

2007 No. 412

FOOD

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

Made - - - - - *5th September 2007*

Laid before the Scottish Parliament *6th September 2007*

Coming into force - - - *1st October 2007*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 16(1)(a), 17(1), 26(1) and (3), and 48(1) of the Food Safety Act 1990(a) and all other powers enabling them to do so.

In accordance with section 48(4A)(b) of that Act they have had regard to relevant advice given by the Food Standards Agency.

There has been consultation as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council 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(c).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Miscellaneous Food Additives and the Sweeteners in Food Amendment (Scotland) Regulations 2007 and come into force on 1st October 2007.

(2) These Regulations extend to Scotland only.

Amendments to the Miscellaneous Food Additives Regulations 1995

2. The Miscellaneous Food Additives Regulations 1995(d) (“the Additives Regulations”) are amended in accordance with regulations 3 to 13 below.

(a) 1990 c.16; section 1(1) and (2) (definition of “food”) was substituted by S.I. 2004/2990; sections 16(1) and 48(1) were amended by the Food Standards Act 1999 (c.28) (“the 1999 Act”), Schedule 5, paragraph 8; section 17(1) was amended by the 1999 Act, Schedule 5, paragraphs 8 and 12; section 26(3) was repealed in part by the 1999 Act, Schedule 6; section 48(4) is disapplied in respect of these Regulations by virtue of section 48(4C) which was inserted by S.I. 2004/2990; amendments made by Schedule 5 to the 1999 Act should be taken as pre-commencement enactments for the purposes of the Scotland Act 1998 (c.46) (“the 1998 Act”) by virtue of section 40(2) of the 1999 Act. The functions of the Secretary of State, so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. Insofar as not so transferred, those functions were transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005 (S.I. 2005/849).

(b) Section 48(4A) was inserted by paragraph 21 of Schedule 5 to the 1999 Act.

(c) O.J. No. L 31, 1.2.02, p.1. The Regulation was amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (O.J. No. L 245, 29.9.03, p.4) and Commission Regulation (EC) No. 575/2006 (O.J. No. L 100, 8.4.06, p.3).

(d) S.I. 1995/3187, amended by S.I. 1997/1413, S.I. 1999/1136, S.S.I. 2001/38, 103 and 450, S.S.I. 2003/132, 291, 293, 311, 527 and 599, S.S.I. 2004/6, 133 and 413 and S.S.I. 2005/214 and 616.

3. In regulation 2(1) (interpretation)–

- (a) in the definition of “carrier” and “carrier solvent”, after “miscellaneous additive,”, insert “flavouring,”;
- (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);”; and
- (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 regulations 5(a), 6(a), (b) and (d), or 8 of the Miscellaneous Food Additives and the Sweeteners in Food Amendment (Scotland) Regulations 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), insert–

“(5) The substances E 400, E 401, E 402, E 403, E 404, E 406, E 407, E 407a, E 410, E 412, E 413, E 414, E 415, E 417, E 418 and E 440 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.”;

- (b) after the entry relating to E 461, 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) in the first table, omit the entries for E 216 Propyl p-hydroxybenzoate and E 217 Sodium propyl p-hydroxybenzoate;
- (b) in the second table, omit the entries for “Shrimps, cooked” and “Crayfish tails, cooked, and pre-packed marinated cooked molluscs”;

(a) O.J. No. L 24, 29.1.04, p.58.

(b) O.J. No. L 204, 26.7.06, p.10. This Directive was corrected by a Corrigendum published on 17th March 2007 (O.J. No. L 78, 17.3.07, p.32).

(c) O.J. No. L 346, 9.12.06, p.15.

- (c) in the first column (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(a)”; and
- (d) at the end of the second table, insert–

“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, insert–

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

8. In Schedule 2, Part C (other preservatives), for the table relating to E 249, E 250, E 251 and E 252, substitute the table set out in Schedule 1 to these Regulations.

9. In Schedule 2, Part D (other antioxidants), for the table, substitute the table set out in Schedule 2 to these Regulations.

10. In Schedule 3 (other permitted miscellaneous additives)–

- (a) in the third (Food) and fourth (Maximum level) columns of the entry relating to E 385, insert the following entry–

“ <i>Libamáj, egészben és tömbben</i>	250 mg/kg”
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(a) O.J. No. L 91, 7.4.99, p.29.

(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”

(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/kg
		Pre-packaged ready-to-eat oriental noodles intended for retail sale	10 g/kg
		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 form”, substitute “Food supplements in tablet and coated 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, E 477, E 481 and E 482, 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,”; and
- (j) at the end of the table, insert the following entries–

“E 1204	Pullulan	Food supplements in capsule and tablet form	<i>quantum satis</i>
		Breath freshening micro-sweets in the form of films	<i>quantum satis</i>
E 1452	Starch Aluminium Octenyl Succinate	Encapsulated vitamin preparations in food supplements	35 g/kg in food supplement”

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, insert the corresponding entry “Erythritol”;
- (b) after the entry relating to E 461, in the first column, insert “E 462” and in the second column, insert the corresponding entry “Ethyl cellulose”; and
- (c) in the third column of the entry relating to E 551 and E 552, after “Emulsifiers and colours, max. 5%” insert “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 (only for sour milk cheese)”</i>
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- (b) in the entry relating to “*pain courant français*”, in the first column, insert “*Friss búzakenyér, fehér és félbarna kenyerek*”; and
- (c) in the entry relating to “*foie gras, foie gras entier, blocs de foie gras*”, in the first column, insert “*Libamáj, libamáj egészben, 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 “processed cereal-based foods and baby foods”;
- (b) in Part 3 (miscellaneous additives permitted in weaning foods for infants and young children in good health), 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

- (c) in Part 4 (miscellaneous additives permitted in dietary foods for infants and young children for special medical purposes as defined in Directive 1999/21/EC), after the entry relating to E 472c, insert—

“E 473	Sucrose esters of fatty acids	120 mg/l	Products containing hydrolysed proteins, peptides and amino acids”
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Amendments to the Sweeteners in Food Regulations 1995

14.—(1) The Sweeteners in Food Regulations 1995(a) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(1) (interpretation)—

- (a) in the definition of Directive 94/35/EC, for the expression “and by Directive 2003/115/EC of the European Parliament and of the Council”, substitute “by Directive 2003/115/EC of the European Parliament and of the Council(b) and by Directive 2006/52/EC of the European Parliament and of the Council(c)”; and
- (b) in the definition of “Directive 95/31/EC”, for the expression “and Directive 2004/46/EC” substitute “and Directives 2004/46/EC and 2006/128/EC(d)”.

(3) In Schedule 1 (permitted sweeteners and the foods in or on which they may be used)—

- (a) in column 1, after “E 967”, insert “E 968”; and
- (b) in column 2, after “Xylitol”, insert “Erythritol”.

S ROBISON

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
5th September 2007

(a) S.I. 1995/3123, relevantly amended by S.I. 1996/1477, S.I. 1997/814, S.I. 1999/982, S.S.I. 2001/212, S.S.I. 2002/61, S.S.I. 2003/274, S.S.I. 2004/6, 133 and 548 and S.S.I. 2005/616.
(b) O.J. No. L 24, 29.1.04, p.65.
(c) O.J. No. L 204, 26.7.06, p.10.
(d) O.J. No. L 346, 9.12.06, p.6.

SCHEDULE 1

Regulation 8

Entries to be substituted in Schedule 2, Part C of 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>
			mg/kg	mg/kg
E 249	Potassium nitrite ^(x)	Meat Products	150	
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 pá 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>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>
			<i>mg/kg</i>	<i>mg/kg</i>
		<i>Vysočina</i> <i>Selský salám</i> <i>Turistický trvanlivý salám</i> <i>Poličan</i> <i>Herkules</i> <i>Lovecký salám</i> <i>Dunajská klobása</i> <i>Paprikáš^(3.5)</i> ; and similar products <i>Rohschinken, trocken-/nassgepökelt^(3.1)</i> ; and similar products <i>Jellied veal and brisket^(3.2)</i>	180	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>
			<i>mg/kg</i>	<i>mg/kg</i>
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	300	250 250 without added E 249 or E 250

<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>
			<i>mg/kg</i>	<i>mg/kg</i>
		<p><i>Cured tongue</i>^(1.3)</p> <p>Traditional dry cured meat products⁽²⁾; <i>Dry cured bacon and Dry cured ham</i>^(2.1); <i>Jamón curado, paleta curada, lomo embuchado y cecina</i>^(2.2);</p> <p><i>Presunto, presunto da pá and paio do lombo</i>^(2.3); <i>Rohschinken, trockengepökelt</i>^(2.5); and similar products</p> <p><i>Jambon sec, jambon sel sec et autres pièces maturées séchées similaires</i>^(2.4)</p>		<p>10</p> <p>250</p> <p>250 without added E 249 or E 250</p>
		<p>Other traditionally cured meat products⁽³⁾; <i>Rohwürste (Salami and Kantwurst)</i>^(3.3);</p> <p><i>Rohschinken, trocken-/nassgepökelt</i>^(3.1); and similar products</p> <p><i>Salchichón y chorizo tradicionales de larga curación</i>^(3.4); <i>Saucissons secs</i>^(3.6); and similar products</p> <p><i>Jellied veal and brisket</i>^(3.2);</p>	<p>300 (without added E 249 or E 250)</p> <p>250</p> <p>250 (without added E 249 or E 250)</p>	<p>250</p> <p>10</p>
		<p>Hard, semi-hard and semi-soft cheese</p> <p>Dairy-based cheese analogue</p>	<p>150 in the cheese milk or equivalent level if added after removal of whey and addition of water</p>	
		Pickled herring and sprat	500	

^(x) When labelled “for food use”, nitrite may be sold only in a mixture with salt or a salt substitute.

- ^(y) Fo-value 3 is equivalent to 3 minutes heating at 121°C (reduction of the bacterial load of one billion spores in each 1,000 cans to one spore in a thousand cans).
- ^(z) Nitrates may be present in some heat-treated meat products resulting from natural conversion of nitrites to nitrates in a low-acid environment.
- ⁽¹⁾ Meat products are immersed in curing solution containing nitrites and/or nitrates, salt and other components. The meat products may undergo further treatments e.g. smoking.
- ^(1.1) Meat is injected with curing solution followed by immersion curing for 3 to 10 days. The immersion brine solution also includes microbiological starter cultures.
- ^(1.2) Immersion cured for 3 to 5 days. Product is not heat-treated and has a high water activity .
- ^(1.3) Immersion cured for at least 4 days and pre-cooked.
- ^(1.4) Meat is injected with curing solution followed by immersion curing. Curing time is 14 to 21 days followed by maturation in cold-smoke for 4 to 5 weeks.
- ^(1.5) Immersion cured for 4 to 5 days at 5 to 7°C, matured for typically 24 to 40 hours at 22°C, possibly smoked for 24 hrs at 20 to 25°C and stored for 3 to 6 weeks at 12 to 14°C.
- ^(1.6) Curing time depending on the shape and weight of meat pieces for approximately 2 days/kg followed by stabilisation/maturation.
- ⁽²⁾ Dry curing process involves dry application of curing mixture containing nitrites and/or nitrates, salt and other components to the surface of the meat followed by a period of stabilisation/maturation. The meat products may undergo further treatments eg. smoking.
- ^(2.1) Dry curing followed by maturation for at least 4 days.
- ^(2.2) Dry curing with a stabilisation period of at least 10 days and a maturation period of more than 45 days.
- ^(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 ageing/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 Schedule 2, Part D of 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	Butylated hydroxytoluene (BHT)	Dehydrated soups and broths; sauces; dehydrated meat; processed nuts; pre-cooked cereals	
		Seasonings and condiments	200 (gallates and BHA, individually or in combination) expressed on fat
		Dehydrated potatoes	25 (gallates, TBHQ and BHA, individually or in combination)
		Chewing gum; food supplements	400 (gallates, TBHQ, BHT and BHA, individually or in combination)
		Essential oils	1,000 (gallates, TBHQ and BHA, individually or in combination)
		Flavourings other than essential oils	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

<i>EC No.</i>	<i>Name</i>	<i>Food</i>	<i>Maximum level (mg/kg)</i>
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, which extend to Scotland only, amend the Miscellaneous Food Additives Regulations 1995 (S.I. 1995/3187 as amended) (“the Additives Regulations”) in order to provide for the implementation of–

- (a) 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 (O.J. No. L 204, 26.7.06, p.10), as corrected by a Corrigendum (O.J. No. L 78, 17.3.07, p.32); and
- (b) Commission Directive 2006/129/EC amending and correcting Directive 96/77/EC laying down specific purity criteria on food additives other than colours and sweeteners (O.J. No. L 346, 9.12.06, p.15).

These Regulations also amend the Sweeteners in Food Regulations 1995 (S.I. 1995/3123 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 (O.J. No. L 346, 9.12.06, p.6).

In particular these Regulations amend the Additives Regulations by–

- (a) amending certain definitions used in the Additives Regulations, including updating references to recently amended EC legislation (*regulation 3*);
- (b) 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*);
- (c) specifying certain additives that may not be used in the manufacture of jelly cups (*regulation 5(a)*);
- (d) 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)*);
- (e) 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*);
- (f) 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*);
- (g) 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*);
- (h) replacing, with amendments, Part D of Schedule 2 which relates to the use of certain anti-oxidants (*regulation 9 and Schedule 2*);
- (i) 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*);
- (j) 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*);
- (k) 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

- (l) 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 1995 by–

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

A full regulatory impact assessment of the effect that this instrument will have on business costs has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Food Standards Agency Scotland, 6th Floor, St Magnus House, 25 Guild Street, Aberdeen, AB11 6NJ.

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FOOD

The Miscellaneous Food Additives and the Sweeteners in Food
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