1962 No. 779 (S. 29)

FOOD AND DRUGS

COMPOSITION AND LABELLING—SCOTLAND

The Emulsifiers and Stabilisers in Food (Scotland) Regulations, 1962

Made - - - -	9*th April*, 1962
Laid before Parliament	18*th April*, 1962
Coming into Operation	
Except Regulations 6 (2) *and* 7 - -	16*th July*, 1962
Regulations 6 (2) *and* 7 - - -	14*th January*, 1963

In exercise of the powers conferred upon me by sections 4, 7 and 56 of the Food and Drugs (Scotland) Act, 1956(a), and of all other powers enabling me in that behalf, and after consultation with such organisations as appear to me to be representative of interests substantially affected by these regulations and after reference to the Scottish Food Hygiene Council under section 25 of the said Act (insofar as the regulations relate to the labelling, marking, advertising or description of food), I hereby make the following regulations:—

Citation and Commencement

1. These regulations may be cited as the Emulsifiers and Stabilisers in Food (Scotland) Regulations, 1962 and shall come into operation on the 16th day of July, 1962, except that paragraph (2) of regulation 6 and regulation 7 shall come into operation on the 14th day of January, 1963.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

"the Act" means the Food and Drugs (Scotland) Act, 1956;

"bread" means bread intended for sale for human consumption and 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;

"cellulose ethers" means any compound obtained by replacing the hydrogen atoms in the hydroxyl groups in cellulose by one or more of the following substituent groups—methyl, ethyl, hydroxy-ethyl, hydroxy-propyl;

"complete glycerol esters" means any compound formed by completely esterifying the hydroxyl groups of glycerol with either—

(*a*) a mixture of a single fatty acid and acetic acid; or

(a) 4 & 5 Eliz. 2. c. 30.

(*b*) a mixture of fatty acids and lactic acid ; or

(*c*) a mixture of fatty acids and phosphoric acid ; or

(*d*) a mixture of fatty acids and diacetyl tartaric acid ;

" cream " means that part of milk rich in fat which has been separated by skimming or otherwise and is intended for sale for human consumption ;

" emulsifier " and " stabiliser " mean respectively any substance, other than a natural food 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 agar, alginic acid, calcium alginate, sodium alginate, carrageen, edible gums, dextrin, pectin, calcium pectate, sodium pectate, calcium chloride, calcium lactate, lecithin, quillaia, proteins (whether hydrolysed or not), calcium caseinate, sodium caseinate, starches (whether modified or not), malt extract, sorbitol, any substance inasmuch as its use is permitted by the Public Health (Preservatives etc. in Food) (Scotland) Regulations, 1925 to 1958(**a**), the Colouring Matter in Food (Scotland) Regulations, 1957(**b**), or the Antioxidant in Food (Scotland) Regulations, 1958(**c**), or the sodium or potassium salts of any of the following, that is to say, acetic acid, carbonic acid, citric acid, lactic acid, malic acid, phosphoric acid, polyphosphoric acid or tartaric acid ;

" flour " means the product intended for sale for human consumption which is derived from, or separated during, the milling or grinding of wheat, whether or not any of the wheat has been malted or subjected to any process and whether or not the product contains enzyme active preparations, and includes meal but does not include separated wheat offals, separated wheat germ or semolina ;

" food " includes—

(*a*) cream and any food containing milk, and

(*b*) 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—

(i) water, live animals or birds, or

(ii) articles or substances used only as drugs ;

and except as respects regulations 6 and 7 hereof, the expression means food intended for sale for human consumption ;

" inter-esterification " means the combination of a number of molecules of ricinoleic acid by the linking, with the elimination of water, of the hydroxyl group of one molecule with the carboxyl group of another molecule ; and " inter-esterified " shall be construed accordingly ;

" 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 ;

(**a**) S.R. & O. 1925/814, 1926/1603, 1927/623, 1940/649 (Rev. VIII, p. 107: 1925, p. 1404; 1926, p. 1188; 1927, p. 462; 1940 I, p. 896); S.I. 1953/1859, 1958/1329, 2217 (1953 I, p. 820; 1958 I, pp. 1179, 1180).

(**b**) S.I. 1957/1123 (1957 I, p. 1003).

(**c**) S.I. 1958/1467 (1958 I, p. 1167).

"partial polyglycerol esters" means any compound formed by incompletely esterifying the hydroxyl groups of condensed glycerol, which has been formed by causing glycerol to react with itself with the elimination of water, with either—

(*a*) any single fatty acid; or

(*b*) any mixture of fatty acids; or

(*c*) dimerised fatty acids of soya bean oil; or

(*d*) inter-esterified fatty acids of castor oil;

"partial glycerol esters" means any compound formed by incompletely esterifying the hydroxyl groups of glycerol with either—

(*a*) any single fatty acid; or

(*b*) any mixture of fatty acids; or

(*c*) any mixture of fatty acids with one of the following organic acids —acetic acid, lactic acid, citric acid, tartaric acid, diacetyl tartaric acid or hydroxystearic acid;

in which the proportion of sodium salt, if any, of any fatty acid present does not exceed two per centum (estimated by weight) of the partial glycerol ester;

"permitted emulsifier" means any emulsifier specified in the First Schedule to these regulations;

"permitted stabiliser" means any stabiliser specified in the First Schedule to these regulations;

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

"propylene glycol esters" means any compound formed by completely or incompletely esterifying the hydroxyl groups of propylene glycol with either—

(*a*) any single fatty acid; or

(*b*) any mixture of fatty acids; or

(*c*) any mixture of fatty acids and lactic acid; or

(*d*) alginic acid;

"reconstituted cream" means a substance which, not being cream, resembles cream in appearance and contains no ingredient not derived from milk, except—

(*a*) water, or

(*b*) ingredients (not added fraudulently to increase bulk, weight or measure, or conceal inferior quality) which may lawfully be contained in a substance sold for human consumption as cream or butter;

and is intended for sale for human consumption;

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

"thickening substance" means sucrate of lime, gelatine, starch paste or any other substance which, when added to cream or reconstituted cream, is capable of increasing its viscosity, but does not include cane sugar or beet sugar;

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

(2) 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.

(3) These regulations shall not apply to any emulsifier or stabiliser, or to any food containing any emulsifier or stabiliser, intended for exportation to any place outside the United Kingdom.

(4) The Public Health (Preservatives etc. in Food) (Scotland) Regulations, 1925 to 1958, shall not apply in relation to any emulsifier or stabiliser or as respects any emulsifier or stabiliser in food.

(5) Any reference in these regulations to any other regulations shall be construed as a reference to those regulations as amended by any subsequent regulations, and if any regulations referred to in these regulations are replaced by any subsequent regulations the reference shall be construed as a reference to those subsequent regulations.

(6) The Interpretation Act, 1889(a), shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Enforcement

3.—(1) The local authority of any area shall, subject to the provisions of the next following paragraph, enforce and execute the provisions of these regulations within their area.

(2) Where any part of the area of a local authority lies within the area of a port local authority such of the functions of the local authority under these regulations in relation to any food imported into that part shall, in so far as these functions fall to be exercised by the port local authority by virtue of any order made under section 172 of the Public Health (Scotland) Act, 1897(b), be exercised by that port local authority.

(3) In this regulation "local authority" means the council of a county or of a large burgh within the meaning of the Local Government (Scotland) Act, 1947(c); and any small burgh within the meaning of that Act shall, for the purposes of these regulations, be included in the county in which it is situated and "port local authority" includes a joint port local authority.

Sale etc. of food containing emulsifiers or stabilisers

4.—(1) Subject to the provisions of this regulation, no food shall contain any emulsifier or any stabiliser which is not a permitted emulsifier or a permitted stabiliser.

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

(3) No bread shall contain any emulsifier or any stabiliser other than stearyl tartrate or partial glycerol esters.

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

(5) This regulation shall not apply in relation to any food containing any emulsifier or any stabiliser—

(*a*) inasmuch as that emulsifier or that stabiliser is naturally present in that food;

(*b*) by reason not of the use of that emulsifier or that stabiliser as an ingredient in that food but only of the use during the preparation of that food of a tin-greasing emulsion containing that emulsifier or that stabiliser.

Sale, etc. of cream and reconstituted cream

5.—(1) No cream or reconstituted cream shall contain any thickening substance.

(a) 52 & 53 Vict. c. 63. (b) 60 & 61 Vict. c. 38. (c) 10 & 11 Geo. 6. c. 43.

(2) No person shall sell, consign or deliver, or import into Scotland, any cream or reconstituted cream which does not comply with this regulation.

Sale, advertising and labelling of emulsifiers and stabilisers

6.—(1) No person shall sell or advertise for sale, with a view to its use in the preparation of food for human consumption, any emulsifier or any stabiliser other than a permitted emulsifier or a permitted stabiliser.

(2) No person shall sell any permitted emulsifier or permitted stabiliser with a view to its use in the preparation of food for human consumption except in a container bearing a label in accordance with the provisions of the Second Schedule to these regulations.

7.—(1) No person shall, with a view to the use of any permitted emulsifier or permitted stabiliser in the preparation of food for human consumption,—

(*a*) give or display with any permitted emulsifier or permitted stabiliser sold by him any label, whether attached to or printed on the wrapper or container or not, or

(*b*) publish, or be party to the publication of, any advertisement of any permitted emulsifier or permitted stabiliser for sale,

which bears or includes any statement which is calculated to lead to the use of that emulsifier or stabiliser in a manner contrary to these regulations.

(2) No person shall, with a view to the use of any permitted emulsifier or permitted stabiliser in the preparation of food for human consumption,—

(*a*) give or display with any permitted emulsifier or permitted stabiliser sold by him any label, whether attached to or printed on the wrapper or container or not, or

(*b*) publish, or be party to the publication of, any advertisement of any permitted emulsifier or permitted stabiliser for sale,

which bears or includes any statement which is calculated to imply either directly or by ambiguity, omission or inference that that emulsifier or stabiliser is a substitute for fat or eggs.

Prohibition of sale or advertisement of any thickening substance for cream or reconstituted cream

8.—(1) No person shall sell any substance as a thickening substance for cream or reconstituted cream.

(2) No person shall—

(*a*) give or display with any substance sold by him any label, whether attached to or printed on the wrapper or container or not, or

(*b*) publish, or be party to the publication of, any advertisement of any substance for sale,

which bears or includes any statement which is calculated to lead to its being used as a thickening substance for cream or reconstituted cream.

Condemnation of food containing any prohibited emulsifier or stabiliser

9. Where any food is certified by a public analyst as being food which it is an offence against regulation 4 hereof to sell, consign or deliver, or import into Scotland, that food may be treated for the purpose 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 defence for publisher of an advertisement

10.—(1) If any person contravenes or fails to comply with any of the

foregoing provisions of these regulations he shall be guilty of an offence and shall be liable—

(*a*) on summary conviction to—

(i) a fine not exceeding £100 or to imprisonment for a term not exceeding six months or to both such fine and imprisonment; and

(ii) in the case of a continuing offence to a further fine not exceeding £10 for every day during which the offence is continued; or

(*b*) on conviction on indictment to—

(i) a fine not exceeding £500 or to imprisonment for a term not exceeding one year or to both such fine and imprisonment; and

(ii) in the case of a continuing offence to a further fine not exceeding £50 for every day during which the offence is continued.

(2) In any proceedings for an offence against paragraph (1) of regulation 6, regulation 7 or 8 hereof in relation to the publication of an advertisement, it shall be a defence for the person charged 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.

Application of various sections of the Act

11.—(1) Subsections (2) and (5) of section 41 (which relates to proceedings), subsections (1), (2) and (3) of section 42 (which relates to evidence of certificates of analysis), section 44 (which relates to the power of a court to require analysis by the Government Chemist), subsection (2) of section 46 (which relates to the conditions under which a warranty may be pleaded as a defence) and section 47 (which relates to offences in relation to warranties and certificates of analysis) of the Act, shall apply for the purposes of these regulations as if references therein to proceedings, or a prosecution, under or taken under the Act included references to proceedings, or a prosecution as the case may be, taken for an offence under these regulations and in addition as if—

(*a*) in the case of subsection (1) of section 44 of the Act, the reference therein to subsection (5) of section 41 of the Act included a reference to said subsection (5) as applied by these regulations; and

(*b*) in the case of subsections (1) and (2) of section 47 of the Act, the references therein to an offence against the Act included references to an offence under these regulations.

(2) Subsection (4) of section 41 of the Act shall apply for the purposes of these regulations as if the reference therein to section 47 of the Act included a reference to said section 47 as applied by these regulations.

Dated this 9th day of April, 1962.

John S. Maclay,

One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

Regulation 2 (1)

FIRST SCHEDULE

Permitted Emulsifiers and Permitted Stabilisers

Stearyl tartrate
Complete glycerol esters
Partial glycerol esters
Partial polyglycerol esters
Propylene glycol esters
Monostearin sodium sulphoacetate
Sorbitan esters of fatty acids and their polyoxyethylene derivatives
Cellulose ethers
Sodium carboxymethyl cellulose
Brominated edible vegetable oils

Regulation 6 (2)

SECOND SCHEDULE

Labelling of Permitted Emulsifiers and Permitted Stabilisers

1. Each container to which regulation 6 (2) relates shall bear a label on which is printed a true statement of the chemical nature of the emulsifier or stabiliser and a declaration that it is of the necessary purity for use in food.

2. Such statement and declaration shall be printed distinctly and legibly in dark block type upon a light-coloured ground or in light block type upon a dark-coloured ground, the type being not less than one-eighth of an inch in height, within a surrounding line and no other matter shall be printed within such surrounding line. The type shall be of uniform size and colour and the ground within the said surrounding line shall be of uniform colour.

3. Such label shall be securely affixed to, or be part of, the wrapper or container and in any case shall be so placed as to be clearly visible and shall either be part of any main label or a separate label placed in close proximity thereto.

EXPLANATORY NOTE

(This Note is not part of the regulations, but is intended to indicate their general purport.)

These regulations, which apply to Scotland only—

(*a*) prohibit the sale or importation of flour containing any emulsifier or stabiliser (regulations 4 (2) and (4));

(*b*) prohibit the sale or importation of bread containing any emulsifier or stabiliser other than stearyl tartrate or partial glycerol esters (regulation 4 (3) and (4));

(*c*) prohibit the sale or importation of any other food containing any emulsifier or stabiliser which is not specified in the First Schedule (regulation 4 (1) and (4) and the First Schedule);

(*d*) provide in effect that the above mentioned provisions shall not apply in the case of food containing any emulsifier or stabiliser—

(i) inasmuch as that emulsifier or stabiliser is naturally present in that food;

(ii) by reason only of the use of that emulsifier or stabiliser in a tin-greasing emulsion (regulation 4 (5));

(*e*) prohibit the sale or advertisement for sale of any food emulsifier or stabiliser which is not a permitted emulsifier or stabiliser and impose requirements as to the labelling and advertisement of permitted emulsifiers and stabilisers (regulations 6 and 7 and the Second Schedule);

(*f*) prohibit the sale or importation of cream or reconstituted cream containing any thickening substance and the sale or advertisement for sale of any substance as a thickening substance for cream or reconstituted cream (regulations 5 and 8);

(*g*) provide that where certain food is certified by a public analyst as containing any emulsifier or stabiliser not permitted by the regulations that food may be treated for the purposes of section 9 of the Food and Drugs (Scotland) Act, 1956, as being unfit for human consumption (regulation 9);

(*h*) do not apply to any emulsifier or stabiliser, or any food containing any emulsifier or stabiliser, intended for export (regulation 2 (3));

(*j*) provide that the Public Health (Preservatives etc. in Food) (Scotland) Regulations, 1925 to 1958, shall not apply to any emulsifier or stabiliser or as respects any emulsifier or stabiliser in food (regulation 2 (4)).

The regulations will come into operation on 16th July, 1962, save that the provisions relating to the labelling and advertisement of permitted emulsifiers and stabilisers (regulations 6 (2) and 7) will come into operation on 14th January, 1963.

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