1989 No. 152

FOOD AND DRUGS

Composition and Labelling

Preservatives in Food Regulations (Northern Ireland) 1989

Made	*19th April 1989*
Coming into operation . .	*5th June 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 Preservatives in Food Regulations (Northern Ireland) 1989, and shall come into operation on 5th June 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 preservative or any food, 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 preservative or of the food, as the case may be, to which it is applied;

"biscuits" includes wafers, rusks, crispbreads, oatcakes, matzos and chocolate-coated, chocolate-filled or chocolate-flavoured biscuits;

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

"canned food" means any food which—

(*a*) is in a hermetically sealed container, and

(*b*) (i) has been sufficiently heat processed to destroy any *Clostridium botulinum* in the food or its container, or

(ii) has a pH of less than 4.5,

(**a**) *See* S.R. & O. (N.I.) 1964 No. 205 art. 5 and Sch. 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

(**c**) S.R. 1984 No. 406, to which there is an amendment not relevant to these Regulations

and "canned", in relation to any food, shall be construed accordingly;

"carbohydrate" means any substance containing carbon, hydrogen and oxygen only in which the hydrogen and oxygen occur in the same proportion as in water;

"cheese" and "soft cheese" have the meanings respectively assigned to them by the Cheese Regulations (Northern Ireland) 1970(**a**);

"Community" means the European Economic Community;

"Community controlled wine" means wine, grape must, sparkling wine, aerated sparkling wine, liqueur wine, semi-sparkling wine and aerated semi-sparkling wine as respectively defined in Annex 1 to Council Regulation (EEC) No. 822/87(**b**) on the common organisation of the market in wine;

"compounded food" means food containing two or more ingredients;

"concentrated fruit juice" has the meaning assigned to it by the Fruit Juices and Fruit Nectars Regulations (Northern Ireland) 1977(**c**);

"container" includes any form of packaging of food for sale as a single item, whether by way of wholly or partly enclosing the food or by way of attaching the food to some other article, and in particular includes a wrapper or confining band;

"dock" includes any harbour, moorings, wharf, pier, jetty or other works in or at which food can be shipped or unshipped and any warehouse, transit shed or other premises used in connection therewith for the temporary storage or loading for despatch of food which is unshipped or to be shipped;

"flavouring" includes flavouring essence and flavouring extract and means any product consisting of a flavouring agent and such other substances, if any, the use of which in food is not forbidden and which are reasonably necessary to produce a solid, a solution or an emulsion, but no other ingredient or ingredients;

"flavouring agent" means any sapid or odorous substance capable of imparting and primarily intended to impart a specific and distinctive taste or odour to food, but does not include herbs, spices, onions, garlic, salt, fruit juices, soft drinks, fruit acids, acetic acid, any carbohydrate material, any purine derivative, any preparation of yeast, coffee or chicory or any substances prepared by the hydrolysis of protein-containing materials;

"flavouring syrup" means a solution of carbohydrate sweetening matter containing sufficient flavouring to provide, after dilution with milk or water, a drink with that flavour;

"flour confectionery" means any solid or semi-solid product complete in itself and suitable for consumption without further preparation or

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(**a**) S.R. & O. (N.I.) 1970 No. 14, to which there are amendments not relevant to these Regulations
(**b**) O.J. No. L84, 27.3.1987, p. 1
(**c**) S.R. 1977 No. 182, to which there are amendments not relevant to these Regulations

processing other than heating, of which the characteristic ingredient, apart from any filling, is ground cereal, whether or not flavoured, coated with or containing any carbohydrate sweetening matter, chocolate or cocoa; and includes shortbread, sponges, pastry, pastry cases, crumpets, muffins, macaroons, ratafias, meringues and petits fours, but does not include pharmaceutical products, bread, biscuits, canned puddings, Christmas puddings or any product containing a filling which has as an ingredient any meat or fish or any animal, vegetable or microbial material processed before or during the preparation of the product to resemble the texture of meat or fish;

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

"freeze drink" means any pre-packed liquid which complies with the requirements in the Soft Drinks Regulations (Northern Ireland) 1976(**a**) as to the composition of any soft drink for consumption without dilution and which is clearly and legibly labelled as intended for freezing before consumption;

"fruit juice" has the meaning assigned to it by the Fruit Juices and Fruit Nectars Regulations (Northern Ireland) 1977;

"fruit spread" means the product obtained by processing fruit, fruit pulp or purée and carbohydrate sweetening matter, with or without the addition of other substances, to a suitable consistency by the application of heat and which is not a product described in column 2 of Schedule 1 to the Jam and Similar Products Regulations (Northern Ireland) 1982(**b**);

"hermetically sealed container" means a sealed container which is airtight and impermeable to gases;

"ice cream" has the meaning assigned to it by the Ice-Cream and Other Frozen Confections Regulations (Northern Ireland) 1968(**c**);

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

"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(**e**);

"permitted emulsifier" means any emulsifier in so far as its use is permitted by the Emulsifiers and Stabilisers in Food Regulations (Northern Ireland) 1981(**f**);

(**a**) S.R. 1976 No. 357; the relevant amending Regulation is S.R. 1977 No. 182
(**b**) S.R. 1982 No. 105; to which there are amendments not relevant to these Regulations
(**c**) S.R. & O. (N.I.) 1968 No. 13; to which there are amendments not relevant to these Regulations
(**d**) S.R. 1978 No. 112; the relevant amending Regulation is S.R. 1981 No. 191
(**e**) 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
(**f**) S.R. 1981 No. 194; the relevant amending Regulations are S.R. 1982 No. 257 and S.R. 1984 No. 22

"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 specified in columns 1 and 2 of Part I of Schedule 1 or, subject to the provisions of paragraph (2), specified in columns 3 and 4 of that Part of that Schedule which, in either case, satisfies the specific purity criteria in relation to that preservative specified or referred to in Part II of that Schedule, and, so far as is not otherwise provided by any such specific purity criteria, satisfies the general purity criteria specified in Part III of that Schedule, or any mixture of two or more such preservatives;

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

"permitted stabiliser" means any stabiliser in so far as its use is permitted by the Emulsifiers and Stabilisers in Food Regulations (Northern Ireland) 1981;

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

"pre-packed" means made up in advance ready for retail sale in or on a container; and on any premises where food of any description is so made up, or is kept or stored for sale after being so made up, any food of that description found made up in or on a container shall be deemed to be pre-packed unless the contrary is proved;

"preservative" means any substance which is capable of inhibiting, retarding or arresting the growth of micro-organisms or any deterioration of food due to micro-organisms or of masking the evidence of any such deterioration but does not include—

(*a*) any permitted antioxidant;

(*b*) any permitted colouring matter;

(*c*) any permitted emulsifier;

(*d*) any permitted miscellaneous additive;

(*e*) any permitted solvent;

(*f*) any permitted stabiliser;

(*g*) any permitted sweetener;

(*h*) vinegar;

(*j*) any soluble carbohydrate sweetening matter;

(*k*) potable spirits or wines;

(*l*) herbs, spices, hop extract or flavouring agents when used for flavouring purposes;

(**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. & O. (N.I.) 1967 No. 282; the relevant amending Regulation is S.R. 1981 No. 192

(**c**) S.R. 1983 No. 265; to which there are amendments not relevant to these Regulations

(*m*) common salt (sodium chloride);

(*n*) any substance added to food by the process of curing known as smoking;

"processing", in relation to food, includes curing by smoking and any treatment or process resulting in a substantial change in the natural state of the food but does not include boning, paring, grinding, cutting, cleaning or trimming;

"raw peeled potatoes" includes chips, sliced potatoes, diced potatoes and potatoes which have undergone the culinary process known as "blanching";

"reduced sugar jam", "reduced sugar jelly" and "reduced sugar marmalade" have the meanings assigned to them by regulation 2(2) of the Jam and Similar Products Regulations (Northern Ireland) 1982;

"retail sale" means any sale to a person buying otherwise than for the purpose of re-sale, but does not include a sale to a caterer for the purposes of his catering business, or a sale to a manufacturer for the purpose of his manufacturing business;

"sauce" means a liquid, thickened or unthickened, frozen or otherwise, used as a garnish with food and having a colour and flavour derived essentially from ingredients other than meat, but does not include mustard, gravy sauce or any product having characteristics similar to gravy;

"sausage" does not include any cured meat product which has been acidified or fermented;

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

"smoking" means treating food with smoke or smoke solutions derived from wood or ligneous vegetable matter in the natural state, and excludes smoke or smoke solutions derived from wood or ligneous vegetable matter which has been impregnated, coloured, gummed, painted or otherwise treated in a similar manner;

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

"specified food" means any food of a description specified in column 1 of Schedule 2;

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

"sterile pack" means a hermetically sealed container which has been sufficiently heat processed to destroy any *Clostridium botulinum* in the container or in any food which is in the container;

"storage", in relation to food, means storage at, in or upon any farm, dock, vehicle, warehouse, fumigation chamber, cold store, transportable container, whether refrigerated or not, or any barge, ship, aircraft or hover vehicle whilst, in each case, at, in or upon any port, harbour, airport or hover-port in Northern Ireland;

(a) S.R. 1976 No. 165; the relevant amending Regulation is S.R. 1982 No. 311