1973. No. 466 [C]

FOOD AND DRUGS

Composition and Labelling

Colouring Matter in Food

REGULATIONS, DATED 16TH NOVEMBER 1973, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES UNDER SECTIONS 4, 7 AND 68 OF THE FOOD AND DRUGS ACT (NORTHERN IRELAND) 1958.

The Ministry of Health and Social Services, on behalf of the Secretary of State and in exercise of the powers conferred upon it by sections 4, 7 and 68 of the Food and Drugs Act (Northern Ireland) 1958(a), having consulted 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 Colouring Matter in Food Regulations (Northern Ireland) 1973, and shall come into operation as respects regulations 13 and 15(2) on 17th December 1973 and as respects the remainder on 1st July 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 colouring matter or permitted diluent, 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 colouring matter or permitted diluent to which it is applied;

"coffee" means the decorticated berries of coffee and includes any such berries which have been roasted or ground or roasted and ground;

"coffee product" means any dried or liquid extract of coffee, any coffee and chicory mixture, any dried or liquid extract of a coffee and chicory mixture, any coffee and fig mixture, or any dried or liquid extract of a coffee and fig mixture;

"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;

"diluent" means any substance used to dilute or dissolve colouring matter intended for use in food for human consumption;

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

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

(*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;

"permitted colouring matter" means any colouring matter described in the table in, or paragraph 1 of, Part I of Schedule 1 which complies with any specific purity criteria relating to that colouring matter specified in Part II of that Schedule and, so far as is not otherwise provided by any such specific purity criteria, with the general purity criteria specified in Part III of that Schedule, or any combination of two or more such colouring matters and (except in the definition of appropriate designation in this regulation, regulation 6 and Schedules 1 and 4) shall be construed as including any permitted diluent combined with such colouring matter or combination of such colouring matters;

"permitted diluent" means any diluent described in Part I of Schedule 2 which complies with the general purity criteria specified in Part II of that Schedule or any permitted solvent which complies with the purity criteria specified in Part III of that Schedule and includes any combination of two or more such diluents or solvents or diluents and solvents;

"permitted solvent" has the meaning assigned to it by the Solvents in Food Regulations (Northern Ireland) 1967(c);

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

"sell" includes offer or expose for sale or have in possession for sale;

"vegetables" includes pulses.

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

(3) All proportions and quantities of any colouring matter mentioned in these regulations are calculated on the pure colouring matter.

(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.

Exemptions

3. The provisions of these regulations shall not apply to any food having any colouring matter in it or on it, to any colouring matter or to any diluent combined with any colouring matter or colouring matters which, in each case, is intended at the time of sale, consignment or delivery as the case may be,—

(*a*) for exportation to any place outside the United Kingdom; or

(*b*) for the purpose of scientific laboratory testing, if the container of any such food, colouring matter or diluent bears a label stating clearly that such food, colouring matter or diluent, as the case may be, is sold, consigned or delivered, as the case may be, only for such purpose.

(c) S.R. & O. (N.I.) 1967, No. 282.

Sale, etc. of food containing colouring matter

4.—(1) Subject to paragraph (3), no food sold, consigned or delivered shall have in it or on it any colouring matter other than a permitted colouring matter.

(2) Subject to paragraph (3), no food sold, consigned or delivered shall have in it or on it any mark, however effected, in any colouring matter other than a permitted colouring matter.

(3) Save as hereinafter provided, no food sold, consigned or delivered shall have in it or on it any permitted colouring matter specified in column 2 of Schedule 3:

Provided that any food specified in column 1 of that Schedule may have in it or on it any such permitted colouring matter specified in relation thereto in column 2 subject to any restriction on use specified in relation thereto in column 3.

(4) No person shall sell, consign, deliver or have in his possession, any food which does not comply with this regulation.

Prohibition of the use of added colouring matter

5.—(1) Save as hereinafter provided, no meat, game, poultry, fish, fruit or vegetable, in a raw or unprocessed state, sold, consigned or delivered for human consumption, shall have in it or on it (otherwise than for the purpose of marking) any colouring matter:

Provided that the husk containing any nut may have in it or on it added permitted colouring matter.

(2) No tea (whether in leaf or essence form), coffee, coffee product, condensed milk or dried milk, sold, consigned or delivered for human consumption shall have in it or on it any added colouring matter.

(3) No person shall sell, consign, deliver or have in his possession any food which does not comply with this regulation.

Inorganic and organic impurity limits for colouring matters and diluents

6.—(1) No permitted colouring matter sold, consigned or delivered for use as an ingredient in the preparation of food and no permitted diluent combined with any such permitted colouring matter shall contain any inorganic or organic impurity specified in Part II or Part III, as the case may be, of Schedule 1 in relation to such permitted colouring matter or in Part II or Part III, as the case may be, of Schedule 2 in relation to such permitted diluent in excess of the amount therein prescribed for such impurity:

Provided that the maximum amount of any inorganic or organic impurity that may be contained in a combination of permitted colouring matters or of a permitted colouring matter or permitted colouring matters with a permitted diluent or permitted diluents shall be determined by multiplying the maximum amount of that impurity specified in Part II or Part III of Schedule 1 in relation to each permitted colouring matter or in Part II or Part III of Schedule 2 in relation to each permitted diluent, which in either case is contained in that combination, by the proportion of the total amount of such combination represented by that colouring matter or diluent and by adding together the products resulting therefrom.

(2) No person shall sell, consign, deliver or have in his possession any permitted colouring matter or permitted diluent combined with any permitted colouring matter which does not comply with this regulation.

Sale, advertisement and labelling of colouring matter

7.—(1) No person shall sell, consign, deliver, have in his possession or advertise for sale any colouring matter for use as an ingredient in the preparation of food unless such colouring matter is a permitted colouring matter.

(2) No person shall sell, consign or deliver any permitted colouring matter for use as an ingredient in the preparation of food except in a container bearing a label which complies with the requirements specified in Schedule 4.

Condemnation of food

8. Where any food is certified by a public analyst as being food which it is an offence against regulation 4 or 5 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

9.—(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 to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both, 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 its area.

(3) The requirements of section 47 of the Act (which requires notice to be given to the Ministry 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 council for an offence against any such provisions of these regulations.

Defences

10.—(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) In any proceedings against the manufacturer or importer of any colouring matter for use as an ingredient in the preparation of food, or of any food having colouring matter in or on it, for an offence against these regulations in relation to the publication of an advertsiement, it shall rest on the defendant to prove that he did not publish, and was not a party to the publication of, the advertisement.

Amendment of the Arsenic in Food Regulations (Northern Ireland) 1961

11. The Arsenic in Food Regulations (Northern Ireland) 1961(**d**) shall be further amended by deleting from the Schedule item 19 (which relates to Colourings other than synthetic colourings) and the words "but not including synthetic colourings" in the first column of items 12 and 20 (which relate respectively to Chemicals not otherwise specified and to Chemicals for which

(**d**) S.R. & O. (N.I.) 1961, No. 98.

an arsenic limit is specified in the British Pharmacopoeia or the British Pharmaceutical Codex).

Amendment of the Lead in Food Regulations (Northern Ireland) 1961

12. The Lead in Food Regulations (Northern Ireland) 1961(**e**), shall be further amended as follows:—

(*a*) by deleting from regulation 2(1) the definition of food colouring;

(*b*) by deleting from Part I of the Schedule the items relating to Caramel and to Food colourings (except caramel).

Amendment of the Preservatives in Food Regulations (Northern Ireland) 1962

13. The Preservatives in Food Regulations (Northern Ireland) 1962(**f**), shall be further amended as follows:—

(*a*) by substituting in column 1 of Schedule 1 for the words "Colouring matter, if in the form of a solution of a permitted colouring matter" the words "Colouring matter, except E 150 Caramel, if in the form of a solution of a permitted colouring matter";

(*b*) by inserting in Schedule 1 immediately after the item relating to Pectin, liquid the following item:—

"*Column 1* *Specified food*	*Column 2* *Permitted preservative*	*Column 3* *Parts per million not exceeding—*
E 150 Caramel	Sulphur Dioxide	1000".

Amendment of the Butter Regulations (Northern Ireland) 1966

14. The Butter Regulations (Northern Ireland) 1966(**g**), shall be amended by substituting in the definition of butter in regulation 2(1) for the words "salt, lactic acid cultures, annatto, carotene or turmeric" the words "annatto, alpha-, beta-, and gamma-carotene, synthetic beta-carotene or turmeric, inasmuch as their use is permitted by the Colouring Matter in Food Regulations (Northern Ireland) 1973, or salt or lactic acid cultures".

Revocations and transitional provisions

15.—(1) The Colouring Matter in Food Regulations (Northern Ireland) 1966(**h**) and the Colouring Matter in Food (Amendment) Regulations (Northern Ireland) 1970(**i**) are hereby revoked.

(2) Until revoked any provision of the Colouring Matter in Food Regulations (Northern Ireland) 1966, shall not apply to any sale, consignment, delivery or possession of any food having any colouring matter in it or on it, any colouring matter or any diluent combined with any colouring matter or colouring matters, or to any advertisement for sale which complies with a corresponding provision (if any) of these regulations.

Sealed with the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 16th day of November 1973.

(L.S.)

G. Buchanan,
Assistant Secretary.

(**e**) S.R. & O. (N.I.) 1961, No. 208.
(**f**) S.R. & O. (N.I.) 1962, No. 173.
(**g**) S.R. & O. (N.I.) 1966, No. 205.
(**h**) S.R. & O. (N.I.) 1966, No. 243.
(**i**) S.R. & O. (N.I.) 1970, No. 208.