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WELSH STATUTORY INSTRUMENTS

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**2005 No. 1156 (W.73)**

**FOOD, WALES**

**The Sweeteners in Food (Amendment)  
(Wales) Regulations 2005**

*Made* - - - - 12 April 2005  
*Coming into force* - - 30 April 2005

The National Assembly for Wales, in exercise of the powers conferred by sections 16(1) (a) and (e), 17(1), 26(1) and (3) and 48(1) of, and paragraph 1 of Schedule 1 to, the Food Safety Act 1990<sup>(1)</sup> and now vested in it<sup>(2)</sup> and having had regard in accordance with section 48(4A) of that Act to relevant advice given by the Food Standards Agency, and after consultation both as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety<sup>(3)</sup> makes the following Regulations:

**Title, commencement and application**

1. These Regulations —
  - (a) may be cited as the Sweeteners in Food (Amendment) (Wales) Regulations 2005;
  - (b) come into force on 30 April 2005; and
  - (c) apply in relation to Wales only.

**Amendments to the Sweeteners in Food Regulations 1995**

2. The Sweeteners in Food Regulations 1995<sup>(4)</sup> are amended in so far as they apply in relation to Wales in accordance with regulations 3 to 7.

3.—(1) In regulation 2 (interpretation) paragraph (1) —

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(1) 1990 c. 16.  
(2) Functions of the Secretary of State under the Food Safety Act 1990, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).  
(3) OJ No. L31, 1.2.2001, p.1. That Regulation was last amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (OJ No. L245, 29.9.2003, p.4). By virtue of Regulation 5 of the Food Safety Act 1990 (Amendment) Regulations 2004 (S.I. 2004/2990) with effect from 7 December 2004 the consultation requirement contained in section 48(4) of the 1990 Act is disapplied in any case in which consultation is required by Article 9 of Regulation (EC) No. 178/2002.  
(4) S.I. 1995/3123, amended by S.I. 1996/1477, S.I. 1997/814, S.I. 1999/982, S.I. 2001/2679 (W.220), S.I. 2002/330 (W.43) and S.I. 2003/1713 (W.181).

- (a) in the definition of “Directive 94/35/EC” after the words “Directive 96/83/EC of the European Parliament and Council” insert —  
“and by Directive 2003/115/EC<sup>(5)</sup>”
- (b) in the definition of “Directive 95/31/EC” after the words “Directive 2001/52/EC” insert —  
“and by Directive 2004/46/EC<sup>(6)</sup>”
- (c) for the definition of “permitted sweetener” substitute the following definition —  
““permitted sweetener” means any sweetener specified in Column 2 of Schedule 1 which satisfies the specific purity criteria for that sweetener specified in the Annex to Directive 95/31/EC;”.
- (2) In regulation 2 paragraph (3) —
- (a) in sub-paragraph (c)(i) the words —  
“and salt of aspartame-acesulfame”
- (b) in sub-paragraph (c)(ii) after the words “as the case may be” where those words first appear in that sub-paragraph, insert the following words —  
“the maximum amount of free imide contained in the”.
4. In regulation 3 (sale and use of sweeteners) —
- (a) in paragraph (3) add at the end the words “as read with the notes to that Schedule”; and
- (b) paragraph (5) is omitted.
5. In regulation 4 (sale of table-top sweeteners) in paragraph (b)(iii), after the words “where it contains aspartame” insert the following words —  
“or salt of aspartame-acesulfame”.
6. In regulation 11 (transitional provision and exemption) after paragraph (1A) insert the following paragraph —  
“(1B) In any proceedings for an offence under these Regulations which allege a contravention of regulations 3, 4 or 5 it is a defence to prove that —
- (a) the act was committed before 29th January 2006;
- (b) the act was that of —
- (i) selling a sweetener or food,
- (ii) using a sweetener in or on food,
- which in either case was placed on the market before 29th July 2005; and
- (c) the matter constituting the offence would not have constituted an offence under these Regulations if the amendments made by regulations 3(1)(c) or (2), or 4 to 7 of the Sweeteners in Food (Amendment) (Wales) Regulations 2005 had not been made when the act was committed.”.
7. In Schedule 1 (permitted sweeteners and the foods in or on which they may be used) —
- (a) in the entries in Column 3 relating to “E951 Aspartame” after the words ““snacks”: certain flavours of ready to eat, prepacked, dry, savoury starch products and coated nuts” insert the following entry —  
“*Essoblaten*”  
and in the corresponding place in Column 4 insert the following entry —  
“1000mg/kg”;

(5) OJ No. L24, 29.1.2004, p.65.

(6) OJ No. L114, 21.4.2004, p.15.

- (b) in the entries relating to “E952 Cyclamic Acid and its Na and Ca salts”—
- (i) in the entry under the heading “non-alcoholic drinks” relating to “Water-based flavoured drinks, energy-reduced or with no added sugar”, for the entry “400 mg/l” in Column 4 substitute the following entry —  
“250 mg/l”,
  - (ii) in the entry under the heading relating to “Milk and milk-derivative based or fruit juice-based energy-reduced or with no added sugar”, for the entry “400 mg/l” in Column 4 substitute the following entry —  
“250 mg/l”,
  - (iii) the entries listed in Columns 3 and 4 under the heading “Confectionery” are omitted, and
  - (iv) the entry in Columns 3 and 4 under the heading “Miscellaneous” relating to “Edible ices, energy-reduced or with no added sugar” is omitted;
- (c) after the entries relating to “E954 Saccharin and its Na, K and Ca salts”, the following entries are inserted —

“E955	Sucralose	<b>Non-alcoholic drinks</b>	
		— Water-based flavoured drinks, energy-reduced or with no added sugar	300 mg/l
		— Milk and milk-derivative-based or fruit-juice-based drinks, energy-reduced or with no added sugar	300 mg/l
		<b>Desserts and similar products</b>	
		— Water-based flavoured desserts, energy-reduced or with no added sugar	400 mg/kg
		— Milk and milk-derivative-based preparations, energy-reduced or with no added sugar	400 mg/kg
		— Fruit and vegetable-based desserts, energy-reduced or with no added sugar	400 mg/kg
		— Egg-based desserts, energy-	400 mg/kg

reduced or with no  
added sugar

— Cereal-based desserts, energy-reduced or with no added sugar 400 mg/kg

— Breakfast cereals with a fibre content of more than 15% and containing at least 20% bran, energy-reduced or with no added sugar 400 mg/kg

— Fat-based desserts, energy-reduced or with no added sugar 400 mg/kg

#### **Confectionery**

— Confectionery with no added sugar 1000 mg/kg

— Cocoa or dried-fruit based confectionery, energy-reduced or with no added sugar 800 mg/kg

— Starch-based confectionery, energy-reduced or with no added sugar 1000 mg/kg

— Cornets and wafers, for ice cream, with no added sugar 800 mg/kg

— Breath freshening micro-sweets with no added sugar 2400 mg/kg

— Strongly flavoured freshening throat pastilles with no added sugar 1000 mg/kg

— Chewing gum with no added sugar 3000 mg/kg

— Energy-reduced tablet form confectionery 200 mg/kg

**Miscellaneous**

- “Snacks”: certain 200 mg/kg  
flavours of ready  
to eat, pre-packed,  
dry, savoury starch  
products and coated  
nuts
- Essoblaten 800 mg/kg
- Cocoa, milk, 400 mg/kg  
dried fruit or fat-  
based sandwich  
spreads, energy-  
reduced or with no  
added sugar
- Cider and Perry 50 mg/l
- Drinks consisting 250 mg/l  
of a mixture of non-  
alcoholic drink and  
beer, cider, perry,  
spirits or wine
- Spirit drinks 250 mg/l  
containing less than  
15% alcohol by  
volume
- Alcohol-free 250 mg/l  
beer or with an  
alcohol content not  
exceeding 1.2% vol
- Biere de table/ 250 mg/l  
Tafelbier/Table  
beer (original  
wort content less  
than 6% except  
for “Obergariges  
Einfachbier”
- Beers with a 250 mg/l  
minimum acidity of  
30 milli-equivalents  
expressed as NaOH
- Brown beer of 250 mg/l  
the “oud bruin” type
- Energy-reduced 10 mg/l  
beer
- Edible ices, 320 mg/kg  
energy-reduced or  
with no added sugar

— Canned or bottled fruit, energy-reduced or with no added sugar	400 mg/kg
— Energy-reduced jams, jellies and marmalades	400 mg/kg
— Energy-reduced fruit and vegetable preparations	400 mg/kg
— Sweet-sour preserves of fruit and vegetables	180mg/kg
— Feinkostsalat	140 mg/kg
— Sweet-sour preserves and semi-preserves of fish and marinades of fish, crustaceans and molluscs	120 mg/kg
— Energy-reduced soups	45 mg/l
— Sauces	450 mg/kg
— Mustard	140 mg/kg
— Fine bakery products for special nutritional uses	700 mg/kg
— Foods intended for use in energy-restricted diets for weight reduction as referred to in Directive <a href="#">1996/8/EC</a>	320 mg/kg
— Dietary foods for special medical purposes as defined in Directive <a href="#">1999/21/EC</a>	400 mg/kg
— Food supplements as defined in Directive <a href="#">2002/46/EC</a> supplied in a liquid form	240 mg/l
— Food supplements as	800 mg/kg

defined in Directive  
[2002/46/EC](#)  
supplied in a solid  
form

— Food 2400 mg/kg”  
supplements as  
defined in Directive  
[2002/46/EC](#) based  
on vitamins and/or  
mineral elements  
and supplied in  
a syrup-type or  
chewable form

(d) after the entries relating to E959 Neohesperidine DC, the following entries are inserted —

“E962	Salt of aspartame-acesulfame	<b>Non-alcoholic drinks</b>	
		— Water-based flavoured drinks, energy-reduced or with no added sugar	350 mg/l <sup>(a)</sup>
		— Milk and milk-derivative-based or fruit-juice based drinks, energy-reduced or with no added sugar	350 mg/l <sup>(a)</sup>
		<b>Desserts and similar products</b>	
		— Water-based flavoured desserts, energy-reduced or with no added sugar	350 mg/kg <sup>(a)</sup>
		— Milk and milk-derivative-based preparations, energy-reduced or with no added sugar	350 mg/kg <sup>(a)</sup>
		— Fruit and vegetable-based desserts, energy-reduced or with no added sugar	350 mg/kg <sup>(a)</sup>
		— Egg-based desserts, energy-reduced or with no added sugar	350 mg/kg <sup>(a)</sup>

— Cereal-based desserts, energy-reduced or with no added sugar 350 mg/kg<sup>(a)</sup>

— Breakfast cereals with a fibre content of more than 15% and containing at least 20% bran, energy-reduced or with no added sugar 1000 mg/kg<sup>(b)</sup>

— Fat-based desserts, energy-reduced or with no added sugar 350 mg/kg<sup>(a)</sup>

### **Confectionery**

— Confectionery with no added sugar 500 mg/kg<sup>(a)</sup>

— Cocoa or dried-fruit-based confectionery, 500 mg/kg<sup>(a)</sup> energy-reduced or with no added sugar

— Starch-based confectionery, energy-reduced or with no added sugar 1000 mg/kg<sup>(a)</sup>

— Breath freshening micro-sweets with no added sugar 2500 mg/kg<sup>(a)</sup>

— Chewing gum with no added sugar 2000 mg/kg<sup>(a)</sup>

### **Miscellaneous**

“Snacks”: certain flavours of ready to eat, prepacked, dry, savoury starch products and coated nuts 500 mg/kg<sup>(b)</sup>

— Essoblaten 1000 mg/kg<sup>(b)</sup>

— Cocoa, milk, dried-fruit or fat-



based sandwich spreads, energy-reduced or with no added sugar	
— Cider and perry	350 mg/l <sup>(a)</sup>
— Drinks consisting of a mixture of a non-alcoholic drink and beer, cider, perry, spirits or wine	350 mg/l <sup>(a)</sup>
— Spirit drinks containing less than 15% alcohol by volume	350 mg/l <sup>(a)</sup>
— Alcohol-free beer or with an alcohol content not exceeding 1.2% vol	350 mg/l <sup>(a)</sup>
— “Biere de table/ Tafelbier/Table beer” (original wort content less than 6%) except for “Obergariges Einfachbier”	350 mg/l <sup>(a)</sup>
— Beers with a minimum acidity of 30 milli-equivalents expressed as NaOH	350 mg/l <sup>(a)</sup>
— Brown beers of the “oud bruin” type	350 mg/l <sup>(a)</sup>
— Energy-reduced beer	25 mg/l <sup>(b)</sup>
— Edible ices, energy-reduced or with no added sugar	800 mg/kg <sup>(b)</sup>
— Canned or bottled fruit, energy-reduced or with no added sugar	350 mg/kg <sup>(a)</sup>
— Energy-reduced jams, jellies and marmalades	1000 mg/kg <sup>(b)</sup>
— Energy-reduced fruit and vegetable preparations	350 mg/kg <sup>(a)</sup>

— Sweet-sour preserves of fruit and vegetables	200 mg/kg <sup>(a)</sup>
— Feinkostsalat	350 mg/kg <sup>(b)</sup>
— Sweet-sour preserves and semi-preserves of fish and marinades of fish, crustaceans and molluscs	200 mg/kg <sup>(a)</sup>
— Energy-reduced soups	110 mg/l <sup>(b)</sup>
— Sauces	350 mg/kg <sup>(b)</sup>
— Mustard	350 mg/kg <sup>(b)</sup>
— Fine bakery products for special nutritional uses	1000 mg/kg <sup>(a)</sup>
— Foods intended for use in energy-restricted diets for weight reduction as referred to in Directive <a href="#">1996/8/EC</a>	450 mg/kg <sup>(a)</sup>
— Dietary foods for special medical purposes as defined in Directive <a href="#">1999/21/EC</a>	450 mg/kg <sup>(a)</sup>
— Food supplements as defined in Directive <a href="#">2002/46/EC</a> supplied in a liquid form	350 mg/l <sup>(a)</sup>
— Food supplements as defined in Directive <a href="#">2002/46/EC</a> supplied in a solid form	500 mg/kg <sup>(a)</sup>
— Food supplements as defined in Directive <a href="#">2002/46/EC</a> based on vitamins and/or mineral elements	2000 mg/kg <sup>(a)</sup> **

and supplied in  
a syrup-type or  
chewable form

- (e) the entries relating to Sucralose listed at the end of the Table in Columns 2 to 4 are omitted;
- (f) for the words “Complete formulae for weight control intended to replace total daily food intake or an individual meal”, wherever they occur, substitute the following words —  
“Foods intended for use in energy-restricted diets for weight reduction as referred to in Directive 96/8/EC”(7);
- (g) for the words “Complete formulae and nutritional supplements for use under medical supervision”, wherever they occur, substitute the following words —  
“Dietary foods for special medical purposes as defined in Directive 1999/21/EC”(8);
- (h) for the words “Liquid food supplements/dietary integrators”, wherever they occur, substitute the following words —  
“Food supplements as defined in Directive 2002/46/EC supplied in a liquid form”(9);
- (i) for the words “Solid food supplements/dietary integrators”, wherever they occur, there are substituted the following words —  
“Food supplements as defined in Directive 2002/46/EC supplied in a solid form”;
- (j) for the words “Food supplements/diet integrators based on vitamins and/or mineral elements, syrup-type or chewable”, wherever they occur, substitute the following words —  
“Food supplements as defined in Directive 2002/46/EC based on vitamins and/or mineral elements and supplied in a syrup-type or chewable form”; and
- (k) after notes 1 and 2 add the following notes —
- “3. The maximum usable doses in Column 4 relating to salt of aspartame-acesulfame are derived from the maximum usable doses for its constituent parts, aspartame (E951) and acesulfame-K (E950). The maximum usable doses for both aspartame (E951) and acesulfame-K (E950) are not to be exceeded by use of the salt of aspartame-acesulfame, either alone or in combination with E950 or E951.
4. The maximum usable doses in Column 4 relating to E962 salt of aspartame-acesulfame are expressed either as<sup>(a)</sup> acesulfame-K equivalents or<sup>(b)</sup> aspartame equivalents.”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(10)

12 April 2005

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

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(7) OJ No. L55, 6.3.1966, p.22.  
(8) OJ No. L91, 7.4.1999, p.29.  
(9) OJ No. L183, 12.7.2002, p.51.  
(10) 1998 c. 38.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

1. These Regulations, which apply in relation to Wales only, further amend the Sweeteners in Food Regulations 1995 (S.I.1995/3123 as already amended), which extend to Great Britain, and implement —

- (a) Directive 2003/115/EC of the European Parliament and of the Council amending Directive 94/35/EC on sweeteners for use in foodstuffs (OJ No. L24, 29.1.2004, p.65); and
- (b) Commission Directive 2004/46/EC amending Directive 95/31/EC as regards E955 sucralose and E962 salt of aspartame-acesulfame (OJ No. L114, 21.4.2004, p.15).

2. These Regulations amend the Sweeteners in Food Regulations 1995 in relation to Wales by —

- (a) bringing up to date the definition of “Directive 94/35/EC” so as to cover the amendment of that Directive by Directive 2003/115/EC (regulation 3(1)(a));
- (b) bringing up to date the definition of “Directive 95/31/EC” (the Directive relates to specific purity criteria for sweeteners which are to be used in foodstuffs) so as to cover its amendment by Directive 2004/46/EC (regulation 3(1)(b));
- (c) substituting a new definition for the definition of the term “permitted sweetener” to reflect the fact that sucralose and salt of aspartame-acesulfame are now permitted sweeteners (regulation 3(1)(c));
- (d) making minor amendments to the definition of the term “maximum usable dose” as applied to those sweeteners which under the Regulations are permitted to be used in specified foodstuffs (regulation 3(2));
- (e) making explicit the fact that Schedule 1 (permitted sweeteners and the foods in or on which they may be used) is to be read in conjunction with the notes thereto (regulation 4(a));
- (f) deleting the provision which laid down that the controls on the use in specified foods of aspartame and acesulfame-K to be contained in Schedule 1 applied also to salt of aspartame-acesulfame in such foods (regulation 4(b));
- (g) extending to salt of aspartame-acesulfame the existing requirement that table top sweeteners containing aspartame be marked or labelled as specified in the Regulations (regulation 5);
- (h) including transitional provisions (regulation 6);
- (i) adding a further category of food to the categories in which the permitted sweetener E951 aspartame may lawfully be used and specifying the maximum usable dose applicable to such use (regulation 7(a));
- (j) as regards the permitted sweetener E952 cyclamic acid and its Na and Ca salts, reducing the maximum usable dose of that sweetener applicable in relation to specified foods, and making it unlawful to use that sweetener in specified items of confectionery and in certain edible ices (regulation 7(b));
- (k) inserting into Schedule 1 new entries relating to the permitted sweeteners E955 sucralose and to E962 salt of aspartame-acesulfame (regulation 7(c) and (d) respectively);
- (l) omitting the entries relating to sucralose previously contained in Schedule 1 (regulation 7(e));

- (m) in accordance with Directive [2003/115/EC](#), substituting new descriptions for the descriptions of certain food categories specified in Column 3 of Schedule 1 (regulation 7(f) to (j)); and
- (n) adding to Schedule 1 further footnotes relating to the permitted sweetener salt of aspartame-acesulfame (regulation 7(k)).

**3.** A regulatory appraisal has been prepared for these Regulations and placed in the library of the National Assembly for Wales, together with a transposition note setting out how the main elements of the Directives referred to in paragraph 1 above are transposed into domestic law by these Regulations. Copies may be obtained from the Food Standards Agency, 11th Floor, Southgate House, Wood Street, Cardiff, CF10 1EW.