

## 2001 No. 450

## FOOD

The Miscellaneous Food Additives (Amendment) (No. 2)  
(Scotland) Regulations 2001

*Made* 30th November 2001

*Laid before the Scottish Parliament* 4th December 2001

*Coming into force* 15th January 2002

The Scottish Ministers, in exercise of the powers conferred by sections 6(4), 16(1)(a) and (3), 17(1), 26(1) and (3) and 48(1) of, and paragraph 1 of Schedule 1 to the Food Safety Act 1990(a) and of all other powers enabling them in that behalf, after having regard, in accordance with section 48(4A)(b) of that Act to relevant advice given by the Food Standards Agency and after consultation in accordance with section 48(4) and (4B)(c) of that Act, hereby make the following Regulations:

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Miscellaneous Food Additives (Amendment) (No. 2) (Scotland) Regulations 2001 and shall come into force on 15th January 2002.

(2) These Regulations extend to Scotland only.

**Amendment of the Miscellaneous Food Additives Regulations 1995**

2. The Miscellaneous Food Additives Regulations 1995(d) shall be amended in accordance with regulations 3 to 8 below.

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

- (a) in the definition of “Directive 95/2/EC”, for “and European Parliament and Council Directive 98/72/EC(e)” there shall be substituted “, European Parliament and Council Directive 98/72/EC and European Parliament and Council Directive 2001/5/EC(f)”;
- (b) in the definition of “Directive 96/77/EC”, for “and Commission Directive 2000/63/EC(g)”, there shall be substituted “, Commission Directive 2000/63/EC and Commission Directive 2001/30/EC(h)”;

(a) 1990 c.16; section 6(4) was amended by the Deregulation and Contracting Out Act 1994 (c.40), Schedule 9, paragraph 6 and the Food Standards Act 1999 (c.28) (“the 1999 Act”), Schedule 5, paragraph 10(3); sections 16(1)(a) and 48(1) were amended by 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 amended by the 1999 Act, Schedule 6; amendments made by Schedule 5 to the 1999 Act which extend to Scotland shall 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 were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

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

(c) Section 48(4B) was inserted by paragraph 21 of Schedule 5 to the Food Standards Act 1999.

(d) S.I. 1995/3187, amended by S.I. 1997/1413, 1999/1136 and S.S.I. 2001/103.

(e) O.J. No. L 295, 4.11.98, p.18.

(f) O.J. No. L 55, 24.2.01, p.59.

(g) O.J. No. L 277, 30.10.00, p.1.

(h) O.J. No. L 146, 31.5.01, p.1.

(c) in the definition of “purity criteria”, for paragraph (b) there shall be substituted the following paragraph:–

“(b) in the case of magnesium carbonates (E 504), the purity criteria referred to in Schedule 5;”.

4. In regulation 11 (transitional provision and exemptions) there shall be inserted after paragraph (1C) the following paragraph:–

“(1D) 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 January 2002; and
- (b) the matter constituting the offence would not have constituted an offence under these Regulations if the amendments made by regulations 3(b) and (c) and 8 of the Miscellaneous Food Additives (Amendment) (No. 2) (Scotland) Regulations 2001 had not come into force when that matter occurred.”.

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

- (a) in note (2), for “and E 948” there shall be substituted “, E 948 and E 949”; and
- (b) in the table after the entry for Oxygen (E 948), there shall be inserted the following entry:–  
“E 949            Hydrogen”.

6. In the table in Schedule 3 (other permitted miscellaneous additives)–

- (a) in the entry for Glycerol esters of wood rosins (E 445)–
  - (i) in the third column immediately below “Non-alcoholic flavoured cloudy drinks” there shall be inserted the following:–  
“Cloudy spirit drinks in accordance with Council Regulation (EEC) No. 1576/89 laying down general rules on the definition, designation and presentation of spirit drinks(a).  
Cloudy spirit drinks containing less than 15% alcohol by volume”;
  - (ii) in the fourth column, opposite to each of the references inserted by sub-paragraph (i), there shall be inserted “100 mg/l”;
- (b) after the entry for Disodium 5'-ribonucleotides (E 635) there shall be inserted the following entry:–

“E 650            Zinc acetate                    Chewing gum                    1000 mg/kg”;

(c) after the entry for Carbamide (E 927b) there shall be inserted the following entries:–

“E 943aButane	}	Vegetable oil pan spray	<i>quantum satis</i> ”.
	}	(for professional use only)	
E943bIso-butane	}	Water-based emulsion	
	}	spray	
E 944Propane	}		

7. In Schedule 4 (permitted carriers and carrier solvents) in the entry for Propan-1,2-diol (propylene glycol) there shall be inserted in the first column “E 1520”.

8. For Schedule 5 (purity criteria), there shall be substituted the Schedule 5 set out in the Schedule to these Regulations.

St Andrew's House,  
Edinburgh  
30th November 2001

*MALCOLM CHISHOLM*  
A member of the Scottish Executive

SCHEDULE

SCHEDULE 5 AS SUBSTITUTED BY THESE REGULATIONS

Regulations 2(1) and 11(3)

“SCHEDULE 5

PURITY CRITERIA

The miscellaneous additives for which specific purity criteria are referred to below shall not contain—

- (a) more than 2 milligrams per kilogram of arsenic;
- (b) more than 10 milligrams per kilogram of lead;
- (c) more than 50 milligrams per kilogram of copper, or 25 milligrams per kilogram of zinc or 50 milligrams per kilogram of any combination of copper and zinc.

**E504 Magnesium carbonates**

**Magnesium carbonate, heavy**

The criteria in the monograph for heavy magnesium carbonate contained in the European Pharmacopoeia Vol. I, 1969 at page 322.

**Magnesium carbonate light**

The criteria in the monograph for light magnesium carbonate contained in the European Pharmacopoeia Vol. I, 1969 at page 321.”.

## EXPLANATORY NOTE

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

These Regulations, which extend to Scotland only, further amend the Miscellaneous Food Additives Regulations 1995 (“the principal Regulations”).

The Regulations implement–

- (a) Directive 2001/5/EC of the European Parliament and of the Council amending Directive 95/2 on food additives other than colours and sweeteners; and
- (b) Commission Directive 2001/30/EC amending Directive 96/77/EC laying down specific purity criteria on food additives other than colours and sweeteners.

Subject to a transitional provision, the Regulations specify new purity criteria in relation to the additives specified in the Annex to Commission Directive 2001/30/EC (regulations 3(b) and (c), 4 and 8 and the Schedule).

The Regulations also–

- (a) add one new additive to the list, in Schedule 1 to the principal Regulations, of miscellaneous food additives generally permitted to use in foods not referred to in Schedule 6, 7 or 8 to the principal Regulations (regulation 5);
- (b) modify the list, in Schedule 3 to the principal Regulations, of miscellaneous food additives which may be included in certain foods, by adding four new additives to that list and specifying additional foods in which Glycerol esters of wood rosins may be contained (regulation 6); and
- (c) modify the list of permitted carriers and carrier solvents in Schedule 4 to the principal Regulations by incorporating an E Number for Propan-1,2-diol (propylene glycol) (regulation 7).





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