

**2004 No. 1151**

**FOOD, ENGLAND**

**The Food (Jelly Confectionery) (Emergency Control) (England)  
(Amendment) Regulations 2004**

<i>Made</i>	- - - -	<i>16th April 2004</i>
<i>Laid before Parliament</i>		<i>16th April 2004</i>
<i>Coming into force</i>		<i>17th April 2004</i>

The Secretary of State, being a Minister designated<sup>(a)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(b)</sup> in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on him by that section makes the following Regulations:

**Title and commencement**

1. These Regulations may be cited as the Food (Jelly Confectionery) (Emergency Control) (England) (Amendment) Regulations 2004 and shall come into force on 17th April 2004.

**Amendments to the Food (Jelly Confectionery) (Emergency Control) (England) Regulations 2002**

2.—(1) The Food (Jelly Confectionery) (Emergency Control) (England) Regulations 2002<sup>(c)</sup> shall be amended in accordance with the following paragraphs of this regulation.

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

- (a) the definition of “the Commission Decision” shall be deleted;
- (b) for the definition of “controlled jelly confectionery” there shall be substituted the following definition —

“controlled jelly confectionery” means —

- (a) any jelly confectionery which contains E425 : Konjac : (i) Konjac gum (ii) Konjac glucomannane and which is intended for human consumption; and
  - (b) any jelly mini-cups which contain any of the relevant food additives and which are intended for human consumption;”;
- (c) immediately after the definition of “controlled jelly confectionery” there shall be inserted the following definition —
- “ “the first Commission Decision” means Commission Decision 2002/247/EC suspending the placing on the market and import of jelly confectionery containing the

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<sup>(a)</sup> S.I. 1972/1811.  
<sup>(b)</sup> 1972 c. 68.  
<sup>(c)</sup> S.I. 2002/931.

food additive E425 : Konjac(a);”; and

- (d) for the definition of “port health authority” there shall be substituted the following definitions —

““port health authority” means —

- (a) in relation to the London port health district (within the meaning given to that phrase for the purposes of the Public Health (Control of Disease) Act 1984(b) by section 7(1) of that Act), the Common Council of the City of London; and
- (b) in relation to any port health district constituted by order under section 2(3) of the Public Health (Control of Disease) Act 1984, a port health authority for that district constituted by order under section 2(4) of that Act;

“the relevant food additives” means the food additives E400 : alginic acid; E401 : sodium alginate; E402 : potassium alginate; E403 : ammonium alginate; E404 : calcium alginate; E405 : propane 1,2–diol alginate; E406 : agar; E407 : carrageenan; E407a : processed eucheima seaweed; E410 : locust bean gum; E412 : guar gum; E413 : tragacanth; E414 : acacia gum; E415 : xanthan gum; E417 : tara gum and E418 : gellan gum; and

“the second Commission Decision” means the Commission Decision of 13th April 2004 suspending the placing on the market and import of jelly mini–cups containing the food additives E400, E401, E402, E403, E404, E405, E406, E407, E407a, E410, E412, E413, E414, E415, E417 and / or E418(c).”.

- (3) For paragraph (2) of regulation 2 there shall be substituted the following paragraph —

“(2) Any term used both in these Regulations and in the first Commission Decision or in the second Commission Decision has the same meaning as in the first Commission Decision or as the case may be the second Commission Decision.”.

- (4) In regulation 3 (prohibitions) —

- (a) immediately after paragraph (2) there shall be inserted the following paragraph —

“(2A) For the purposes of paragraph (1), any jelly mini–cups which contain any of the relevant food additives shall be presumed until the contrary is proved to be controlled jelly confectionery.”;

- (b) immediately after paragraph (3) there shall be inserted the following paragraph —

“(3A) No person shall use any of the relevant food additives in the manufacture of any jelly mini–cups which are intended for human consumption.”;

- (c) immediately after paragraph (4) there shall be inserted the following paragraph —

“(4A) For the purposes of paragraph (3A) any jelly mini–cups shall be presumed until the contrary is proved to be intended for human consumption.”; and

- (d) in paragraph (5) for the words “paragraph (1) or (3)” there shall be substituted the words “paragraph (1), (3) or (3A)”.

- (5) In the modified version of section 9 of the Food Safety Act 1990(d) applied by paragraph (2) of regulation 5 (application etc. of various provisions of the Act) —

- (a) immediately after subsection (2)(b) there shall be added —

“(c) any person has used any of the relevant food additives in the manufacture of any jelly mini–cups which are intended for human consumption, in contravention of regulation 3(3A) of those Regulations.”;

- (b) in subsection (5)(b) for the words “regulation 3(1) or (3)” there shall be substituted the words “regulation 3(1), (3) or (3A)”;

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(a) OJ No. L84, 28.3.2002, p.69.

(b) 1984 c. 22.

(c) OJ No. L

(d) 1990 c. 16.

- (c) in subsection (6) for the words “regulation 3(1) or (3)” there shall be substituted the words “regulation 3(1), (3) or (3A)”; and
- (d) for subsection (9) there shall be substituted the following subsection —

“(9) For the purposes of —

- (a) subsection (2)(a) above, any jelly confectionery which contains E425 : Konjac (i) Konjac gum (ii) Konjac glucomannane shall be presumed until the contrary is proved to be controlled jelly confectionery;
- (b) subsection (2)(a) above, any jelly mini-cups which contain any of the relevant food additives shall be presumed until the contrary is proved to be controlled jelly confectionery;
- (c) subsection (2)(b) above, any jelly confectionery shall be presumed until the contrary is proved to be intended for human consumption; and
- (d) subsection (2)(c) above, any jelly mini-cups shall be presumed until the contrary is proved to be intended for human consumption.”.

(6) In paragraph (3) of regulation 5 for the words “The expressions “controlled jelly confectionery”, “food authority”, “jelly confectionery”, “port health authority” and “for human consumption”” there shall be substituted the words “The expressions “controlled jelly confectionery”, “food authority”, “jelly confectionery”, “jelly mini-cups”, “port health authority”, “the relevant food additives” and “for human consumption””.

Signed by authority of the Secretary of State for Health

16th April 2004

*Rosie Winterton*  
Minister of State  
Department of Health

## EXPLANATORY NOTE

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

1. These Regulations amend the Food (Jelly Confectionery) (Emergency Control) (England) Regulations 2002 (S.I. 2002/931) to implement in relation to England the Commission Decision of 13th April 2004 suspending the placing on the market and import of jelly mini-cups containing the food additives E400, E401, E402, E403, E404, E405, E406, E407, E407a, E410, E412, E413, E414, E415, E417 and / or E418.

2. These Regulations extend the prohibitions imposed by regulation 3 of S.I. 2002/931 (which relate respectively to the carrying out of commercial operations with regard to jelly confectionery containing the food additive E425 : Konjac and the use of that additive in the manufacture of jelly confectionery) in relation to jelly mini-cups containing the food additives specified in paragraph 1 above (*regulation 2(2)(b) and (d) and (4)*) and make consequential changes to S.I. 2002/931 in the light of that extension (*regulation 2(2)(a), (c) and (d), (3), (5) and (6)*).

3. These Regulations also insert a revised definition of “port health authority” into regulation 2(1) of S.I. 2002/931 (*regulation 2(2)(d)*).

4. No regulatory impact assessment has been prepared in relation to these Regulations.

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