

Subsidiary Legislation made under ss. 6, 8 and 58.

Arsenic in Food Regulations 1987

LN.1987/016

Commencement

1.8.1987

ARRANGEMENT OF REGULATIONS

Regulation

1. Title and commencement.
2. Interpretation.
3. Prohibition and exemption.
4. Condemnation of food.
5. Penalties.
6. Application of various sections of the Act.

SCHEDULE.

1964-07

Food and Drugs

1987/016

Arsenic in Food Regulations 1987

Title and commencement.

- 1.(1) These regulations may be cited as The Arsenic in Food Regulations 1987.
- (2) These regulations shall come into operation on the 1st day of August, 1987.

Interpretation.

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

“commercial brewing” means brewing for purposes of a trade or business;

“fish” includes crustacea and molluscs;

“flour” means the product intended for sale for human consumption which is derived from, or separated during, the milling or grinding of wheat, whether or not any of the wheat has been malted or subjected to any process and whether or not the product contains enzyme active preparations, and includes meal but does not include separated wheat offals, separated wheat germ or semolina;

“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;

“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:

“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.

Prohibition and exemption.

3.(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 regulations 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;
- (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 hops concentrates intended for use for commercial brewing;
- (d) to any food in respect of which the maximum permitted arsenic content is prescribed by any regulations, other than these regulations or any amendment to these regulations, made under the Food and Drugs Act 1964.

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

Condemnation of food.

1964-07

Food and Drugs

1987/016

Arsenic in Food Regulations 1987

4. Where any food is certified by a public analyst as being food which it is an offence against regulation 3 hereof to sell, consign or deliver, or import into Gibraltar, that food may be treated for the purpose of Section 10 of the Food and Drugs Act 1964, (under which food may be seized and destroyed on the order of a justice of the peace) as being unfit for human consumption.

Penalties.

5. 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 liable on summary conviction to a fine not exceeding £1,000.

Application of various sections of the Act.

6. Sections 46(2) and (3) (which relate to prosecutions), 47(1) and (2) (which relates to evidence of analysis), 49 (which relates to the power of a court to require analysis by the Government Chemist in the United Kingdom), 50 (which relates to a contravention due to some person other than the person charged), 51(2) (which relates to the conditions under which a warranty may be pleaded as a defence) and 52 (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 reference 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 49 to subsection (3) of Section 46 included a reference to that subsection as applied by these regulations.

THE SCHEDULE

| <i>Description of food</i> | <i>Proportions of arsenic (expressed in terms of parts per million estimated by weight)</i> |
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| 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. Yeast and yeast products other than brewer's yeast intended for use by manufacturers in the manufacture of yeast products. | (calculated on the dry matter). |
| 11. Chemicals not otherwise specified. | 2.0 |
| 12. Chicory (dried and roasted) | 4.0 |
| 13. Herbs (dried) | 5.0 |
| 14. Finings and clearing agents | 5.0 |
| 15. Hops concentrates other than those intended for use for commercial brewing. | 5.0 |
| 16. Spices (including mustard) | 5.0 |
| 17. Chemicals for which an arsenic limit is specified in the British Pharmacopoeia or the British Pharmaceutical Codex. | 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. |
| 18. Brewers' yeast intended for use by manufacturers in the manufacture of yeast products. | 5.0 (calculated on the dry matter). |
| 19. Iron powder intended for use in the preparation of flour. | 10.0 |