1976 No. 357

FOOD AND DRUGS

Composition and Labelling
Soft Drinks Regulations (Northern Ireland) 1976

Made . . . . . 23*rd November* 1976

Coming into operation . . . 10*th January* 1977

The Department(a) of Health and Social Services in exercise of the powers conferred on it by sections 4, 7 and 68 of the Food and Drugs Act (Northern Ireland) 1958(b), 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 Soft Drinks Regulations (Northern Ireland) 1976 and shall come into operation on 10th January 1977.

Interpretation

2.—(1) In these regulations —

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

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

"comminuted citrus drink" means a soft drink produced by a process involving the comminution of the entire citrus fruit;

"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;

"crush" means a soft drink containing fruit juice, not being a comminuted citrus drink, intended for consumption without dilution and includes any cordial intended for consumption without dilution;

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

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

"fruit juice" means the clean, sound, undiluted juice of the fruit or fruits from which it is obtained;

"permitted artificial sweetener" means saccharin;

"potable fruit content" means the total of the fruit constituents of a soft drink derived from the juice, pith and peel;

"printing" includes the processes of embossing and firing on, and "printed" shall be construed accordingly;

(a) Formerly Ministry: *see* 1973 c. 36 Sch. 5 para. 8
(b) 1958 c. 27 (N.I.)
(c) 1972 c. 9 (N.I.)

"registered trade mark" and "trade mark" have the meaning respectively assigned to each by section 68(1) of the Trade Marks Act 1938(**d**);

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

"saccharin" means the substance defined as such in Schedule 1 and includes saccharin calcium and saccharin sodium as so defined;

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

"soft drink" means any liquid intended for sale as drink for human consumption, either without or after dilution, and includes—

(*a*) any fruit drink, and any fruit juice squash, crush, or cordial;

(*b*) soda-water, kali-water, Indian or quinine tonic water, and any sweetened artificially carbonated water whether flavoured or unflavoured;

(*c*) ginger beer and any herbal or botanical beverage;

but does not include—

(i) water (except as aforesaid);

(ii) water from natural springs, either in its natural state or with added mineral substances;

(iii) fruit juice, sweetened or unsweetened, whether concentrated (or frozen) or not;

(iv) milk or any preparation of milk;

(v) tea, coffee, dandelion coffee, cocoa or chocolate, or any preparation of tea, coffee, dandelion coffee, cocoa or chocolate;

(vi) any egg product;

(vii) any cereal product, except—

(*aa*) flavoured barley water and liquid products used in the preparation of barley water, and

(*ab*) cereal products containing alcohol, which are not intoxicating liquor as defined in accordance with sub-paragraph (x);

(viii) meat, yeast or vegetable extracts, soup or soup mixtures, or any similar product;

(ix) tomato juice, vegetable juice, or any preparation of any such juice or juices;

(x) "intoxicating liquor" as defined in the Licensing Act (Northern Ireland) 1971(**e**);

(xi) any other unsweetened drink except soda-water and kali-water;

and for the purposes of this definition a product shall not be deemed not to be a soft drink by reason only of the fact that it is capable of being used as a medicine;

"squash" means a soft drink containing fruit juice, not being a comminuted citrus drink, intended for consumption after dilution and includes any cordial intended for consumption after dilution;

"sugar" means any soluble carbohydrate sweetening matter;

(**d**) 1938 c. 22 (**e**) 1971 c. 13 (N.I.)

"sweetened" means containing any added sugar or added polyhydric alcohol or any permitted artificial sweetener, and "unsweetened" shall be construed accordingly.

(2) 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.

(3) For the purposes of these regulations, the supply of any drink, otherwise than by sale, at, in or from any place where drink is supplied in the course of a business shall be deemed to be a sale of that drink, and any reference to a purchaser shall be construed accordingly.

Artificial sweeteners in soft drinks

3. The Artificial Sweeteners in Food Regulations (Northern Ireland) 1969(f) shall not apply as respects any soft drink for which requirements respectively as to composition or as to the use of permitted artificial sweeteners are specified in these regulations.

Exemptions

4.—(1) The following provisions of these regulations shall not apply—

(*a*) in relation to any soft drink intended at the time of sale for export to any place outside the United Kingdom or for use as ship's stores;

(*b*) in relation to any soft drink supplied under government contracts for consumption by Her Majesty's forces or intended at the time of sale for consumption by a visiting force within the meaning of any of the provisions of Part I of the Visiting Forces Act 1952(g);

(*c*) in relation to any sale, consignment or delivery of a soft drink to a manufacturer for the purposes of his manufacturing business;

(*d*) in relation to any sale of a soft drink otherwise than in a container.

(2) The provisions of regulations 7 to 12 and 14, shall not apply in relation to any sale, other than a retail sale, of any soft drink in a container containing more than one gallon.

Requirements as to composition for soft drinks

5.—(1) No soft drink shall contain any added artificial sweetener other than a permitted artificial sweetener, and no person shall sell, consign or deliver any soft drink which does not comply with this provision.

(2) Subject to the provisions of this regulation, any soft drink intended for consumption without dilution which is of a description included in Part I of Schedule 2 or Part I of Schedule 3 shall conform to the requirements as to composition set out in relation thereto in the relevant Part I as respects the fruit juice or potable fruit content, as the case may be, the quantities of added sugar and permitted artificial sweetener therein, and the other requirements therein specified:

Provided that—

(*a*) any soft drink (other than soda-water and kali-water) intended for consumption without dilution which is of a description included in Part I of Schedule 2 may contain up to the maximum quantity of permitted artificial sweetener specified in column 4 of Part II of the said Schedule if that soft drink also contains not less than 22½ pounds of sugar per 10 gallons;

(f) S.R. & O. (N.I.) 1969 No. 346 (p. 1563) (g) 1952 c. 67

(*b*) if any soft drink to which this paragraph applies is subjected to brewing in the course of its manufacture, allowance shall be made, in assessing the minimum quantity of added sugar therein, for any change in sugar content due to fermentation during such brewing.

(3) Subject to the following provisions of this regulation, any soft drink intended for consumption after dilution which is of a description included in Part II of Schedule 2 or Part II of Schedule 3 shall as respects the fruit juice or potable fruit content, as the case may be, and the quantities of added sugar and permitted artificial sweetener therein either conform to the requirements as to composition set out in relation thereto in the relevant Part II or be of such composition that after dilution in accordance with the instructions referred to in regulation 8 it conforms to the requirements as to composition set out in Part I of Schedule 2 or Part I of Schedule 3 in relation to the corresponding soft drink intended for consumption without dilution.

(4) No soft drink intended for consumption, without or after dilution, by persons suffering from diabetes shall contain any added sugar and no provision of these regulations specifying a maximum quantity of permitted artificial sweetener shall apply in relation to any such soft drink.

(5) Any soft drink intended for consumption, without or after dilution, as a low calorie soft drink shall, in addition to conforming to the relevant requirements as respects the fruit juice or potable fruit content, as the case may be, comply with a maximum calorie content as follows:—

(*a*) if intended for consumption after dilution it shall contain not more than 7.5 calories per fluid ounce;

(*b*) if intended for consumption without dilution it shall contain not more than 1.5 calories per fluid ounce:

Provided that the provisions of these regulations specifying a minimum quantity of added sugar or a maximum quantity of permitted artificial sweetener shall not apply in relation to any such soft drink.

(6) A person shall not sell any drink under such a description as to lead an intending purchaser to believe that he is purchasing a soft drink to which paragraph (2), (3), (4) or (5) applies unless the drink complies with the appropriate requirements as to composition set out in those paragraphs in relation to that soft drink.

(7) Where a person sells any drink to a purchaser in response to a request for a soft drink to which paragraph (2), (3), (4) or (5) applies, he shall be deemed to sell that soft drink and under such a description as is specified in paragraph (6) unless he clearly notifies the purchaser at the time of sale that the drink is not that soft drink.

Addition of acids to soft drinks

6.—(1) Subject to the provisions of these regulations and save as hereinafter provided, no soft drink shall contain any added acid:

Provided that—

(*a*) any soft drink may contain ascorbic acid, citric acid, lactic acid, malic acid, nicotonic acid, tartaric acid and any acid inasmuch as the use of that acid in that soft drink is permitted by the Preservatives in Food Regulations (Northern Ireland) 1975(h) or the Colouring Matter in Food Regulations (Northern Ireland) 1973(i) as amended(j).

(h) S.R. 1975 No. 277 (II, p. 1291)
(i) S.R. & O. (N.I.) 1973 No. 466 (II, p. 2705)
(j) S.R. 1975 No. 283 (II, p. 1370)

(*b*) any soft drink other than a fruit squash, a fruit crush or a comminuted citrus drink may contain acetic acid and phosphoric acid.

(2) A person shall not sell, consign or deliver any soft drink which does not comply with this regulation.

Labelling of soft drinks

7.—(1) Subject to the provisions of these regulations, a person shall not sell, consign or deliver any citrus squash (whether or not it contains a bitter principle) in a container unless that container bears a label on which there appears as the description of that citrus squash the word "squash" immediately preceded by the name of the appropriate citrus fruit or fruits:

Provided that—

(*a*) in the case of any clear citrus squash, other than a clear squash made from lime juice, the word "cordial" may be substituted for the word "squash" on the label;

(*b*) in the case of a clear squash made from lime juice the words "lime juice cordial" shall appear on the label as a description of that drink;

(*c*) in the case of any squash prepared from citrus juice and barley water and from no other fruit juice, the words "barley water" immediately preceded by the name of the appropriate citrus fruit or fruits shall appear on the label as a description of that drink.

(2) Subject to the provisions of these regulations, a person shall not sell, consign or deliver any citrus crush (whether or not it contains a bitter principle) in a container unless that container bears a label on which there appears as the description of that citrus crush the word "crush" immediately preceded by the name of the appropriate citrus fruit or fruits:

Provided that—

(*a*) in the case of any clear citrus crush, the word "cordial" may be substituted for the word "crush" on the label;

(*b*) in the case of any crush prepared from citrus juice and barley water and from no other fruit juice, the words "barley crush" immediately preceded by the name of the appropriate citrus fruit or fruits shall appear on the label as a description of that drink.

(3) Subject to the provisions of these regulations, a person shall not sell, consign or deliver any comminuted citrus drink (whether or not it contains a bitter principle) in a container unless that container bears a label on which there appears as the description of that comminuted citrus drink the word "drink" immediately preceded by the name of the appropriate citrus fruit or fruits:

Provided that in the case of any comminuted citrus drink prepared from comminuted citrus fruit and barley water and from no other fruit, the words "barley drink" immediately preceded by the name of the appropriate citrus fruit or fruits shall appear on the label as a description of that drink.

Soft drinks intended for consumption after dilution

8. Subject to the provisions of these regulations, a person shall not sell, consign or deliver in a container any soft drink intended for consumption after dilution, which is of a description included in Part II of Schedule 2 or Part II of Schedule 3 and does not conform to the requirements as to composition set out in relation thereto in the relevant Part II as respects the fruit juice or potable fruit content, as the case may be, and the quantities of added sugar and permitted artificial sweetener therein, unless that container bears a label on which there appear clear and precise instructions as to the manner in which the drink is to be diluted and the instructions expressly provide for a dilution ratio of not less than four parts of water to one part of the drink.