1977 No. 196

FOOD AND DRUGS

Composition and Labelling

Condensed Milk and Dried Milk Regulations (Northern Ireland) 1977

Made	*7th July* 1977
Coming into operation—	
Regulations 1, 2 *and* 16 . .	*5th September* 1977
Regulation 15	1*st July* 1980
Remainder	1*st July* 1978

The Department of Health and Social Services(**a**) in exercise of the powers conferred on it by sections 4, 7, 68 and 68A(**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 Condensed Milk and Dried Milk Regulations (Northern Ireland) 1977, and shall come into operation as respects regulations 1, 2 and 16 on 5th September 1977 and as respects the remainder on 1st July 1978 except for regulation 15, which shall come into operation on 1st July 1980.

Interpretation

2.—(1) In these regulations

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

"the Community" means the European Economic Community;

"condensed milk" means milk, partly skimmed milk or skimmed milk or any combination thereof, whether with or without the addition of cream, dried milk or sucrose, which has been concentrated by the partial removal of water, but does not include dried milk;

"condensed milk product" means any food specified in column 2 of Part I of Schedule 1 as read with paragraphs 1 and 2 of that Part, 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;

"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;

(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.)

"district council" means a council established under the Local Government Act (Northern Ireland) 1972(**d**);

"dried milk" means milk, partly skimmed milk or skimmed milk or any combination thereof, whether with or without the addition of cream, which has been concentrated to the form of powder, granule or solid by the removal of water;

"dried milk product" means any food specified in column 2 of Part II of Schedule 1 as read with paragraph 1 of that Part, 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;

"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;

"instant preparation", in relation to any dried milk product, means a product capable of rapid dispersal in water;

"lactate" means lactic acid and lactate calculated as lactic acid;

"lactose" has the meaning assigned to it by the Specified Sugar Products Regulations (Northern Ireland) 1976(**e**);

"milk" means cows' milk;

"permitted anti-caking agent" means any anti-caking agent in so far as its use in food is permitted by the Miscellaneous Additives in Food Regulations (Northern Ireland) 1974(**f**), as amended(**g**);

"permitted antioxidant" means any antioxidant in so far as its use in food is permitted by the Antioxidant in Food Regulations (Northern Ireland) 1974(**h**), as amended(**i**);

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

"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 in food is, in each case, permitted by the Miscellaneous Additives in Food Regulations (Northern Ireland) 1974, as amended;

"reserved description", as respects any condensed milk product or dried milk product, means a description specified in relation to that product in column 1 of Part I or Part II of Schedule 1, and the use of any such description shall be construed as meaning the condensed milk product or dried milk product specified in relation to that description in column 2, as read with paragraphs 1 and 2, of Part I of Schedule 1, or in column 2, as read with paragraph 1, of Part II of that Schedule;

(**d**) 1972 c. 9 (N.I.)
(**e**) S.R. 1976 No. 165, Sch. 1
(**f**) S.R. 1974 No. 196 (I, p. 831)
(**g**) S.R. 1975 No. 275 (II, p. 1285)
(**h**) S.R. 1974 No. 197 (I, p. 868)
(**i**) There is no amendment which relates expressly to the subject matter of these regulations
(**j**) S.R. 1975 No. 278 (II, p. 1323)

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

"sell by retail" means sell to a person buying otherwise than for the purpose of re-sale, but does not include selling to a caterer for the purposes of his catering business or to a manufacturer for the purposes of his manufacturing business, and "sale by retail" and "sold by retail" shall be construed accordingly;

"sterilised" means sterilised by any heat treatment including ultra heat treatment;

"sucrose" means semi-white sugar, sugar or white sugar or extra white sugar as defined by the Specified Sugar Products Regulations (Northern Ireland) 1976;

"sweetened condensed milk product" means sweetened condensed milk, sweetened condensed partly skimmed milk or sweetened condensed skimmed milk as described in Schedule 1;

"unsweetened condensed milk product" means unsweetened condensed high-fat milk, evaporated milk, unsweetened condensed milk, unsweetened condensed partly skimmed milk or unsweetened condensed skimmed milk as described in Schedule 1;

and other expressions have the same meaning as in the Act.

(2) 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.

(3) All proportions mentioned are proportions calculated by weight and, unless the context otherwise requires, are calculated on the total weight of the product.

(4) Any reference to a specified proportion of a permitted miscellaneous additive, a permitted antioxidant or a permitted emulsifier shall be construed as if the miscellaneous additive, antioxidant or emulsifier were present in its anhydrous form.

(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, and references to purchasing and purchasers shall be construed accordingly.

Exemptions

3.—(1) The following provisions shall not apply to any condensed milk or dried milk—

(*a*) manufactured before 1st July 1978; or

(*b*) sold, consigned or delivered for exportation to any place outside the United Kingdom; or

(*c*) supplied under Government contracts for consumption by Her Majesty's forces or supplied for consumption by a visiting force within the meaning of any of the provisions of Part I of the Visiting Forces Act 1952(k).

(2) The following provisions, other than the provisions of regulations 4, 10 and 11, shall not apply to any condensed milk or dried milk specially prepared for infant feeding and bearing on a label on its container a clear statement that such food is intended for consumption by infants and no statement to the effect that such food is intended for consumption by any other class of person.

(k) 1952 c. 67

General restrictions on the use of reserved descriptions

4. A person shall not—

(*a*) give with any food sold by him any label, whether attached to or borne on the container or not, or display with any food offered or exposed by him for sale any ticket or notice, or

(*b*) publish, or be a party to the publication of, any advertisement for food,

which bears or includes any reserved description or any derivative thereof or any word or description substantially similar thereto unless—

(i) such food is a condensed milk product or dried milk product to which the reserved description relates, or

(ii) 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 an ingredient of that food, or

(iii) such description, derivative or word is used in such a context as to indicate explicitly or by clear implication that such food is not a condensed milk product or dried milk product and does not contain one.

Labelling and description of condensed milk and dried milk products

5.—(1) Subject to paragraph (5), a person shall not sell, consign or deliver pursuant to a sale, any condensed milk product or dried milk product in a container unless there appears on a label marked on, or securely attached to, the container a true statement in compliance with this regulation.

(2) The said statement shall specify a reserved description and the name or trade name and the address or registered office of the manufacturer or packer of the product, or of a seller thereof established within the Community.

(3) The said statement shall, in relation to any condensed milk product or dried milk product referred to in any of the following sub-paragraphs and which has a net weight of not less than 20 grammes, also include any declaration specified in that sub-paragraph for that product:—

(*a*) for any dried milk product with not less than 1.5 per centum milk fat and containing added lecithins in accordance with regulation 9(*c*), a declaration of such addition and, if the product is an instant preparation, a declaration that the product is an instant preparation;

(*b*) for any condensed milk product containing not less than 1.0 per centum milk fat and any dried milk product containing not less than 1.5 per centum milk fat, a declaration of the milk fat content or minimum milk fat content expressed as a percentage;

(*c*) for any condensed milk product, a declaration of the milk solids not fat content or minimum milk solids not fat content expressed as a percentage;

(*d*) for any dried milk product, a declaration of the drying process;

(*e*) for any condensed milk sold by retail, or consigned or delivered pursuant to a sale by retail, a declaration containing instructions for dilution or suggestions for usage;

(*f*) for any dried milk product sold by retail, or consigned or delivered pursuant to a sale by retail, a declaration containing instructions for dilution, and for any such dried milk product which contains not less than 1.5 per centum milk fat, a declaration of the milk fat content of the product after dilution;

(*g*) for any condensed milk product subjected to ultra heat treatment and aseptically packed, the declaration "UHT" or "ultra heat treated";

(*h*) for any condensed milk product containing not more than 4.5 per centum milk fat and any dried milk product containing less than 26.0 per centum milk fat, when in either case sold by retail, or consigned or delivered pursuant to a sale by retail, on or before 31st December 1980, the declaration "not to be used for babies except under medical advice";

(*i*) for any dried milk product containing any added permitted anti-caking agent in accordance with regulation 9(*d*), the declaration "for use in vending machines only".

(4) Any declaration specified in paragraph (3)(*a*), (*b*), (*c*) or (*d*) for a condensed milk product or dried milk product shall be so situated as to be simultaneously visible together with the reserved description of that product to an intending purchaser under normal conditions of purchase or use and any such declaration specified in paragraph (3)(*a*) shall be in immediate proximity to the reserved description.

(5) Notwithstanding the requirement in paragraph (1) that the said statement shall appear on a label marked on, or securely attached to, the container, in the case of a sale otherwise than by retail, or a consignment or delivery pursuant to such a sale, of a condensed milk product or dried milk product in a container of a net weight of not less than 20 kilogrammes, any of those parts of the statement which are specified in paragraph (3)(*a*), (*b*), (*c*), (*d*) and (*g*) may, as an alternative, be contained in a document accompanying the product.

Manner of marking or labelling

6.—(1) Any statement required by regulation 5 to appear on a label marked on, or securely attached to, the container of any condensed milk product or dried milk product—

(*a*) shall be clear, legible and indelible;

(*b*) shall be in a conspicuous position on the label marked on, or securely attached to, the container in such a manner that it will be readily discernible and easily read by an intending purchaser or consumer under normal conditions of purchase or use;

(*c*) shall not be interrupted by any other written or pictorial matter where such interruption might mislead the purchaser or consumer as to the nature of the condensed milk product or dried milk product;

(*d*) shall not be in any way hidden or obscured or reduced in conspicuousness by any other matter, whether pictorial or not, appearing on the label.

(2) The height of the letters in any statement referred to in paragraph (1) shall be such as is not calculated by any undue or insufficient prominence to mislead as to the nature, substance or quality of the condensed milk product or dried milk product to which that statement relates.

(3) If any condensed milk product or dried milk product is packaged in more than one container, any label which by virtue of any of these regulations is required to be marked on, or securely attached to, the container shall either be marked on, or securely attached to, the outermost container or be readily discernible and easily read through, or notwithstanding, the outermost container.