1974. No. 176 **[C]**

FOOD AND DRUGS

Composition and Labelling

Preservatives in Food

REGULATIONS, DATED 19TH JULY 1974, MADE BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES UNDER SECTIONS 4, 7, 68 AND 68A OF THE FOOD AND DRUGS ACT (NORTHERN IRELAND) 1958.

The Department of Health and Social Services, in exercise of the powers conferred upon it by sections 4, 7, 68 and 68A of the Food and Drugs Act (Northern Ireland) 1958(a), and of all other powers enabling it in that behalf 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 Preservatives in Food Regulations (Northern Ireland) 1974 and shall come into operation on 1st August 1974.

Interpretation

2.—(1) In these regulations—

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

"appropriate designation" means, as respects any permitted preservative or any food, 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 preservative or of the food, as the case may be, to which it is applied;

"bread" includes the following, and any part of any of the following, that is to say, rolls, baps, fancy loaves, milk loaves, malt loaves and fruit loaves;

"canned food" means food in a hermetically sealed container which has been sufficiently heat processed to destroy any Clostridium botulinum in that food or container or which has a pH. of less than 4.5;

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

"compounded food" means food containing two or more ingredients;

"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;

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

(a) 1958. c. 27. (b) 1972. c. 9 (N.I.).

"dock" includes any harbour, moorings, wharf, pier, jetty or other works in or at which food can be shipped or unshipped and any warehouse, transit shed or other premises used in connection therewith for the temporary storage or loading for despatch of food which is unshipped or to be shipped;

"flavouring emulsion" means an emulsion of the selected flavouring in a suitable liquid;

"flavouring syrup" means a solution of carbohydrate sweetening matter containing sufficient distinctive flavouring to provide, after dilution with milk or water, a drink with that distinctive flavour;

"flour confectionery" includes cake, bun loaves, cholas bread, pastry (cooked or uncooked) and ready-make puddings (other than canned puddings and Christmas puddings) but does not include biscuits or any product containing a filling that has as an ingredient any meat or fish or any animal, vegetable or microbial material processed before or during the preparation of the product to resemble the texture of meat or fish;

"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;

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

"jam" includes fruit jelly prepared in the way in which jam is prepared, marmalade and jelly marmalade;

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

"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(**d**);

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

"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(**f**);

"permitted emulsifier" means any emulsifier in so far as its use is permitted by the Emulsifiers and Stabalisers in Food Regulations (Northern Ireland) 1962(**g**);

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

(**c**) S.R. (N.I.) 1974, No. 197.
(**d**) S.R. & O. (N.I.) 1969, No. 346.
(**e**) S.R. & O. (N.I.) 1964, No. 172.
(**f**) S.R. & O. (N.I.) 1973, No. 466.
(**g**) S.R. & O. (N.I.) 1962, No. 90.

"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 permitted by the Miscellaneous Additives in Food Regulations (Northern Ireland) 1974(h);

"permitted preservative" means any preservative specified in columns 1 and 2 of Part I of Schedule 1 or, subject to the provisions of paragraph (3), specified in columns 3 and 4 of that Part of that Schedule which, in either case, satisfies any specific purity criteria in relation to that preservative specified or referred to in Part II of that Schedule and, so far as is not otherwise provided by any such specific purity criteria, satisfies the general purity criteria specified in Part III of that Schedule, or any mixture of two or more such preservatives;

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

"permitted stabiliser" means any stabiliser in so far as its use is permitted by the Emulsifiers and Stabilisers in Food Regulations (Northern Ireland) 1962;

"pre-packed" means made up in advance ready for retail sale in or on a container; and on any premises where food of any description is so made up, or is kept or stored for sale after being so made up, any food of that description found made up in or on a container shall be deemed to be pre-packed unless the contrary is proved;

"preparation", in relation to food, includes manufacture and any form of treatment;

"preservative" means any substance which is capable of inhibiting, retarding or arresting the growth of micro-organisms or any deterioration of food due to micro-organisms or of masking the evidence of any such deterioration but does not include—

(*a*) any permitted antioxidant,
(*b*) any permitted artificial sweetener,
(*c*) any permitted bleaching agent,
(*d*) any permitted colouring matter,
(*e*) any permitted emulsifier,
(*f*) any permitted improving agent,
(*g*) any permitted miscellaneous additive,
(*h*) any permitted solvent,
(*j*) any permitted stabiliser,
(*k*) vinegar,
(*l*) any soluble carbohydrate sweetening matter,
(*m*) potable spirits or wines,
(*n*) herbs, spices, hop extract or essential oils when used for flavouring purposes,
(*o*) common salt (sodium chloride),
(*p*) any substance added to food by the process of curing known as smoking;

"polyhydric alcohol" means an alcohol with three or more free hydroxyl groups;

(h) S.R. (N.I.) 1974, No. 196. (i) S.R. & O. (N.I.) 1967, No. 282.

"processing", in relation to food, includes curing by smoking and any treatment or process resulting in a substantial change in the natural state of the food but does not include boning, paring, grinding, cutting, cleaning or trimming;

"raw peeled potatoes" includes chips, sliced potatoes, diced potatoes and potatoes which have undergone the culinary process known as "blanching";

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

"sausage" and "sausage meat" mean a mixture of raw meat, cereals and condiments and include hamburgers, lamburgers, beefburgers and similar products;

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

"smoking" means treating food with smoke or smoke solutions derived from wood or ligneous vegetable matter in the natural state, and excludes smoke or smoke solutions derived from wood or ligneous vegetable matter which has been impregnated, coloured, gummed, painted or otherwise treated in a similar manner;

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

"specified food" means any food of a description specified in column 1 of Schedule 2;

"storage", in relation to food, means storage at, in or upon any farm, dock, vehicle, warehouse, fumigation chamber, cold store, or any barge or ship whilst, in either case, in any port or harbour in Northern Ireland;

"sugar" means the product usually known as sugar in commercial usage, consisting principally of sucrose;

"sweetened" means containing any added soluble carbohydrate sweetening matter or added polyhydric alcohol or any permitted artificial sweetener and "unsweetened" shall be construed accordingly;

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

(2) Any permitted preservative specified in columns 3 and 4 of Part I of Schedule 1, if calculated as, may be used in place of, the permitted preservative specified in relation thereto in columns 1 and 2 of that Part of that Schedule, and any reference in these regulations to any permitted preservative specified in columns 1 and 2 of that Part of that Schedule shall be construed accordingly.

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

(4) 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.

(5) 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.

(j) S.R. & O. (N.I.) 1964, No. 94.

Exemptions

3. The provisions of these regulations shall not apply to food having any preservative in it or on it, or to any preservative which, in each case, is intended at the time of sale, consignment, delivery or possession, as the case may be, for exportation to any place outside the United Kingdom.

Sale, etc., of food containing preservative

4.—(1) Save as hereinafter provided, no food sold, consigned or delivered shall have in it or on it any added preservative:

Provided that—

(*a*) any specified food may have in it or on it permitted preservative of the description and in the proportion specified in relation thereto in columns 2 and 3 respectively of Schedule 2;

(*b*) any specified food in relation to which two or more permitted preservatives are specified in Schedule 2 may have in it or on it an admixture of those preservatives as follows:—

(i) in the case of bacon, ham, pickled meat, wine (including alcoholic cordials) other than wine in respect of which the maximum permitted sulphur dioxide content is prescribed by any Community regulation or wine in respect of which the maximum permitted sulphur dioxide content is prescribed by any Community regulation, to the maximum quantity of each such preservative appropriate thereto in accordance with that Schedule;

(ii) in the case of grape juice products (unfermented, intended for sacramental use), if the permitted preservative sulphur dioxide is present, to the maximum quantity of that preservative appropriate to that food in accordance with that Schedule and as regards any other such permitted preservative present, only if, when the quantity of each such preservative is expressed as a percentage of the maximum quantity appropriate to that food in accordance with that Schedule, the sum of those percentages does not exceed one hundred;

(iii) in any other case, only if, when the quantity of each such preservative present in that food is expressed as a percentage of the maximum quantity of that preservative appropriate to that food in accordance with that Schedule, the sum of those percentages does not exceed one hundred;

(*c*) any specified food and any food intended for use in the preparation of a specified food (but excluding any pre-packed food) may, on a sale other than a retail sale or on consignment or delivery pursuant to such a sale, have in it or on it permitted preservative of a description appropriate to the specified food in accordance with Schedules 1 and 2 in any proportion if, as the case may be, the seller gives to the buyer on or before sale a document which complies with the requirements of paragraphs 4, 5 and 6 of Schedule 3;

(*d*) any food may have in it or on it in any proportion not exceeding five milligrams per kilogram, formaldehyde derived from any wet strength wrapping containing any resin based on formaldehyde or from any plastic food container or utensil manufactured from any resin of which formaldehyde is a condensing component;

(*e*) cheese, clotted cream or any canned food may have in it or on it the permitted preservative nisin;