1961 No. 1942 (S. 114)

FOOD AND DRUGS

COMPOSITION—SCOTLAND

The Lead in Food (Scotland) Regulations, 1961

Made - - - -	10*th October*, 1961
Laid before Parliament	17*th October*, 1961
Coming into Operation	16*th April*, 1962

In exercise of the powers conferred upon me by sections 4 and 56 and subsection (3) of section 60 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 Lead in Food (Scotland) Regulations, 1961, and shall come into operation on the 16th day of April, 1962.

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

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

"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 "caterer" shall be construed accordingly;

"concentrated soft drink" means any soft drink intended for consumption after dilution but does not include concentrates used in the manufacture of soft drinks and not intended for sale by retail without further processing;

"fish" includes crustacea and molluscs;

"flavouring" means any product which—

(*a*) has aromatic properties;

(*b*) when sold or intended for sale as such is intended, or when used as an ingredient of any food is added, primarily for flavouring purposes;

but does not include any preparation of yeast, coffee or chicory, any soft drink or any substance prepared by the hydrolysis of protein-containing materials;

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

"food colouring" means any colouring matter, or any combination of more than one colouring matter, being a permitted colouring matter for the purposes of the Colouring Matter in Food (Scotland) Regulations, 1957(b);

"fruit juice" means the clean, sound undiluted juice of the fruit or fruits from which it is obtained;

(a) 4 & 5 Eliz. 2. c. 30. (b) S.I. 1957/1123 (1957 I, p.1003).

" intoxicating liquor " means any exciseable liquor as defined in the Licensing (Scotland) Act, 1959(a);

" 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);

" saccharin " means the substance defined as such in the edition of the British Pharmacopoeia current for the time being;

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

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

" soft drink " means any liquid suitable or intended for use, either without or after dilution, as drink for human consumption; and includes—

(*a*) any fruit juice drink, and any fruit squash, crush or cordial;

(*b*) soda-water, Indian or quinine tonic water, and any artificially carbonated water whether flavoured or unflavoured;

(*c*) ginger beer and any herbal or botanical beer;

but does not include—

(i) water (except as aforesaid);

(ii) water from natural springs, either in its natural state or with added mineral substances;

(iii) fruit juice, sweetened or unsweetened, whether concentrated (or frozen) or not;

(iv) milk or any preparation of milk;

(v) tea, coffee, dandelion coffee, cocoa or chocolate, or any preparation of tea, coffee, dandelion coffee, cocoa or chocolate;

(vi) any egg product;

(vii) any cereal product, except—

(*aa*) flavoured barley-water and liquid products used in the preparation of barley-water, and

(*ab*) cereal products containing alcohol that are not intoxicating liquor;

(viii) meat, yeast or vegetable extracts, soup or soup mixtures, or any similar product;

(ix) tomato or other vegetable juices, or any preparation of any such juice or juices;

(x) intoxicating liquor;

(xi) any other unsweetened drink except soda-water;

and for the purposes of this definition a product shall not be deemed not to be a soft drink by reason only of the fact that it is capable of being used as a medicine;

" specified food " means any food of a description specified in the first column of the Schedule to these regulations:

(a) 7 & 8 Eliz. 2. c. 51. (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;

"sugar" means the product usually known as sugar in commercial usage, consisting principally of sucrose;

"sweetened" means containing any added saccharin, sugar or other carbohydrate or polyhydric alcohol; and "unsweetened" shall be construed accordingly;

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

(2) Any reference in these regulations to any order or other regulations shall be construed as a reference to such order or regulations as amended by any subsequent order or regulations, and if any order or regulations referred to in these regulations is or are replaced by any subsequent order or regulations, the reference shall be construed as a reference to such subsequent order or regulations as the case may be.

(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) No specified food shall contain any lead in any proportion exceeding that specified in relation thereto in the second column of the Schedule to these regulations, so however that after 20th April, 1964, no specified food of a description included in the first column of Part II of the said Schedule shall contain any lead in any proportion exceeding that specified in relation thereto in the third column of that Schedule.

(2) No other food shall contain any lead in any proportion exceeding two parts per million (estimated by weight) of such food:

Provided that this paragraph shall not apply—

(*a*) in the case of any such food, other than fish or any product containing fish, where any lead in any proportion exceeding two parts 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 lead does

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

not exceed the maximum quantity permitted under paragraph (1) of this regulation having regard to the quantity and description of the added specified food or foods;

(*b*) in the case of fish or any product containing fish, where lead in any proportion exceeding two parts per million (estimated by weight) is naturally present in that fish or, as the case may be, in that product by reason of its fish content.

(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 Act, (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 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 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.

7.—(1) Subsections (2) and (5) of section 41 (which relates to proceedings), subsections (1) and (3) of section 42 (which relates to evidence of certificates of analysis), section 44 (which relates to the power of a court to require analysis by the Government Chemist), subsection (2) of section 46 (which relates to the conditions under which a warranty may be pleaded as a defence) and section 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 under these regulations and in addition, as if—

(*a*) in the case of subsection (1) of section 44 of the Act, the reference therein to subsection (5) of section 41 of the Act included a reference to said subsection (5) as applied by these regulations; and

(*b*) in the case of subsections (1) and (2) of section 47 of the Act, the references therein to an offence against the Act included references to an offence under these regulations.

(2) Subsection (4) of section 41 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.

8. The Food Standards (Edible Gelatine) Order, 1951(a), shall be amended as follows:—

(*a*) by deleting from sub-paragraph (*e*) of the Schedule thereto the words "seven parts by weight of lead,";

(*b*) by adding at the end of the said sub-paragraph (*e*) the words "and no more parts by weight of lead than are for the time being prescribed in relation to edible gelatine in the Lead in Food (Scotland) Regulations, 1961, or any regulations amending or replacing them."

Dated this 10th day of October, 1961.

(Sgd.) *John S. Maclay,*
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

THE SCHEDULE

Description of food	Proportions of lead (expressed in terms of parts per million estimated by weight)
PART I	
Non-alcoholic beverages, ready to drink, not otherwise specified in this Schedule	0·2
Brandy, gin, geneva, rum, whisky	0·5
Concentrated soft drinks	1·0
Wines (except vintage port), liqueurs, alcoholic cordials or cocktails, alcoholic beverages not otherwise specified in this Schedule	1·0
Tomato juice, tomato juice cocktails	1·0
Pre-packed milk-based beverages, ready to drink	1·0
Concentrated fruit juices, lime juice, lemon juice	2·0
Anhydrous dextrose, dextrose monohydrate	0·5
Edible oils or fats	0·5
Refined white sugar, the sulphated ash content of which does not exceed 0·03 per centum	0·5
Ice-cream or any similar commodity (excluding water ices and similar frozen confections)	1·0
Apples, pears	3·0
Tomato puree, paste or powder, the total solids content of which is not less than 15 per centum but less than 25 per centum	3·0
Tomato puree, paste or powder, the total solids content of which is not less than 25 per centum	5·0
Canned fish	5·0
Canned fish pastes	5·0
Canned meat pastes	5·0
Dried or dehydrated vegetables (other than onions) ...	5·0
Gelatine (edible)	5·0
Lecithin	5·0

(a) S.I. 1951/1196 (1951 III, p. 14).

Description of food	Proportions of lead (expressed in terms of parts per million estimated by weight)
Meat extracts, hydrolysed protein	5·0
Raw sugars intended only for the manufacture of refined sugar. All other types of sugar, sugar syrups, invert sugar or direct consumption coloured sugars, the sulphated ash content of any of which exceeds 1·0 per centum	5·0
Molasses (edible)	5·0
Caramel	5·0
Liquid or solid glucose, starch conversion products, the sulphated ash content of any of which exceeds 1·0 per centum	5·0
Cocoa powder	5·0 (calculated on the dry fat free substance)
Chemicals for which a lead limit is specified in the British Pharmacopoeia or the British Pharmaceutical Codex	The limit specified in the British Pharmacopoeia or the British Pharmaceutical Codex current for the time being
Yeast, yeast products (other than brewers' yeast intended for use by manufacturers in the manufacture of yeast products)	7·0 (calculated on the dry matter)
Brewers' yeast intended for use by manufacturers in the manufacture of yeast products	10·0 (calculated on the dry matter)
Tea	10·0
Herbs (dried), spices (other than ground spices)	10·0
Onions (dehydrated)	10·0
Alginic acid, alginates, agar, carrageen or similar products derived from seaweed	10·0
Pectin (liquid)	10·0
Chemicals not otherwise specified in this Schedule	10·0
Flavourings	10·0
Ground spices (including mustard)	20·0
Food colourings (except caramel)	20·0 (calculated on the dry colouring matter)
Pectin (solid)	50·0

	From 16th April, 1962 to 19th April, 1964 inclusive	On and after 20th April, 1964
PART II		
Soft drinks, ready to drink	0·4	0·2
Beer	1·0	0·5
Cider, perry	1·0	0·5
Fruit juices, vegetable juices (other than lime juice, lemon juice, tomato juice, tomato juice cocktails)	1·0	0·5
Water ices or other similar frozen confections not otherwise specified in this Schedule	1·0	0·5
Concentrates used in the manufacture of soft drinks	5·0	2·5
Canned meat	10·0	5·0

EXPLANATORY NOTE

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

These regulations, which apply to Scotland only, restrict the amount of lead which may be present in food (including drink) intended for sale for human consumption.

Varied limits are applied to certain specified foods, and other foods are subject to a maximum content of 2·0 parts per million of lead.

The regulations come into operation on 16th April, 1962, and two years after that date a reduced limit will apply in the case of the foods specified in Part II of the Schedule.

The regulations amend the Food Standards (Edible Gelatine) Order, 1951, so that the standard for edible gelatine prescribed by that order shall, as respects lead content, be in accordance with these regulations.