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, provide that, subject to certain exceptions, it shall be an offence to sell, consign or deliver, or import into England or Wales, any food which contains more than 1·0 part per million of arsenic. Lower limits are specified for beverages, some soft fruit concentrates and ice-cream and higher limits are specified for some foods which, generally, are either essences or ancillary foods.

1959 No. 928 (S. 51)

The Arsenic in Food (Scotland) Regulations, 1959

Made - - - -	23*rd May*, 1959
Laid before Parliament	1*st June*, 1959
Coming into Operation	10*th August*, 1959

In exercise of the powers conferred upon me by sections 4 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 I hereby make the following regulations:—

1. These regulations may be cited as the Arsenic in Food (Scotland) Regulations, 1959, and shall come into operation on the 10th day of August, 1959.

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

"commercial brewing" means brewing for the purposes of a trade or business;

"fish" includes shellfish;

"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, but does not include—

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

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

"mustard" means any mustard, compound mustard or mustard condiment for which a standard is prescribed by the Food Standards (Mustard) (No. 2) Order, 1944(b), as amended(c);

"preparation", in relation to food, includes manufacture and any form of treatment;

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

"specified food" means any food of a description specified in the Schedule to these regulations;

(a) 4 & 5 Eliz. 2. c. 30. (b) S.R. & O. 1944/275 (1944 II, p. 511).
(c) S.R. & O. 1946/157, S.I. 1948/1073 (1946 II, p. 26; 1948 II, p. 13).

" substantial quantity " in relation to an ingredient of an article of food means a quantity weighing not less than 25 per centum of the total weight of such article.

(2) Any reference in these regulations to an amount of arsenic shall be construed as a reference to that amount of elemental arsenic and where any arsenical compound is present in any food the amount of arsenic present in the food by virtue of such compound shall for the purposes of these regulations be taken to be the amount of elemental arsenic to which the amount of such compound so present is equivalent.

(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.

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

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(b), 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(c) ; 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.

4.—(1) Save as hereinafter provided, no food shall contain arsenic in proportions exceeding one part per million (estimated by weight) of such food :

Provided that any specified food may contain arsenic in proportions not exceeding those specified in relation thereto in the Schedule to these regulations ;

(2) Paragraph (1) of this regulation shall not apply—

(*a*) in the case of any food, other than fish, edible seaweed, a specified food or a product containing fish or edible seaweed, where arsenic in proportions exceeding one part per million (estimated by weight) is present by reason of the inclusion in such food as an added ingredient or ingredients of a substantial quantity of a specified food or foods and such excess of arsenic does not exceed the maximum quantity permitted under the proviso to paragraph (1) of this regulation having regard to the quantity and description of the added specified food or foods ;

(a) 52 & 53 Vict. c. 63. (b) 60 & 61 Vict. c. 38. (c) 10 & 11 Geo. 6. c. 43.

(*b*) in the case of fish, edible seaweed or any product containing fish or edible seaweed, where arsenic in proportions exceeding one part per million (estimated by weight) is naturally present in that fish or edible seaweed or, as the case may be, in that product by reason of its fish or edible seaweed content;

(*c*) to hops or hop concentrates intended for use for commercial brewing.

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

5. 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 Scotland, that food may be treated for the purpose of section 9 of the Food and Drugs (Scotland) Act, 1956, (under which food may be seized and destroyed on the order of a justice of the peace) as being unfit for human consumption.

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 and shall be liable—

(*a*) on summary conviction to—

(i) a fine not exceeding £100 or to imprisonment for a term not exceeding six 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.

Dated this 23rd day of May, 1959.

John S. Maclay,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

SCHEDULE

Description of food	Proportions of arsenic (expressed in terms of parts per million estimated by weight)
1. Non-alcoholic beverages, ready to drink, not otherwise specified	0·1
2. Alcoholic beverages not otherwise specified	0·2
3. Black beer and mixtures of black beer and rum	0·5
4. Soft drinks intended for consumption after dilution and undiluted fruit juices (including concentrates intended for consumption after dilution to an extent not greater than ten parts to one, calculated by volume, for use by a manufacturer of soft drinks)	0·5
5. Ice-cream (including frozen confections and any other similar commodity)	0·5
6. Onions (dehydrated)	2·0
7. Hops (dried) other than those intended for use for commercial brewing	2·0
8. Liquorice (dried extract)	2·0
9. Gelatine (edible)	2·0
10. Pectin (liquid)	2·0
11. Yeast and yeast products	2·0 (calculated on the dry matter)
12. Chemicals not otherwise specified but not including synthetic colourings	2·0
13. Chicory (dried and roasted)	4·0
14. Herbs (dried)	5·0
15. Finings and clearing agents for use in food	5·0
16. Hop concentrates other than those intended for use for commercial brewing	5·0
17. Pectin (solid)	5·0
18. Spices (including mustard)	5·0
19. Colourings other than synthetic colourings	5·0 (calculated on the dry colouring matter)
20. Chemicals for which an arsenic limit is specified in the British Pharmacopoeia or the British Pharmaceutical Codex but not including synthetic colourings	2·0 or the limit specified in the edition of the British Pharmacopoeia or the British Pharmaceutical Codex current for the time being, whichever is the higher.

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