
SCOTTISH STATUTORY INSTRUMENTS

2001 No. 38

FOOD

**The Coffee Extracts and Chicory
Extracts (Scotland) Regulations 2001**

Made - - - - 15th February 2001
*Laid before the Scottish
Parliament* - - - - 15th February 2001
Coming into force - - 17th March 2001

The Scottish Ministers, in exercise of the powers conferred by sections 6(4), 16(1)(a) and (e), 17(1), 26(1) and (3) and 48(1) of the Food Safety Act 1990^{F1} and of all other powers enabling them in that behalf, after having regard in accordance with section 48(4A)^{F2} of that Act to relevant advice given by the Food Standards Agency and after consultation in accordance with section 48(4) and (4B)^{F3} of that Act, hereby make the following Regulations:

- F1** 1990 c.16; section 6(4) was amended by the [Deregulation and Contracting Out Act 1994 \(c.40\), Schedule 9, paragraph 6](#) and by the [Food Standards Act 1999 \(c.28\)](#) (“the 1999 Act”), Schedule 5, paragraph 10(3). Sections 16(1) and 48(1) were amended by the 1999 Act, Schedule 5, paragraph 8; section 17(1) was amended by the 1999 Act, Schedule 5, paragraphs 8 and 12; amendments made by the 1999 Act shall be taken as pre-commencement enactments for the purposes of the [Scotland Act 1998 \(c. 46\)](#) by virtue of section 40(2) of the 1999 Act. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.
- F2** [Section 48\(4A\)](#) was inserted by paragraph 21 of Schedule 5 to the Food Standards Act 1999.
- F3** [Section 48\(4B\)](#) was inserted by paragraph 21 of Schedule 5 to the Food Standards Act 1999. 1999.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Coffee Extracts and Chicory Extracts (Scotland) Regulations 2001 and shall come into force on 17th March 2001.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Food Safety Act 1990;

“chicory” means the roots of *Cichorium Intybus L.*, other than the roots of plants used for the production of witloof chicory, and which have been suitably cleaned, dried and roasted;

“chicory extracts” means the concentrated product obtained by extraction from roasted chicory using only water as the medium of extraction (excluding any process of hydrolysis involving the addition of an acid or a base);

“coffee extracts” means the concentrated product obtained by extraction from roasted coffee beans using only water as the medium of extraction (excluding any process of hydrolysis involving the addition of an acid or a base) and which contains only the soluble and aromatic constituents of coffee, apart from those insoluble substances which it is technically impossible to remove and insoluble oils derived from coffee;

“designated product” means any food specified in column 2 of Part I or II of the Schedule (as read with any Note in those columns relating to that food) but does not include any product which contains such a food as an ingredient and which is sold, consigned or delivered as a compound product;

F4 ...

[^{F5}“Regulation (EU) No 1169/2011” means Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 [^{F6}, as last amended by Regulation (EU) 2015/2283 of the European Parliament and of the Council on novel foods];]

“reserved description”, as respects any designated product, means any description specified in relation to that product in column 1 of Part I or II of the Schedule and the use of any such description in these Regulations shall be construed as meaning the designated product specified in relation to that description in column 2 of the respective Part;

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

(2) All proportions mentioned in these Regulations are proportions calculated by weight and are calculated on the total weight of the product.

(3) Any reference in these Regulations to the Schedule shall be construed as a reference to the Schedule to these Regulations.

F4 Words in reg. 2(1) omitted (13.12.2014) by virtue of [The Food Information \(Scotland\) Regulations 2014 \(S.S.I. 2014/312\)](#), reg. 1(2), **sch. 5 para. 6(a)(i)**

F5 Words in reg. 2(1) inserted (13.12.2014) by [The Food Information \(Scotland\) Regulations 2014 \(S.S.I. 2014/312\)](#), reg. 1(2), **sch. 5 para. 6(a)(ii)**

F6 Words in reg. 2(1) inserted (28.3.2019) by [The Food Standards and Hygiene \(Miscellaneous Amendments\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/33\)](#), regs. 1(1), **3(2)**

Scope of Regulations

3.—(1) Subject to paragraph (2) below, these Regulations apply to coffee extracts and chicory extracts which are ready for delivery to the ultimate consumer or to a catering establishment.

(2) These Regulations do not apply to the product known as *café torrefacto soluble*.

(3) In this regulation—

“catering establishment” means a restaurant, canteen, club, public house, school, hospital or similar establishment (including a vehicle or a fixed or mobile stall) where, in the course of a business, food is prepared for delivery to the ultimate consumer and is ready for consumption without further preparation;

“preparation” includes manufacture and any form of processing or treatment; and

“ultimate consumer” means any person who buys otherwise than—

- (a) for the purpose of resale;
- (b) for the purposes of a catering establishment; or
- (c) for the purposes of a manufacturing business.

Reserved descriptions

4. No person shall give with any food sold by that person, or display with any food offered or exposed by that person for sale or in that person’s possession for the purpose of sale, a label, whether or not attached to or printed on the wrapper or container, which bears, comprises or includes any reserved description or any derivative thereof or any word or description substantially similar thereto unless—

- (a) such food is the designated product to which the reserved description relates;
- (b) such description, derivative or word is used in such a context as to indicate explicitly or by clear implication that the substance to which it relates is only an ingredient of that food; or
- (c) such description, derivative or word is used in such a context as to indicate explicitly or by clear implication that such food is not and does not contain a designated product.

Labelling and description of designated products

5.—(1) Without prejudice to [^{F7}Regulation (EU) No 1169/2011], no person shall sell any designated product unless it is marked or labelled with the following particulars—

- (a) subject to paragraph (2) below, a reserved description of the product which shall be the name prescribed by law for that product for the purposes of [^{F8}Article 17 of Regulation (EU) No 1169/2011];
- (b) the word “decaffeinated” in the case of a product specified in column 2 of Part I of the Schedule which has been subjected to a decaffeination process and in which the residual anhydrous caffeine content does not exceed 0.30% of its coffee-based dry matter content;
- (c) in the case of a product specified in item 3 of column 2 of Part I or II of the Schedule in which sugar has been used, the words “with X”, “preserved with X”, “with added X” or “roasted with X”, as appropriate, “X” being the name of the sugar product used, which name shall be the reserved description of that product specified in relation thereto in [^{F9}the Specified Sugar Products (Scotland) Regulations 2003] or, if the sugar product has no such reserved description, the name of the product which if the sugar product were itself being sold as a food would be used, pursuant to [^{F10}Article 17 of Regulation (EU) No 1169/2011], as the name of the food;
- (d) in the case of a product specified in item 2 or 3 of column 2 of Part I of the Schedule, a declaration of the minimum coffee-based dry matter content expressed as a percentage; and
- (e) in the case of a product specified in item 2 or 3 of column 2 of Part II of the Schedule, a declaration of the minimum chicory-based dry matter content expressed as a percentage.

(2) The information required by paragraph (1)(b) and (c) above shall be in the same field of vision as the reserved description required by paragraph (1)(a) above.

(3) In the case of a product specified in item 3 of column 2 of Part I of the Schedule containing more than 25% coffee-based dry matter and of a product specified in item 3 of column 2 of Part II of the Schedule containing more than 45% chicory-based dry matter, the word “concentrated” may be added to the reserved description.

- F7** Words in reg. 5(1) substituted (13.12.2014) by [The Food Information \(Scotland\) Regulations 2014 \(S.S.I. 2014/312\)](#), reg. 1(2), **sch. 5 para. 6(b)(i)**
- F8** Words in reg. 5(1)(a) substituted (13.12.2014) by [The Food Information \(Scotland\) Regulations 2014 \(S.S.I. 2014/312\)](#), reg. 1(2), **sch. 5 para. 6(b)(ii)**
- F9** Words in reg. 5(1)(c) substituted (28.11.2003) by [The Specified Sugar Products \(Scotland\) Regulations 2003 \(S.S.I. 2003/527\)](#), reg. 1(1), **sch. 2** (with reg. 10)
- F10** Words in reg. 5(1)(c) substituted (13.12.2014) by [The Food Information \(Scotland\) Regulations 2014 \(S.S.I. 2014/312\)](#), reg. 1(2), **sch. 5 para. 6(b)(iii)**

Manner of marking or labelling

^{F11}6.

- F11** Reg. 6 omitted (13.12.2014) by virtue of [The Food Information \(Scotland\) Regulations 2014 \(S.S.I. 2014/312\)](#), reg. 1(2), **sch. 5 para. 6(c)**

Penalties and enforcement

7.—(1) Any person who contravenes or fails to comply with any of the provisions of these Regulations shall be guilty of an offence.

(2) A person found guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Each food authority shall enforce and execute these Regulations in its area.

(4) The methods used to determine the free and soluble carbohydrate content of coffee extracts shall be in conformity with [^{F12}Annex 3 to [^{F13}Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC] and shall be validated or standardised.

- F12** Words in reg. 7(4) substituted (28.3.2019) by [The Food Standards and Hygiene \(Miscellaneous Amendments\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/33\)](#), regs. 1(1), **3(3)**
- F13** Words in reg. 7(4) substituted (14.12.2019) by [The Official Feed and Food Controls \(Miscellaneous Amendments\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/407\)](#), regs. 1, **2**

Transitional provision

^{F14}8.

F14 Reg. 8 omitted (28.3.2019) by virtue of [The Food Standards and Hygiene \(Miscellaneous Amendments\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/33\)](#), regs. 1(1), **3(4)**

Defence in relation to exports

F15g.

F15 Reg. 9 revoked (1.1.2006) by [The Official Feed and Food Controls \(Scotland\) Regulations 2005 \(S.S.I. 2005/616\)](#), reg. 1(b), **sch. 6**

Application of various provisions of the Food Safety Act 1990

10. The following provisions of the Act shall apply for the purposes of these Regulations and any reference in those provisions to the Act or Part thereof shall be construed for the purposes of these Regulations as a reference to these Regulations—

- (a) section 2 (extended meaning of sale etc.);
- (b) section 3 (presumptions that food is intended for human consumption);
- (c) section 20 (offences due to fault of another person);
- (d) section 21 (defence of due diligence) as it applies for the purposes of section 8, 14 or 15 of the Act;
- (e) section 22 (defence of publication in the course of business);
- (f) section 30(8) (which relates to documentary evidence);
- (g) section 33 (obstruction etc. of officers);
- (h) section 35(1) to (3) (punishment of offences) in so far as it relates to offences under section 33(1) and (2) as applied by paragraph (g) above;
- (i) section 36 (offences by bodies corporate);
- (j) section 36A (offences by Scottish partnerships); and
- (k) section 44 (protection of officers acting in good faith).

Amendments and revocation

11.—^{F16}(1)

(2) The following entries relating to the Coffee and Coffee Products (Scotland) Regulations 1979 shall be omitted—

- (a) in the Food and Drugs (Scotland) Act 1956 (Transfer of Enforcement Functions) Regulations 1983 ^{F17}, in Schedule 1;
- (b) in the Food (Revision of Penalties and Mode of Trial) (Scotland) Regulations 1985 ^{F18}, in Schedules 1 and 2;
- (c) in the Food Safety Act 1990 (Consequential Modifications) (Scotland) Order 1990 ^{F19}, in Schedule 1, Part I, Schedule 2, Schedule 3, Part II and Schedules 5 and 8;
- (d) in the Food Safety (Exports) Regulations 1991 ^{F20}, in Schedule 2;
- (e) in the Food (Forces Exemptions) (Revocations) Regulations 1992 ^{F21}, in the Schedule, Part I;
- (f) in the Miscellaneous Food Additives Regulations 1995 ^{F22}, in Schedule 9; and