

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

Antioxidants in Food and Regulations, 1987

LN.1987/041

		<i>Commencement</i>	1.8.1987
Amending enactments	Relevant current provisions	Commencement date	
LN. 1990/057	rr. 1(1), 2(1)		1.7.1990

Transposing:

Directive 78/664/EEC

1964-07

Food and Drugs

1987/041

Antioxidants in Food and Regulations, 1987

ARRANGEMENT OF REGULATIONS

Regulation

1. Title and Commencement.
2. Interpretation.
3. Exemptions.
4. Sale etc of food containing antioxidants.
5. Sale, advertisement and labelling of antioxidants.
6. Food for babies and young children.
7. Condemnation of food.
8. Penalties.
9. Defences.
10. Application of various sections of the Act.

SCHEDULE 1.

SCHEDULE 2.

SCHEDULE 3.

SCHEDULE 4.

Title and commencement.

1.(1) These regulations may be cited as the Antioxidants in Food and Regulations, 1987.

(2) The regulations shall come into operation on the 1st day of August, 1987.

Interpretation

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

“anhydrous edible oils and fats” means oils and fats, intended for sale for human consumption, which have been derived from any animal, bird, fish or plant and from which all or almost all the water has been removed, and includes block suet and the fat content of shredded suet but does not include dairy products, essential oils or isolates from the concentrates of essential oils;

“antioxidant” means any substance which is capable of delaying, retarding or preventing the development in food of rancidity or other flavour deterioration due to oxidation but does not include-

- (a) any permitted sweetener,
- (b) any permitted colouring matter,
- (c) any permitted emulsifier,
- (d) any permitted miscellaneous additive other than a permitted diluent combined with such an antioxidant,
- (e) any permitted preservative,
- (f) any permitted stabiliser,
- (g) any permitted solvent other than a permitted diluent combined with such an antioxidant,
- (h) esters of L-ascorbic acid with straight-chain C14 and C18 fatty acids used or for use to dilute or dissolve colouring matter in accordance with the Colouring Matter in Food Regulations 1980;

“appropriate designation” means, as respects any permitted antioxidant or permitted diluent, a name or description or a name and description sufficiently specific, in each

1964-07

Food and Drugs

1987/041

Antioxidants in Food and Regulations, 1987

case, to indicate to an intending purchaser the true nature of the permitted antioxidant or permitted diluent to which it is applied;

“block suet” means rendered beef suet free from fibrous tissue;

“butter fat” means the product obtained by removing all or almost all the water and milk solids other than fat from milk, cream or butter and includes anhydrous butter fat, butter oil, anhydrous butter oil and anhydrous milk fat;

“container” includes any form packaging of food for sale as a single item, whether by way of wholly or partly enclosing the food or by way of attaching the food to some other article, and in particular includes a wrapper or confining band;

“dairy product” means any butter, butter fat, cream, dried cream, milk, condensed milk, evaporated milk, dried milk, cheese, dried cheese, dried whey or dried whey derivatives;

“diluent” means any substance used to dilute or dissolve antioxidant intended for use in food for human consumption;

“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;

“human consumption” includes use in the preparation of food for human consumption;

“the Act” means the Food and Drugs Act;

“permitted antioxidant” means any antioxidant specified in Part I of Schedule I which satisfies the specific purity criteria relating to that antioxidant specified or referred to in Part II of that Schedule and, so far as is not otherwise provided by any such specific purity criteria, satisfies the general purity criteria specified in Part III of that Schedule, or any mixture of two or more such antioxidants and (except in the definition of appropriate designation in this regulation and schedules 1 and 4) shall be construed as including any permitted diluent combined with such antioxidant or mixture of such antioxidants;

“permitted colouring matter” means any colouring matter in so far as its use is permitted by the Colouring Matter in Food Regulations. 1980 as amended;

“permitted diluent” means any diluent described in Part I of Schedule 2 which satisfies the general purity criteria specified in Part II of that Schedule or any of the permitted solvents ethyl alcohol (ethanol), propylene glycol and glycerol, or the permitted sweetener sorbitol and includes any combination of two or more such substances;

“permitted emulsifier” means any emulsifier in so far as its use is permitted by the Emulsifiers and Stabilisers in Food Regulations 1990;

“permitted miscellaneous additive” means any miscellaneous additive so far as its use is permitted by the Miscellaneous Additives in Food Regulations 1987;

“permitted preservative” means any preservative in so far as its use is permitted by the Preservatives in Food Regulations 1987;

“permitted solvent” means any solvent in so far as its use is permitted by the Solvents in Food Regulations 1987;

“permitted stabiliser” means any stabiliser in so far as its use is permitted by the Emulsifiers and Stabilisers in Food Regulations 1990;

“permitted sweetener” means any sweetener in so far as its use is permitted by the Sweeteners in Food Regulations 1987;

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

“shredded suet” means the product consisting of rendered beef suet, free from fibrous tissue, which has been shredded, flaked or otherwise comminuted, with or without farinaceous material;

“specified food” means any food of a description specified in column I of Part I, Part II, Part III or Part IV of Schedule 3:

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

(2) Unless a contrary intention is expressed, all proportions mentioned in these regulations are proportions calculated by weight of the product as sold.

(3) Any reference in these regulations to a label borne on container shall be construed as including a reference to any legible marking on the container however effected.

(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 the supply of that food.

(5) Any reference in these regulations to any other regulations shall be construed as a reference to such regulations as amended by any subsequent regulations.

(6) Any reference in these regulations to numbered regulation or schedule shall be construed as a reference to the regulation or schedule bearing that number in these regulations.

Exemptions.

3. The provisions of these regulations shall not apply to food having any antioxidant in it or on it, to any antioxidant or to any diluent combined with any antioxidant or antioxidants which, in any case, is intended at the time of sale, consignment, delivery or importation, as the case may be, for exportation to any place outside Gibraltar.

Sale etc of food containing antioxidants.

4.(1) Save as hereinafter provided and subject to paragraph (2) of this regulation, no food sold, consigned or delivered, or food containing imported into Gibraltar, shall have in it or on it any added antioxidant other than a permitted antioxidant:

Provided that apples and pears may have in them or on them diphenylamine in any proportion not exceeding 10 milligrammes per kilogramme, which is present solely by reason of the use of that substance as a scald inhibitor.

(2) Save as hereinafter provided, no food sold, consigned or delivered, or imported into Gibraltar shall have in it or on it any added permitted antioxidant specified in column 2 of Part I, Part II, Part III or Part IV of Schedule 3:

Provided that-

- (a) any specified food described in column 1 of any Part of schedule 3 may have in it or on it permitted antioxidant of a description specified in relation thereto in column 2 of such Part and in the proportion so specified in column 3 thereof;
- (b) any food, other than a dairy product, containing as an ingredient any specified food described in column 1 of Part I of Schedule 3 may contain permitted antioxidant of a description specified in column 2 of that Part, in an amount not exceeding that

appropriate to the quantity of that specified food in accordance with the descriptions and proportions specified in columns 2 and 3 respectively of that Part;

- (c) any food, other than a dairy product, containing milk fat by reason of the use as an ingredient in the preparation of that food of any dairy product, other than a dairy product described in column 1 of Part I of Schedule 3, may contain permitted antioxidant of a description specified in column 2 of Part I of Schedule 3, in an amount not exceeding that appropriate to the quantity of that milk fat in accordance with the descriptions and proportions specified in columns 2 and 3 respectively of Part I of Schedule 3;
 - (d) any food containing as an ingredient any specified food described in column I of Part II or Part III of Schedule 3 may contain permitted antioxidant of a description specified in column 2 of such Part for that specified food, in an amount not exceeding that appropriate to the quantity of that specified food in accordance with the descriptions and proportions specified in columns 2 and 3 respectively of such Part.
- (3) No person shall sell, consign or deliver, or import into Gibraltar any food which does not comply with this regulation.

Sale, advertisement and labelling of antioxidants

5.(1) No person shall sell, consign or deliver, for import into Gibraltar, or advertise for sale any antioxidant (including and antioxidant with which any other substance has been mixed) for use as an ingredient in the preparation of food unless such antioxidant is a permitted antioxidant

(2) No person shall sell, consign or deliver any permitted antioxidant (including any permitted antioxidant with which any other substance has been mixed) for use as an ingredient in the 'preparation of food except in a container bearing label in accordance with the requirements of Schedule 4.

Food for babies and young children

6.(1) Subject to paragraph (2) of this regulation, no person shall-

- (a) give with any food sold by him any label, whether attached to or borne on the container or not, or display with any food offered or exposed by him for sale any ticket or notice, being a label, ticket or notice which bears any words, device or description calculated to indicate either directly or indirectly that the food is intended for babies or young children, or

1964-07

Food and Drugs

1987/041

Antioxidants in Food and Regulations, 1987

- (b) publish, or be a party to the publication of, any advertisement for any food, being an advertisement which includes in words, device or description as aforesaid, or
- (c) use on, or in connection with, the sale of any food any such words, device or description as aforesaid,

if the food has in it or on it any butylated hydroxyanisole, butylated hydroxytoluene, propylgallate, octyl gallate, dodecyl gallate or ethoxyquin.

(2) This regulation shall not apply to-

- (a) any specified food described in column I of item (b) of Part III of Schedule 3 which has in it or on it permitted antioxidant of a description specified in relation thereto in column 2 of that Part and in the proportion so specified in column 3 thereof:
- (b) any food which has in it or on it permitted antioxidant of the description specified in column 2 of item (b) of Part III of Schedule 3 introduced in the preparation of that food by the use of a specified food described in column I thereof if that permitted antioxidant is present in the food in no greater proportion in relation to the quantity of the specified food used than the proportion specified in column 3 of that item.

Condemnation of food.

7. Where any food is certified by a public analyst as being food which it is an offence against regulation 4 to sell, consign or deliver or import into Gibraltar, that food may be treated for the purposes of Section 10 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.

Penalties

8. 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

Defences

9.(1) In any proceedings for an offence against these regulations in relation to the publication of an advertisement it shall be a defence for the defendant to prove that, being a person whose business it is to publish or arrange for the publication of advertisements, he received the advertisement for publication in the ordinary course of business.

(2) In any proceedings against the manufacturer or importer of any antioxidant for use as an ingredient in the preparation of food, or of any food having added antioxidant 11 it or on it, for an offence against these regulations in relation to the publication of an advertisement, it shall rest on the defendant to prove that he did not publish, and was not a party to the publication of, the advertisement.

Application of various sections of the Act.

10. Sections 46 (2) and (3) (which relate to prosecutions), 47(1) and (2) (which relate 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 it 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 it the reference in the said Section 49 to subsection (3) of Section 46 included a reference to that subsection as applied by these regulations.

1964-07

Food and Drugs

1987/041

Antioxidants in Food and Regulations, 1987

SCHEDULE 1.

Part I: Permitted antioxidants.

Name of Antioxidant	Serial Number
L-Ascorbic acid	E300
Sodium L-ascorbate	E301
Calcium L-ascorbate	E302
6-O-Palmitoyl-L-ascorbic acid	E304
Extracts of natural origin rich in tocopherols	E306
Synthetic alpha-tocopherol	E307
Synthetic gamma-tocopherol	E308
Synthetic delta-tocopherol	E309
Propyl gallate	E310
Octyl gallate	E311
Dodecyl gallate	E312
Butylated hydroxyanisole (BHA)	E320
Butylated hydroxytoluene (BHT)	E321
Ethoxyquin	-

Part II: Specific purity criteria for permitted antioxidants

Each of the following permitted antioxidants shall comply with the specific purity criteria for it contained in Council Directive No. 78/664/EEC-

E300	L-Ascorbic acid
E301	Sodium L-ascorbate
E302	Calcium L-ascorbate
E304	6-O-Palmitoyl-L-ascorbic acid (Synonym: Ascorbyl almitate)
E306	Extracts of natural origin rich in tocopherols
E307	Synthetic alpha-tocopherol
E308	Synthetic gamma-tocopherol
E309	Synthetic delta-tocopherol
E310	Propyl gallate (Synonym: Propyl 3,4, 5-trihydroxybenzoate)
E311	Octyl gallate (Synonym: Octyl 3, 4, 5-trihydroxybenzoate)
E312	Dodecyl gallate (Synonym: Dodecyl 3, 4, 5-trihydroxybenzoate)
E320	Butylated hydroxyanisole (BHA)
E321	Butylated hydroxytoluene (BHT) (Synonym: 2, 6-di-tert-butyl-p-cresol)

Ethoxyquin shall comply with the following specific purity criteria:-

Description. Pale amber oil when freshly prepared. Tendency to polymerise on exposure to light and oxygen with darkening in colour.

Content. Not less than 92 per centum of the monomer 1,2-dihydro-6-ethoxy-2,2, trimethylquinoline (C₁₄H₁₉NO). The remainder shall consist of the dimer and higher polymers.

Boiling Point. 125°C at 1 to 2 mm. of mercury.

Refractive index. 25°C . . . Not less than 1.569 and not more than 1.572.

Part III: General purity criteria for permitted antioxidants

No antioxidant shall contain more than—

- (a) 3 milligrammes per kilogramme of arsenic:
- (b) 10 milligrammes per kilogramme of lead:
- (c) 50 milligrammes per kilogramme of copper, or 25 milligrammes per kilogramme of zinc, or 50 milligrammes per kilogramme of any combination of copper and zinc.

1964-07

Food and Drugs

1987/041

Antioxidants in Food and Regulations, 1987

SCHEDULE 2.

Part I: Permitted diluents (see Definition in Regulation 2(1))

Drinking water, demineralised water, distilled water, edible oils and fats.

Part II: General/purity criteria for permitted diluents described in part I above

No diluent shall contain more than—

- (a) 3 milligrammes per kilogramme of arsenic;
- (b) 10 milligrammes per kilogramme of lead;
- (c) 50 milligrammes per kilogramme of copper, or 25 milligrammes per kilogramme of zinc, or 50 milligrammes per kilogramme of any combination of copper and zinc.

SCHEDULE 3.

Antioxidants permitted only in certain foods.

Part I

Column I	Column 2	Column 3
Specified food	Permitted antioxidant	Milligrammes per kilogramme - not exceeding
Any of the following dairy products for use as ingredients in the preparation of food intended for sale for human consumption:—	1. Propylgallate or Octyl gallate or Dodecyl gallate or any mixture of two, or of all, of them	100 (Calculated on the milk fat content)
butter butter fat, dried cream dried cheese dried whey dried whey derivatives	2. Butylated hydroxyanisole (BHA) or Butylated hydroxytoluene (BHT) or any mixture of BHA and BHT	200 (calculated on the milk fat content)
	3. Any mixture of one or more of the permitted antioxidants mentioned in item 1 of this column and either or both of the permitted antioxidants mentioned in item 2 of this column	300 (of which not more than 100 shall represent item 1 and not more than 200 shall represent item 2) (calculated on the milk fat content)
(a) Anhydrous edible oils and fats and vitamin oils and concentrates other than preparations of Vitamin A or Vitamin A esters containing more than 30,000 microgrammes retinol equivalents per gramme	1. Propyl gallate or Octyl gallate or Dodecyl gallate or any mixture of two, or of all, of them	100
	2. Butylated hydroxyanisole (BHA) or Butylated hydroxytoluene (BHT) or any mixture of BHA and BHT	200

1964-07

Food and Drugs

1987/041

Antioxidants in Food and Regulations, 1987

	3. Any mixture of one or more of the permitted antioxidants mentioned in item 1 of this column and either or both of the permitted antioxidants mentioned in item 2 of this column	300 (of which not more than 100 shall represent item 1 and not more than 200 shall represent item 2)
(b) Any permitted emulsifier or permitted stabiliser containing combined fatty acids whether or not those fatty acids have been polymerised	1. Propyl gallate or Octyl gallate or Dodecyl gallate or any mixture of two, or of all of them	100
	2. Butylated hydroxyanisole (BHA) or Butylated hydroxytoluene (BHT) or any mixture of BHA and BHT	200
	3. Any mixture of one or more of the permitted antioxidants mentioned in item 1 of this column and either or both of the permitted antioxidants mentioned in item 2 of this column	300 (of which not more than 100 shall represent item 1 and not more than 200 shall represent item 2)
(c) Essentials oils and isolates from the concentrates of essential oils	1. Propyl gallate or Octyl gallate or Dodecyl gallate or any mixture of two, or of all, of them	1,000
	2. Butylated hydroxyanisole (BHA) or Butylated hydroxytoluene (BHT) or any mixture of BHA and BHT	1,000
	3. Any mixture of one or more of the permitted antioxidants mentioned in item 1 of them column	1,000
(d) Potato powder, potato flakes and potato granules	Butylated hydroxyanisole (BHA) or Butylated hydroxytoluene (BHT) or	25

(e) Walnuts (shelled)	any mixture of BHA and BHT	
	1. Butylated hydroxyanisole (BHA)	70
	2. Butylated hydroxytoluene (BHT)	70
	3. Any mixture of BHA and BHT	140
		(of which note more than 70 shall represent item 1 and not more than 70 shall represent item 2)
(f) Apples and pears	Ethoxyquin	3

Part III

Column 1	Column 2	Column 3
Specified food	Permitted antioxidant	Proportion - not exceeding
(a) Preparations of Vitamin A and Vitamin A esters containing more than 30,000 microgrammes retinol equivalents per gramme	Butylated hydroxyanisole (BHA) or Butylated hydroxytoluene (BHT) or any mixture of BHA and BHT	33,3 milligrammes per kilogramme of preparation for every 1,000 microgrammes retinol equivalents per gramme
(b) Preparations of Vitamin A and Vitamin A esters for use as ingredients in the preparation of food described directly or indirectly as intended for babies or young children	Butylated hydroxyanisole (BHA) or Butylated hydroxytoluene (BHT) or any mixture of BHA and BHT	0.35 milligrammes per kilogramme of preparation for every 1,000 microgrammes retinol equivalents per gramme

Part IV

Column 1	Column 2	Column 3
Specified food	Permitted antioxidant	Milligrammes per kilogramme - not exceeding
(a) Chewing gum base	Butylated hydroxytoluene (BHT)	1,000
(b) Chewing gum manufactured from chewing gum base containing the permitted antioxidant Butylated hydroxytoluene	Butylated hydroxytoluene (BHT)	200

SCHEDULE 4.**Labelling of permitted antioxidants and permitted diluents.**

1.(1) Every container to which regulation 5(2) applies shall bear a label on which is printed a true statement:

- (a) in respect of each permitted antioxidant present, of the serial number, if any, as specified in relation thereto in column 2 of Part I of Schedule 1, and of the common or usual name or an appropriate designation of that permitted antioxidant;
- (b) where any other substance (whether or not a permitted diluent) is present, of the common or usual name or an appropriate designation of that substance; and
- (c) where two or more of the substances referred to in paragraph 1(1) (a) and (b) of this Schedule are present, of the proportion of each such substance present, save that the label shall only have printed on it a statement of the proportion of any substance present, other than a permitted antioxidant or a permitted diluent, if any regulations, other than these regulations or any amendment to these regulations, made under the Act contain a requirement to that effect.

(2) The said statement shall be headed or preceded by the words 'for foodstuffs (restricted use)'.

2. Any statement required by the preceding paragraph-

- (a) shall be clear and legible;
- (b) shall be in a conspicuous position on the label which shall be marked on, or securely attached to, the container in such a manner that it will be readily discernible and easily read by an intending purchaser under normal conditions of purchase;
- (c) shall not be in any way hidden or obscured or reduced in conspicuousness by any other matter, whether pictorial or not, appearing on the label.

3. The figures and letters in every word in any statement to which the preceding paragraph applies-

- (a) shall be in characters of uniform colour and size (being not less than 1.5 millimetres in height for a label on a container of which the greatest dimension does not exceed 12 centimetres, and not less than 3 millimetres in height for a label

on a container of which the greatest dimension exceeds 12 centimetres), but so that the initial letter of any word may be taller than any other letter in the word;

- (b) shall appear on a contrasting ground, so however that where there is no ground other than such as is provided by a transparent container and the contents of that container are visible behind the letters, those contents shall be taken to be the ground for the purposes of this paragraph;
- (c) shall be within a surrounding line and no other written or pictorial matter shall appear within that line.

4. For the purposes of this Schedule-

- (a) The height of any lower case letter shall be taken to be the x height thereof, disregarding any ascender or descender thereof;
- (b) any requirement that figures or letters shall be of uniform height, colour or size, shall be construed as being subject to the saving that any inconsiderable variation in height, colour or size, as the case may be, may be disregarded.