1961. No. 189

As this Order has been classified as local it is not printed at length in this volume. A summary is given in the List of Statutory Rules and Orders of a Local Character under the heading ROADS.

1961. No. 190 **[C]**

FOOD AND DRUGS

Skimmed Milk with Non-Milk Fat

Labelling and Advertising

REGULATIONS, DATED 27TH SEPTEMBER, 1961, MADE BY THE MINISTRY OF HEALTH AND LOCAL GOVERNMENT UNDER SECTIONS 7 AND 68 OF THE FOOD AND DRUGS ACT (NORTHERN IRELAND), 1958.

The Ministry of Health and Local Government, in exercise of the powers conferred upon it by Sections 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 Skimmed Milk with Non-Milk Fat Regulations (Northern Ireland), 1961, and shall come into operation on the 30th day of October, 1961.

Interpretation

2. In these regulations—

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

"appropriate designation" means a name or description, being a specific and not a generic name or description, which shall indicate to a prospective purchaser the true nature of the fat, oil or other substance to which it is applied;

"condensed milk" means any kind of condensed (or evaporated) milk which complies with the requirements as to composition imposed by the Condensed Milk Regulations (Northern Ireland), 1961(**b**), in relation to condensed (or evaporated) milk of that kind; and "condensed full cream milk" shall be construed accordingly;

"condensed skimmed milk with non-milk fat" means any food—

(*a*) which has the appearance of condensed milk;

(*b*) which consists of or includes milk solids other than fat and one or more fats or oils other than milk fat; and

(*c*) of which, after the removal of all water and sugar, if present, the principal constituents (by weight) are milk solids other than fat

(**a**) 1958. c. 27. (**b**) S.R. & O. 1961, No. 31.

(excluding for this purpose any such solids present by reason of the use as an ingredient of any milk, condensed full cream milk or dried full cream milk);

"dried milk" means milk, partly skimmed milk or skimmed milk which has been concentrated to the form of powder or solid by the removal of water;

"dried full cream milk" means dried full cream milk which complies with the requirements as to composition imposed in relation thereto by the Public Health (Dried Milk) Regulations, 1925 and 1927(a);

"dried skimmed milk with non-milk fat" means any food—

(*a*) which has the appearance of dried milk;

(*b*) which consists of or includes milk solids other than fat and one or more fats or oils other than milk fat; and

(*c*) of which, after the removal of all sugar, if present, the principal constituents (by weight) are milk solids other that fat (excluding for this purpose any such solids present by reason of the use as an ingredient of any milk, condensed full cream milk or dried full cream milk);

"milk" means cow's milk but does not include condensed, dried or skimmed milk;

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

"skimmed milk" includes separated milk or machine-skimmed milk, partly skimmed, separated or machine-skimmed milk and butter milk; and "condensed skimmed milk" shall be construed accordingly;

"skimmed milk with non-milk fat" means any food, not being condensed skimmed milk with non-milk fat,—

(*a*) which has the appearance of milk or skimmed milk or of milk or skimmed milk which, in either case, has been concentrated by the removal of part of its water;

(*b*) which consists of or includes milk solids other than fat and one or more fats or oils other than milk fat; and

(*c*) of which, after the removal of all water and sugar, if present, the principal constituents (by weight) are milk solids other than fat (excluding for this purpose any such solids present by reason of the use as an ingredient of any milk, condensed full cream milk or dried full cream milk);

"specified food" means any of the following foods which is intended for sale for human consumption, that is to say, skimmed milk with non-milk fat, condensed skimmed milk with non-milk fat or dried skimmed milk with non-milk fat;

"sugar" does not include lactose.

Sale of Specified Food

3.—(1) Subject to the provisions of this regulation—

(*a*) no person shall sell any specified food except in a container bearing a label in accordance with the provisions of Part I of the First Schedule (as modified by the Second Schedule in respect of the specified foods referred to therein);

(a) S.R. & O. 1925, No. 168; S.R. & O. 1927, No. 152.

(*b*) no person shall expose or offer for sale by retail any such container wrapped in paper or some other wrapper through which the label on the container is not clearly visible unless the outermost wrapper also bears a label as if it were a container to which sub-paragraph (*a*) applies.

(2) For the purposes of this regulation "sale by retail" 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 purposes of his catering business or a sale to a manufacturer for the purposes of his manufacturing business.

(3) Nothing in this regulation shall apply as respects any sale of any specified food for immediate consumption on or at the premises of the seller or in or at any stall or mobile refreshment vehicle.

Labelling of Specified Food

4. Subject to the provisions of Regulations 3 and 6, no person shall give or display with any specified food or with any beverage of which skimmed milk, condensed skimmed milk or dried skimmed milk, whether or not compounded with any other substance, is an ingredient, sold by him any label, whether attached to or printed on the wrapper or container or not, which bears any description of such food or beverage, or of any ingredient or constituent of such food or beverage, or any brand or descriptive name or pictorial device which is suggestive of milk or of anything connected with the dairy interest.

Advertisement of Specified Food

5.—(1) No person shall publish, or be party to the publication of, any advertisement for a specified food which does not comply with the provisions of Part II of the First Schedule.

(2) Subject to the provisions of paragraph (1) and of Regulation 6, no person shall publish, or be party to the publication of, any advertisement for a specified food or for a beverage of which skimmed milk, condensed skimmed milk or dried skimmed milk, whether or not compounded with any other substance, is an ingredient, which includes any description of such food or beverage, or of any ingredient or constituent of such food or beverage, or any brand or descriptive name or pictorial device which is suggestive of milk or of anything connected with the dairy interest.

(3) In any proceedings for an offence against paragraph (1) or (2) 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 and did not himself make or cause to be made any material alteration in the substance of that advertisement.

(4) In any proceedings against the manufacturer or importer of the specified food or of the beverage for an offence against paragraph (1) or (2), it shall rest on the defendant to prove that he did not publish, and was not a party to the publication of, the advertisement.

Exemptions from provisions of Regulations 4 *and* 5

6.—(1) Subject as hereinafter provided, the provisions of Regulation 4 and paragraph (2) of Regulation 5 shall not apply in the case of any beverage in which skimmed milk, condensed skimmed milk or dried skimmed milk is present solely by reason of the use as an ingredient thereof of any dairy ice-

cream, dairy cream ice, or cream ice which conforms to the standard of composition prescribed therefor by the Ice-Cream (Composition, Heat Treatment, Labelling, etc.) Regulations (Northern Ireland), 1961(a), nor shall such provisions apply so as to prohibit—

(*a*) the use of an accurate description of any ingredient or constituent of the specified food or of the beverage to which the label or advertisement relates;

(*b*) the use of an accurate description of any method, process or treatment used in the course of the manufacture or preparation of such food or beverage;

(*c*) the use of the word "milk" (whether or not as part of a composite word) if it is immediately preceded or followed by the word "skimmed", "machine-skimmed" or "separated": if used in visual form, the word "skimmed", "machine-skimmed" or "separated", as the case may be, shall be in type or characters of a size, and, in the case of a label, of a colour, uniform with those of the word "milk";

(*d*) the use of the name of the manufacturer, packer, labeller or seller or, in the case of an advertisement, the advertiser of such food or beverage.

(2) The provisions of paragraph (1) shall not apply in any case where any such use is calculated to mislead as to the nature, substance or quality of the specified food or the beverage to which the label or advertisement relates or of any ingredient or constituent thereof.

(3) The provisions of sub-paragraphs (*a*) and (*b*) of paragraph (1) shall not apply in any case where the word "milk" is used in visual form in any description referred to therein unless all the words in such description, except for the brand name of the specified food or of the beverage, are printed in type or characters of uniform size, and, in the case of a label, of a uniform colour.

(4) It is hereby declared that, for the purposes of this regulation, a label or advertisement which is calculated to mislead as to the nutritional or dietary value of a specified food or of a beverage, or of any ingredient or constituent thereof, is calculated to mislead as to the quality of such food, beverage, ingredient or constituent, as the case may be.

Penalties

7.—(1) If any person contravenes or fails to comply with any of the provisions of these regulations he shall be guilty of an offence and shall be liable on summary conviction—

(*a*) to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment; and

(*b*) 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) The requirements of sub-section (3) of section 47 of the Act (which requires notice to be given to the Ministry of Health and Local Government of intention to begin a prosecution for an offence against any provisions of

(a) S.R. & O. 1961, No. 161.