1980 No. 28

FOOD AND DRUGS

Composition and Labelling

Preservatives in Food Regulations (Northern Ireland) 1980

Made . . . . . *22nd January 1980*

Coming into operation . . . *3rd March 1980*

The Department of Health and Socal Services(a) in exercise of the powers conferred on it by sections 4, 7, 68 and 68(A)(b) of the Food and Drugs Act (Northern Ireland) 1958(c) and of every other power enabling it in that behalf and after consultation 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) 1980, and shall come into operation on 3rd March 1980.

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) 1964(d);

"canned food" means food in a hermetically sealed container which has been sufficiently heat processed to destroy any *Clostridium botulinum* in that food or container or which has a pH of less than 4.5;

"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(e);

"Community" means the European Economic Community;

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

(a) *See* S.R. & O. (N.I.) 1964 No. 205 (p. 937) art. 5 and Sch. 2 Part I and 1973 c. 36 s. 40 and Sch. 5 para. 8
(b) Added by S.R. & O. (N.I.) 1972 No. 363 (p. 1767)
(c) 1958 c. 27 (N.I.)
(d) S.R. & O. (N.I.) 1964 No. 172 (p. 829)
(e) S.R. & O. (N.I.) 1970 No. 14 (p. 27); relevant amending regulation is S.R. 1974 No. 177 (I, p. 761)

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

"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;

"Department" means the Department of Health and Social Services;

"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 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" means food intended for sale for human consumption and includes drink, chewing gum and other products of a like nature and use, and articles and substances used as ingredients in the preparation of food or drink or of such products, but does not include—

(*a*) water, live animals or birds,

(*b*) fodder or feeding stuffs for animals, birds or fish, or

(*c*) articles or substances used only as drugs;

"freeze drink" means any pre-packed liquid which complies with the requirements in the Soft Drinks Regulations (Northern Ireland) 1976(g), 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;

(f) S.R. 1977 No. 182 (II, p. 1047)
(g) S.R. 1976 No. 357 (II, p. 1725), amended by S.R. 1977 No. 182 (II, p. 1047)

"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 of which the total soluble solids content is less than 65 per cent;

"jam" includes fruit jelly prepared in the way in which jam is prepared, marmalade and jelly marmalade;

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

"permitted artificial sweetener" means any artificial sweetener in so far as its use is permitted by the Artificial Sweeteners in Food Regulations (Northern Ireland) 1969(**j**);

"permitted bleaching agent" means any bleaching agent in so far as its use is permitted by the Bread and Flour Regulations (Northern Ireland) 1964(**k**);

"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(**l**);

"permitted emulsifier" means any emulsifier in so far as its use is permitted by the Emulsifiers and Stabilisers in Food Regulations (Northern Ireland) 1975(**m**);

"permitted improving agent" means any improving agent in so far as its use is permitted by the Bread and Flour Regulations (Northern Ireland) 1964;

"permitted miscellaneous additive" means any acid, anti-caking agent, anti-foaming agent, base, buffer, firming agent, glazing agent, humectant, liquid freezant, packaging gas, propellent, release agent, or sequestrant in so far as its use is permitted by the Miscellaneous Additives in Food Regulations (Northern Ireland) 1974(**n**);

"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(**o**);

(**h**) S.R. 1978 No. 112 (I, p. 323)
(**j**) S.R. & O. (N.I.) 1969 No. 346 (p. 1563)
(**k**) S.R. & O. (N.I.) 1964 No. 172 (p. 829); relevant amending regulation is S.R. & O. (N.I.) 1972 No. 275 (p. 1448)
(**l**) S.R. & O. (N.I.) 1973 No. 466 (II, p. 2705); relevant amending regulations are S.R. 1975 No. 283 (II, p. 1370), S.R. 1976 No. 382 (II, p. 2185), S.R. 1979 No. 49 (I, p. 151)
(**m**) S.R. 1975 No. 278 (II, p. 1323); relevant amending regulations are S.R. 1976 No. 183 (I, p 846), S.R. 1976 No. 367 (II, p. 1763)
(**n**) S.R. 1974 No. 196 (I, p. 831); relevant amending regulations are S.R. 1975 No. 275 (II, p. 1285), S.R. 1976 No. 183 (I, p. 846)
(**o**) S.R. & O. (N.I.) 1967 No. 282 (p. 979)

"permitted stabiliser" means any stabiliser in so far as its use is permitted by the Emulsifiers and Stabilisers in Food Regulations (Northern Ireland) 1975;

"polyhydric alcohol" means an alcohol with three or more free hydroxyl groups;

"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 artificial sweetener,
(*c*) any permitted bleaching agent,
(*d*) any permitted colouring matter,
(*e*) any permitted emulsifier,
(*f*) any permitted improving agent,
(*g*) any permitted miscellaneous additive,
(*h*) any permitted solvent,
(*j*) any permitted stabiliser,
(*k*) vinegar,
(*l*) any soluble carbohydrate sweetening matter,
(*m*) potable spirits or wines,
(*n*) herbs, spices, hop extract or flavouring agents when used for flavouring purposes,
(*o*) common salt (sodium chloride),
(*p*) 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";

"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" and "sausage meat" have the meanings respectively assigned to them by the Sausage and Other Meat Product Regulations (Northern Ireland) 1967(**p**);

(**p**) S.R. & O. (N.I.) 1967 No. 156 (p. 587); relevant amending regulation is S.R. & O. (N.I.) 1968 No. 281 (p. 1175)

"sell" includes offer or expose for sale or have in possession for sale, and "sale" and "sold" shall be construed accordingly;

"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(q);

"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;

"sweetened" means containing any added soluble carbohydrate sweetening matter or added polyhydric alcohol or any permitted artificial sweetener and "unsweetened" shall be construed accordingly.

(2) Any preservative specified in columns 3 and 4 of Part I of Schedule 1 may be used as an alternative to the permitted preservative specified in relation thereto in columns 1 and 2 of that Part of that Schedule, if calculated as that permitted preservative, and any reference to any permitted preservative specified in the said columns 1 and 2 shall be construed accordingly.

(3) Unless a contrary intention is expressed, all proportions mentioned are proportions calculated by weight of the product as sold.

(4) Any reference to a label borne on a container shall be construed as including a reference to any legible marking on the container however effected.

(5) For the purpose of these regulations, 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. The provisions of these regulations shall not apply to food having any preservative in it or on it, or to any preservative which, in each case, is intended at the time of sale, consignment or delivery, as the case may be, for exportation to any place outside the United Kingdom.

Sale, etc. of food containing preservative

4.—(1) Save as hereinafter provided, no food sold, consigned or delivered shall have in it or on it any added preservative:

Provided that—

(*a*) any specified food may have in it or on it permitted preservative of the description and in the proportion specified in relation thereto in columns 2 and 3 respectively of Schedule 2;

(*b*) any specified food in relation to which two or more permitted preservatives are specified in Schedule 2 may have in it or on it an admixture of those preservatives as follows:—

(q) S.R. 1976 No. 165 (I. p. 768)