bacon and Wiltshire ham^(1.1)</i> <i>Entremeada, entrecosto, chispe, orelheira a cabeça (salgados), Toucinho fumado^(1.2)</i> ; <i>Rohschinken, nassgepökelt^(1.6)</i> ; and similar products <i>Bacon, Filet de bacon^(1.5)</i> ; and similar products <i>Cured tongue^(1.3)</i> Traditional dry cured meat products ⁽²⁾ ; <i>Dry cured bacon and Dry cured ham^(2.1)</i> ; <i>Jamón curado ,paleta curada, lomo embuchado y cecina^(2.2)</i> ; <i>Presunto, presunto da pá and paio do lombo^(2.3)</i> ; <i>Rohschinken, trockengepökelt^(2.5)</i> ; and similar products	300	250
				250 without added E 249 or E 250
				10
				250

- (2.3) Dry cured for 10 to 15 days followed by a 30 to 45 day stabilisation period and a maturation period of at least 2 months.
- (2.4) Dry cured for 3 days + 1 day/kg followed by a one week post-salting period and an ageing/ripening period of 45 days to 18 months.
- (2.5) Curing time depending on the shape and weight of meat pieces for approximately 10 to 14 days followed by stabilisation/maturation.
- (3) Immersion and dry cured processes used in combination or where nitrite and/or nitrate is included in a compound product or where the curing solution is injected into the product prior to cooking. The products may undergo further treatments eg. smoking.
- (3.1) Dry curing and immersion curing used in combination (without injection of curing solution). Curing time depending on the shape and weight of meat pieces for approximately 14 to 35 days followed by stabilisation/maturation.
- (3.2) Injection of curing solution followed, after a minimum of 2 days, by cooking in boiling water for up to 3 hours.
- (3.3) Product has a minimum 4-week maturation period and a water/protein ratio of less than 1:7.
- (3.4) Maturation period of at least 30 days.
- (3.5) Dried product cooked to 70°C followed by 8 to 12 day drying and smoking process. Fermented product subject to 14 to 30 day three-stage fermentation process followed by smoking.
- (3.6) Raw fermented dried sausage without added nitrites. Product is fermented at temperatures in the range of 18 to 22°C or lower (10 to 12°C) and then has a minimum aging/ripening period of 3 weeks. Product has a water/protein ratio of less than 1:7.

SCHEDULE 2

Regulation 9

Entries to be substituted in Part D of Schedule 2 to the Additives Regulations

<i>EC No.</i>	<i>Name</i>	<i>Food</i>	<i>Maximum level (mg/kg)</i>
E 310	Propyl gallate	Fats and oils for the professional manufacture of heat-treated foods	200* (gallates, TBHQ and BHA, individually or in combination)
E 311	Octyl gallate	Frying oil and frying fat, excluding olive pomace oil	100* (BHT), both expressed on fat
E 312	Dodecyl gallate		
E 319	Tertiary-butyl hydroquinone (TBHQ)	Lard; fish oil; beef, poultry and sheep fat	
E 320	Butylated hydroxyanisole (BHA)	Cake mixes; cereal-based snack foods; milk powder for vending machines	200 (gallates, TBHQ and BHA, individually or in combination) expressed on fat
E 321	Butyolated hydroxytoluene (BHT)	Dehydrated soups and broths; sauces; dehydrated meat; processed nuts; pre-cooked cereals Seasonings and condiments Dehydrated potatoes Chewing gum; food supplements Essential oils Flavourings other than essential oils	200 (gallates and BHA, individually or in combination) expressed on fat 25 (gallates, TBHQ and BHA, individually or in combination) 400 (gallates, TBHQ, BHT and BHA, individually or in combination) 1,000 (gallates, TBHQ and BHA, individually or in combination) 100*(gallates, individually or in combination) 200*(TBHQ and BHA, individually or in combination)
E 315	Erythorbic acid	Cured meat products and preserved meat products	500 expressed as erythorbic acid
E 316	Sodium erythorbate	Preserved and semi-preserved fish products; Frozen and deep-frozen fish with red skin	1,500 expressed as erythorbic acid
E 586	4-Hexylresorcinol	Fresh, frozen and deep-frozen crustaceans	2 as residues in crustacean meat

* When combinations of gallates, TBHQ, BHA and BHT are used, the individual levels must be reduced proportionally

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Miscellaneous Food Additives Regulations (Northern Ireland) 1996 (S.R. 1996 No.50 as amended) (“the Additives Regulations”) in order to provide for the implementation of —

- (c) Directive 2006/52/EC of the European Parliament and of the Council amending Directive 95/2/EC on food additives other than colours and sweeteners and Directive 94/35/EC on sweeteners for use in foodstuffs (OJ No. L204, 26.7.2006, p.10), as corrected by a Corrigendum (OJ No. L78, 17.3.2007, p.32); and
- (d) Commission Directive 2006/129/EC amending and correcting Directive 96/77/EC laying down specific purity criteria on food additives other than colours or sweeteners (OJ No. L346, 9.12.2006, p.15).

These Regulations also amend the Sweeteners in Food Regulations (Northern Ireland) 1996 (S.R. 1996 No.48 as amended) in order to provide for the implementation of Directive 2006/52/EC mentioned above and of Commission Directive 2006/128/EC amending and correcting Directive 95/31/EC laying down specific criteria of purity concerning sweeteners for use in foodstuffs.

In particular these Regulations amend the Additives Regulations by —

- (e) amending certain definitions used in the Additives Regulations, including updating references to recently amended EC legislation (*regulation 3*);
- (f) making a transitional provision to permit the marketing of food additives or food placed on the market or labelled before 15th August 2008 if such marketing would have been lawful under the Additives Regulations before they were amended by these Regulations (*regulation 4*);
- (g) specifying certain additives that may not be used in the manufacture of jelly cups (*regulation 5(a)*);
- (h) adding a new substance to the permitted additives listed in Schedule 1, which concerns miscellaneous additives generally permitted for foods not referred to in Schedules 6, 7 or 8 (*regulation 5(b)*);
- (i) altering certain limits, removing certain substances and adding others to the conditionally permitted preservatives and anti-oxidants in Part A of Schedule 2 (*regulation 6*);
- (j) amending the entries relating to crustaceans and cephalopods, amending references to foods for infants and young children and adding two new entries to Part B of Schedule 2, which deals with sulphur dioxide and sulphites (*regulation 7*);
- (k) replacing, with amendments, Part C of Schedule 2 which relates to the use of potassium nitrite and nitrate and sodium nitrite and nitrate (*regulation 8 and Schedule 1*);
- (l) replacing, with amendments, Part D of Schedule 2 which relates to the use of certain anti-oxidants (*regulation 9 and Schedule 2*);
- (m) adding certain substances and amending conditions of use for some already permitted substances in Schedule 3, which concerns other permitted miscellaneous additives, and amending certain defined expressions used in that Schedule (*regulation 10*);
- (n) adding two substances and amending the conditions of use for one already permitted in Schedule 4 which concerns permitted carriers and carrier solvents (*regulation 11*);
- (o) amending Schedule 7, concerning foods in which a limited number of additives may be used, by the addition of certain foods and the addition of one additive to those permitted in one particular food (*regulation 12*); and
- (p) amending a defined expression for a class of foods where it appears in Schedule 8, which concerns miscellaneous additives permitted in foods for infants and young children, and adding a permitted substance to that Schedule (*regulation 13*).

These Regulations amend the Sweeteners in Food Regulations (Northern Ireland) 1996 by —

- (q) updating references to recently amended EC legislation (*regulation 14(2)*); and
- (r) adding a substance to Schedule 1, which concerns permitted sweeteners and the foods in or on which they may be used (*regulation 14(3)*).