1978 No. 342

CONSUMER PROTECTION

Cosmetic Products Regulations (Northern Ireland) 1978

Made . . . . . 13*th November* 1978

Coming into operation in accordance with Regulation 1(2), (3) and (4)

To be laid before Parliament under paragraph 3(3) *of Schedule* 1 *to the Northern Ireland Act* 1974

The Department of Commerce, after consultation with such persons and bodies of persons as appear to it to be requisite, in exercise of the powers conferred by section 1 of the Consumer Protection Act (Northern Ireland) 1965(**a**) (in these Regulations referred to as "the Act of 1965") and now vested in it(**b**), and, being a Department designated(**c**) for the purposes of section 2 of the European Communities Act 1972(**d**), in exercise of the powers conferred by that section and of every other power enabling it in that behalf, hereby makes the following Regulations:—

Citation and commencement

1.—(1) These Regulations may be cited as the Cosmetic Products Regulations (Northern Ireland) 1978.

(2) These Regulations, except Regulations 4 and 5, shall come into operation on 11th December 1978.

(3) Regulation 4 shall come into operation—

(*a*) in relation to the sale or possession for sale of cosmetic products by the manufacturer or importer into Northern Ireland or, in the case of cosmetic products manufactured or imported into Northern Ireland on behalf of another person, by that other person, on 1st January 1979, except where the cosmetic products are manufactured or imported (as the case may be) before 1st January 1979 and are sold, or held in possession for sale, by retail, in which case it shall come into operation on 29th July 1979; and

(*b*) in all other cases, on 29th July 1979.

(4) Regulation 5 shall come into operation—

(*a*) in relation to the sale or possession for sale of cosmetic products by the manufacturer or importer into Northern Ireland, or in the case of cosmetic products manufactured or imported into Northern Ireland on behalf of another person, by that other person, on 29th July 1979, except where the cosmetic products are manufactured or imported (as the case may be) before 29th July 1979 and are sold, or held in possession for sale, by retail, in which case it shall come into operation on 29th July 1981; and

(*b*) in all other cases, on 29th July 1981.

(a) 1965 c. 14 (N.I.)
(b) By S.R. & O. (N.I.) 1973 No. 504 Art. 5(*c*) (II, p. 2992)
(c) By S.I. 1972/1811 (1972 III, p. 5216)
(d) 1972 c. 68

Interpretation

2. In these Regulations—

"the Directive" means Council Directive No. 76/768/EEC(e);

"cosmetic product" means any substance or preparation intended to be applied to any part of the external surfaces of the human body (that is to say, the epidermis, hair system, nails, lips and external genital organs) or to the teeth or buccal mucosa wholly or mainly for the purpose of cleaning, perfuming or protecting them or keeping them in good condition or changing their appearance or combating body odour or perspiration except where such cleaning, perfuming, protecting, keeping, changing or combating is wholly for the purpose of treating or preventing disease;

"cosmetic product intended to come into contact with the mucous membranes" means a cosmetic product intended to be applied in the vicinity of the eyes, on the lips, in the oral cavity or to the external genital organs, and does not include any cosmetic product which is intended to come into only brief contact with the skin.

General requirements

3.—(1) Subject to paragraph (2), a cosmetic product shall not be liable to cause damage to human health when it is applied under normal conditions of use.

(2) Paragraph (1) shall, for the purposes of section 2(1) of the Act of 1965 (which prohibits sale and possession for sale of goods not complying with regulations) as applied by Regulation 6, apply only to sale or possession for sale by the manufacturer or the importer into Northern Ireland or, in the case of cosmetic products manufactured or imported into Northern Ireland on behalf of another person, by that other person.

Particular requirements

4.—(1) The provisions of this Regulation are without prejudice to Regulation 3.

(2) A cosmetic product shall not contain any substance listed in Schedule 1; but no account shall be taken of any such substance which is present only as a trace which could not reasonably have been removed during or after manufacture.

(3) A cosmetic product shall not contain any substance listed in column 1 of Schedule 2 unless the matters specified in columns 2, 3 and 4 of that Schedule in relation to that substance are complied with.

(4) A cosmetic product intended to come into contact with the mucous membranes—

(*a*) shall not contain any colouring agent listed in Schedule 3 unless the requirements specified in column 2 of that Schedule in relation to that colouring agent are complied with, and

(*b*) shall not contain any colouring agent which is not listed in that Schedule.

(5) A cosmetic product shall not contain any colouring agent which is listed in Schedule 4 unless the product is intended to come into only brief contact with the skin.

(e) O.J. No. L262, 27.9.76 p. 169

Marking and disclosure of information

5.—(1) Subject to the following provisions of this Regulation, the container or the outer packaging (if any) in which a cosmetic product is sold or delivered pursuant to a sale, or a label affixed to the product, the container or the outer packaging, shall bear the following particulars:—

(*a*) the name or trade name and the address or registered office of the manufacturer of the product or of a seller thereof, being a manufacturer or seller established within a Member State of the European Economic Community;

(*b*) in the case of a cosmetic product likely within three years from the manufacture thereof to cease to comply with the requirements of Regulation 3, the earliest date on which it is likely so to cease;

(*c*) in the case of a cosmetic product containing a substance listed in column 1 of Schedule 2, the information specified in column 5 of that Schedule in relation to that substance;

(*d*) in the case of a cosmetic product containing lanolin, the words "Contains lanolin";

(*e*) any particular precautions to be observed in use (not being precautions included in the information referred to in subparagraph (*c*)); and

(*f*) a means of identifying the batch in which the product was manufactured (or, if the product was not manufactured in a batch, a reference from which the date and place of manufacture can be identified).

(2) The particulars referred to in subparagraphs (*a*) to (*e*) of paragraph (1) shall be in lettering which is visible, indelible and easily legible; and the particulars referred to in subparagraph (*f*) shall be indelible.

(3) The particulars referred to in subparagraph (*a*) of paragraph (1) may be abbreviated if such abbreviation does not prevent the person concerned from being identified.

(4) The particulars referred to in subparagraphs (*b*) to (*e*) of paragraph (1) shall be in the English language; but this shall not prohibit the additional use of other languages.

(5) The particulars referred to in subparagraphs (*c*) to (*e*) of paragraph (1) shall appear on the container or on a label attached thereto: Provided that where—

(*a*) it is impracticable by reason of the size or shape of the container for the said particulars so to appear and the container is enclosed in outer packaging, or

(*b*) two or more products are sold together by retail as a single item, each product being in a separate container and the containers being enclosed together in outer packaging which bears clear and conspicuous instructions to the effect that the products must be mixed together in specified proportions before use,

the said particulars may appear on the outer packaging or on a label attached thereto or on a leaflet enclosed in the outer packaging (and, in the case of a leaflet, an indication shall appear on the container referring to the information in the leaflet).

(6) Where it is impracticable, for reasons of size, for the particulars referred to in subparagraph (*f*) of paragraph (1) to appear on the container or outer packaging or on a label attached to either thereof, the said particulars shall appear on the packaging in which the product is displayed for retail sale.

(7) In the case of a sale of soap which is not in a container, either the soap itself or the packaging in which it is displayed for sale or the container in which it was last contained before the sale shall bear the particulars referred to in subparagraphs (*a*) and (*f*) of paragraph (1), and in so far as any of the particulars referred to in subparagraphs (*b*) to (*e*) of paragraph (1) are required, they shall appear on a leaflet which shall be delivered to the buyer with the soap; and where either of the particulars referred to in subparagraphs (*a*) and (*f*) of paragraph (1) appears on the soap itself, the requirement of indelibility shall apply only until it has been put into use.

Enforcement

6.—(1) Subject to paragraph (2), in so far as any requirement in these Regulations is imposed under section 2 of the European Communities Act 1972, that requirement shall be enforced as if it were a provision of regulations made under section 1 of the Act of 1965, and the provisions of that Act shall apply as they apply to regulations made under that Act.

(2) Where a person is convicted of an offence under section 3(2) of the Act of 1965 as applied by paragraph (1) above and the contraventions which constituted the offence consisted exclusively of contraventions of one or more of the requirements set out in Regulation 3 and the requirements relating to name, trade name, address, registered office and a means of identifying the batch in which the product was manufactured or a reference from which the date and place of manufacture can be identified as set out in Regulation 5, he shall be liable to a fine not exceeding four hundred pounds or to imprisonment for a term not exceeding three months or to both.

(3) Section 2(3)(*b*) of the Act of 1965 (exception for belief that the goods would not be used in Northern Ireland) shall apply in relation to the requirements of Regulations 3 to 5 (other than paragraph (4) of Regulation 5) as if, except so far as the Regulations relate to prohibitions or requirements in respect of substances or colouring agents referred to in Article 1.3 of the Directive, for the reference to Northern Ireland there were substituted a reference to a Member State of the European Economic Community.

(4) No proceedings in respect of a contravention of the requirement set out in Regulation 3 may be commenced except with the consent of the Department of Commerce.

7. Section 2(1) and (2) of the Act of 1965 (which prohibits sales and possession for sale of goods not complying with regulations) shall apply in relation to goods manufactured before the imposition of those requirements notwithstanding anything in section 2(4) (which exempts such goods unless regulations otherwise provide).

8. The Schedule to the Act of 1965 (which relates to enforcement by local authorities) shall have effect in relation to goods to which these Regulations apply.

Modification of Trade Descriptions Acts

9.—(1) Nothing in the Trade Descriptions Act 1972(f) shall require a United Kingdom name or mark as therein defined applied to any cosmetic product to be accompanied by an indication of the country in which that cosmetic product was manufactured or produced if the United Kingdom name or mark is the name or trade mark of the person responsible for marketing the cosmetic product and the cosmetic product was manufactured or produced in a Member State of the European Economic Community.

(f) 1972 c. 34

(2) Where in relation to any cosmetic product there appears a name and address or trade mark which is the name and address or trade mark of the person responsible for marketing the cosmetic product that information shall be deemed not to be a trade description for the purpose of the Trade Descriptions Act 1968(g).

Sealed with the Official Seal of the Department of Commerce for Northern Ireland on 13th November 1978.

(L.S.) *W. T. McCrory*
Assistant Secretary

(g) 1968 c. 29