STATUTORY INSTRUMENTS

1967 No. 105 (S.9)

FOOD AND DRUGS

COMPOSITION AND LABELLING

The Antioxidant in Food (Scotland) Regulations 1967

Made - - -	*26th January* 1967
Laid before Parliament	*10th February* 1967
Coming into Operation	*11th February* 1967

In exercise of the powers conferred upon me by sections 4, 7 and 56 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 and after reference to the Scottish Food Hygiene Council under section 25 of the said Act (in so far as the regulations relate to the labelling, marking or description of food), I hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the Antioxidant in Food (Scotland) Regulations 1967 and shall come into operation on 11th February 1967.

Interpretation

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

" the Act " means the Food and Drugs (Scotland) Act 1956;

" 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, or its salts or esters, tocopherols, citric acid, tartaric acid, phosphoric acid or any permitted preservative, permitted emulsifier, permitted stabiliser, or permitted colouring matter;

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

" butylated hydroxyanisole " means the substance conforming to the description, specifications and requirements for butylated hydroxyanisole contained in the Addendum 1964 to the British Pharmacopoeia 1963;

" butylated hydroxytoluene " means the substance conforming to the description, specifications and requirements for butylated hydroxytoluene contained in the Addendum 1964 to the British Pharmacopoeia 1963;

" container " includes any form of packaging of food for sale as a single item, whether by way of wholly or partly enclosing the food or by way of attaching the food to some other article, and in particular includes a wrapper or confining band;

(a) 1956 c. 30.

" dairy product " means any butter (other than butter for manufacturing purposes), milk, cream, condensed milk, evaporated milk, dried milk or cheese;

" dodecyl gallate " means the substance conforming to the description, specifications and requirements for dodecyl gallate contained in the Addendum 1964 to the British Pharmacopoeia 1963;

" ethoxyquin " means 1:2 dihydro-6-ethoxy-2:2:4-trimethylquinoline conforming to the specification relating thereto in schedule 1 to these regulations;

" food " means food intended for sale for human consumption and 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;

" octyl gallate " means the substance conforming to the description, specifications and requirements for octyl gallate contained in the Addendum 1964 to the British Pharmacopoeia 1963;

" partial glycerol esters " has the meaning assigned to it in the Emulsifiers and Stabilisers in Food (Scotland) Regulations 1962(**a**);

" permitted colouring matter " means any colouring matter inasmuch as its use is permitted by the Colouring Matter in Food (Scotland) Regulations 1966(**b**);

" permitted emulsifier " means any emulsifier inasmuch as its use is permitted by the Emulsifiers and Stabilisers in Food (Scotland) Regulations 1962;

" permitted preservative " means any preservative inasmuch as its use is permitted by the Preservatives in Food (Scotland) Regulations 1962(**c**);

" permitted stabiliser " means any stabiliser inasmuch as its use is permitted by the Emulsifiers and Stabilisers in Food (Scotland) Regulations 1962;

" propyl gallate " means the substance conforming to the description, specifications and requirements for propyl gallate contained in the British Pharmacopoeia 1963;

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

" specified food " means any food of a description specified in column 1 of table 1 or of table 2 of schedule 2 to these regulations;

and other expressions have the same meaning as in the Act.

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

(3) All amounts mentioned in these regulations are amounts calculated by weight and, unless a contrary intention is expressed, are calculated on the weight of the product as sold.

(4) Any reference in these regulations to a label borne on a container shall be construed as including a reference to any legible marking on the container however effected.

(5) 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.

(**a**) S.I. 1962/779 (1962 I, p. 766).
(**b**) S.I. 1966/1384 (1966 III, p. 3715).
(**c**) S.I. 1962/1926 (1962 II, p. 2371).
(**d**) 1889 c. 63.

(6) Any reference in these regulations to any other regulations shall be construed as a reference to such regulations as amended by any subsequent regulations.

Enforcement

3.—(1) The local authority of any area shall, subject to the provisions of the next following paragraph, enforce and execute the provisions of these regulations within their area.

(2) Where any part of the area of a local authority lies within the area of a port local authority such of the functions of the local authority under these regulations in relation to any food imported into that part shall, in so far as these functions fall to be exercised by the port local authority by virtue of any order made under section 172 of the Public Health (Scotland) Act 1897(a), be exercised by that port local authority.

(3) In this regulation " local authority " means the council of a county or of a large burgh within the meaning of the Local Government (Scotland) Act 1947(b); and any small burgh within the meaning of that Act shall, for the purposes of these regulations, be included in the county in which it is situated; and " port local authority " includes a joint port local authority.

General exemptions and savings

4.—(1) The provisions of these regulations shall not apply to any antioxidant, or to food which has in it or on it any antioxidant, intended at the time of sale for exportation to any place outside the United Kingdom.

(2) Until the Antioxidant in Food (Scotland) Regulations 1958(c) are revoked in accordance with regulation 13 of these regulations, these regulations shall not have effect in relation to anything done in compliance with the provisions of the Antioxidant in Food (Scotland) Regulations 1958; and the provisions of such regulations shall not have effect (pending their revocation in accordance with regulation 13 of these regulations) in relation to anything done in compliance with the provisions of these regulations.

Sale of food containing antioxidants

5.—(1) Save as hereinafter provided, no food shall have in it or on it any added antioxidant:

Provided that—

(*a*) any specified food may have in it or on it the antioxidant specified in relation thereto in column 2 of table 1 or of table 2 of schedule 2 to these regulations and in the amounts specified in relation thereto in column 3 of table 1 or of table 2 of that schedule;

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

(*c*) any food, which contains milk fat by reason of the addition as an ingredient of any dairy product, may contain antioxidant of the description, and in the amount specified, in accordance with schedule 2 to these regulations, in relation to a quantity of anhydrous fat equal by weight to that milk fat.

(a) 1897 c. 38. (b) 1947 c. 43.
(c) S.I. 1958/1467 (1958 I, p. 1167).

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

Sale and advertisement for sale of antioxidants

6. No person shall sell, consign, deliver, import into Scotland or advertise for sale any antioxidant for use as an ingredient in the preparation of food unless such antioxidant is an antioxidant specified in column 2 of table 1 or of table 2 of schedule 2 to these regulations.

Labelling of antioxidants

7. No person shall sell, consign or deliver for use as an ingredient in the preparation of food any antioxidant except in a container bearing a label which complies with the requirements specified in schedule 3 to these regulations.

Food for babies and young children

8. No person shall—

(*a*) give with any food sold by him or display with any food offered or exposed by him for sale any label, whether attached to or printed on the container of that food or not, or

(*b*) publish, or be a party to the publication of, any advertisement for any food, or

(*c*) use on, or in connection with, the sale of food any description,

which bears or includes any words or description stating directly or by implication that the food is intended mainly for babies or young children, if the food to which the label, advertisement or description relates has in it or on it any added antioxidant.

Condemnation of food

9. Where any food is certified by a public analyst as being food which it is an offence against regulation 5 of these regulations to sell, consign, deliver or import into Scotland, that food may be treated for the purpose 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

10.—(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—

(i) a fine not exceeding £100 or to imprisonment for a term not exceeding 6 months, or to both such fine and imprisonment; and

(ii) in the case of a continuing offence, to a further fine not exceeding £10 for every day during which the offence is continued; or

(*b*) on conviction on indictment to—

(i) a fine not exceeding £500 or to imprisonment for a term not exceeding one year or to both such fine and imprisonment; and

(ii) in the case of a continuing offence, to a further fine not exceeding £50 for every day during which the offence is continued.

Defences

11.—(1) In any proceedings for an offence against these regulations in relation to the publication of an advertisement, it shall be a defence for the accused 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 and did not himself make or cause to be made any material alteration in the substance of that advertisement.

(2) In any proceedings against the manufacturer or importer of any antioxidant for use as an ingredient in the preparation of food, or of any food having added antioxidant in it or on it, for an offence against these regulations in relation to the publication of an advertisement, it shall rest on the accused to prove that he did not publish, and was not a party to the publication of, the advertisement.

Application of various sections of the Act

12.—(1) Sections 41(2) and (5) (which relates to proceedings), 42(1), (2) and (3) (which relates to evidence of certificates of analysis), 44 (which relates to the power of a court to require analysis by the Government Chemist), 46(2) (which relates to the conditions under which a warranty may be pleaded as a defence) and 47 (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 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.

Revocation

13.—(1) The Antioxidant in Food (Scotland) Regulations 1958 shall be revoked on 10th November 1967, and on that date the Food and Drugs (Legal Proceedings) (Scotland) Regulations 1962(a) shall be amended by deleting from the schedule thereto the item relating to the Antioxidant in Food (Scotland) Regulations 1958.

(2) Section 38 of the Interpretation Act 1889 shall apply as if these regulations were an Act of Parliament and as if the regulations revoked by these regulations were an Act of Parliament repealed by an Act of Parliament.

William Ross,
One of Her Majesty's
Principal Secretaries of State.

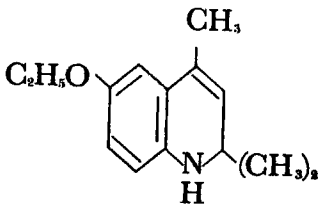
St. Andrew's House,
Edinburgh, 1.

26th January 1967.

(a) S.I. 1962/1668 (1962 II, p. 2029).

SCHEDULE 1

SPECIFICATION FOR ETHOXYQUIN

Empirical Formula	Structural Formula	Molecular Weight	Description	Purity	Boiling Point	Refractive Index	Solubility
$C_{14}H_{19}NO$		217·3	Light amber oil when freshly prepared. Tendency to polymerise on exposure to light and oxygen with darkening in colour.	Not less than 92 per cent. by weight of the monomer. Remainder consists of the dimer and higher polymers.	125°C at 1–2 mm. mercury.	1·569 to 1·572 at 25°C.	Insoluble in water. Soluble in organic solvents, and oils and fats.

Regulation 5

SCHEDULE 2

FOODS WHICH MAY HAVE IN THEM OR ON THEM ADDED ANTIOXIDANT AND THE KINDS AND AMOUNTS OF ANTIOXIDANT WHICH MAY BE ADDED IN EACH CASE

1. Subject to the provisions of paragraph 2 of this schedule, the articles of food specified in column 1 of the following table may have in them or on them the antioxidant specified in relation thereto in column 2 in amounts not exceeding the number of parts per million specified in relation thereto in column 3:—

TABLE 1

column 1	column 2	column 3
Specified Food	Description of Antioxidant	Parts per million
a. Anhydrous edible oils and fats, whether hardened or not and vitamin oils and concentrates other than preparations containing more than 100,000 I.U's Vitamin A per gram.	Propyl gallate or Octyl gallate or Dodecyl gallate or any mixture thereof	100
	or	
	Butylated hydroxyanisole (B.H.A.)	200
	or	
	Butylated hydroxytoluene (B.H.T.)	200
	or	
	Any mixture of B.H.A. and B.H.T.	200
b. Partial Glycerol Esters.	Propyl gallate or Octyl gallate or Dodecyl gallate or any mixture thereof	100
	or	
	Butylated hydroxyanisole (B.H.A.)	200
	or	
	Butylated hydroxytoluene (B.H.T.)	200
	or	
	Any mixture of B.H.A. and B.H.T.	200
c. Butter for manufacturing purposes.	Propyl gallate or Octyl gallate or Dodecyl gallate or any mixture thereof	80
	or	
	Butylated hydroxyanisole (B.H.A.)	160
	or	
	Butylated hydroxytoluene (B.H.T.)	160
	or	
	Any mixture of B.H.A. and B.H.T.	160
d. Essential oils and isolates from the concentrates of essential oils.	Propyl gallate or Octyl gallate or Dodecyl gallate or any mixture thereof	1,000
	or	
	Butylated hydroxyanisole (B.H.A.)	1,000
	or	
	Butylated hydroxytoluene (B.H.T.)	1,000
	or	
	Any mixture of B.H.A. and B.H.T.	1,000
e. Apples and Pears	Ethoxyquin	3

TABLE 2

column 1	column 2	column 3
Specified Food	Description of Antioxidant	Parts per million for each 1,000 I.U's Vitamin A per gram
Preparations containing more than 100,000 I.U's Vitamin A per gram	Butylated hydroxyanisole (B.H.A.)	10
	or	
	Butylated hydroxytoluene (B.H.T.)	10
	or	
	Any mixture of B.H.A. and B.H.T.	10

2. Butylated hydroxyanisole or butylated hydroxytoluene or mixtures thereof within the limits specified for them in table 1 may be used in conjunction with propyl gallate or octyl gallate or dodecyl gallate or mixtures thereof within the limits specified for them in table 1, provided that the total amount of antioxidant shall not exceed, in the case of specified foods in items *a* and *b* of table 1, 300 parts per million, in the case of specified foods in item *c* of the said table, 240 parts per million and in the case of specified foods in item *d* of the said table, 1,000 parts per million.

Regulation 7

SCHEDULE 3

LABELLING OF ANTIOXIDANTS WHEN SOLD AS SUCH

1. Each container to which regulation 7 of these regulations relates shall bear a label on which is printed a true statement in the form of the following declaration completed in accordance with paragraph 2 of this schedule:—

This antioxidant contains

(X)

(Y)

2. There shall be inserted at (X) in every such declaration a true statement of the percentage, or the number of parts per million, by weight in figures, excluding fractions, correct to the nearest whole digit, or in words and figures excluding fractions, correct to the nearest whole digit, of each and every antioxidant present in the preparation in the container and a correct description of each antioxidant to which such statement relates. There shall be inserted at (Y) a correct description of any other substance present in the preparation in the container and where more than one such substance is present such substances shall be declared in the order of the proportion in which they were present at the time of sale by the manufacturer, the substance present in the greatest proportion by weight being specified first.

3. Any declaration required by paragraph 1 of this schedule shall be printed distinctly and legibly in dark type upon a light-coloured ground or in light type upon a dark-coloured ground, the type being not less than one-eigth of an inch in height, within a surrounding line and no other matter shall be printed within

such surrounding line. The words and figures in such declaration shall be of uniform size and colour and the ground within the said surrounding line shall be of uniform colour, provided that the initial letter in any such word may be larger than the other letters in that word.

4. Any label required by paragraph 1 of this schedule 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 be either part of any main label or a separate label placed in close proximity thereto.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations, which apply to Scotland only, supersede the Antioxidant in Food (Scotland) Regulations 1958 and come into operation on 11th February 1967. The Antioxidant in Food (Scotland) Regulations 1958 continue in force, however, for a transitional period ending on 10th November 1967. During that period, the provisions of these regulations will not have effect in relation to the use, labelling, advertising or sale of any antioxidant, or of any food containing antioxidant, which is in compliance with those regulations, and *vice versa* (regulation 4(2)).

The regulations—

(*a*) prohibit the sale or importation of food having in it or on it antioxidant other than as specified in schedule 2 (regulation 5(1)(*a*) and schedule 2);

(*b*) provide that where food contains, as an added ingredient, any specified food described in schedule 2 that food may contain antioxidant of a description, and in an amount, specified in that schedule for that ingredient (regulation 5(1)(*b*));

(*c*) provide that where food contains milk fat by reason of the addition, as an ingredient, of any dairy product, that food may as respects its milk fat content contain antioxidant of a description, and in an amount, permitted in relation to a quantity of anhydrous fat equal to that milk fat (regulation 5(1)(*c*));

(*d*) prohibit the sale, the importation or the advertising for sale, with a view to its use in the preparation of food, of any antioxidant not permitted by the regulations and impose requirements as to the labelling of antioxidants (regulations 6 and 7);

(*e*) prohibit the labelling, advertisement or description of any food as being food intended mainly for babies or young children if it has in it or on it any added antioxidant (regulation 8);

(*f*) provide that where food is certified by a public analyst as having in it or on it antioxidant not permitted by the regulations that food may be treated for the purpose of section 9 of the Food and Drugs (Scotland) Act 1956 as being unfit for human consumption (regulation 9);

(*g*) do not apply to food or antioxidants intended for export (regulation 4).