

1990 No. 1728

FOOD

COMPOSITION

The Tryptophan in Food Regulations 1990

<i>Made - - - -</i>	<i>21st August 1990</i>
<i>Laid before Parliament</i>	<i>22nd August 1990</i>
<i>Coming into force</i>	<i>12th September 1990</i>

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Wales and the Secretary of State for Health in exercise of the powers conferred upon them by sections 4(1)(a) and (c), 74(3) and 118 of the Food Act 1984(a) or, as the case may be, those conferred by those provisions and now exercisable by them(b), it appearing to them to be necessary or expedient in the interests of public health to make the following Regulations, and after consulting such organisations as appeared to them to be representative of interests substantially affected by the Regulations in accordance with section 118(6) of that Act, hereby make the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Tryptophan in Food Regulations 1990 and shall come into force on 12th September 1990.

(2) In these Regulations unless the context otherwise requires—

“tryptophan” means dextrorotatory tryptophan, laevorotatory tryptophan, or racemic tryptophan, or any salt or peptide prepared from any of those forms,

and references to adding tryptophan to food —

(a) do not include references to adding food which contains only tryptophan occurring naturally in it to any other such food or to food which contains no tryptophan;

(b) but otherwise include references to adding food to which tryptophan has been added to any other food.

Prohibition on sale, etc of food containing tryptophan

2.—(1) Subject to paragraph (4) of this regulation, the addition of tryptophan to food intended for sale for human consumption is prohibited.

(2) Subject to paragraph (4) of this regulation, the sale or offer for sale of food containing tryptophan is prohibited.

(3) The exposure for sale of food containing tryptophan is prohibited.

(a) 1984 c.30. Section 132 contains a definition of the Ministers relevant to the powers being exercised. (b) In the case of the Secretary of State for Health, by virtue of the Transfer of Functions (Health and Social Security) Order 1988 (S.I. 1988/1843).

(4) Food containing tryptophan may be sold or offered for sale by a pharmacist or in the course of the activities of a hospital to a person in respect of whom there is an appropriate medical certificate or to someone acting on that person's behalf, and

(a) any person may add tryptophan to food intended for sale in those circumstances for human consumption; and

(b) any person may sell, or offer for sale, food containing tryptophan for the purposes of its being sold in those circumstances.

(5) Subject to paragraph (6) of this regulation, a person who contravenes or fails to comply with paragraph (1), (2) or (3) of this regulation commits an offence and shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

(6) A pharmacist or a person acting in the course of the activities of a hospital who contravenes or fails to comply with paragraph (2) of this regulation by reason only that a document purporting to be the appropriate medical certificate is not genuine does not commit an offence if, having exercised all due diligence, he has reasonable cause to believe that the document was an appropriate medical certificate.

(7) In this regulation –

“appropriate medical certificate” means a certificate in writing given by a registered medical practitioner that a person requires food to which tryptophan has been added to treat a condition from which a registered medical practitioner has diagnosed him to be suffering;

“food containing tryptophan” means food intended for human consumption which does not comply with paragraph (1) of this regulation in that tryptophan has been added to it otherwise than in accordance with paragraph (4)(a) of this regulation;

“hospital” includes a clinic, nursing home, or similar institution; and

“pharmacist” means a person lawfully conducting a retail pharmacy business within the meaning of section 69 of the Medicines Act 1968(a).

Certificate of public analyst

3.—(1) Where any food is certified by a public analyst as having had tryptophan added to it the food may be treated for the purposes of section 9 of the Food Act 1984 (under which food may be seized) as being unfit for human consumption.

(2) In its application for the purposes of these Regulations, section 9(3) of the Food Act 1984 shall have effect as if after the words “he shall” there were inserted the words “if he is satisfied that it is intended for sale in contravention of regulation 2(2) of the Tryptophan in Food Regulations 1990”.

Application of various provisions of the Food Act 1984

4.—(1) Subject to paragraph (2) of this regulation, the following provisions of the Food Act 1984 shall apply for the purposes of these Regulations as if references therein to proceedings or a prosecution under, or proceedings taken or brought under, that Act included references to proceedings or a prosecution under, or proceedings taken or brought under, these Regulations –

(a) section 95(5) and (6) (which relates to prosecutions);

(b) section 97(1), (2) and (3) (which relates to evidence of analysis);

(c) section 99 (which relates to the power of a court to require analysis by the Government Chemist);

(d) section 100 (which relates to a contravention due to some person other than the person charged);

(e) section 102(2) (which relates to the conditions under which a warranty may be pleaded as a defence);

(f) section 103 (which relates to offences in relation to warranties and certificates of analysis).

(a) 1968 c.67.

(2) In its application for the purposes of these Regulations section 99 of the Food Act 1984 shall have effect as if the reference therein to section 95(6) of that Act were a reference to that subsection as applied by paragraph (1) of this regulation.

Authorities to enforce and execute Regulations

5. It shall be the duty of every local authority and of every food and drugs authority to enforce and execute the provisions of these Regulations within their area.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on.



21st August 1990

Trumpington
Minister of State,
Ministry of Agriculture, Fisheries and Food

Signed by authority of the Secretary of State for Health

21st August 1990

Stephen Dorrell
Parliamentary Under-Secretary of State,
Department of Health

21st August 1990

David Hunt
Secretary of State for Wales

EXPLANATORY NOTE

(This note does not form part of the Regulations)

These Regulations prohibit the addition of tryptophan (an amino acid) to food intended for human consumption, and its consequent sale or supply (regulation 2(1) and (2)), subject to an exception for those who require the food on medical grounds (regulation 2(4)). These Regulations also prohibit the exposure for sale of food intended for human consumption containing added tryptophan (regulation 2(3)). Contravention of or failure to comply with these prohibitions is made an offence (regulation 2(5) and (6)).

The Regulations also make provision for the application of specified procedural provisions of the Food Act 1984 to these Regulations (regulation 4) and for local authorities and food and drugs authorities to enforce the Regulations (regulation 5).

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