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STATUTORY INSTRUMENTS

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**2005 No. 519**

**FOOD, ENGLAND**

**The Colours in Food (Amendment) (England) Regulations 2005**

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| <i>Made</i>                   | - - - - | <i>4th March 2005</i>  |
| <i>Laid before Parliament</i> |         | <i>10th March 2005</i> |
| <i>Coming into force</i>      | - -     | <i>1st April 2005</i>  |

The Secretary of State, in exercise of the powers conferred upon him by sections 16(1) (a), 17(1), 26(1) and (3) and 48(1) of, and paragraph 1 of Schedule 1 to, the Food Safety Act 1990<sup>(1)</sup> and now vested in him<sup>(2)</sup>, and having had regard in accordance with section 48(4A) of that Act 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<sup>(3)</sup> makes the following Regulations:

**Title, commencement and application**

**1. These Regulations —**

- (a) may be cited as the Colours in Food (Amendment) (England) Regulations 2005;
- (b) shall come into force on 1st April 2005; and
- (c) shall apply in relation to England only.

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(1) 1990 c. 16

(2) Functions formerly exercisable by “the Ministers” (being, in relation to England and Wales and acting jointly, the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with health in England and food and health in Wales and, in relation to Scotland, the Secretary of State) are now exercisable in relation to England by the Secretary of State pursuant to paragraph 8 of Schedule 5 to the Food Standards Act 1999 (1999 c. 28), and paragraphs 12(a) and 21 of that Schedule amend respectively sections 17(1) and 48 of the 1990 Act. Section 48 was also amended by S.I. No. 2004/2290. Functions of “the Ministers” so far as exercisable in relation to Wales were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), as read with section 40(3) of the 1999 Act, and those functions so far as exercisable in relation to Scotland, were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (1998 c. 46), as read with section 40(2) of the 1999 Act. Regulation 13(4) of the Food Standards Act 1999 (Transitional and Consequential Provisions and Savings) (England and Wales) Regulations 2000 (S.I. 2000/656) expressly authorises the Secretary of State to amend or revoke existing Regulations made or having effect as if made by the Minister of Agriculture, Fisheries and Food (whether with others or not) under the Food Safety Act 1990.

(3) OJ No. L31, 1.2.2002, p.1. That Regulation was last amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (OJ No. L245, 29.9.2003, p.4). By virtue of regulation 5 of the Food Safety Act 1990 (Amendment) Regulations 2004 (S.I. No. 2004/2290), with effect from 7th December 2004 the consultation requirement contained in section 48(4) of the 1990 Act is disapplied in any case in which consultation is required by Article 9 of Regulation (EC) No. 178/2002.

## **Amendment of the Colours in Food Regulations 1995**

2.—(1) The Colours in Food Regulations 1995(4) shall be amended in accordance with the following paragraphs of this regulation.

(2) In paragraph (1) of regulation 2 (interpretation) in the definition of “Directive 95/45/EC”(5), for the words “and Directive 2001/50/EC” there shall be substituted the words —

“Directive 2001/50/EC(6) and Directive 2004/47/EC(7);”.

(3) In regulation 13 (transitional provision and exemption) after paragraph (1) there shall be inserted the following paragraph—

“(1A) In any proceedings for an offence against these Regulations it shall be a defence to prove that —

- (a) the colour or food which is the subject of the allegation was put on the market or labelled before 1st April 2005; and
- (b) the matter constituting the offence would not have constituted an offence under these Regulations as they stood immediately before the coming into force of the Colours in Food (Amendment) (England) Regulations 2005.”.

Signed by the Authority of the Secretary of State for Health

*Melanie Johnson*  
Parliamentary Under Secretary of State  
Department of Health

4th March 2005

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(4) S.I. 1995/3124, relevant amending instruments are S.I. 2000/481 and S.I. 2001/3442.  
(5) The definition of “Directive 95/45/EC” was amended by S.I. 2000/481 and S.I. 2001/3442.  
(6) Commission Directive 2001/50/EC of 3 July 2001 amending Directive 95/45/EC laying down specific purity criteria concerning colours for use in foodstuffs (OJ No. L190, 12.7.2001, p.14).  
(7) Commission Directive 2004/47/EC of 16 April 2004 amending Directive 95/45/EC as regards mixed carotenes (E160 a (i)) and beta-carotene (E160 a (ii)) (OJ No. L113, 20.4.2004, p.24).

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## EXPLANATORY NOTE

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

1. These Regulations, which apply to England only, implement Commission Directive [2004/47/EC](#)(8) amending Directive [95/45/EC](#)(9). They do so by further amending the Colours in Food Regulations 1995(10). The Regulations —

- (a) provide amended purity criteria for mixed carotenes E160 a (i) and beta carotene E160 a (ii) (*regulation 2(2)*);
- (b) insert a transitional defence provision for products put on the market or labelled before 1st April 2005 which otherwise comply with the Colours in Food Regulations 1995, allowing current stocks to be exhausted (*regulation 2(3)*).

2. No Regulatory Impact Assessment has been prepared to accompany these Regulations, as they will not impose any costs on businesses.

3. A Transposition Note has been prepared and placed in the Library of each House of Parliament, setting out how the main elements of the European legislation referred to above are transposed in these Regulations. Copies of this document may be obtained from the Novel Foods, Additives and Supplements Division of the Food Standards Agency, Aviation House, 125 Kingsway, London WC2B 6NH.

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(8) OJ No. L113, 20.4.2004, p.24.

(9) Commission Directive [95/45/EC](#) of 26 July 1995 laying down specific purity criteria concerning colours for use in foodstuffs (OJ No. L226, 22.9.1995, p.1).

(10) S.I. [1995/3124](#), relevant amendments are S.I. [2000/481](#) and S.I. [2001/3442](#).