

2001 No. 3775

FOOD, ENGLAND

**The Miscellaneous Food Additives (Amendment)
(England) (No. 2) Regulations 2001**

Made - - - - - 26th November 2001

Laid before Parliament 27th November 2001

Coming into force - - 15th January 2002

The Secretary of State, in exercise of the powers conferred on 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(a), and of all other powers enabling him in that behalf, having had regard, in accordance with section 48(4A) of that Act, to relevant advice given by the Food Standards Agency, and after consultation in accordance with section 48(4) and (4B) of that Act, makes the following Regulations:

Title, commencement and extent

1. These Regulations may be cited as the Miscellaneous Food Additives (Amendment) (England) (No. 2) Regulations 2001, shall come into force on 15th January 2002 and shall extend to England only.

Amendment of the Miscellaneous Food Additives Regulations 1995

2. The Miscellaneous Food Additives Regulations 1995(b) shall be amended, insofar as they extend to England, in accordance with Regulations 3 to 8.

3. In paragraph (1) of regulation 2 (interpretation)—

- (a) in the definition of “Directive 95/2/EC”, for the words “and European Parliament and Council Directive 98/72/EC” there shall be substituted the words “, European Parliament and Council Directive 98/72/EC(c) and European Parliament and Council Directive 2001/5/EC(d)”;
- (b) in the definition of “Directive 96/77/EC”, for the words “and Commission Directive 2000/63/EC” there shall be substituted the words “, Commission Directive 2000/63/EC(e) and Commission Directive 2001/30/EC(f)”;

(a) 1990 c. 16. Functions formerly exercisable by “the Ministers” 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). Functions formerly exercisable by “the Ministers”, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672 as read with section 40(3) of the 1999 Act. 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. Section 17(1) was amended by paragraph 12(a), and section 48 by paragraph 21, of Schedule 5 to the 1999 Act. Regulation 13(4) of S.I. 2000/656 expressly authorises the Secretary of State to amend existing Regulations made by the Minister of Agriculture, Fisheries and Food (whether with others or not) under the Food Safety Act 1990.

(b) S.I. 1995/3187, amended by S.I. 1997/1413, S.I. 1999/1136, S.I. 2000/3323 and S.I. 2001/60.

(c) OJ No. L295, 4.11.98, p. 18.

(d) OJ No. L55, 24.2.2001, p. 59.

(e) OJ No. L277, 30.10.2000, p. 1.

(f) OJ No. L146, 31.5.2001, p. 1.

- (c) in the definition of “purity criteria”, for paragraph (b) there shall be substituted the following paragraph—
- “(b) in the case of magnesium carbonates (E504), the purity criteria referred to in Schedule 5;”.
4. In regulation 11 (transitional provision and exemptions) there shall be inserted after paragraph (1C) the following paragraph—
- “(1D) In any proceedings for an offence under these Regulations in respect of any food additive or food, it shall be a defence to prove that—
- (a) the food additive or food concerned was put on the market or labelled before 15th January 2002; and
- (b) the matter constituting the offence would not have constituted an offence under these Regulations if the amendments made to them by regulations 3 (b) and (c) and 8 of the Miscellaneous Food Additives (Amendment) (England) (No. 2) Regulations 2001 had not been in force when that matter occurred.”.
5. In Schedule 1 (miscellaneous additives generally permitted for use in foods not referred to in Schedule 6, 7 or 8)—
- (a) in note (2), for the expression “and E948” there shall be substituted the expression “, E948 and E949”; and
- (b) in the Table—
- (i) in the first column, immediately after the reference to “E948”, there shall be inserted a reference to “E949”, and
- (ii) in the second column, immediately after the reference to “Oxygen”, there shall be inserted a reference to “Hydrogen”.
6. In the Table to Schedule 3 (other permitted miscellaneous additives)—
- (a) in the entry for Glycerol esters of wood rosins (E445)—
- (i) in the third column, after the reference to “non-alcoholic flavoured cloudy drinks”, there shall be added the following references—
- “Cloudy spirit drinks in accordance with Council Regulation (EEC) No. 1576/89 laying down general rules on the definition, designation and presentation of spirit drinks(a)
- Cloudy spirit drinks containing less than 15% alcohol by volume”, and
- (ii) in the fourth column, opposite to each of the references added by this paragraph, there shall be added references to “100mg/l”;
- (b) immediately after the entry for Disodium 5'-ribonucleotides (E635) there shall be inserted the following entry—
- “E 650 Zinc acetate Chewing gum 1000 mg/kg”; and
- (c) immediately after the entry for Carbamide (E927b) there shall be inserted the following entries—
- | | | | |
|--------|------------|--|-------------------------|
| “E943a | Butane | } Vegetable oil pan spray (for professional use only) Water-based emulsion spray | <i>quantum satis.</i> ” |
| E943b | Iso-butane | | |
| E944 | Propane | | |
7. In Schedule 4 (permitted carriers and carrier solvents), in the entry for Propan—1, 2–diol (propylene glycol) there shall be inserted in the first column the reference “E1520”.
8. In Schedule 5 (purity criteria)—
- (a) for the text at the start commencing with the words “Each miscellaneous additive for which specific purity criteria are specified” and ending with the expression “E957 Thaumatin.”, there shall be substituted the following text—
- “The miscellaneous additives for which specific purity criteria are referred to below shall not contain—
- (a) more than 2 milligrams per kilogram of arsenic;
- (b) more than 10 milligrams per kilogram of lead;

(a) OJ No. L160, 12.6.89, p. 1.

- (c) more than 50 milligrams per kilogram of copper;
 - (d) more than 25 milligrams per kilogram of zinc; or
 - (e) more than 50 milligrams per kilogram of any combination of copper and zinc.”; and
- (b) the remainder of the Schedule shall be omitted save for the provisions relating to magnesium carbonates (E504).

Consequential amendments

9.—(1) Paragraph (2) of regulation 6 (consequential amendments) of the Miscellaneous Food Additives (Amendment) (England) Regulations 2001(a) shall be omitted.

(2) In the Regulations listed below, in so far as they extend to England, references to the Miscellaneous Food Additives Regulations 1995 shall be construed as references to those Regulations as amended by the Miscellaneous Food Additives (Amendment) Regulations 1997(b), the Miscellaneous Food Additives (Amendment) Regulations 1999(c), the Coffee Extracts and Chicory Extracts (England) Regulations 2000(d), the Miscellaneous Food Additives (Amendment) (England) Regulations 2001 and these Regulations:

- the Mineral Hydrocarbons in Food Regulations 1966(e);
- the Specified Sugar Products Regulations 1976(f);
- the Cocoa and Chocolate Products Regulations 1976(g);
- the Fruit Juices and Fruit Nectars Regulations 1977(h);
- the Condensed Milk and Dried Milk Regulations 1977(i);
- the Jam and Similar Products Regulations 1981(j);
- the Meat Products and Spreadable Fish Products Regulations 1984(k);
- the Food Additives Labelling Regulations 1992(l);
- the Food Labelling Regulations 1996(m).

Signed by authority of the Secretary of State for Health

26th November 2001

Hazel Blears
Parliamentary Under Secretary of State,
Department of Health

(a) S.I. 2001/60.
(b) S.I. 1997/1413
(c) S.I. 1999/1136.
(d) S.I. 2000/3323.
(e) S.I. 1966/1073; the relevant amending instrument is S.I. 1995/3187.
(f) S.I. 1976/509; the relevant amending instrument is S.I. 1995/3187.
(g) S.I. 1976/541; the relevant amending instrument is S.I. 1995/3187.
(h) S.I. 1977/927; the relevant amending instrument is S.I. 1995/3187.
(i) S.I. 1977/928; the relevant amending instrument is S.I. 1995/3187.
(j) S.I. 1981/1063; the relevant amending instrument is S.I. 1995/3187.
(k) S.I. 1984/1566; the relevant amending instrument is S.I. 1995/3187.
(l) S.I. 1992/1978; the relevant amending instrument is S.I. 1995/3187.
(m) S.I. 1996/1499; to which there are amendments not relevant to these Regulations.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to England only, amend the Miscellaneous Food Additives Regulations 1995, as already amended (“the principal Regulations”), which extend to Great Britain.

The Regulations implement—

- (a) Commission Directive 2001/30/EC amending Directive 96/77/EC laying down specific purity criteria on food additives other than colours and sweeteners (OJ No. L146, 31.5.2001, p. 1); and
- (b) Directive 2001/5/EC of the European Parliament and of the Council amending Directive 95/2 on food additives other than colours and sweeteners (OJ No. L55, 24.2.2001).

Subject to a transitional provision, the Regulations specify new purity criteria in relation to the additives specified in the Annex to Commission Directive 2001/30/EC (*regulations 3 (b) and (c), 4 and 8*) and make related amendments to certain Regulations as regards references in those Regulations to the principal Regulations (*regulation 9*).

The Regulations also—

- (a) add one new additive to the list, in Schedule 1 to the principal Regulations, of miscellaneous food additives generally permitted for use in foods not referred to in Schedule 6, 7, or 8 to those Regulations (*regulation 5*);
- (b) modify the list, in Schedule 3 to the principal Regulations, of miscellaneous food additives which may be included in certain foods, by adding four new additives to that list and specifying additional foods in which Glycerol esters of wood rosins may be contained (*regulation 6*); and
- (c) modify the list of permitted carriers and carrier solvents in Schedule 4 to the principal Regulations by incorporating an E Number for Propan—1, 2—diol (propylene glycol) (*regulation 7*).

No regulatory impact assessment has been prepared in respect of these Regulations.

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