## FOOD

# 1953 No. 1311

# The Artificial Sweeteners in Food Order, 1953

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| *Made* - - - - | *24th August*, 1953 |
| *Laid before Parliament* | *25th August*, 1953 |
| *Coming into Operation* | *1st September*, 1953 |

The Minister of Food, in pursuance of the powers conferred upon him by Regulation 2 of the Defence (Sale of Food) Regulations, 1943(a), as continued in force by the Emergency Laws (Continuance) Order, 1952(b), and of all other powers him enabling in that behalf, hereby orders as follows:—

**1.** This Order shall come into operation on the 1st day of September, 1953, and may be cited as the Artificial Sweeteners in Food Order, 1953.

**2.** In this Order—

"The Minister" means the Minister of Food.

"Artificial sweetener" means any chemical compound which is sweet to the taste, but does not include saccharin, any sugar or other carbohydrate or polyhydric alcohols.

"Sell" includes offer or agree to sell or expose for sale.

**3.**—(1) No person shall use or permit to be used any artificial sweetener in the composition or preparation of any article of food intended for sale or sold for human consumption.

(2) No person shall sell or have in his possession for sale for human consumption any article of food containing any artificial sweetener.

**4.** For the purposes of this Order—

(*a*) articles commonly used for human consumption shall if sold be presumed until the contrary is proved, to have been sold, or, as the case may be, to have been or to be intended for sale, for human consumption;

(*b*) any article commonly used for human consumption which is found on premises used for the preparation, storage or sale of that article shall be presumed, until the contrary is proved, to be intended for sale for human consumption.

**5.**—(1) In any proceedings in respect of an infringement of this Order the production by one of the parties of (i) a document purporting to be a certificate of a public analyst or the Government Chemist or (ii) a document supplied to him by the other party as being a copy of such a certificate shall be sufficient evidence of the facts stated therein, unless in the case mentioned under head (i) above the other party requires that the person making the analysis shall be called as a witness.

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(a) S.R. & O. 1943/1553; 1945/1454: 1943 II, p. 70; 1945 II, p. 95.
(b) S.I. 1952/2095; 1952 I, p. 945.

(2) In any such proceedings—

(*a*) if the prosecution intends to produce a certificate of a public analyst or the Government Chemist, a copy of such certificate shall be served with the summons ; and

(*b*) if a defendant intends to produce a certificate of a public analyst or the Government Chemist, or to require that the person making the analysis shall be called as a witness, he shall give to the other party at least three clear days' notice of his intention,

and, if any of these requirements is not complied with, the Court may, if it thinks fit, adjourn the hearing on such terms as it deems proper.

**6.**—(1) A person against whom proceedings are brought in respect of an infringement of this Order shall, upon information duly laid by him and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have any person to whose act or default he alleges that the contravention of the provisions in question was due brought before the court in the proceedings, and if, after the contravention has been proved, the original defendant proves that the contravention was due to the act or default of that other person, that other person may be convicted of the offence, and, if the original defendant further proves that he has used all due diligence to secure that the provisions in question were complied with, he shall be acquitted of the offence.

(2) Where a defendant seeks to avail himself of the provisions of the preceding paragraph—

(*a*) the prosecution, as well as the person whom the defendant charges with the offence, shall have the right to cross-examine him, if he gives evidence, and any witness called by him in support of his pleas, and to call rebutting evidence ;

(*b*) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

(3) Where it appears to the Minister or other authority entitled to bring proceedings for an infringement of this Order, that an offence has been committed in respect of which proceedings might be taken for an infringement of this Order against some person and the Minister or other authority is reasonably satisfied that the offence of which complaint is made was due to the act or default of some other person and that the first-mentioned person could establish a defence under paragraph (1) of this Article, he or they may cause proceedings to be taken against that other person without first causing proceedings to be taken against the first-mentioned person.

In any such proceedings the defendant may be charged with and, on proof that the contravention was due to his act or default, be convicted of, the offence with which the first-mentioned person might have been charged.

**7.**—(1) Where in any prosecution a person is charged with an infringement of this Order in respect of the sale of any food, it shall be a defence for him to prove—

(*a*) that he purchased the food to which the proceedings relate with a written warranty to the effect that such food could be sold without infringing this Order ; and

(*b*) that he had no reason to believe otherwise at the time of the commission of the alleged offence ; and

(*c*) that the food was then in the same state as when he purchased it.

(2) A warranty shall only be a defence to such proceedings if the defendant has within fourteen days of the service of the summons sent to the prosecutor a copy of the warranty with a notice stating that he intends to rely on it and specifying the name and address of the person from whom he received it, and has also sent a like notice of his intention to that person.

(3) Where the defendant is a servant of the person who purchased the food under a warranty, he shall be entitled to rely on the provisions of this Article in the same way as his employer would have been entitled to do if he had been the defendant.

(4) The person by whom the warranty is alleged to have been given shall be entitled to appear at the hearing and to give evidence.

**8.** This Order in its application to Scotland shall have effect subject to the following modifications:—

(*a*) for any reference to a summons, a hearing and a defendant there shall be respectively substituted references to a complaint, a diet and a person accused;

(*b*) for Article 6 there shall be substituted the following Article:—

"6. Where an offence has been committed in respect of which proceedings might be taken for an infringement of this Order against some person and the offence was due to an act or default of some other person, then, whether proceedings are or are not taken against the first-mentioned person, that other person may be charged with and convicted of the offence, and shall be liable on conviction to the like punishment as might have been inflicted on the first-mentioned person if he had been convicted of the offence."

**9.** This Order in its application to Northern Ireland shall have effect subject to the modification that for each reference in Article 5 to the Government Chemist there shall be substituted a reference to the Government Chemist for Northern Ireland.

**10.** Proceedings in England and Northern Ireland for an infringement of this Order may be brought by a Food and Drugs Authority without the consent of the Minister.

*G. Lloyd-George,*
Minister of Food.

Dated the 24th day of August, 1953.

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## EXPLANATORY NOTE

*(This Note is not part of the Order, but is intended to indicate its general purport.)*

This Order prohibits the use of artificial sweeteners, other than saccharin, in the composition or preparation of any food sold or intended for sale for human consumption.