1976 No. 183

FOOD AND DRUGS

COMPOSITION AND LABELLING

Cocoa and Chocolate Products Regulations (Northern Ireland) 1976

Made	*21st June* 1976
Coming into operation	
Regulations 2 *and* 21 . . .	*9th August* 1976
Remainder	*9th August* 1977

The Department(**a**) of Health and Social Services 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 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 Cocoa and Chocolate Products Regulations (Northern Ireland) 1976 and shall come into operation as respects regulations 2 and 21 on 9th August 1976 and as respects the remainder on 9th August 1977.

Interpretation

2.—(1) In these regulations,

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

"appropriate designation" has the meaning assigned to it by the Labelling of Food Regulations (Northern Ireland) 1970(**c**), as amended(**d**);

"chocolate product" means any food specified in column 2 of Part II of Schedule 1 as read with paragraphs 1, 2 and 3 of that Part, but does not include any product specially prepared for diabetics or to which a slimming claim is lawfully applied and which has been specially prepared in connection with that claim by the addition of any ingredient other than an edible substance;

"cocoa product" means any food specified in column 2 of Part I of Schedule 1 as read with paragraph 1 of that Part, but does not include any product specially prepared for diabetics or to which a slimming claim is lawfully applied and which has been specially prepared in connection with that claim by the addition of any ingredient other than an edible substance;

"cocoa solids" means the constituents of cocoa nib, whether or not containing minor proportions of shell or germ;

"the Community" means the European Economic Community;

(**a**) Formerly Ministry: *see* 1973 c. 36 Sch. 5 para. 8
(**b**) 1958 c. 27 (N.I.)
(**c**) S.R. & O. (N.I.) 1970 No. 80 (p. 339)
(**d**) S.R. & O. (N.I.) 1972 No. 318 (p. 1516)

"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, but does not include any crimp case used to support the base or the base and sides of any chocolate product;

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

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

"edible substance" means any substance suitable for use as food, which is wholly a natural product, whether or not that substance has been subjected to any process or treatment, or any vitamin or mineral, or any flavouring substance which does not impart the flavour of chocolate or milk fat, but does not include—

(*a*) any food specified in column 2 of Part 1 of Schedule 1 as read with paragraph 1 of that Part,

(*b*) any food specified in column 2 of Part II of Schedule 1 as read with paragraphs 1, 2 and 3 of that Part, or

(*c*) any permitted acid, permitted base or permitted emulsifier of a description specified in column 2 or paragraph 1 of Part 1 of Schedule 2;

"extracted cocoa butter" means press cocoa butter, expeller cocoa butter, refined cocoa butter or any combination of two or more of these cocoa products;

"expeller process" means a process using pressure resulting from the shearing action of a press;

"fancy chocolate product" includes any chocolate product in the form of figurines, cigarettes or eggs or enclosed in a seasonal selection pack;

"flavouring substance" means any substance which is capable of imparting, and is generally used to impart, taste or odour, or both, to food;

"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;

"germ" means the embryo of the cocoa bean;

"human consumption" includes use in the preparation of food for human consumption;

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

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

"milk" means cows' milk;

"milk solids" means all the constituents of milk other than water, whether or not in their natural proportions;

"non-fat cocoa solids" means the constituents of cocoa solids other than permitted cocoa butter and cocoa fat;

(e) 1972 c. 9 (N.I.)

(f) S.R. & O. (N.I.) 1968 No. 13 (p. 73)

"permitted acid" means any acid in so far as its use is permitted by the Miscellaneous Additives in Food Regulations (Northern Ireland) 1974(g), as amended(h);

"permitted base" means any base in so far as its use is permitted by the Miscellaneous Additives in Food Regulations (Northern Ireland) 1974, as amended;

"permitted cocoa butter" means fat in parts of cocoa beans having a level of unsaponifiable matter not exceeding 0.5 per centum determined using petroleum ether and an acidity of not more than 1.75 per centum expressed as oleic acid, with or without, in relation to any chocolate product, any extracted cocoa butter;

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

"pre-packed" means made up in advance in or on a container ready for sale by retail; and where any food made up in or on a container is found on any premises where such food is so made up or is kept or stored for sale, that food shall be deemed to be pre-packed unless the contrary is proved, and it shall not be sufficient proof of the contrary to show that the food had not been labelled in accordance with the provisions of these regulations;

"reserved description", as respects any cocoa product or chocolate product, means a description specified or referred to in relation to that product in column 1 of Part I or II of Schedule 1, and the use of any such description in these regulations shall be construed as meaning any cocoa product or chocolate product specified in relation to that description in column 2, as read with paragraph 1, of Part I of Schedule 1 or column 2, as read with paragraphs 1, 2 and 3 of Part II of that Schedule;

"seasonal selection pack" means a pack wholly or mainly enclosing, in an outer container decorated with seasonal designs, a selection of chocolate products individually pre-packed and labelled for sale by retail in accordance with these regulations;

"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;

"shell" means the outer covering of the cocoa bean;

"slimming claim" means any words, device or description referred to in regulation 24 of the Labelling of Food Regulations (Northern Ireland) 1970, as amended (which imposes restrictions on claims that foods are starch-reduced or can aid slimming);

"spirits" has the meaning assigned to it by the Customs and Excise Act 1952(j);

"swiss roll" means a food consisting of a layer of sponge cake spread with preserve, fruit spread, cream, imitation cream or buttercream or with preserve or fruit spread and cream, imitation cream or buttercream and rolled into a cylindrical shape, whether or not flavoured with any flavouring substance;

(g) S.R. 1974 No. 196 (I. p. 831)
(h) S.R. 1975 No. 275 (II, p. 1285)
(i) S.R. 1975 No. 278 (II, p. 1323)
(j) 1952 c. 44

"winnowing" means the separation by mechanical processes and air classification of cocoa nib from shell;

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

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

(4) 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. The following provisions of these regulations shall not apply to any cocoa product or chocolate product—

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

(*b*) 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).

General restrictions on 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 cocoa product or chocolate 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 either is not, or does not contain, a cocoa product or chocolate product:

Provided that the words "choc ice" or "choc bar" may be used in relation to a compound food intended for individual consumption consisting of ice cream which has a coating resembling a chocolate product and containing not less than 2.5 per centum dry non-fat cocoa solids, and the words "choc-roll" may be used in relation to a compound food consisting of swiss roll which has such a coating, if in each case the words are accompanied by an appropriate designation of the coating in such a manner that the coating cannot be confused with any cocoa product or chocolate product.

(k) 1952 c. 67

Labelling and description of cocoa and chocolate products

5.—(1) A person shall not sell or consign or deliver pursuant to a sale any cocoa product or chocolate product unless there is applied to it a true statement in compliance with this regulation.

(2) The said statement shall specify—

(*a*) a reserved description which, subject to regulation 6, shall be accompanied—

(i) in the case of the reserved description "filled chocolate" by a description of the filling;

(ii) in the case of the reserved description "a chocolate" or "chocolates", where the chocolate product contains a filling, by a description of the filling or an indication that the product is a mixture or an assortment;

(*b*) for filled chocolate or chocolates, containing plain chocolate which is not chocolate or couverture chocolate, or gianduja nut chocolate, milk chocolate, gianduja nut milk chocolate, cream chocolate, skimmed milk chocolate, white chocolate or a combination of two or more such chocolate products, a reserved description of each such chocolate product, qualifying the reserved description referred to in sub-paragraph (*a*) hereof.

(3) The said statement shall, in relation to any cocoa product or chocolate product referred to in any of the following sub-paragraphs, also include any declaration specified in that sub-paragraph for that product and any such declaration specified in sub-paragraph (*d*), (*e*), (*f*) or (*h*) shall accompany the reserved description of that product:—

(*a*) for any cocoa product or chocolate product to which is applied the reserved description "sweetened cocoa", "sweetened cocoa powder", "sweetened fat-reduced cocoa", "sweetened fat-reduced cocoa powder", "drinking chocolate", "fat-reduced drinking chocolate", "chocolate", "plain chocolate", "milk chocolate", "cream chocolate", or "skimmed milk chocolate", the declaration "cocoa solids X% minimum", the declaration being completed by inserting at X the minimum total dry cocoa solids content;

(*b*) for any chocolate product to which is applied the reserved description "milk chocolate" and which complies with—

(i) paragraph (*a*) only of the definition specified in Part II of Schedule 1 in relation to that reserved description, the declaration "milk solids 14% minimum";

(ii) paragraph (*b*) only of the said definition, the declaration "milk solids 20% minimum";

(iii) paragraphs (*a*) and (*b*) of the said definition, either of the declarations specified in this sub-paragraph;

(*c*) for any cocoa product or chocolate product to which is applied the reserved description "sweetened cocoa", "sweetened cocoa powder", "sweetened fat-reduced cocoa", "sweetened fat-reduced cocoa powder", "drinking chocolate", "fat-reduced drinking chocolate", "chocolate", "plain chocolate", "chocolate vermicelli", "chocolate flakes", "gianduja nut chocolate", "couverture chocolate", "milk chocolate", "milk chocolate vermicelli", "milk chocolate flakes", "gianduja nut milk chocolate", "couverture milk chocolate", "white chocolate", "cream chocolate" or "skimmed milk chocolate" and which contains more than 5 per centum dextrose in place of sucrose, the declaration "containing dextrose";