

1979 No. 1254

FOOD AND DRUGS

COMPOSITION

The Lead in Food Regulations 1979

<i>Made</i> - - - -	<i>4th October 1979</i>
<i>Laid before Parliament</i>	<i>12th October 1979</i>
<i>Coming into Operation</i>	<i>12th April 1980</i>

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Social Services and the Secretary of State for Wales, acting jointly, in exercise of the powers conferred on them by sections 4 and 123 of the Food and Drugs Act 1955(a) and of all other powers enabling them in that behalf, hereby make the following regulations after consultation with such organisations as appear to them to be representative of interests substantially affected by the regulations:—

Citation and commencement

1. These regulations may be cited as the Lead in Food Regulations 1979, and shall come into operation on 12th April 1980.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

“the Act” means the Food and Drugs Act 1955;

“carbohydrate” means any substance containing carbon, hydrogen and oxygen in which the hydrogen and oxygen occur in the same proportion as in water;

“food” has the same meaning as in the Act, except that it is limited to food intended for sale for human consumption;

“food and drugs authority” has the meaning assigned to it by section 198 of the Local Government Act 1972(b);

“sell” includes offer or expose for sale or have in possession for sale, and “sale” and “sold” shall be construed accordingly;

“soft drink” has the meaning assigned to it by the Soft Drinks Regulations 1964(c);

(a) 4 & 5 Eliz. 2. c. 16; sections 4 and 123 are to be read with the Secretary of State for Social Services Order 1968 (S.I. 1968/1699) and the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I. 1978/272).

(b) 1972 c. 70.

(c) S.I. 1964/760; the relevant amending instrument is S.I. 1977/927.

“specified food” means any food of a description specified in the first column of Schedule 1;

“sugars” means any soluble carbohydrate sweetening matter.

(2) Any reference in these regulations to a numbered regulation or schedule shall, unless the context otherwise requires, be construed as a reference to the regulation or schedule bearing that number in these regulations.

(3) For the purposes of these regulations, the supply of food, otherwise than by sale, at, in or from any place where food is supplied in the course of a business shall be deemed to be a sale of that food.

Exemptions

3. The provisions of these regulations shall not apply to any food—

(a) in respect of which the maximum permitted lead content is prescribed by any regulations, other than these regulations, made under the Act or by any order having effect as if contained in regulations so made;

(b) which is intended at the time of sale, consignment, delivery or importation, as the case may be, for exportation to any place outside the United Kingdom.

Sale, etc. of food containing lead

4.—(1) No specified food shall contain any lead in any proportion exceeding that specified or referred to in relation thereto in the second column of Schedule 1, so however that on or after 13th April 1982 no specified food of a description included in the first column of Part II of that Schedule shall contain any lead in any proportion exceeding that specified in relation thereto in the third column of that Schedule.

(2) No other food shall contain any lead in any proportion exceeding 1.0 milligram per kilogram of such food.

(3) No person shall sell, consign or deliver, or import into England and Wales any food which does not comply with this regulation.

Condemnation of food containing lead

5. Where any food is certified by a public analyst as being food which it is an offence against regulation 4 to sell, consign or deliver, or import into England and Wales, that food may be treated for the purposes of section 9 of the Act (under which food may be seized and destroyed on the order of a justice of the peace) as being unfit for human consumption.

Penalties and enforcement

6.—(1) If any person contravenes or fails to comply with any of the foregoing provisions of these regulations he shall be guilty of an offence and shall be liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both, and, in the case of a continuing offence, to a further fine not exceeding five pounds for each day during which the offence continues after conviction.

(2) Each food and drugs authority shall enforce and execute such provisions in its area:

Provided that each port health authority shall enforce and execute in its area of jurisdiction the provisions of regulation 4 in so far as they relate to importation.

Defence

7. In any proceedings for an offence under regulation 4(2) and (3) in respect of any food consisting of two or more ingredients, it shall be a defence for the person charged to prove that, although the lead is present in the food in a quantity exceeding that specified in regulation 4(2),

- (a) not less than 10 per cent by weight of the food consists of an ingredient for which a higher quantity of lead is permitted, and
- (b) regulation 4 would not be contravened if the ingredients were sold separately:

Provided that in the case of an additive premix which consists of a mixture of two or more substances for use as an ingredient in the preparation of food and is in a container bearing a label on which there appears in a conspicuous position a clear and legible statement to the effect that it is an additive premix and is not intended for retail sale, it shall be a defence to prove that regulation 4 would not be contravened if the ingredients of the additive premix were sold separately.

Application of various sections of the Act

8.—(1) Sections 108(3) and (4) (which relate to prosecutions), 110(1), (2) and (3) (which relate to evidence of analysis), 112 (which relates to the power of a court to require analysis by the Government Chemist), 113 (which relates to a contravention due to some person other than the person charged), 115(2) (which relates to the conditions under which a warranty may be pleaded as a defence) and 116 (which relates to offences in relation to warranties and certificates of analysis) of the Act shall apply for the purposes of these regulations as if references therein to proceedings, or a prosecution, under or taken or brought under the Act included references to proceedings, or a prosecution as the case may be, taken or brought for an offence under these regulations and as if the reference in the said section 112 to subsection (4) of section 108 included a reference to that subsection as applied by these regulations.

(2) Paragraph (b) of the proviso to section 108(1) of the Act shall apply for the purposes of these regulations as if the reference therein to section 116 of the Act included a reference to that section as applied by these regulations.

Revocations

9. The orders and regulations specified in the first column of Schedule 2 are hereby revoked to the extent specified in relation thereto in the third column of that Schedule.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 28th September 1979.

(L.S.)

Peter Walker,
Minister of Agriculture, Fisheries and Food.

2nd October 1979.

Patrick Jenkin,
Secretary of State for Social Services.

4th October 1979.

Nicholas Edwards,
Secretary of State for Wales.

Regulations 2 (1) and 4 (1)

SCHEDULE 1

PART I

<i>Description of food</i>	<i>Proportions of lead (expressed in milligrams per kilogram)</i>
1. Beer	0.2
2. Brandy, geneva, gin, rum, whisky, vodka	0.2
3. Cider, perry	0.2
4. Infant foods—that is to say foods which are specially prepared for infants or young children and are described expressly or by implication as such— but excluding —rusks —such foods when dried, dehydrated or concentrated	0.2
5. Non-alcoholic beverages, ready to drink, not otherwise specified in this Schedule	0.2
6. Soft drinks for consumption without dilution	0.2
7. Water ices or other similar frozen confections	0.2
8. Edible oils or fats	0.5
9. Fruit juices (other than lime juice, lemon juice) tomato juice, tomato juice cocktails and vegetable juices, ready to drink	0.5
10. Ice cream or other similar frozen confections (excluding water ices and similar frozen confections)	0.5
11. Rusks	0.5
12. Sugars with a sulphated ash content not exceeding 0.25 per cent of the dry matter	0.5
13. Sugars with a sulphated ash content exceeding 0.25 per cent of the dry matter but not exceeding 1.0 per cent of the dry matter	1.0
14. Canned foods, but excluding canned condensed milk, any specified food that is canned and canned infant foods when dried, dehydrated or concentrated	2.0
15. Cocoa powder	2.0
	(calculated on the dry fat free substance)
16. Concentrated lime juice and concentrated lemon juice when intended for use by a manufacturer for the purposes of his manufacturing business	2.0
17. Dried or dehydrated fruit or vegetables	2.0
18. Fish not otherwise specified in this Schedule	2.0
19. Glacé angelica	2.0
20. Hydrolysed protein	2.0
21. Liver	2.0
22. Pickles and sauces	2.0
23. Tomato purée, paste or powder, the total solids content of which is not less than 15 per cent but less than 25 per cent	2.0
24. Yeast extracts	2.0
25. Canned fish	3.0
26. Tomato purée, paste or powder, the total solids content of which is not less than 25 per cent	3.0

<i>Description of food</i>	<i>Proportions of lead (expressed in milligrams per kilogram)</i>
27. Corned beef	5.0
28. Dandelion coffee, including soluble dandelion coffee compound	5.0
29. Dried fish	5.0
30. Sugars with a sulphated ash content exceeding 1.0 per cent of the dry matter not for further refining	5.0
31. Tea	5.0
32. Yeast, yeast products, excluding yeast extracts	5.0 (calculated on the dry matter)
33. Chemicals not otherwise specified in this Schedule	10.0
34. Dried herbs, spices (including ground spices and curry powder) and mustard (including prepared mustard)	10.0
35. Game, game pâté	10.0 (excluding discrete particles of shot)
36. Hops	10.0
37. Shellfish	10.0
38. Sugars with a sulphated ash content exceeding 1.0 per cent of the dry matter for further refining	10.0
39. Chemicals for which a lead limit is specified	The limit specified in the European Pharmacopoeia or the British Pharmacopoeia or the British Pharmaceutical Codex, as the case may be.
(i) in the European Pharmacopoeia, Volume 1 1969 (except for the monograph headed by the name Ergocalciferol), Volume II 1971 and the Supplement thereto published 1973, or if there is no limit there specified, then	
(ii) in the British Pharmacopoeia, Edition 1973, Addenda 1975, 1977 and 1978, or if there is no limit there specified, then	
(iii) in the British Pharmaceutical Codex, Edition 1973, Supplement 1979	

PART II

	<i>From 12th April 1980 to 12th April 1982 inclusive</i>	<i>On and after 13th April 1982</i>
1. Concentrated—fruit juices (other than lime juice, lemon juice) —tomato juice —tomato juice cocktails —vegetable juices	2.0	1.0
2. Lime juice, lemon juice not otherwise specified in this Schedule	2.0	1.0
3. Apples, pears	3.0	1.0
4. Flavourings	10.0	5.0

Regulation 9

SCHEDULE 2

Regulations revoked	References	Extent of revocation
The Food Standards (Curry Powder) Order 1949	S.I. 1949/1816	Article 2(b)
The Food Standards (Edible Gelatine) Order 1951	S.I. 1951/1196	The whole Order
The Food Standards (Curry Powder) (Amendment) Order 1956	S.I. 1956/1166	The whole Order
The Lead in Food Regulations 1961	S.I. 1961/1931	The whole Regulations
The Food and Drugs (Legal Proceedings) Regulations 1962	S.I. 1962/1287	Regulation 2(2)
The Lead in Food (Amendment) Regulations 1972	S.I. 1972/1843	The whole Regulations
The Lead in Food (Amendment) Regulations 1973	S.I. 1973/1053	The whole Regulations
The Colouring Matter in Food Regulations 1973	S.I. 1973/1340	Regulation 13
The Emulsifiers and Stabilisers in Food Regulations 1975	S.I. 1975/1486	Regulation 12
The Fruit Juices and Fruit Nectars Regulations 1977	S.I. 1977/927	Regulation 16

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations, which apply to England and Wales only, come into operation on 12th April 1980. They re-enact with amendments the Lead in Food Regulations 1961, as amended, which restrict the amount of lead which may be present in food (including drink) intended for sale for human consumption.

The principal changes are that the Regulations—

- (a) delete or amend certain definitions in the 1961 Regulations and introduce several new definitions (Regulation 2(1));
- (b) reduce the general limit for lead in food from 2.0 mg. per kg. to 1.0 mg. per kg. and make a number of changes to the list of specified foods and the limits for lead which apply to them (Regulation 4 and Schedule 1);
- (c) amend the special provision for compound foods in which lead is present in a proportion exceeding the general limit and one of the ingredients is a specified food for which a higher limit is prescribed (Regulation 7).

In the case of the foods specified in Part II of Schedule 1 reduced limits will apply after a transitional period of two years.

The Regulations contain consequential amendments. They also revoke the Food Standards (Edible Gelatine) Order 1951.

The Regulations do not apply to food intended for exportation outside the United Kingdom.

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