FOOD AND DRUGS

COMPOSITION AND LABELLING

1958 No. 1454

The Antioxidant in Food Regulations, 1958

Made - - - -	1*st September*, 1958
Laid before Parliament	5*th September*, 1958
Coming into Operation	6*th September*, 1958

The Minister of Agriculture, Fisheries and Food and the Minister of Health acting jointly, in exercise of the powers conferred on them by sections four, seven and one hundred and twenty-three of the Food and Drugs Act, 1955(a), and of all other powers them enabling 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 and reference to the Food Hygiene Advisory Council under section eighty-two of the said Act (insofar as the regulations relate to the labelling, marking, advertising or description of food):—

1. These regulations may be cited as the Antioxidant in Food Regulations, 1958; and shall come into operation on the 6th day of September, 1958.

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

"antioxidant" means any substance which delays, retards or prevents the development in food of rancidity or other flavour deterioration due to oxidation but does not include lecithin, ascorbic acid, tocopherols, citric acid, tartaric acid, phosphoric acid or any permitted preservative;

"butter for manufacturing purposes" means butter sold, or intended for sale, otherwise than by retail for use as an ingredient in the manufacture or production of any other article of food;

"catering business" includes the business or undertaking of an inn, public-house, hotel, restaurant, café, tea-shop, buffet, coffee-stall or any place of refreshment open to the public, or of a club, boarding house, apartment house, refreshment contractor, school feeding centre, staff dining room or canteen, and the word "caterer" shall be construed accordingly;

"dairy product" means butter (other than butter for manufacturing purposes), milk, cream, condensed (including evaporated) milk and dried milk;

"food" includes drink, chewing gum and other products of a like nature and use, and articles and substances used as ingredients in the preparation of food or drink or of such products, but does not include—

(*a*) water, live animals or birds, or

(*b*) articles or substances used only as drugs;

and except as respects regulation 5 hereof the expression means food intended for sale for human consumption;

(a) 4 & 5 Eliz. 2. c. 16.

"food and drugs authority" has the meaning assigned to it in section 83 of the Food and Drugs Act, 1955;

"margarine" means the food usually known as margarine being an emulsion of edible oils and fats with water or skimmed milk or other substances, with or without the addition of permitted colouring matter, which is capable of being used for the same purposes as butter;

"permitted colouring matter" means any colouring matter permitted by the Colouring Matter in Food Regulations, 1957(a);

"permitted preservative" means any preservative permitted by the Public Health (Preservatives etc. in Food) Regulations, 1925(b), as amended(c);

"prepacked" means packed or made up in advance ready for retail sale in a wrapper or container;

"sale by retail" means any sale to a person buying otherwise than for the purpose of resale and includes a sale by a caterer in the course of his catering business but does not include a sale to a manufacturer for the purposes of his manufacturing business or a sale to a caterer for the purposes of his catering business;

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

"specified food" means any food of a description specified in column 1 of the First Schedule to these regulations.

(2) The Interpretation Act, 1889(d) shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(3) The Public Health (Preservatives etc. in Food) Regulations, 1925, as amended, shall not apply in relation to any antioxidant or any food containing any antioxidant.

3. The following provisions of these regulations shall not apply in relation to—

(*a*) any antioxidant or food containing added antioxidant intended for exportation to a destination outside the United Kingdom;

(*b*) any preparation described in a monograph or formula in the British Pharmacopoeia, the British Pharmaceutical Codex or the British National Formulary and sold as a pharmaceutical preparation; or

(*c*) any substance recommended as a medicine, as defined in section 17 of the Pharmacy and Medicines Act, 1941(e).

4.—(1) Save as hereinafter provided, no food shall contain any added antioxidant:

Provided that:—

(*a*) any specified food may contain antioxidant of a description and in the proportions specified in relation thereto in the First Schedule to these regulations;

(*b*) any article of food which contains, as an added ingredient, any specified food may contain antioxidant of a description and in the proportions appropriate to the quantity of such specified food in accordance with the foregoing sub-paragraph;

(*c*) any article of food which contains milk fat by reason of the addition, as an added ingredient, of any dairy product may contain antioxidant of the description and in the proportions appropriate in accordance

(a) S.I. 1957/1066 (1957 I, p. 996). (b) S.R. & O. 1925/775 (Rev. VIII, p. 95: 1925 p. 1375). (c) See Rev. VIII, p. 95 and also S.I. 1953/1820, 1957/1066, 1958/1319 (1953 I, p. 818; 1957 I, p. 996; 1958 I, p. 1175). (d) 52 & 53 Vict. c. 63. (e) 4 & 5 Geo. 6. c. 42.

with the First Schedule hereto in relation to an amount of anhydrous fat equal to that milk fat.

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

5.—(1) No person shall sell or advertise for sale any antioxidant with a view to its use in the preparation of food intended for human consumption other than an antioxidant specified in column 2 of the First Schedule to these regulations.

(2) In any proceedings for an offence against paragraph (1) of this regulation in relation to the publication of an advertisement, it shall be a defence for the defendant to prove that, being a person whose business it is to publish, or arrange for the publication of, advertisements, he received the advertisement for publication in the ordinary course of business.

(3) No person shall sell any antioxidant with a view to its use in the preparation of food intended for human consumption except in a container bearing a label in accordance with the provisions of the Second Schedule to these regulations.

6. No person shall sell, consign or deliver, if it contains added antioxidant, any specified food or any mixture thereof or any margarine except in a container bearing a label in accordance with the provisions of the Third Schedule to these regulations:

Provided that this regulation shall not apply—

(*a*) when the seller gives to the buyer on or before sale notice in writing accurately stating the description and quantity of antioxidant added as aforesaid;

(*b*) to any sale either by retail or prepacked of any such specified food, mixture thereof or margarine.

7. Where any food is certified by a public analyst as being food which it is an offence against regulation 4 hereof to sell, consign or deliver, or import into England or Wales, that food may be treated for the purpose of section 9 of the Food and Drugs Act, 1955, (under which food may be seized and destroyed on the order of a justice of the peace) as being unfit for human consumption:

Provided that this regulation shall not apply in relation to any food which contains no antioxidant other than one or more of the antioxidants specified in the First Schedule to these regulations.

8.—(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 their area:

Provided that each port health authority shall enforce and execute in their district the provisions of regulation 4 hereof insofar as they relate to importation.

9. The requirements of subsection (3) of section 109 of the Food and Drugs Act, 1955, (which requires notice to be given to the Minister of Agriculture, Fisheries and Food of intention to institute proceedings for an offence against any provisions of these regulations relating to labelling,

marking or advertising) shall not apply as respects any proceedings instituted by a council for an offence against any such provisions of these regulations.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed this first day of September, nineteen hundred and fifty-eight.

(L.S.) *John Hare,*
Minister of Agriculture, Fisheries and Food.

Given under the Official Seal of the Minister of Health this first day of September, nineteen hundred and fifty-eight.

(L.S.) *Derek Walker-Smith,*
Minister of Health.

THE FIRST SCHEDULE

ARTICLES OF FOOD WHICH MAY CONTAIN ADDED ANTIOXIDANT AND DESCRIPTION AND PROPORTION OF ANTIOXIDANT WHICH MAY BE ADDED IN EACH CASE

1. Subject to the provisions of paragraph 2 hereof, the articles of food specified in column 1 of the following table may contain antioxidant of a description specified in relation thereto in column 2 in proportions not exceeding the number of parts (estimated by weight) per million specified in relation thereto in column 3:—

Column 1	Column 2	Column 3
Specified Food	Description of Antioxidant	Parts per million (estimated by weight)
Anhydrous edible oils and fats, whether hardened or not and vitamin oils and concentrates.	*n*-Propyl gallate (*n*-propyl 3 : 4 : 5–trihydroxybenzoate) or *n*-octyl gallate (*n*-octyl 3 : 4: 5–trihydroxybenzoate) or *n*-dodecyl gallate (*n*-dodecyl 3 : 4 : 5–trihydroxybenzoate) or any mixture thereof	100
	Butylated hydroxyanisole (a mixture of 2–*tert*butyl–4–hydroxyanisole and 3–*tert*-butyl–4–hydroxyanisole) (B.H.A.)	200
	or	
	Butylated hydroxytoluene (2 : 6 di-*tert*butyl-*p*-cresol) (B.H.T.)	200
	or	
	any mixture of B.H.A. and B.H.T.	200

Column 1	Column 2	Column 3
Specified Food	Description of Antioxidant	Parts per million (estimated by weight)
Butter for manufacturing purposes.	*n*-Propyl gallate (*n*-propyl 3 : 4 : 5–trihydroxybenzoate) or *n*-octyl gallate (*n*-octyl 3 : 4 : 5–trihydroxybenzoate) or *n*-dodecyl gallate (*n*-dodecyl 3 : 4 : 5–trihydroxybenzoate) or any mixture thereof	80
	Butylated hydroxyanisole (a mixture of 2–*tert*butyl–4–hydroxyanisole and 3–*tert*-butyl–4–hydroxyanisole) (B.H.A.)	160
	or	
	Butylated hydroxytoluene (2 : 6 di-*tert*butyl-*p*-cresol) (B.H.T.)	160
	or	
	any mixture of B.H.A. and B.H.T.	160
Essential oils, including their flavouring constituents — isolates and concentrates.	*n*-Propyl gallate (*n*-propyl 3 : 4 : 5–trihydroxybenzoate) or *n*-octyl gallate (*n*-octyl 3 : 4 : 5–trihydroxybenzoate) or *n*-dodecyl gallate (*n*-dodecyl 3 : 4 : 5–trihydroxybenzoate) or any mixture thereof	1,000
	Butylated hydroxyanisole (a mixture of 2-*tert*butyl–4–hydroxyanisole and 3–*tert*-butyl–4–hydroxyanisole) (B.H.A.)	1,000
	Butylated hydroxytoluene (2 : 6 di-*tert*butyl-*p*-cresol) (B.H.T.)	1,000
	or	
	any mixture of B.H.A. and B.H.T.	1,000

2. Butylated hydroxyanisole or butylated hydroxytoluene or mixtures thereof within the limits specified may be used in conjunction with *n*-propyl gallate or *n*-octyl gallate or *n*-dodecyl gallate or mixtures thereof within the limits specified, provided that the total amount of antioxidant shall not exceed, in the case of anhydrous oils and fats and vitamin oils and concentrates 300 parts per million, in the case of butter for manufacturing purposes 240 parts per million and in the case of essential oils 1,000 parts per million.

THE SECOND SCHEDULE

Labelling of Antioxidant

1. Each container to which regulation 5 (3) relates shall bear a label on which is printed a true statement in the form of the following declaration:—

THIS ANTIOXIDANT CONTAINS

(X) PER CENT. OF (Y)

(X) PER CENT. OF (Y)

(Z)

2. Such declaration shall be completed—

(*a*) by inserting at (X) in words and figures, excluding fractions, (for example, "sixty (60)") the percentage by weight, correct to the nearest whole digit,

of each and every antioxidant present in the substance in the container and at (Y) a correct description of the antioxidant to which such percentage relates;

(*b*) by inserting at (Z) a correct description of any other substance or substances present in the preparation in the container.

3. Such declaration shall in each case be distinctly and legibly printed in dark block type not less than one-eighth of an inch in height upon a light coloured ground within a surrounding line and no other matter shall be printed within such surrounding line.

4. Such label shall be securely affixed to or be part of the wrapper or container and in any case shall be so placed as to be clearly visible and shall either be part of any main label or a separate label placed in close proximity thereto.

THE THIRD SCHEDULE

Labelling of Food containing Added Antioxidant

1. Each container to which regulation 6 relates shall bear a label on which is distinctly and legibly printed in relation to each and every added antioxidant—

(*a*) an accurate description of such antioxidant; and

(*b*) the maximum amount of such antioxidant, expressed as parts per million (estimated by weight).

2. Such label shall be of adequate size and securely affixed to or part of the wrapper or container and in any case shall be so placed as to be clearly visible and shall either be part of any main label or a separate label in close proximity thereto.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These regulations, which apply to England and Wales only—

(*a*) prohibit the sale or importation of food containing antioxidant other than as specified in the First Schedule (Regulation 4 (1) (*a*) and (2) and the First Schedule);

(*b*) provide that where food contains as an added ingredient any food specified in the First Schedule that food may contain antioxidant of a description specified in that Schedule and in proportion to the quantity permitted for that ingredient. (Regulation 4 (1) (*b*));

(*c*) provide that where food contains milk fat by reason of the addition, as an added ingredient, of any dairy product, that food may as respects its milk-fat content contain antioxidant of the description and in the proportions permitted in relation to an amount of anhydrous fat equal to that milk fat. (Regulation 4 (1) (*c*));

(*d*) prohibit the sale or advertising for sale, with a view to its use in the preparation of food, of any antioxidant which is not permitted by the regulations and impose requirements as to the labelling of antioxidants and of specified foods and margarine containing antioxidant. (Regulations 5 and 6);

(*e*) provide that where food is certified by a public analyst as containing antioxidant not permitted by the regulations that food may be treated for the purpose of section 9 of the Food and Drugs Act, 1955, as being unfit for human consumption. (Regulation 7);

(*f*) do not apply to food or antioxidant intended for export.