1989 No. 308

FOOD AND DRUGS

Composition and Labelling

Emulsifiers and Stabilisers in Food Regulations (Northern Ireland) 1989

Made	*28th July 1989*
Coming into operation . .	*31st August 1989*

The Department of Health and Social Services(**a**) in exercise of the powers conferred on it by sections 4, 7, 68 and 68A of the Food and Drugs Act (Northern Ireland) 1958(**b**) and of every other power enabling it in that behalf and after consultation in accordance with section 68(2) of that Act with such organisations as appear to it to be representative of interests substantially affected by these Regulations, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Emulsifiers and Stabilisers in Food Regulations (Northern Ireland) 1989, and shall come into operation on 31st August 1989.

Interpretation

2.—(1) In these Regulations—

"the Act" means the Food and Drugs Act (Northern Ireland) 1958;

"appropriate designation" means, as respects any permitted emulsifier or permitted stabiliser, a name or description or a name and description sufficiently specific, in each case, to indicate to an intending purchaser the true nature of the permitted emulsifier or permitted stabiliser to which it is applied;

"bread" has the meaning assigned to it by the Bread and Flour Regulations (Northern Ireland) 1984(**c**);

"cheese spread", "processed cheese", "soft cheese" and "whey cheese" have the meanings respectively assigned to them by the Cheese Regulations (Northern Ireland) 1970(**d**);

"chocolate product" and "cocoa product" have the meanings respectively assigned to them by the Cocoa and Chocolate Products Regulations (Northern Ireland) 1976(**e**);

(**a**) *See* S.R. & O. (N.I.) 1964 No. 205 Article 5 and Schedule 2 Part I

(**b**) 1958 c. 27 (N.I.); section 4 was amended by and section 68A was added by S.R. & O. (N.I.) 1972 No. 363. Section 68 was amended by paragraph 3 of Schedule 4 to the Criminal Justice (Northern Ireland) Order 1986 (S.I. 1986/1883 (N.I. 15))

(**c**) S.R. 1984 No. 406

(**d**) S.R. & O. (N.I.) 1970 No. 14; the relevant amending Regulations are S.R. 1974 No. 177 and S.R. 1984 No. 352

(**e**) S.R. 1976 No. 183; the relevant amending Regulations are S.R. 1982 No. 349

"emulsifier" and "stabiliser" mean respectively any substance which is capable—

(*a*) in the case of an emulsifier, of aiding the formation of, and

(*b*) in the case of a stabiliser, of maintaining,

the uniform dispersion of two or more immiscible substances, but do not in either case include—

(i) any natural food substance,

(ii) any permitted antioxidant,

(iii) any permitted colouring matter,

(iv) any permitted miscellaneous additive,

(v) any permitted preservative,

(vi) any permitted solvent,

(vii) any permitted sweetener,

(viii) caseins and caseinates,

(ix) proteins, protein concentrates and protein hydrolysates,

(x) starches, whether modified or not,

(xi) normal straight chain fatty acids derived from food fats;

"flour" has the meaning assigned to it by the Bread and Flour Regulations (Northern Ireland) 1984;

"food" has the same meaning as in the Act, except that it is limited to food intended for sale for human consumption;

"Food Chemicals Codex 1981" means the third edition of the Food Chemicals Codex, published in 1981 by the National Academy of Sciences, Washington DC, United States of America;

"natural food substance" means any substance, suitable for use as food and commonly used as food, which is wholly a natural product, whether or not that substance has been subjected to any process or treatment, and includes malt extract and glucose syrup but does not include edible gums;

"permitted antioxidant" means any antioxidant in so far as its use is permitted by the Antioxidants in Food Regulations (Northern Ireland) 1978(**a**);

"permitted colouring matter" means any colouring matter in so far as its use is permitted by the Colouring Matter in Food Regulations (Northern Ireland) 1973(**b**);

"permitted emulsifier" and "permitted stabiliser" mean respectively any emulsifier and any stabiliser specified in Part I of Schedule 1, which complies with the specific purity criteria in relation to that emulsifier or stabiliser specified or referred to in Part II of that Schedule and, so far as is not otherwise provided in any such specific purity criteria, with the general purity criteria in Part III of that

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(**a**) S.R. 1978 No. 112; the relevant amending Regulations are S.R. 1981 No. 191

(**b**) S.R. & O. (N.I.) 1973 No. 466; the relevant amending Regulations are S.R. 1975 No. 283, S.R. 1976 No. 382; S.R. 1979 No. 49 and S.R. 1987 No. 471

Schedule, or any mixture of two or more such emulsifiers or stabilisers or emulsifiers and stabilisers;

"permitted miscellaneous additive" means any miscellaneous additive in so far as its use is permitted by the Miscellaneous Additives in Food Regulations (Northern Ireland) 1981(**a**);

"permitted preservative" means any preservative in so far as its use is permitted by the Preservatives in Food Regulations (Northern Ireland) 1989(**b**);

"permitted solvent" means any solvent in so far as its use is permitted by the Solvents in Food Regulations (Northern Ireland) 1967(**c**);

"permitted sweetener" means any sweetener in so far as its use is permitted by the Sweeteners in Food Regulations (Northern Ireland) 1983(**d**);

"sell" includes offer or expose for sale or have in possession for sale;

"soft drink" has the meaning assigned to it by the Soft Drinks Regulations (Northern Ireland) 1976(**e**);

"specified food" means any food of a description specified in column 2 of Part II or column 1 of Part III of Schedule 2;

"specified sugar product" has the meaning assigned to it by the Specified Sugar Products Regulations (Northern Ireland) 1976(**f**).

(2) 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 a container shall be construed as including a reference to any legible marking on the container however effected.

(4) 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 a sale of that food.

Exemptions

3. These Regulations shall not apply to food having any emulsifier or stabiliser in it or on it or to any emulsifier or stabiliser which, in each case, is intended at the time of sale for exportation to any place outside the United Kingdom.

Sale, etc., of food containing emulsifiers or stabilisers

4.—(1) Subject to the provisions of this regulation, food which is sold shall not have in it or on it any added emulsifier or added stabiliser other than a permitted emulsifier or permitted stabiliser.

(a) S.R. 1981 No. 193; the relevant amending Regulations are S.R. 1982 No. 258; S.R. 1983 No. 265 and S.R. 1984 No. 406
(b) S.R. 1989 No. 152
(c) S.R. & O. (N.I.) 1967 No. 282; the relevant amending Regulations are S.R. 1981 No. 192 and S.R. 1984 No. 406
(d) S.R. 1983 No. 265; the relevant amending Regulations are S.R. 1985 No. 163 and S.R. 1988 No. 433
(e) S.R. 1976 No. 357; the relevant amending Regulations are S.R. 1977 No. 182 and S.R. 1983 No. 265
(f) S.R. 1976 No. 165; the relevant amending Regulations are S.R. 1982 No. 311

(2) Food which is sold shall not have in it or on it any added permitted emulsifier or added permitted stabiliser specified in Part I of Schedule 2 or any combination of those substances in a proportion exceeding 150,000 milligrams per kilogram.

(3) Food which is sold shall not have in it or on it any added permitted emulsifier or added permitted stabiliser specified in column 1 of Part II of Schedule 2 unless the food is a specified food prescribed in relation to that emulsifier or stabiliser in column 2 of that Part of that Schedule and the proportion of that emulsifier or stabiliser in or on the food does not exceed the proportion prescribed in column 3 of that Part of that Schedule.

(4) Specified food prescribed in column 1 of Part III of Schedule 2, which is sold, shall not have in it or on it any added permitted emulsifier or added permitted stabiliser unless the emulsifier or stabiliser is prescribed in relation to that specified food in column 2 of that Part of that Schedule and the proportion of that emulsifier or stabiliser in or on the food does not exceed the proportion prescribed in column 3 of that Part of that Schedule.

(5) Subject to paragraph (6), nothing in paragraph (3) or (4) shall prohibit the presence in or on any food, which has in it or on it any specified food, of any permitted emulsifier or permitted stabiliser of the description prescribed for, and in the amount appropriate to the quantity of, that specified food in accordance with paragraph (3) or (4).

(6) Where, by reason of the use of a tin-greasing emulsion in its preparation, any food has present in it or on it—

(*a*) the permitted emulsifier oxidatively polymerised soya bean oil, that permitted emulsifier shall be present in a proportion not exceeding 50 milligrams per kilogram;

(*b*) the permitted emulsifier polyglycerol esters of dimerised fatty acids of soya bean oil, that permitted emulsifier shall be present in a proportion not exceeding 20 milligrams per kilogram.

(7) Nothing in paragraph (4) shall prohibit the presence in or on any bread, by reason of the use of a tin-greasing emulsion in its preparation, of any permitted emulsifier or permitted stabiliser not specified in paragraph (6) or in column 2 of item (*a*) of Part III of Schedule 2 in a proportion not exceeding 50 milligrams per kilogram.

(8) Flour, intended for sale as such, shall not contain any emulsifier or stabiliser.

(9) A person shall not sell any food which does not comply with this regulation.

Sale, advertisement and labelling of emulsifiers and stabilisers

5.—(1) A person shall not sell, or advertise for sale, any emulsifier or stabiliser (including any emulsifier or stabiliser with which any other substance has been mixed) for use as an ingredient in the preparation of food unless such emulsifier or stabiliser is a permitted emulsifier or permitted stabiliser.

(2) A person shall not sell any permitted emulsifier or any permitted stabiliser (including any such permitted emulsifier or permitted stabiliser with which any other substance has been mixed) for use as an ingredient in the

preparation of food except in a container bearing a label which complies with the requirements of Schedule 3.

6. A person shall not—

(*a*) give with any permitted emulsifier or permitted stabiliser sold by him for use as an ingredient in the preparation of food any label, whether attached to or borne on the container or not, or display with any permitted emulsifier or permitted stabiliser offered or exposed by him for sale for such use any ticket or notice; or

(*b*) publish, or be a party to the publication of, any advertisement of any permitted emulsifier or permitted stabiliser for sale for use as an ingredient in the preparation of food,

which bears or includes any words, device or description calculated to indicate either directly or indirectly that that emulsifier or stabiliser is a substitute for fat or eggs.

Condemnation of food

7. Where any food is certified by a public analyst as being food which it is an offence under regulation 4 to sell, that food may be treated for the purposes of section 9 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.

Offences and penalties

8. If any person contravenes any of the foregoing provisions he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £2,000.

Defences

9. In any proceedings for an offence under 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.

Revocations

10. The Regulations specified in column 1 of Schedule 4 are hereby revoked to the extent specified in column 3 of that Schedule.

Sealed with the Official Seal of the Department of Health and Social Services on 28th July 1989.

(L.S.) *R. J. McMurray*
Assistant Secretary