

**2005 No. 201**

**FOOD**

**The Miscellaneous Food Additives (Amendment No. 2)  
Regulations (Northern Ireland) 2005**

*Made* - - - - - *5th April 2005*

*Coming into operation* *28th May 2005*

The Department of Health, Social Services and Public Safety(a) in exercise of the powers conferred on it by Articles 15(1)(a), 16(1), 25(1) and (3), 26(3) and 47(2) of, and paragraph 1 of Schedule 1 to, the Food Safety (Northern Ireland) Order 1991(b), and of all other powers enabling it in that behalf, having had regard in accordance with Article 47(3A) of the said Order to relevant advice given by the Food Standards Agency, and after 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), hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Miscellaneous Food Additives (Amendment No. 2) Regulations (Northern Ireland) 2005 and shall come into operation on 28th May 2005.

**Amendment of the Miscellaneous Food Additives Regulations (Northern Ireland) 1996**

2. The Miscellaneous Food Additives Regulations (Northern Ireland) 1996(d) shall be amended in accordance with regulations 3 to 14.

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

(a) after the definition of “colour”, there shall be inserted –

“Directive 88/388 EC means Council Directive 88/388/EEC(e) on the approximation of the laws of the Member States relating to flavourings for use in foodstuffs and to source materials for their production”.

(b) in the definition of “Directive 95/2/EC” for “and European Parliament and Council Directive 2001/5/EC” there shall be substituted –

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(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. 1996/1633 (N.I. 12) and paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c. 28 and S.R. 2004 No. 482  
(c) O.J. No. L31, 1.2.2001, p. 1. That Regulation was last amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (O.J. No. L245, 29.9.2003, p. 4). 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 disappplied 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. 301, S.R. 2003 No. 305, S.R. 2003 No. 300, 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 and S.R. 2005 No. 19  
(e) O.J. No. L84, 15.7.1988, p. 61

“, European Parliament and Council Directive 2001/5/EC(a) and European Parliament and Council Directive 2003/114/EC(b)”;

(c) after the definition of flavour enhancer, there shall be inserted –

““flavouring” bears the same meaning as in Article 1.2 of Directive 88/388/EEC(c);”;

(d) for the definition of “stabiliser”, there shall be substituted –

““stabiliser” means any substance which makes it possible to maintain the physico-chemical state of a foodstuff; including any substance which enables the maintenance of a homogenous dispersion of two or more immiscible substances in a foodstuff, substances which stabilise, retain or intensify an existing colour of a foodstuff and substances which increase the binding capacity of the food, including the formation of cross-links between proteins enabling the binding of food pieces into re-constituted food;”.

4. In paragraph (1) of regulation 4 (use of miscellaneous additives in or on compound foods), after “that compound food contains, as an ingredient, a food”, there shall be inserted –  
“or a flavouring”.

5. After regulation 4 the following regulation shall be inserted –

**“Use of permitted miscellaneous additives in flavourings**

**4A.—(1)** Where –

(a) a permitted miscellaneous additive is used in a flavouring;

(b) that flavouring is an ingredient of a compound food; and

(c) the permitted miscellaneous additive performs a technological purpose in the final food;

the permitted miscellaneous additive shall be regarded for the purposes of these Regulations as an additive of the final food.

(2) No person shall use any permitted miscellaneous additive in or on any flavouring where –

(a) the level of such additives used exceeds the minimum necessary to guarantee the safety and quality of the flavouring and to facilitate its storage;

(b) the presence of such additives is a hazard to human health, or misleading to the consumer.”.

6. In regulation 11 (transitional provision and exemptions), after paragraph (1E), there shall be inserted –

“(1F) In any proceedings for an offence under these Regulations in respect of any food additives, food or flavouring, it shall be a defence to prove –

(a) the food additive, food or flavouring concerned was put on the market or labelled before 27th January 2006; and

(b) the matter constituting the offence would not have constituted an offence under these Regulations if the amendments made by regulations 3 to 6, 7(b), 8(a), 8(b) (ii), 9(a), 10, 11(a) to (c), (e) to (i) and (k) to (l) of the Miscellaneous Food Additives (Amendment No. 2) Regulations (Northern Ireland) 2005 had not been made when the food additive, food or flavouring was placed on the market or labelled.”.

7. In Schedule 1 (miscellaneous additives generally permitted for use in foods not referred to in Schedule 6, 7 or 8) –

(a) for Note 1, there shall be substituted –

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(a) O.J. No. L55, 24.2.2001, p. 59  
(b) O.J. No. L24, 29.1.2004, p. 58  
(c) O.J. No. L184, 15.7.1988, p. 61

“(1) The substances E407, E407a and E440 may be standardised with sugars, on condition that this is stated in addition to the number and designation.”;

- (b) in the entry relating to E170, in the second column, for “Calcium carbonates (i) calcium carbonate (ii) calcium hydrogen carbonate”, there shall be substituted –  
“Calcium carbonate”;
- (c) in the entry relating to E466, in the second column, the following shall be added at the end –  
“Cellulose gum”;
- (d) in the entry relating to E469, in the second column, the following shall be added at the end –  
“Enzymatically hydrolysed cellulose gum”.

**8.** In Schedule 2 (conditionally permitted preservatives and antioxidants) Part A (sorbates, benzoates and p-hydroxybenzoates) –

- (a) in the first column (entitled “Food”) of the second table, for “Partially baked, pre-packed bakery wares intended for retail sale”, there shall be substituted –  
“Partially baked, pre-packed bakery wares intended for retail sale and energy-reduced bread intended for retail sale”;
- (b) the following entries shall be added to the second table at the end:

“

Crayfish tails, cooked and pre-packed	2000					
Marinated cooked molluscs						
Flavourings				1500		

”

**9.** In Schedule 2 Part C (other preservatives) –

- (a) the entries relating to E230 shall be omitted;
- (b) in the entry relating to E1105, in the third and fourth columns (entitled respectively “Food” and “Maximum level”) there shall be added –

“

Wine in accordance with Regulation (EC) No. 1493/1999(a) and its implementing Regulation (EC) No. 1622/2000(b)	Pro memoria
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”

**10.** In Schedule 2 Part D (other antioxidants) –

- (a) in the entry relating to E310 to E320, in the third and fourth columns (entitled respectively “Food” and “Maximum level (mg/kg)”), the following shall be added –

“

Essential oils	1000 mg/kg (gallates and BHA, individually or in combination) E310-E320 only
Flavourings other than essential oils	100 mg/kg (gallates, individually or in combination) or 200 mg/kg (BHA) E310-E320 only

”

(a) Council Regulation (EC) No. 1493/1999 of 17th May 1999 on the common organisation of the market in wine, O.J. No. L179, 14.7.1999, p. 1

(b) Commission Regulation (EC) No. 1622/2000 of 24th July 2000 laying down certain detailed rules for implementing Regulation (EC) No. 1493/1999 on the common organisation of the market in wine and establishing a Community code of oenological practices and processes, O.J. No. L194, 31.7.2001, p. 1

(b) in the entry relating to E315 and E316, for “semi-preserved and preserved meat product”, there shall be substituted –

“Cured meat products and preserved meat products”.

**11.** In Schedule 3 (other permitted miscellaneous additives) –

(a) in the entry relating to E338, E339, E340, E341, E343, E450, E451 and E452 –

(i) in the third and fourth columns (entitled respectively “Food” and “Maximum level”) the following shall be added –

“Flavourings”	“40g/kg”
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(ii) in the third column, “cider and perry” and in the corresponding entry in the fourth column, “2g/l” shall be omitted;

(b) in the entry relating to E416, in the third and fourth columns, the following shall be added –

“Flavourings”	“50g/kg”
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(c) in the entry relating to E432, E433, E434, E435 and E436, in the third and fourth columns, the following shall be added –

“Flavourings, except liquid smoke flavourings and flavourings based on spice oleoresins”	“10g/kg”
“Foodstuffs containing liquid smoke flavourings and flavourings based on spice oleoresins”	“1g/kg”

(d) in the entry relating to E444, in the third and fourth columns, the following shall be added –

“Flavoured cloudy spirit drinks containing less than 15% alcohol by volume”	“300 mg/l”
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(e) in the entry relating to E459, in the third and fourth columns, the following shall be added –

“Encapsulated flavourings in – flavoured teas and flavoured powdered instant drinks – flavoured snacks”	“500 mg/l  1g/kg in foodstuffs as consumed or as reconstituted according to the instructions of the manufacturer”
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(f) in the entry relating to E551, in the third and fourth columns, the following shall be added –

“Flavourings	50g/kg E551 only”
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(g) in the entry relating to E900, in the third and fourth columns, the following shall be added –

“Flavourings	10 mg/kg”
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(h) the entry relating to E901, E902, E903 and E904, “E903 Carnauba wax” shall be omitted;

(i) after the entry relating to E901, E902 and E904, as amended by paragraph (h), the following shall be inserted –

E903	Carnauba wax	As glazing agents only: – confectionery (including chocolate)	500 mg/kg 1200 mg/kg (only for
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			chewing gum)
		– small products of fine bakery wares coated with chocolate	200 mg/kg
		– snacks	200 mg/kg
		– nuts	
		– coffee beans	200 mg/kg
		– dietary food supplements	200 mg/kg
		– fresh citrus fruits, melons, apples, pears, peaches and pineapples (surface treatment only)	200 mg/kg

”

(j) after the entry for E905, the following shall be inserted –

“

E907	Hydrogenated poly-1-decene	As glazing agent for	
		– sugar confectionery	2g/kg
		– dried fruits	2g/kg

”

(k) the following entries shall be added to the table at the end –

“

E1505	Triethyl citrate	Flavourings	3g/kg from all sources in foodstuffs as consumed or as reconstituted according to the instructions of the manufacturer; individually or in combination. In the case of beverages, the maximum level of E1520 shall be 1g/l
E1517	Glyceryl diacetate (diacetin)		
E1518	Glyceryl triacetate (triacetin)		
E1520	Propan-1,2-diol (propylene glycol)		
E1519	Benzyl alcohol	Flavourings for	
		– liqueurs, aromatised wines, aromatised wine-based drinks and aromatised wine products cocktails	100 mg/l
		– confectionery including chocolate and fine bakery wares	250 mg/kg from all sources in foodstuffs as consumed or as reconstituted according to the instruction of the manufacturer

”

(l) at the end of the Schedule, after the table, the following shall be added –

**“Note:**

Spice oleoresins are defined as extracts of spices from which the extraction solvent has been evaporated leaving a mixture of the volatile oil and resinous material from the spice.”.

**12.** In Schedule 4 (permitted carriers and carrier solvents) –

(a) in the entry for E468, in the second column, the following shall be added –

“Cross-linked cellulose gum”;

(b) the following entry shall be added to the table at the end –

“

E555	Potassium aluminium silicate	In E171 titanium dioxide and E172 iron oxides and hydroxides (max 90% relative to the pigment)
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”

**13.** In Schedule 7 (foods in which a limited number of miscellaneous additives listed in Schedule 1 may be used) –

(a) in the entry relating to cocoa and chocolate products as defined in Directive 2000/36/EC, in the second and third columns (entitled respectively “Additive” and “Maximum level”), after the entry relating to E471, the following shall be added –

“

E472c	Citric acid esters of mono- and diglycerides of fatty acids	quantum satis
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”

(b) in the entry relating to cocoa and chocolate products as defined in Directive 2000/36/EC, the entry relating to grape juice as defined in Directive 2001/112/EC, the entry relating to ripened cheese and the entry relating to sliced and grated ripened cheese, in the second column, for “E170 Calcium carbonates”, there shall be substituted in each case –

“E170 Calcium carbonate”.

(c) in the entry relating to frozen and deep-frozen unprocessed fruit and vegetables; pre-packed, refrigerated unprocessed fruit and vegetables ready for consumption and pre-packed, unprocessed and peeled potatoes, in the second and third columns, the following shall be added –

“

E296	Malic acid	quantum satis (only for peeled potatoes)
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”

(d) in the entry relating to fruit compote, to the second and third columns, the following shall be added –

“

E440	Pectin	quantum satis (only for fruit compote other than apple)
E509	Calcium chloride	

”

(e) in the entry relating to mozzarella and whey cheese, in the second and third columns, the following shall be added –

“

E460ii	Powdered cellulose	quantum satis (only for grated and sliced cheese)
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”

(f) the following shall be added to the table at the end –

“

UHT goat milk	E331 Sodium citrates	4g/l
Chestnuts in liquid	E410 Locust bean gum E412 Guar gum E415 Xanthane gum	quantum satis

”

**14.** In Schedule 8 (miscellaneous additives permitted in foods for infants and young children) –

(a) in the Notes, after note 1A there shall be inserted –

“1B. Formulae and weaning foods for infants and young children may contain E1450 starch sodium octenyl succinate resulting from the addition of vitamin preparations or polyunsaturated fatty acid preparations. The carry over of E1450 in the product ready for consumption is not to be more than 100 mg/kg from vitamin preparations and 1000 mg/kg from polyunsaturated fatty acid preparations.”;

(b) in Part III (miscellaneous additives permitted in weaning foods for infants and young children in good health), in the entry relating to E170, in the second column, for “Calcium carbonates” there shall be substituted –

“Calcium carbonate”;

(c) in Part IV (miscellaneous additives permitted in foods for infants and young children for special medical purposes), for the title, the following shall be substituted –

“MISCELLANEOUS ADDITIVES PERMITTED IN DIETARY FOODS FOR INFANTS AND YOUNG CHILDREN FOR SPECIAL MEDICAL PURPOSES AS DEFINED IN DIRECTIVE 1999/21/EC(a)”;

(d) in Part IV, the following shall be added to the table at the end –

“

E472c	Citric acid esters of mono- and diglycerides of fatty acids	7.5g/l sold as powder 9g/l sold as liquid	From birth onwards
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Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 5th April 2005.

(L.S.)

*Deirdre Kenny*

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

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(a) Commission Directive 1999/21/EC on dietary foods for special medical purposes, O.J. No. L91, 7.4.1999, p. 29

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

1. These Regulations further amend the Miscellaneous Food Additives Regulations (Northern Ireland) 1996 (S.R. 1996 No. 50) as already amended and implement Directive 2003/114 of the European Parliament and of the Council amending Directive 95/2/EC on food additives other than colours and sweeteners (O.J. No. L24, 29.1.2004, p. 58).

2. These Regulations amend the Miscellaneous Food Additives Regulations (Northern Ireland) 1996 by –

- (a) inserting a definition of flavouring, as the Regulations now apply to control the use of miscellaneous additives in flavourings (*regulation 3(a) and (c)*);
- (b) bringing up to date the definition of “Directive 95/2/EC” to cover the amendment of that Directive by Directive 2003/114/EC (*regulation 3(b)*);
- (c) substituting a new definition for the term “stabiliser” to include substances which increase the binding capacity of food (*regulation 3(d)*);
- (d) making an amendment to regulation 4 to ensure that a flavouring which lawfully has in or on it a permitted miscellaneous additive can be used as an ingredient in a compound food (*regulation 4*);
- (e) providing that where a permitted miscellaneous additive used in a flavouring performs a technological function in the final food in which that flavouring is an ingredient, it is to be regarded as an additive of the final food (*regulation 5*);
- (f) prohibiting the use of additives in flavourings in quantities greater than the minimum necessary, or in circumstances where they would be a hazard to human health or misleading to the consumer, and making contravention an offence (*regulation 5*);
- (g) making transitional provision to allow the marketing of additives, flavourings or foods marketed or labelled before 27th January 2006, which are legal under existing rules (*regulation 6*);
- (h) permitting standardisation of E407a, in addition to E407 and E440 with sugars, provided this is stated in addition to the number and designation of the additive (*regulation 7(a)*);
- (i) substituting “calcium carbonate” as the name for E170 (*regulations 7(b), 13(b) and 14(b)*);
- (j) adding to the acceptable names for E446, E468 and E469 (*regulations 7(c) and (d) and 12(a)*);
- (k) permitting a new additive, E907 to be used as a glazing agent in sugar confectionery and dried fruit (*regulation 11(j)*);
- (l) substituting new definitions of food categories in which permitted miscellaneous additives may be used (*regulations 8(a) and 10(b)*);
- (m) prohibiting the use of E230 as a permitted preservative for surface treatment of citrus fruits (*regulation 9(a)*);
- (n) extending food categories in which permitted miscellaneous additives can be used (*regulations 8(b)(i), 9(b), 11(d), 13(a) and (c) – (f), 14(d)*);
- (o) prohibiting the use of phosphates in cider and perry (*regulation 11(a)(ii)*);
- (p) providing numerical limits to restrict the use of E903 (*regulation 11(h) – (i)*);
- (q) making provision for the restricted use of additives in flavourings (*regulations 8(b)(ii), 10(a), 11(a)(i), (b) – (c), (e) – (g) and (k)*);
- (r) inserting a definition of spice oleoresins in Schedule 3 (*regulation 11(l)*);
- (s) permitting a new carrier solvent, E555 to be used in certain specified colours (*regulation 12(b)*);
- (t) clarifying the extent to which E1450 may be carried over into formulae and weaning foods for infants (*regulation 14(a)*);
- (u) bringing up to date the title of Part IV of Schedule 8 to take account of Commission Directive 1999/21/EC on dietary foods for special medical purposes (O.J. No. L91, 7.4.1999, p. 29) (*regulation 14(c)*).









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