1975 No. 278

FOOD AND DRUGS

Composition and Labelling

Emulsifiers and Stabilisers in Food

Made . . . . . 2nd *October* 1975

Coming into operation . . . 24th *November* 1975

The Department of Health and Social Services(a) 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 Emulsifiers and Stabilisers in Food Regulations (Northern Ireland) 1975, and shall come into operation on 24th November 1975.

Interpretation

2. In these regulations—

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

"appropriate designation" means, as respects any permitted emulsifier or permitted stabiliser, 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 emulsifier or permitted stabiliser to which it is applied;

"bread" has the meaning assigned to it by the Bread and Flour Regulations (Northern Ireland) 1964(c);

"cheese spread", "processed cheese", "soft cheese" and "whey cheese" have the meanings respectively assigned to them by the Cheese Regulations (Northern Ireland) 1970(d);

"district council" has the meaning assigned to it in section 1 of the Local Government Act (Northern Ireland) 1972(e);

"emulsifier" and "stabiliser" means respectively any substance which is capable—

(*a*) in the case of an emulsifier, of aiding the formation of, and

(*b*) in the case of a stabiliser, of maintaining, the uniform dispersion of two or more immiscible substances, but do not in either case include—

(i) any natural food substance,

(ii) any permitted antioxidant,

(a) Formerly the Ministry of Health and Social Services: *see* 1973 c. 36 Sch. 5 para. 8
(b) 1958 c. 27 (N.I.)
(c) S.R. & O. (N.I.) 1964 No. 172 (p. 829)
(d) S.R. & O. (N.I.) 1970 No. 14 (p. 27)
(e) 1972 c. 9 (N.I.)

(iii) any permitted artificial sweetener,
(iv) any permitted bleaching agent,
(v) any permitted colouring matter,
(vi) any permitted improving agent,
(vii) any permitted miscellaneous additive,
(viii) any permitted preservative,
(ix) any permitted solvent,
(x) caseins and caseinates,
(xi) proteins, protein concentrates and protein hydrolysates,
(xii) starches, whether modified or not,
(xiii) normal straight chain fatty acids derived from food fats;

"flour" has the meaning assigned to it by the Bread and Flour Regulations (Northern Ireland) 1964;

"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;

"Food Chemicals Codex 1972" and "First Supplement, 1974" mean respectively the second edition of the Food Chemicals Codex published in 1972 and the First Supplement to that edition published in 1974, in each case, by the National Academy of Sciences, Washington DC, United States of America;

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

"natural food substance" means any substance, suitable for use as food and commonly used as food, which is wholly a natural product, whether or not that substance has been subjected to any process or treatment and includes malt extract and glucose syrup but does not include edible gums;

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

"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(**g**);

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

"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(**h**);

"permitted emulsifier" and "permitted stabiliser" mean respectively any emulsifier and any stabiliser specified in Part I of Schedule 1 which complies with the specific purity criteria in relation to that emulsifier

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(**f**) S.R. 1974 No. 197
(**g**) S.R. & O. (N.I.) 1969 No. 346 (p. 1563)
(**h**) S.R. & O. (N.I.) 1973 No. 466 (II, p. 2705)

or stabiliser specified or referred to in Part II of that Schedule and, so far as is not otherwise provided in any such specific purity criteria, with the general purity criteria in Part III of that Schedule, or any mixture of two or more such emulsifiers or stabilisers or emulsifiers and stabilisers;

"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, in each case, permitted by the Miscellaneous Additives in Food Regulations (Northern Ireland) 1974(i);

"permitted preservative" means preservative in so far as its use is permitted by the Preservatives in Food Regulations (Northern Ireland) 1975(j);

"permitted solvent" means any solvent in so far as its use is permitted by the Solvents in Food Regulations (Northern Ireland) 1967(k);

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

"soft drink" has the meaning assigned to it by the Soft Drinks Regulations (Northern Ireland) 1964(l);

"specified food" means any food of a description specified in column 1 of Part I or Part II of Schedule 2,

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

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

(3) 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.

(4) For the purposes 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 emulsifier or stabiliser in it or on it or to any emulsifier or stabiliser 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 emulsifiers or stabilisers

4.—(1) Subject to the provisions of this regulation, no food sold, consigned or delivered shall have in it or on it any added emulsifier or added stabiliser other than a permitted emulsifier or permitted stabiliser.

(2) Save as hereinafter provided, no food sold, consigned or delivered shall have in it or on it any added permitted emulsifier or added permitted stabiliser specified in column 2 of Part I of Schedule 2:

(i) S.R. 1974 No. 196
(j) S.R. 1975 No. 277
(k) S.R. & O. (N.I.) 1967 No. 282 (p. 979)
(l) S.R. & O. (N.I.) 1964 No. 94 (p. 507)

Provided that any specified food described in column 1 of that Part of that Schedule may have in it or on it any permitted emulsifier or permitted stabiliser of the description and in the proportion specified in relation thereto in columns 2 and 3 respectively of that Part of that Schedule.

(3) Save as hereinafter provided, no specified food described in column 1 of Part II of Schedule 2 sold, consigned or delivered shall have in it or on it any added permitted emulsifier or added permitted stabiliser:

Provided that any specified food described in column 1 of Part II of Schedule 2 may, subject to the provisions of paragraph 1 of that Part, have in it or on it any permitted emulsifier or permitted stabiliser of the description and in the proportion specified in relation thereto in columns 2 and 3 respectively of that Part of that Schedule.

(4) Nothing in the two preceding paragraphs shall prohibit the presence in or on any food, which has in it or on it any specified food, of any permitted emulsifier or permitted stabiliser of the description specified for, and in the amount appropriate to the quantity of, that specified food in accordance with the two preceding paragraphs:

Provided that where, by reason of the use of a tin greasing emulsion in its preparation, any food has present in it or on it—

(*a*) the permitted emulsifier oxidatively polymerised soya bean oil, that permitted emulsifier shall be present in a proportion not exceeding 50 milligrams per kilogram; and

(*b*) the permitted emulsifier polyglycerol esters of dimerised fatty acids of soya bean oil, that permitted emulsifier shall be present in a proportion not exceeding 20 milligrams per kilogram;

(5) Nothing in paragraph (3) of this regulation shall prohibit the presence in or on any bread, by reason of the use of a tin-greasing emulsion in its preparation, of any permitted emulsifier or permitted stabiliser not specified in the proviso to the preceding paragraph or in column 2 of item (*a*) of Part II of Schedule 2 in a proportion not exceeding 50 milligrams per kilogram.

(6) No flour, intended for sale as such, shall contain any emulsifier or stabiliser.

(7) No person shall sell, consign or deliver any food which does not comply with this regulation.

Sale, advertisement and labelling of emulsifiers and stabilisers

5.—(1) No person shall sell, consign, deliver, or advertise for sale any emulsifier or stabiliser (including any emulsifier or stabiliser with which any other substance has been mixed) for use as an ingredient in the preparation of food unless such emulsifier or stabiliser is a permitted emulsifier or permitted stabiliser.

(2) No person shall sell, consign or deliver any permitted emulsifier or any permitted stabiliser (including any such permitted emulsifier or permitted stabiliser (including any such permitted emulsifier or permitted stabiliser with which any other substance has been mixed) for use as an ingredient in the preparation of food except in a container bearing a label which complies with the requirements of Schedule 3.

6. No person shall—

(*a*) give with any permitted emulsifier or permitted stabiliser sold by him for use as an ingredient in the preparation of food any label, whether attached to or borne on the container or not, or display with any permitted emulsifier or permitted stabiliser offered or exposed by him for sale for such use any ticket or notice, or

(*b*) publish, or be a party to the publication of, any advertisement of any permitted emulsifier or permitted stabiliser for sale for use as an ingredient in the preparation of food,

which bears or includes any words, device or description calculated to indicate either directly or indirectly that that emulsifier or stabiliser is a substitute for fat or eggs.

Condemnation of food

7. Where any food is certified by a public analyst as being food which it is an offence against regulation 4 to sell, consign, deliver or possess, that food may be treated for the purposes of section 9 of the Act (under which food may be seized and destroyed on the order of a justice of the peace) as being unfit for human consumption.

Penalties and enforcement

8.—(1) If any person contravenes or fails to comply with any of the foregoing provisions he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment and, in the case of a continuing offence, to a further fine not exceeding five pounds for each day during which the offence continues after conviction.

(2) Each district council shall enforce and execute such provisions in their area.

(3) The requirements of section 47(3) of the Act (which requires notice to be given to the Department of Health and Social Services of intention to institute proceedings for an offence against any provisions of these regulations relating to the labelling, advertising or description of food) shall not apply as respects any proceedings instituted by a district council for an offence against any such provisions of these regulations.

Defences

9.—(1) In any proceedings for an offence against these regulations in relation to the publication of an advertisement, it shall be a defence for the defendant to prove that, being a person whose business it is to publish or arrange for the publication of advertisements, he received the advertisement for publication in the ordinary course of business.

(2) Where in any proceedings against the manufacturer or importer of any emulsifier or stabiliser for use as an ingredient in the preparation of food, or of any food having added emulsifier or added stabiliser in it or on it, the court is satisfied that an advertisement has been published in terms which could constitute an offence against these regulations, the manufacturer or importer shall be guilty of such offence unless he proves that he did not publish, and was not a party to the publication of the advertisement.