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STATUTORY INSTRUMENTS

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**1991 No. 2540**

**FOOD**

**The Antioxidants in Food (Amendment) Regulations 1991**

*Made* - - - - *7th November 1991*

*Laid before Parliament* *12th November 1991*

*Coming into force* - - *3rd December 1991*

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 4(1), 6(4), 16(1)(a) and (3), 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 of the said Act with such organisations as appear to them to be representative of interests substantially affected by the Regulations:

**Title and commencement**

1. These Regulations may be cited as the Antioxidants in Food (Amendment) Regulations 1991 and shall come into force on 3rd December 1991.

**Interpretation**

2. In these Regulations “the English and Welsh Regulations” means the Antioxidants in Food Regulations 1978<sup>(2)</sup> and “the Scottish Regulations” means the Antioxidants in Food (Scotland) Regulations 1978<sup>(3)</sup>.

**Amendment of the English and Welsh and the Scottish Regulations**

3. After regulation 8 of the English and Welsh Regulations and after regulation 9 of the Scottish Regulations, respectively, there shall be inserted the following regulation (which shall be numbered 8A in the former and 10 in the latter)—

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(1) 1990 c. 16.

(2) S.I. 1978/105; relevant amending instruments are S.I. 1980/1831, 1990/2486.

(3) S.I. 1978/492; relevant amending instruments are S.I. 1980/1886, 1990/2625.

## “Defence

**8A.—**(1) In any proceedings for an offence against regulation 4 of these regulations in respect of any relevant chewing gum it shall be a defence to show that the chewing gum is one—

- (a) which has been (or is being) imported from another Member State of the European Economic Community, and
- (b) to which the equivalence condition applies.

(2) For the purposes of paragraph (1) above—

- (a) relevant chewing gum is any chewing gum which—
  - (i) is made from chewing gum base containing the permitted antioxidant Butylated hydroxyanisole (BHA) or Butylated hydroxytoluene (BHT) or any mixture of BHA and BHT, and
  - (ii) but for the fact that it comes within paragraph (i) of this subparagraph, would comply with these regulations;
- (b) the equivalence condition applies to chewing gum where—
  - (i) if the alleged offence comprises sale, consignment or delivery, the chewing gum could at the time of its sale, consignment or (as the case may be) delivery have been lawfully sold, consigned or (as the case may be) delivered in equivalent circumstances, or
  - (ii) if the alleged offence comprises importation, the chewing gum could at the time of its importation have been lawfully sold for human consumption, fact that it has been imported (or the fact that it has been imported and the language in which it is labelled);
- (c) a sale, consignment or delivery in another Member State shall not be deemed lawful if that Member State has failed to comply with a Community obligation, compliance with which could have rendered the sale, consignment or (as the case may be) delivery unlawful there; and
- (d) where a Member State is divided into areas (however described) and—
  - (i) if the alleged offence comprises sale, consignment or delivery, there is at least one area in that Member State in which the sale, consignment or (as the case may be) delivery of that chewing gum in equivalent circumstances could not lawfully have taken place (for a reason other than the language in which it is labelled), or
  - (ii) if the alleged offence comprises importation, there is at least one area in that Member State in which the sale of that chewing gum for human consumption could not lawfully have taken place (for a reason other than the language in which it is labelled), in equivalent circumstances, that sale, consignment or delivery, or importation (as the case may be) can lawfully take place, and
- (e) “human consumption” does not include use in the preparation of food for human consumption. ”.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 5th November 1991.

*John Selwyn Gummer*  
Minister of Agriculture, Fisheries and Food

Signed by authority of the Secretary of State for Health.

7th November 1991

*Stephen Dorrell*  
Minister of State for Health

7th November 1991

*David Hunt*  
Secretary of State for Wales

6th November 1991

*Strathclyde*  
Parliamentary Under Secretary of State, Scottish  
Office

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## **EXPLANATORY NOTE**

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

The Regulations, which apply to Great Britain, come into force on 3rd December 1991.

The Regulations amend the Antioxidants in Food Regulations 1978 and the Antioxidants in Food (Scotland) Regulations 1978 by providing that it shall be a defence to proceedings under those Regulations in respect of any chewing gum manufactured from chewing gum base containing the permitted antioxidant Butylated hydroxyanisole (BHA) (either alone or in combination with Butylated hydroxytoluene (BHT)) for an offence against regulation 4 of those Regulations that such chewing gum is imported from another Member State of the European Economic Community in which it could lawfully have been sold, consigned or (as the case may be) delivered (Regulation 3).