



The Sweeteners in Food (Amendment) (England) Regulations 2003

Guidance Notes

Important Note

This Guidance has been produced with the aim of providing informal, non-statutory advice and should be read in conjunction with the appropriate legislation. The text should not be taken as an authoritative statement or interpretation of the law, as only the courts have this power. Every effort has been made to ensure that these guidance notes are as helpful as possible. However, it is ultimately the responsibility of individual businesses to ensure their compliance with the law. Businesses with specific queries may wish to seek the advice of their local enforcement agency, which will usually be the Local Authority Trading Standards Department.

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1. The relevant legislation

These Guidance notes relate to the provisions of The Sweeteners in Food (Amendment) (England) Regulations 2003 (SI 2003 No. 1182).

The relevant food must comply with the general provisions of the Food Safety Act 1990¹; the general rules governing the labelling of foods laid down by the Food Labelling Regulations 1996 and the Sweeteners in Food Regulations 1995 and associated Guidance. Specific requirements for the labelling of foods containing sweeteners are covered in Section 6 (of these guidance notes).

2. Coming into force

The Regulations came into force on 27 May 2003.

3. Legislation in the devolved administrations

Following the process of devolution, food legislation is now commonly made on a separate basis in England, Scotland, Wales and Northern Ireland. This is the case with the four separate sets of Sweeteners in Food Regulations. Therefore the England Regulations apply only in England, the Scotland Regulations apply only in Scotland, and so on.

However, the four sets of Regulations differ only in the powers under which they are made, and the food authorities given responsibility for enforcement. The provisions relating to salt of aspartame-acesulfame are very similar in each of the four sets of Regulations.

¹ In Northern Ireland, the equivalent legislation is the Food Safety (Northern Ireland) Order 1991.

4. Purpose of the legislation

The Regulations came into force on 27 May 2003 and permit the marketing and use of the sweetener, salt of aspartame-acesulfame in England for a period of two years.

In order to take account of scientific or technical developments which have occurred since the adoption of positive lists of additives, Article 5 of the Food Additives Framework Directive (89/107/EEC) permits any Member State to provisionally authorise the marketing and use of an additive within its territory which is not included in the relevant list (i.e. the list of permitted additives in the relevant Directive). This permission is known as 'temporary national authorisation'. Such an authorisation is permitted for a maximum of two years, during which time the manufacturer of the new additive is required to seek the necessary changes to European Union legislation and the European Commission must publish a proposal to amend the relevant Directive in order to include the new additive on the relevant positive list. The Member State must also ensure that foods containing the additive are officially monitored once an authorisation has been granted.

The Commission's current proposal (COM (2002) 375) for an amendment to the Sweeteners Directive (94/35/EC) which includes EU-wide authorisation of salt of aspartame-acesulfame was published in July 2002 and is currently under discussion in the European Parliament and Council. Therefore, under the provisions of Directive 89/107/EEC, the granting of a temporary national authorisation for this sweetener will continue to be in force until the Commission's proposal is either adopted or rejected. Should the latter occur or if the Council and Parliament decide to delete salt of aspartame-acesulfame from the amending Directive, the Agency would be obliged to revoke the authorisation.

5. Permitted food categories and maximum usable doses

Salt of aspartame-acesulfame is only permitted for use in food categories established for both of its constituent components; aspartame (E951) and acesulfame K (E950), by the Sweeteners in Food Regulations 1995 (SI 1995 No. 3123, as amended).

A table showing food categories and equivalent maximum usable doses for the constituent components of the salt of aspartame-acesulfame and an explanation of the method for calculation of maximum usable dose levels are shown at Annexes 1 & 2.

Maximum usable doses for the salt are derived from the maximum usable doses for its constituent parts. 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.

6. Labelling provisions

The salt of aspartame-acesulfame adheres to the same labelling requirements as its component parts. Regulation 34 of the Food Labelling Regulations 1996 (SI 1996 No. 1499) lays down specific provisions for the labelling of foods containing sweeteners. These Regulations state:

- I. "A food containing a sweetener or sweeteners authorised pursuant to the Sweeteners in Food Regulations 1995 shall be marked or labelled with the indication "with sweetener(s)".
- II. "A food containing both an added sugar or sugars and a sweetener or sweeteners authorised pursuant to those Regulations shall be marked or labelled with the indication "with sugar(s) and sweetener(s)".
- III. "A food containing aspartame shall be marked or labelled with the indication "contains a source of phenylalanine"."

Regulation 4 of the Sweeteners in Food Regulations (SI 1995 No. 3123) lays down specific provisions for the labelling of table-top sweeteners.

These Regulations state that a table-top sweetener must be marked or labelled with the description x-based table-top sweetener, substituting the name of any permitted sweetener which it contains.

The indication shown at III applies to all foods containing aspartame.

7. Responsibility for enforcement

Local Food Authorities are responsible for the enforcement of the Regulations. In practice this will usually be the Local Trading Standards Department. Businesses with specific queries may wish to seek the advice of their local enforcement agency, or home authority.

Contact details for Local Authorities are available from the Agency's website at: www.food.gov.uk

8. Further information

For further information on this guidance note or legislation and policy relating to sweeteners, please contact:

Chemical Safety and Toxicology Division – Branch 4
Room 515B
Food Standards Agency
Aviation House
125 Kingsway
London WC2B 6NH
Telephone: 020 7276 8097
Fax: 020 7276 8514

For further information on the legislation in the devolved administrations, please contact:

In Wales: Food Standards Agency Wales
11th Floor, Southgate House
Wood Street
Cardiff CF10 1EW
Telephone: 029 2067 8911
E-mail: wales@foodstandards.gsi.gov.uk

In Scotland:

Food Standards Agency Scotland
St Magnus House
6th Floor
25 Guild Street
Aberdeen AB11 6NG
Telephone: 01224 285155

In Northern Ireland:

Food Standards Agency Northern Ireland
10C Clarendon Road
Belfast
BT1 3BG
Telephone: 028 9041 7700

ANNEX 1

A LIST OF FOOD CATEGORIES AND MAXIMUM USABLE DOSES FOR THE CONSTITUENT COMPONENTS OF SALT OF ASPARTAME-ACESULFAME.

Limits in this column are expressed either as (a) acesulfame K equivalents or (b) aspartame equivalents.

Foods in or which salt of aspartame-acesulfame may be used	Maximum usable dose
Non-alcoholic drinks	
– Water-based flavoured drinks, energy-reduced or with no added sugar	350 mg/l (a)
– Milk- and milk-derivative-based or fruit-juice-based drinks, energy-reduced or with no added sugar	350 mg/l (a)
Desserts and similar products	
– Water-based flavoured desserts, energy-reduced or with no added sugar	350 mg/kg (a)
– Milk- and milk-derivative-based preparations, energy-reduced or with no added sugar	350 mg/kg (a)
– Fruit- and vegetable-based desserts, energy-reduced or with no added sugar	350 mg/kg (a)
– Egg-based desserts, energy-reduced or with no added sugar	350 mg/kg (a)
– Cereal-based desserts, energy-reduced or with no added sugar	350 mg/kg (a)
– Fat-based desserts, energy-reduced or with no added sugar	350 mg/kg (a)
– "Snacks": certain flavours of ready to eat, prepacked, dry, savoury starch products and coated nuts	500 mg/kg (b)
Confectionery	
– Confectionery with no added sugar	500 mg/kg (a)
– Cocoa- or dried-fruit-based confectionery, energy-reduced or with no added sugar	500 mg/kg (a)
– Starch-based confectionery, energy-reduced or with no added sugar	1000 mg/kg (a)
– Cocoa-, milk-, dried-fruit or fat-based sandwich spreads, energy-reduced or with no added sugar	1000 mg/kg (b)
– 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 (b)
– Breath-freshening micro-sweets, energy reduced or with no added sugar	2500 mg/kg (a)
– Chewing gum with no added sugar	2000 mg/kg (a)
Miscellaneous	
– Cider and perry	350 mg/l (a)

–	Drinks consisting of a mixture of a non-alcoholic drink and beer, cider, perry, spirits or wine	350 mg/l (a)
–	Spirit drinks containing less than 15% alcohol by volume	350 mg/l (a)
–	Alcohol-free beer or with an alcohol content not exceeding 1,2% vol	350 mg/l (a)
–	"Bière de table/Tafelbier/Table beer" (original wort content less than 6%) except for "Obergäriges Einfachbier"	350 mg/l (a)
–	Beers with a minimum acidity of 30 milli-equivalents expressed as NaOH	350 mg/l (a)
–	Brown beers of the 'oud bruin' type	350 mg/l (a)
–	Energy-reduced beer	25 mg/l (b)
–	Edible ices, energy-reduced or with no added sugar	800 mg/kg (b)
–	Canned or bottled fruit, energy-reduced or with no added sugar	350 mg/kg (a)
–	Energy-reduced jams, jellies and marmalades	1000 mg/kg (b)
–	Energy-reduced fruit and vegetable preparations	350 mg/kg (a)
–	Sweet-sour preserves of fruit and vegetables	200 mg/kg (a)
–	<i>Feinkostsalat</i>	350 mg/kg (b)
–	Sweet-sour preserves and semi-preserves of fish and marinades of fish, crustaceans and molluscs	200 mg/kg (a)
–	Energy-reduced soups	110 mg/l (b)
–	Sauces	350 mg/kg (b)
–	Mustard	350 mg/kg (b)
–	Fine bakery products, energy-reduced or with no added sugar	1000 mg/kg (a)
–	Complete formulae for weight control intended to replace total daily food intake or an individual meal	450 mg/kg (a)
–	Complete formulae and nutritional supplements for use under medical supervision	450 mg/kg (a)
–	Liquid food supplements/dietary integrators	350 mg/kg (a)
–	Solid food supplements/dietary integrators	500 mg/kg (a)
–	Food supplements/diet integrators based on vitamins and/or mineral elements, syrup-type or chewable	2000 mg/kg (a)

ANNEX 2

METHOD OF CALCULATING PERMITTED LEVELS OF SALT OF ASPARTAME-ACESULFAME

The maximum usable dose for the salt of aspartame-acesulfame in a particular food can be calculated by firstly multiplying the maximum usable dose (in the food concerned) of either the acesulfame K or aspartame equivalent (see Annex 1) by the molecular weight of salt of aspartame-acesulfame. This figure should then be divided by the molecular weight of either the acesulfame K or aspartame equivalent to obtain the final figure. Examples of this calculation are shown below.

Molecular weight of salt of aspartame-acesulfame = **457.46**

Molecular weight of acesulfame K = **201.24**

Molecular weight of aspartame = **294.31**

Examples

Acesulfame K

“Water-based flavoured drinks, energy-reduced or with no added sugar” - maximum usable dose for acesulfame K = **350 mg/l**

350 multiplied by **457.46** = **160111**

160111 divided by **201.24** = **795.62**

The equivalent permitted level of salt of aspartame-acesulfame is **796 mg/l**.

Aspartame

““Snacks”: certain flavours of ready to eat, pre-packed, dry, savoury starch products and coated nuts” - maximum usable dose for aspartame = **500 mg/kg**

500 multiplied by **457.46** = **228730**

228730 divided by **294.31** = **777.17**

The equivalent permitted level of salt of aspartame-acesulfame is **777 mg/kg**.