

1979 No. 1641 (S. 139)**FOOD AND DRUGS****COMPOSITION****The Lead in Food (Scotland) Regulations 1979***Made - - - - 5th December 1979**Laid before Parliament 19th December 1979**Coming into Operation 12th April 1980*

In exercise of the powers conferred on me by sections 4, 26(3), 56 and 60(3) of the Food and Drugs (Scotland) Act 1956(a) and of all other powers enabling me in that behalf, and after consultation with such organisations as appear to me to be representative of interests substantially affected by these regulations I hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the Lead in Food (Scotland) 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 (Scotland) Act 1956;

“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;

“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 (Scotland) Regulations 1964(b);

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

“statutory maximum” in relation to a fine on summary conviction, means the prescribed sum within the meaning of section 289 B(6) of the Criminal Procedure (Scotland) Act 1975(c) (at the making of these regulations £1,000);

“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.

(a) 1956 c. 30.

(b) S.I. 1964/767; the relevant amending instrument is S.I. 1977/1026.

(c) 1975 c. 21; amended by Schedule 11 to the Criminal Law Act 1977 (c. 45).

(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; or
- (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, with the qualification 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 part of Schedule 1.

(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, deliver, or import into Scotland 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, deliver, or import into Scotland, 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

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 under these regulations.

(2) Any person who is guilty of an offence under these regulations shall be liable—

- (a) on summary conviction to—
a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months, or both; or
- (b) on conviction on indictment to—
a fine or to imprisonment for a term not exceeding one year, or both.

Enforcement

7. Each regional and islands council shall enforce and execute the provisions of these regulations within their area, but nothing in these regulations shall entitle a regional council to enforce or execute the provisions of section 9 of the Act.

Defences

8. 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

9.—(1) Sections 41(2) and (5) (proceedings), 42(1), (2) and (3) (evidence of certificates of analysis), 44 (power of a court to require analysis by the Government Chemist), 46(2) (conditions under which a warranty may be pleaded as a defence) and 47 (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 under the Act included references to proceedings, or a prosecution as the case may be, taken for an offence against these regulations and in addition as if—

- (a) in the case of section 44(1) of the Act, the reference therein to section 41(5) of the Act included a reference to said section 41(5) as applied by these regulations; and
- (b) in the case of section 47(1) and (2) of the Act, the references therein to an offence against the Act included references to an offence against these regulations.

(2) Section 41(4) of the Act shall apply for the purposes of these regulations as if the reference therein to section 47 of the Act included a reference to said section 47 as applied by these regulations.

Revocations

10. 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.

George Younger,
One of Her Majesty's Principal
Secretaries of State.

New St. Andrew's House,
Edinburgh.
5th December 1979.

SCHEDULE 1

Regulations 2(1) and 4(1)

| <i>Description of food</i> | <i>Proportions of lead (expressed in milligrams per kilogram)</i> |
|--|---|
| PART 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 |
| 27. Corned beef | 5.0 |

| <i>Description of food</i> | <i>Proportions of lead (expressed in milligrams per kilogram)</i> |
|--|---|
| 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 (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 | The limit specified in the European Pharmacopoeia or the British Pharmacopoeia or the British Pharmaceutical Codex, as the case may be. |

| | From 12 April 1980 to 12 April 1982 inclusive | On and after 13 April 1982 |
|---|---|-------------------------------|
| PART II | | |
| 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 10

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) (Scotland) (Amendment) Regulations 1956 | S.I. 1956/1355 | The whole Regulations |
| The Lead in Food (Scotland) Regulations 1961 ... | S.I. 1961/1942 | The whole Regulations |
| The Lead in Food (Scotland) Amendment Regulations 1972 | S.I. 1972/1906 | The whole Regulations |
| The Lead in Food (Scotland) Amendment Regulations 1973 | S.I. 1973/1040 | The whole Regulations |
| The Colouring Matter in Food (Scotland) Regulations 1973 | S.I. 1973/1310 | Regulation 14 |
| The Emulsifiers and Stabilisers in Food (Scotland) Regulations 1975 | S.I. 1975/1597 | Regulation 13 |
| The Fruit Juices and Fruit Nectars (Scotland) Regulations 1977 | S.I. 1977/1026 | Regulation 17 |

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations come into operation on 12th April 1980. They re-enact with amendments the Lead in Food (Scotland) 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 8).

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 export outside the United Kingdom.

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