

## 1991 No. 495

## FOOD

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

*Made* . . . . . 14th November 1991

*Coming into operation* . . . . . 17th December 1991

The Department of Health and Social Services in exercise of the powers conferred on it by Articles 15(1), 16(1), 25(1)(a) and 47(2) of the Food Safety (Northern Ireland) Order 1991(a) and of all other powers enabling it in that behalf and after consultation in accordance with Article 47(3) of the said Order with such organisations as appear to it to be representative of interests likely to be substantially affected by the Regulations hereby makes the following Regulations:

*Citation, commencement and interpretation*

1.—(1) These Regulations may be cited as the Antioxidants in Food (Amendment) Regulations (Northern Ireland) 1991 and shall come into operation on 17th December 1991.

(2) In these Regulations “the principal Regulations” means the Antioxidants in Food Regulations (Northern Ireland) 1978(b).

*Amendment of the principal Regulations*

2. After regulation 8 of the principal Regulations there shall be inserted the following regulation—

*“Defence*

8A.—(1) In any proceedings for an offence against regulation 4 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)—

(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

(a) S.I. 1991/762 (N.I. 7). See Article 2(2) for the definitions of “regulations” and “the Department concerned”

(b) S.R. 1978 No. 112; the relevant amending Regulations are S.R. 1981 No. 191 and S.R. 1991 No. 203

- (ii) but for the fact that it comes within head (i) 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,  
in the Member State from which it has been imported but for the 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),  
that Member State shall not be treated as a Member State in which, 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.”.

Sealed with the Official Seal of the Department of Health and Social Services on 14th November 1991.

(L.S.)

*J. Scott*

Assistant Secretary

## EXPLANATORY NOTE

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

These Regulations further amend the Antioxidants in Food Regulations (Northern Ireland) 1978 ("the principal Regulations").

The Regulations provide that it shall be a defence to proceedings under the principal 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 the principal 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 2).