

1978/41



**THE FOOD AND DRUG REGULATIONS 1973,  
AMENDMENT NO. 3**

KEITH HOLYOAKE, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 6th day of March 1978

Present:

THE RIGHT HON. R. D. MULDOON PRESIDING IN COUNCIL

PURSUANT to the Food and Drug Act 1969, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

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REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Food and Drug Regulations 1973, Amendment No. 3, and shall be read together with and deemed part of the Food and Drug Regulations 1973\* (hereinafter referred to as the principal regulations).

\*S.R. 1973/79

Amendment No. 1: S.R. 1974/188

Amendment No. 2: S.R. 1976/68

(2) Without limiting section 46 (5) of the Act, regulations 15 (2) and 23 of these regulations shall come into force on the day 6 months after the date of the notification of these regulations in the *Gazette*.

(3) Except as provided in subclause (2) of this regulation, these regulations shall come into force on the day after the date of their notification in the *Gazette*.

**2. Preservatives**—Regulation 16 of the principal regulations is hereby amended by omitting from the first column of the table of specified preservatives set out in subclause (8) the item “Fruit or fruit-flavoured or artificial syrups”, and substituting the item “Fruit, or fruit-flavoured, artificial syrups, or culinary essences, extracts, and flavourings, or artificial culinary essences, extracts, and flavourings”.

**3. Antioxidants**—Regulation 17 of the principal regulations (as amended by regulation 9 of the Food and Drug Regulations 1973, Amendment No. 2) is hereby amended by adding the following sub-clause:

“(10) Subject to the foregoing provisions of this regulation, in these regulations the term ‘specified antioxidants’ means the antioxidants specified in subclause (3) of this regulation.”

**4. Food conditioners**—(1) Regulation 21 (2) of the principal regulations is hereby amended by revoking subparagraphs (vi) to (ix) of paragraph (a), and substituting the following paragraphs:

“(vi) Sodium, potassium, and calcium monophosphates (sodium, potassium, and calcium orthophosphates):

“(vii) Sodium and potassium diphosphates (sodium and potassium pyrophosphates):

“(viii) Sodium and potassium triphosphates (sodium and potassium tripolyphosphates):

“(ix) Sodium polyphosphate (sodium hexametaphosphate) and phosphoric acid (orthophosphoric acid):”.

(2) The said regulation 21 (2) is hereby further amended by omitting from paragraph (b) (vii) the words “and sodium carboxymethyl cellulose”, and substituting the words “and sodium carboxymethyl cellulose, microcrystalline cellulose, hydroxypropyl cellulose, and hydroxypropylmethyl cellulose”.

(3) The said regulation 21 (2) is hereby further amended by revoking subparagraphs (iii) to (vi) of paragraph (c), and substituting the following subparagraphs:

“(iii) Sodium, potassium, and calcium monophosphates (sodium, potassium, and calcium orthophosphates):

“(iv) Sodium and potassium diphosphates (sodium and potassium pyrophosphates):

“(v) Sodium and potassium triphosphates (sodium and potassium tripolyphosphates):

“(vi) Sodium polyphosphate (sodium hexametaphosphate) and phosphoric acid (orthophosphoric acid):”.

(4) The said regulation 21 (2) is hereby further amended by revoking subparagraph (ix) of paragraph (d), and substituting the following subparagraph:

“(ix) Sodium, potassium, and calcium monophosphates (sodium, potassium, and calcium orthophosphates) and phosphoric acid (orthophosphoric acid):”.

**5. Incidental constituents**—(1) Regulation 24 of the principal regulations (as amended by regulation 10 of the Food and Drug Regulations 1973, Amendment No. 1 and regulation 11 of the Food and Drug Regulations 1973, Amendment No. 2) is hereby amended by omitting from the Second Table the items relating to “acephate”, “benzoximate”, “captan”, “carbaryl”, “chlordimeform”, “chlorobenzilate”, “cyhexatin”, “diazinon”, “dimethoate or omethoate”, “dioxathion”, “formothion”, “maldison”, “methamidophos”, “phosphamidon”, “propargite”, and “triforine”.

(2) The said regulation 24 is hereby further amended by omitting from the said Second Table the item “dieldrin and aldrin singly or in combination”.

(3) The said regulation 24 (as amended by regulation 10 of the Food and Drug Regulations 1973, Amendment No. 1 and regulation 11 of the Food and Drug Regulations 1973, Amendment No. 2) is hereby further amended by inserting in the said Second Table, in their appropriate alphabetical order, the following items:

“Acephate	.....	.....	.....	Brassicas	.....	.....	2
				Citrus fruit	.....	.....	5
“Benzoximate	.....	.....	.....	Citrus fruit	.....	.....	0.2
				Pome fruit	.....	.....	0.2
“Brotianide	.....	.....	.....	Meat fat, in any food	.....	.....	0.1
“Captan	.....	.....	.....	Fruit and vegetables	.....	.....	10
“Carbaryl	.....	.....	.....	Fruit and vegetables, ex- cept potatoes	.....	.....	3
“Carbophenothion	.....	.....	.....	Meat fat, in any food	.....	.....	0.1
				Milk fat, in any food	.....	.....	0.1
“Chlorothalonil	.....	.....	.....	Celery	.....	.....	15
				Lettuce	.....	.....	10
				Beans	.....	.....	5
				Brassicas	.....	.....	5
				Curcubits	.....	.....	5
				Tomatoes	.....	.....	5
“Coumaphos	.....	.....	.....	Meat fat, in any food	.....	.....	0.5
				Milk fat, in any food	.....	.....	0.1
“Cyhexatin	.....	.....	.....	Fruit	.....	.....	2
“DDT and its metabolites	.....	.....	.....	Eggs	.....	.....	0.5
“Dialifos	.....	.....	.....	Pipfruit	.....	.....	1
“Diazinon	.....	.....	.....	Meat fat, in any food	.....	.....	0.7
				Any food, except cereals, nuts, and oil seed crops	.....	.....	0.1

"Dicloran	.....	.....	.....	Stonefruit	.....	10
				Grapes	.....	10
				Lettuce	.....	10
				Berryfruit	.....	10
				Beans	.....	2
				Tomatoes	.....	0.5
				Kumera	.....	5
"Dieldrin and aldrin singly or in combination	.....	.....	.....	Meat fat, in any food	.....	0.2
				Milk fat, in any food	.....	0.15
				Cereals	.....	0.02
				Citrus fruit	.....	0.05
				Any other food	.....	0.1
"Dimethoate	.....	.....	.....	Fruit and vegetables	.....	2
				Tomatoes	.....	1
"Fenamiphos	.....	.....	.....	Root vegetables	.....	0.2
				Tomatoes	.....	0.2
"Fenvalerate	.....	.....	.....	Brassicas	.....	1
				Pipfruit	.....	1
"Formothion	.....	.....	.....	Citrus fruit	.....	0.2
"Hexadecyl cyclopropane — carboxylate	.....	.....	.....	Pipfruit	.....	2
				Any food	.....	0.01
"Hydrogen phosphide (phosphine) "1-(isopropyl carbamoyl)-3-(3, 5-dichlorophenyl) hydantoin	.....	.....	.....	Tomatoes	.....	5
				Stonefruit	.....	10
				Smallfruit	.....	10
				Berryfruit	.....	10
				Eggs	.....	1
"Maldison	.....	.....	.....	Meat fat, in any food	.....	1
				Fruit, vegetables, and raw cereals	.....	8
				Any other food	.....	0.5
				Brassicas	.....	1
				Potatoes	.....	0.1
"Methamidophos	.....	.....	.....	Tomatoes	.....	0.1
				Citrus fruit	.....	0.5
				Cereals, cherries, grapes	.....	2
				Smallfruit	.....	2
"Methiocarb	.....	.....	.....	Meat fat, in any food	.....	0.1
"Naled (expressed as dichlorvos)	.....	.....	.....	Pipfruit	.....	0.2
"Naphtalophos	.....	.....	.....	Meat fat, in any food	.....	1
"Nitrothal-isopropyl	.....	.....	.....	Fruit and vegetables	.....	2
"Nitroxynil	.....	.....	.....	Tomatoes	.....	1
"Omethoate	.....	.....	.....	Meat	.....	0.1
				Milk	.....	0.1
"Parbendazole	.....	.....	.....	Pipfruit	.....	1
"Permethrin	.....	.....	.....	Meat fat, in any food	.....	1
"Phosalone	.....	.....	.....	Citrus fruit	.....	0.3
"Pirimiphos methyl	.....	.....	.....	Berryfruit	.....	1
				Fruiting vegetables	.....	1
				Tomatoes	.....	1
				Leafy vegetables	.....	10

"Propargite	.....	.....	Small fruit	.....	3
			Pome fruit	.....	3
"Pyrantel	.....	.....	Meat fat, in any food	.....	0.3
"Rafoxanide	.....	.....	Meat	.....	0.1
"Thiabendazole	.....	.....	Meat	.....	0.1
"Trichlorfon	.....	.....	Any food, except milk and sugarbeet	.....	0.1
"Triforine	.....	.....	Pipfruit	.....	0.5
			Stone fruit	.....	3
"Vinclozolin	.....	.....	Grapes	.....	2
			Lettuce	.....	2
			Stonefruit	.....	3
			Strawberries	.....	5
			Tomatoes	.....	5."

(4) The said regulation 24 is hereby further amended by revoking the Third Table, and substituting the following Table:

### "THIRD TABLE

#### OTHER PROPORTIONS OF INCIDENTAL CONSTITUENTS IN FOODS

Compound	Food	Permissible Proportions (Parts per million by weight)
"Bland wax coatings of mineral or vegetable origin	Citrus fruit	3000
	Cucumber	3000
	Potatoes	3000
"Carbaryl	Potatoes	10
"Chlorpropham	Potatoes	50
"Dichlorvos	Cereals	2
	Fruit and vegetables	2
"Diphenyl	Citrus fruit	110
"Diphenylamine	Apples	10
"Ethylene dichloride	Spices	30
"Ethoxyquin	Apples and pears	3
"Fenthion	Bananas	1
"Hexane	Spices	25
"Isopropyl alcohol	Spices	50
"Maldison	Potatoes	8
"Maleic hydrazide	Onions	15
"Methylene chloride	Spices	30
"Propham	Potatoes	50
"Salicylanilide	Bananas	2
"Sodium phenylphenate or o-phenyl phenol	Citrus fruit	10
	Citrus fruit	3
"Thiabendazole	Bananas	3
	Potatoes	3
"2, 4-D and its isopropyl ester	Citrus fruit	5."

**6. Permitted substances in food for which standards are prescribed—**

The principal regulations are hereby amended by inserting, after regulation 24, the following regulation:

“24A. Notwithstanding anything in these regulations, any food specified in the second column of the following Table may contain not more than the quantities specified in the third column of that Table of the substances specified in the first column of that Table.

## PERMITTED SUBSTANCES IN FOODS

Compound	Food	Permissible Proportion (Parts per million by weight)
“Aklomide	Meat of Poultry	0.1
“Amprolium	Meat of Poultry	0.5
	Whole Egg	4.0
“Carbadox	Pork	0.1
“Chlorhydroxyquinoline	Meat of Poultry	0.1
“Dimetridazole	Pork	0.1
“3,5 di nitro-o-toluamide	Meat of Poultry	3.0
“Ethopabate	Meat of Poultry	5.0
“Metichlorpindol	Meat of Poultry	5.0
“Robenidene	Meat of Poultry	2.0.”

**7. Food fumigation—**Regulation 38 of the principal regulations is hereby amended by revoking subclause (1), and substituting the following subclause:

“(1) No person shall expose any food held in storage to any fumigant unless—

“(a) The fumigant is either a gas under ordinary conditions of air temperature and pressure or is a vapour that has arisen from a substance that has a boiling point not greater than 135°C at a pressure of 101 kilopascals; and

“(b) The exposure results in a residue on or in food at the time of sale that is not greater than the maximum permitted by these regulations.”

**8. Food irradiation—**Regulation 39 of the principal regulations is hereby amended by omitting the words “or ultraviolet rays”.

**9. Labelling of fish and fish products—**Regulation 109 of the principal regulations is hereby amended by revoking subclause (5), and substituting the following subclause:

“(5) Fish sold as whitebait shall comprise juvenile forms of fish of which 90 percent are of the genus *Galaxias* or *Retrofina*.”

**10. Dripping—**Regulation 112 of the principal regulations is hereby amended by adding the words “It may contain any specified anti-oxidants.”

**11. Lard**—Regulation 113 of the principal regulations is hereby amended by adding the words “It may contain any specified anti-oxidants.”

**12. Suet**—Regulation 114 (1) of the principal regulations is hereby amended by adding the words “It may contain any specified anti-oxidants.”

**13. Club cheese or luncheon cheese**—Regulation 135 (1) of the principal regulations is hereby amended by omitting the expression “35”, and substituting the expression “45”.

**14. Salad dressing**—Regulation 146 (1) of the principal regulations is hereby amended by omitting the words “an emulsifier”, and substituting the words “any emulsifier, stabiliser, or thickener”.

**15. Raw vegetables**—(1) Regulation 184 of the principal regulations (as amended by regulation 25 of the Food and Drug Regulations 1973, Amendment No. 1) is hereby amended by revoking subclause (2).

(2) The said regulation 184 is hereby further amended by revoking subclause (4) (as added by regulation 22 of the Food and Drug Regulations 1973, Amendment No. 2), and substituting the following subclauses:

“(4) Where raw potatoes are contained in packages made wholly or partly of a transparent material, the packages shall be labelled, in 4 mm lettering, with the words ‘TO PREVENT GREENING THESE POTATOES MUST BE STORED IN A COOL DARK PLACE’, or words of similar meaning.

“(5) Raw potatoes shall not be sold if green pigmentation is visible in the skin.”

(3) The following regulations are hereby consequentially revoked:

(a) Regulation 25 of the Food and Drug Regulations 1973, Amendment No. 1:

(b) Regulation 22 of the Food and Drug Regulations 1973, Amendment No. 2.

**16. Dehydrated or dried vegetables**—Regulation 185 (1) of the principal regulations is hereby amended by omitting the words “or mint oil”, and substituting the words “mint oil, dried milk solids, or specified food conditioners”.

**17. Canned vegetables**—Regulation 186 (1) of the principal regulations is hereby amended by adding the words “Canned asparagus may contain stannous chloride.”

**18. Raw fruit**—(1) Regulation 190 (2) of the principal regulations is hereby revoked.

(2) Regulation 27 of the Food and Drug Regulations 1973, Amendment No. 1 is hereby consequentially revoked.

**19. Fruit juice**—Regulation 197 (5) of the principal regulations is hereby amended by inserting, after the words “*Citrus grandis*”, the words “, or the expressed juice of mature New Zealand grapefruit”.

**20. Culinary essences, extracts, and flavourings**—(1) Regulation 212 (1) of the principal regulations is hereby amended by inserting, after the words “specified colouring substances”, the words “and specified food conditioners”.

(2) Regulation 212 of the principal regulations is hereby further amended by inserting, after subclause (2), the following subclause:

“(2A) Culinary essences, extracts, and flavourings may contain any preservative for the time being specified in the Table in regulation 16 (8) of these regulations in relation to culinary essences, extracts, and flavourings.”

**21. Artificial culinary essences, extracts, and flavourings**—Regulation 213 of the principal regulations is hereby amended by inserting, after subclause (1), the following subclause:

“(1A) Artificial culinary essences, extracts, and flavourings may contain any specified food conditioners, and any preservative for the time being specified in the Table in regulation 16 (8) of these regulations in relation to artificial culinary essences, extracts, and flavourings.”

**22. General requirements for special-purpose foods**—Regulation 233 (6) of the principal regulations is hereby revoked.

**23. Diabetic food**—(1) Regulation 234 (4) of the principal regulations is hereby amended by revoking paragraph (b), and substituting the following paragraph:

“(b) Either—

“(i) If the food requires dilution or preparation before consumption, a statement of the manufacturer’s recommendation or recommendations in respect of such dilution or preparation, together with the statement ‘CONTAINS (*state the number of calories*) CALORIES PER 100 g (*or* 100 ml, *as the case may be*) OF FOOD READY FOR CONSUMPTION’; or

“(ii) In any other case, the statement ‘CONTAINS (*state the number of calories*) CALORIES PER 100 g (*or* 100 ml, *as the case may be*); and”.

(2) Regulation 234 of the principal regulations (as amended by regulation 35 of the Food and Drug Regulations 1973, Amendment No. 2) is hereby further amended by adding the following subclauses:

“(5) Every package of any diabetic food containing a non-nutritive sweetener shall be labelled with the word ‘DIABETIC’ in lettering at least equal in size to the largest lettering appearing on the label.

“(6) No package of a diabetic food shall be labelled with the words ‘low in calories’, or ‘trim’, or ‘slim’, or ‘reduce’, or any word of similar meaning.”

**24. Safety packaging for therapeutic drugs**—(1) Regulation 239A of the principal regulations (as inserted by regulation 37 of the Food and Drug Regulations 1973, Amendment No. 2) is hereby amended by revoking paragraph (c) of subclause (3), and substituting the following paragraphs:



- “(c) Where a pharmacist is of the opinion that, because of the age or infirmity of a particular person, a therapeutic drug to be used by that person should not be sold enclosed in a safety package; or
- “(d) In the case of capsules or powders manufactured in a pharmacy with reference to the particular needs of a patient.”
- (2) The said regulation 239A is hereby further amended—
- (a) By inserting in subclause (5), after the words “therapeutic drugs”, the words “when intended to be taken orally”:
- (b) By omitting from subclause (6) the words “the following classes of therapeutic drugs”, and substituting the words “therapeutic drugs intended to be taken orally and belonging to one of the following classes”.

**25. Disinfectants, germicides, and antiseptics**—Regulation 244 (2) of the principal regulations is hereby revoked.

**26. Transitional provision**—Regulation 253 of the principal regulations is hereby amended by revoking subclause (2) (as added by regulation 32 of the Food and Drug Regulations 1973, Amendment No. 1), and substituting the following subclause:

“(2) Notwithstanding anything in these regulations, in the case of a fruit drink, fruit flavoured drink, or artificial drink sold in a glass bottle with ceramic labelling that was manufactured before the 1st day of May 1973, the labelling requirements of these regulations shall not apply until the 1st day of May 1983.”

**27. Revocation**—The Food Additives Notice 1977\* is hereby consequentially revoked.

P. G. MILLEN,  
Clerk of the Executive Council.

\*S.R. 1977/25

#### EXPLANATORY NOTE

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations amend the Food and Drug Regulations 1973.

Regulation 1 relates to the Title and commencement. Regulations 15 (2) and 23, which relate to the labelling of potatoes in transparent bags and diabetic food, come into force 6 months after the date of the notification of these regulations in the *Gazette*, and the rest of the regulations on the day after that date.

Regulation 2 allows permitted preservatives to be added to culinary essences, extracts, and flavourings.

Regulation 3 is an interpretative provision.

Regulation 4 alters the present classification of permitted food conditioners in line with changes to the *Codex Alimentarius International Food Standards* classifications.

Regulation 5 makes certain changes to regulation 24 of the principal regulations relating to permitted incidental constituents.

Some of the amendments reflect changes in the use of pesticides in New

Zealand, and others represent an attempt to bring the present provisions more into line with international standards proposed by *Codex Alimentarius*.

Regulation 6 enacts a new regulation 24A, relating to permissible proportions of certain specified substances in certain foods. It re-enacts the provisions of clause 3 of the Food Additives Notice 1977, which is revoked by regulation 27 of these regulations.

Regulation 7 amends regulation 38 (1) of the principal regulations relating to the application to food held in storage of pesticides in gas or vapour form. The amendment revokes paragraph (c), which provides that the amount of pesticide to be used must conform generally to good fumigation practice. In place of this general provision specific provision is being made from time to time in respect of particular pesticides (see, reg. 11, S.R. 1974/188).

Regulation 8 removes the present prohibition against selling any food that has been treated by ultraviolet rays otherwise than in a manner approved by the Minister. A similar prohibition in respect of food treated by ionising radiation remains.

Regulation 9 specifies the genus of fish that may be sold as whitebait.

Regulations 10, 11, and 12 permit the addition of specified antioxidants to dripping, lard, and suet.

Regulation 13 increases the permitted moisture content of club cheese or luncheon cheese.

Regulation 14 permits the addition to salad dressing of any stabiliser or thickener.

Regulation 15 revokes the present provision relating to the post-harvest use of food additives in the cleaning and preparation of raw vegetables. This will now be dealt with under regulation 24 of the principal regulations, which relates to the addition of incidental constituents.

It also prescribes the labelling to be placed on transparent packs of potatoes.

Regulation 16 allows the addition of milk powder and conditioners to dehydrated or dried vegetables.

Regulation 17 permits the addition of stannous chloride to cans of asparagus. This will prevent discolouring where lacquered cans are used.

Regulation 18 revokes the present provision relating to the post-harvest use of food additives in the cleaning and preparation of raw fruit. This will now be dealt with under regulation 24 of the principal regulations, which relates to the addition of incidental constituents.

Regulation 19 extends the present provisions of regulation 197 of the principal regulations to New Zealand fruit juice.

Regulations 20 and 21 permit the addition of specified food conditioners to culinary essences, extracts, and flavourings.

Regulation 22 revokes a certain labelling requirement in respect of compounded foods sold as special-purpose foods.

Regulation 23 imposes new labelling requirements in respect of certain diabetic foods.

Regulation 24 exempts from the present requirements relating to safety packaging of therapeutic drugs capsules or powders made in pharmacies. It also makes it clear that the present requirements do not apply to preparations intended for internal administration other than orally.

Regulation 25 revokes a reference to a method of testing phenol-based disinfectants and germicides that is no longer in use.

Regulation 26 is a transitional provision relating to ceramic labelling on soft-drink bottles.

Regulation 27 consequentially revokes the Food Additives Notice 1977.

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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 9 March 1978.

These regulations are administered in the Department of Health.