
STATUTORY INSTRUMENTS

2003 No. 3207

**The Processed Cereal-based Foods and Baby Foods for
Infants and Young Children (England) Regulations 2003**

Title, application and commencement

1. These Regulations may be cited as the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (England) Regulations 2003; they apply in relation to England only and come into force on 6th March 2005.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Food Safety Act 1990;

“baby foods” means foods for particular nutritional use fulfilling the particular requirements of infants and young children in good health and intended for use by infants while they are being weaned, and by young children as a supplement to their diet or for their progressive adaptation to ordinary food, but excludes processed cereal-based foods;

“the Directive” means Commission Directive [96/5/EC](#)(1) on processed cereal-based foods and baby foods for infants and young children, as amended by Commission Directive [1998/36/EC](#)(2), Commission Directive [1999/39/EC](#)(3) and Commission Directive [2003/13/EC](#)(4);

“EEA Agreement” means the Agreement on the European Economic Area(5) signed at Oporto on 2nd May 1992 as adjusted by the Protocol(6) signed at Brussels on 17th March 1993;

“EEA State” means a State which is a Contracting Party to the EEA Agreement;

“food authority” does not include—

- (a) the council of a district of a non-metropolitan county except where the county functions have been transferred to that council pursuant to a structural change; or
- (b) the appropriate Treasurer referred to in section 5(1)(c) of the Act (which deals with the Inner Temple and the Middle Temple);

“infants” means children under the age of twelve months;

“pesticide residue” means the residue in processed cereal-based foods or baby foods of a plant protection product as defined in point 1 of Article 2 of Council Directive [91/414/EEC](#)(7) concerning the placing of plant protection products on the market, including its metabolites and products resulting from its degradation or reaction;

“processed cereal-based foods” means foods for particular nutritional use within the categories specified in Part I of Schedule 1 fulfilling the particular requirements of infants and young

(1) OJNo. L49, 28.2.96, p.17.

(2) OJ No. L167, 12.6.98, p.23.

(3) OJ No. L124, 18.5.1999, p.8.

(4) OJ No. L41, 14.2.2003, p.33.

(5) OJ No. L1, 3.1.94, p.1.

(6) OJ No. L1, 3.1.94, p.571.

(7) OJ No. L230, 19.8.91, p.1.

children in good health and intended for use by infants while they are being weaned, and by young children as a supplement to their diet or for their progressive adaptation to ordinary food; “sell” includes possess for sale and offer, expose or advertise for sale; and “young children” means children aged between one and three years.

(2) Other expressions used in these Regulations and in the Directive have the same meaning in these Regulations as they have in the Directive.

(3) Where any Schedule contains any note, the provisions of that Schedule shall be interpreted and applied in accordance with such note.

Exemption

3. These Regulations shall not apply to any baby food which is a milk intended for young children.

Restrictions on the sale of processed cereal-based foods and baby foods

4. No person shall sell any processed cereal-based food or baby food unless—
- (a) it complies with the requirements of regulations 5 to 7 as to manufacture and composition; and
 - (b) it is labelled in accordance with regulation 8.

General requirements as to manufacture and composition

5.—(1) No processed cereal-based food or baby food shall be manufactured from any ingredient other than those whose suitability for particular nutritional use by infants and young children has been established by generally accepted scientific data.

(2) No processed cereal-based food or baby food shall contain any substance in such quantity as to endanger the health of infants or young children.

(3) The composition of a processed cereal-based food shall comply with the criteria specified in Part II of Schedule 1 as read with Schedule 2.

(4) The composition of a baby food shall comply with the criteria specified in Schedule 3.

Added nutritional substances and nutrients

6.—(1) In the manufacture of any processed cereal-based food or baby food, no nutritional substance shall be added other than a nutritional substance specified in Schedule 4.

(2) No processed cereal-based food or baby food shall contain any added nutrient specified in column 1 of Part I of Schedule 5 in an amount exceeding the maximum limit specified opposite that nutrient in column 2 of that Part.

(3) No processed cereal-based food or baby food specified in column 1 of Part II of Schedule 5 shall contain any added nutrient specified opposite that food in column 2 of that Part in an amount exceeding the maximum limit specified opposite that food in column 3 of that Part.

Pesticide residues

- 7.—(1) No processed cereal-based food or baby food shall contain—
- (a) any pesticide residue of a pesticide specified in Schedule 6; or
 - (b) any omethoate, where it is a metabolite of a pesticide not specified in Schedule 6, or any product resulting from degradation or reaction of that metabolite,

at a level exceeding 0.003 mg/kg.

(2) No processed cereal-based food or baby food shall contain any pesticide residue of a pesticide specified in column 1 of Schedule 7 at a level exceeding that specified in column 2 of that Schedule in relation to that pesticide.

(3) No processed cereal-based food or baby food shall contain any pesticide residue of any individual pesticide which is not specified in Schedule 6 or column 1 of Schedule 7 at a level exceeding 0.01 mg/kg.

(4) The levels referred to in paragraphs (1) to (3) apply to the processed cereal-based food or baby food—

- (a) manufactured as ready for consumption, or
- (b) if it is not so manufactured, as reconstituted according to its manufacturer's instructions.

(5) Analytical methods for determining levels of pesticide residues for the purposes of this regulation shall be generally acceptable standardised methods.

Labelling

8.—(1) Without prejudice to the generality of Part II of the Food Labelling Regulations 1996⁽⁸⁾, processed cereal-based foods and baby foods shall be labelled with the following particulars—

- (a) a statement as to the appropriate age (which shall be not less than four months) from which the food may be used, regard being had to its composition, texture or other particular properties;
- (b) information as to the presence or absence of gluten if the age stated pursuant to subparagraph (a) is less than six months;
- (c) the available energy value expressed in kJ and kcal, and the protein, carbohydrate and fat content, expressed in numerical form, per 100 g or 100 ml of the food as sold and, where appropriate, per specified quantity of the food as proposed for consumption;
- (d) the average quantity, expressed in numerical form, per 100 g or 100 ml of the food as sold and, where appropriate, per specified quantity of the food as proposed for consumption, of each mineral substance and of each vitamin in respect of which a maximum or a minimum compositional requirement is specified in—
 - (i) Part II of Schedule 1 in the case of processed cereal-based foods; and
 - (ii) Schedule 3 in the case of baby foods; and
- (e) if preparation of the food is necessary, appropriate instructions for preparation and a statement as to the importance of following those instructions.

(2) Subject to paragraph (1)(d), no processed cereal-based food or baby food shall be labelled with the average quantity of any nutrient specified in Schedule 4 unless—

- (a) that average quantity is expressed in numerical form, per 100 g or 100 ml of the food as sold and, where appropriate, per specified quantity of the food as proposed for consumption; and
- (b) in the case of a mineral substance or vitamin, it is a mineral substance or vitamin other than one referred to in paragraph (1)(d).

(3) Where, pursuant to paragraph (1)(d) or paragraph (2), any processed cereal-based food or baby food is labelled with the average quantity, per 100 g or 100 ml of the food as sold and, where appropriate, per specified quantity of the food as proposed for consumption, of any vitamin or mineral which is specified in column 1 of Schedule 8, the labelling of the food shall not express

⁽⁸⁾ S.I.1996/1499, relevant amending instruments are S.I. 1998/141, 1398, 2424, 1999/747, 1136, 1483, 1540, 2000/768, 2254, 3323, 2001/2294, 3442, 3775, 2002/379, 2003/461, 474, 1008, 1182, 1563, 1596, 1659, 2075, 2243, 2647.

that average quantity as a percentage of the reference value specified in column 2 of Schedule 8 in relation to that vitamin or mineral unless the quantity present is equal to 15 per cent or more of the reference value.

Enforcement

9.—(1) Except where paragraph (2) applies, each food authority shall enforce and execute these Regulations in its area.

(2) Each port health authority shall enforce and execute these Regulations in its district in relation to imported food.

Offence and penalty

10. If any person contravenes regulation 4 he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Defence in relation to exports

11. In any proceedings for an offence under these Regulations it shall be a defence for the accused to prove—

- (a) that the food in respect of which the offence is alleged to have been committed was intended for export to a country which has legislation analogous to these Regulations and that the food complies with that legislation; and
- (b) in the case of export to an EEA State, that the legislation complies with the provisions of the Directive⁽⁹⁾.

Application of various provisions of the Act

12. The following provisions of the Act shall apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act or Part thereof shall be construed as a reference to these Regulations—

- (a) section 2 (extended meaning of “sale” etc.);
- (b) section 3 (presumptions that food is intended for human consumption);
- (c) section 20 (offences due to fault of another person);
- (d) section 21 (defence of due diligence) as it applies for the purposes of section 8, 14 or 15;
- (e) section 22 (defence of publication in the course of a business);
- (f) section 30(8) (which relates to documentary evidence);
- (g) section 33(1) (obstruction etc. of officers);
- (h) section 33(2), with the modification that the reference to “any such requirement as is mentioned in subsection (1)(b) above” shall be deemed to be a reference to any such requirement as is mentioned in that subsection as applied by paragraph (g) above;
- (i) section 35(1) (punishment of offences) in so far as it relates to offences under section 33(1) as applied by paragraph (g) above;
- (j) section 35(2) and (3) in so far as it relates to offences under section 33(2) as applied by paragraph (h) above;
- (k) section 36 (offences by bodies corporate); and
- (l) section 44 (protection of officers acting in good faith).

(9) As adopted by the EEA Joint Committee Decisions No. 32/2002 (OJ No. L154, 13.6.2002, p.12) and 107/2003.

Revocations

13.—(1) The Processed Cereal-based Foods and Baby Foods for Infants and Young Children Regulations 1997(**10**) and the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Amendment) Regulations 1999(**11**) are revoked in relation to England.

(2) The Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Amendment) (England) Regulations 2000(**12**) are revoked.

Amendment

14.—(1) The Tryptophan in Food Regulations 1990(**13**) shall be amended (in so far as they apply in relation to England) in accordance with paragraph (2).

(2) In regulation 2(7) (prohibition on sale etc. of food containing tryptophan), in the definitions of “processed cereal-based food” and “baby food” there shall be substituted for the words “the Processed Cereal-based Foods and Baby Foods for Infants and Young Children Regulations 1997” the words “the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (England) Regulations 2004”.

Signed by authority of the Secretary of State for Health

8th December 2003

Melanie Johnson
Parliamentary Under Secretary of State,
Department of Health

(10) S.I. [1997/2042](#).

(11) S.I. [1999/275](#).

(12) S.I. [2000/1510](#).

(13) S.I. [1990/1728](#); the relevant amending instrument is S.I. [2002/1817](#).