STATUTORY INSTRUMENTS

1977 No. 691

FOOD AND DRUGS

COMPOSITION

The Erucic Acid in Food Regulations 1977

Made - - - -	*6th April* 1977
Laid before Parliament	*21st April* 1977
Coming into Operation	*1st July* 1977

The Minister of Agriculture, Fisheries and Food and the Secretary of State for Social Services, acting jointly, in exercise of the powers conferred on them by sections 4 and 123 of the Food and Drugs Act 1955(**a**) as amended by section 4(1) of, and paragraph 3(1) of Schedule 4 to, the European Communities Act 1972(**b**) and as read with the Secretary of State for Social Services Order 1968(**c**), and of all other powers enabling them 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:—

Citation and commencement

1. These regulations shall be cited as the Erucic Acid in Food Regulations 1977 and shall come into operation on 1st July 1977.

Interpretation

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

"the Act" means the Food and Drugs Act 1955;

"erucic acid" means the fatty acid *cis*-docos-13-enoic acid;

"fatty acid" means any carboxylic acid obtained by the hydrolysis of oil or fat, and includes any such acid existing in a free state in oil or fat;

"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,

(*b*) fodder or feeding stuffs for animals, birds or fish, or

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

(**a**) 4 & 5 Eliz. 2. c. 16.
(**b**) 1972 c. 68.
(**c**) S.I. 1968/1699 (1968 III, p. 4585).

"food and drugs authority" has the meaning assigned to it by section 198(2) of the Local Government Act 1972(**a**);

"human consumption" includes use in the preparation of food for human consumption;

"oil or fat" means oil or fat derived from any animal, bird, fish or plant and intended for sale for human consumption, but does not include any essential oil;

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

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

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

(3) All proportions mentioned in these regulations are proportions calculated by weight and, unless the context otherwise requires, are calculated on the total weight of the product, such weight being ascertained, in the case of a food sold in dried or concentrated form, after reconstitution in accordance with any instructions which accompany it.

(4) For the purpose 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.

Exemptions

3. The provisions of these regulations shall not apply—

(*a*) to any oil, fat or food which is intended at the time of sale, consignment or delivery, as the case may be, for exportation to any place outside the United Kingdom;

(*b*) to any food which contains not more than five per centum oil or fat unless it is described directly or by implication as specially prepared for infants or young children;

(*c*) to any oil, fat or food sold, consigned or delivered to a manufacturer for the purposes of his manufacturing business or to a caterer for the purposes of his catering business; or

(*d*) to any oil, fat or food manufactured before 1st July 1977.

Sale, etc., of oil or fat and of food to which oil or fat has been added

4.—(1) Subject to paragraph (2) of this regulation, no person shall sell, consign or deliver—

(*a*) any oil or fat or any mixture thereof, if erucic acid constitutes more than five per centum of its fatty acid content; or

(*b*) any food to which oil or fat or a mixture thereof has been added, if erucic acid constitutes more than five per centum of the fatty acid content of all the oil and fat in the food.

(**a**) 1972 c. 70. (**b**) 1889 c. 63.

(2) In relation to any oil, fat or food manufactured before 1st July 1979, these regulations shall have effect as if the percentages specified in paragraph (1)(*a*) and (*b*) of this regulation were in each case ten instead of five.

Penalties and enforcement

5.—(1) If any person contravenes or fails to comply with the provisions of regulation 4 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.

Application of various sections of the Act

6.—(1) Sections 108(3) and (4) (which relate to prosecutions), 110(1), (2) and (3) (which relate to evidence of analysis), 112 (which relates to the power of a court to require analysis by the Government Chemist), 113 (which relates to a contravention due to some person other than the person charged), 115(2) (which relates to the conditions under which a warranty may be pleaded as defence) and 116 (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 or brought under the Act included references to proceedings, or a prosecution as the case may be, taken or brought for an offence under these regulations and as if the reference in the said section 112 to sub-section (4) of section 108 included a reference to that sub-section as applied by these regulations.

(2) Paragraph (*b*) of the proviso to section 108(1) of the Act shall apply for the purposes of these regulations as if the reference therein to section 116 of the Act included a reference to that section as applied by these regulations.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 6th April 1977.

(L.S.)

John Silkin,
Minister of Agriculture,
Fisheries and Food.

David Ennals,
Secretary of State for
Social Services.

4th April 1977.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations, which apply to England and Wales only, come into operation on 1st July 1977. The Regulations implement Council Directive 76/621/EEC (OJ No. L 202, 28.7.76, p. 35) relating to the fixing of the maximum level of erucic acid in oils and fats intended as such for human consumption and in foodstuffs containing added oil or fat.

The Regulations restrict the erucic acid content of oil or fat and of food to which oil or fat has been added. In relation to any oil, fat or food manufactured before 1st July 1979 the limit is 10%, calculated on the fatty acid content of the oil or fat component, and, in relation to any oil, fat or food manufactured after that date, the limit is 5%, similarly calculated.

The Regulations do not apply to oil, fat or food intended for export, to food which contains not more than 5% oil or fat unless it is described as specially prepared for infants or young children, to food intended for manufacturing or catering purposes or to food manufactured before 1st July 1977.

SI 1977/691
ISBN 0-11-070691-9

