1994 No. 214

FOOD

The Food Labelling (Amendment) Regulations (Northern Ireland) 1994

Made	*9th June 1994*
Coming into operation . .	*1st March 1995*

The Department of Health and Social Services in exercise of the powers conferred on it by Articles 15(1)(*e*), 16(1), 25(1)(*a*) and (3), 26(3) and 47(2) of the Food Safety (Northern Ireland) Order 1991(**a**) and of all other powers enabling it in that behalf and after consultation in accordance with Article 47(3) of the said Order with such organisations as appear to it to be representative of interests likely to be substantially affected by these Regulations, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Food Labelling (Amendment) Regulations (Northern Ireland) 1994 and shall come into operation on 1st March 1995.

(2) In these Regulations "the principal Regulations" means the Food Labelling Regulations (Northern Ireland) 1984(**b**).

Amendment of the principal Regulations

2.—(1) The principal Regulations shall be amended in accordance with paragraphs (2) to (8).

(2) In paragraph (1) of regulation 2 (interpretation)—

(*a*) in the definition of carbohydrate, for "sugar alcohols" there shall be substituted "polyols";

(*b*) after the definition of edible ice there shall be inserted—

" "fat" in the context of nutrition labelling means total lipids, and includes phospholipids;";

(*c*) after the definition of liqueur wine there shall be inserted—

" "mono-unsaturates" means fatty acids with one *cis* double bond;

"nutrient" means any of the following: protein, carbohydrate, fat, fibre, sodium, any vitamin or mineral listed in Table A or B in

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(**a**) S.I. 1991/762 (N.I. 7). *See* Article 2(2) for the definitions of "regulations" and "the Department concerned"

(**b**) S.R. 1984 No. 407; the relevant amending Regulations are S.R. 1985 No. 120, S.R. 1987 No. 38, S.R. 1988 Nos. 23 and 433, S.R. 1989 No. 229, S.R. 1990 Nos. 37, 103 and 440, S.R. 1991 Nos. 203 and 216

Schedule 6 and present in any food in a significant amount as described in the Note to those Tables;

"nutrition claim" means any statement, suggestion or implication in any labelling, presentation or advertising of a food that that food has particular nutrition properties, but does not include a reference to any quality or quantity of any nutrient where such reference is required by law;

"nutrition labelling", in relation to a food (other than a natural mineral water or other water intended for human consumption or any food supplement) means any information appearing on labelling (other than where such appears solely as part of a list of ingredients) and relating to energy value or any nutrient or to energy value and any nutrient, including any information relating to any substance which belongs to, or is a component of, a nutrient;

"nutrition properties" means either or both of—

(i) the provision (including provision at a reduced or increased rate), or the lack of provision, of energy,

(ii) the content (including content in a reduced or increased proportion), or the lack of content, of any nutrient (including any substance which belongs to, or is a component of, a nutrient);

"polyunsaturates" means fatty acids with *cis*, *cis*-methylene interrupted double bonds;";

(*d*) after the definition of presentation there shall be inserted—

" "protein" means the protein content calculated using the formula: protein = total Kjeldahl nitrogen × 6.25;

"saturates" means fatty acids without double bond;";

(*e*) after the definition of sparkling wine there shall be inserted—

" "sugars" in the context of nutrition labelling means all monosaccharides and disaccharides present in food, but excludes polyols;".

(3) For the title to Part IV there shall be substituted—

"NUTRITION LABELLING, CLAIMS AND MISLEADING DESCRIPTIONS".

(4) In regulation 37 (supplementary provisions relating to claims) for paragraphs (3), (4), (5), (6) and (7) there shall be substituted—

"(3) A reference to a substance in a list of ingredients or in any nutrition labelling shall not of itself constitute a claim of the type described in Schedule 6.

(4) In Schedule 6—

"the prescribed nutrition labelling" means nutrition labelling given in accordance with Schedule 6A;

"recommended daily allowance", in relation to a vitamin or mineral, means the recommended daily allowance specified for that vitamin or mineral in column 2 of Table A or B in Schedule 6.

(5) In Schedule 6 any condition that a food in respect of which a claim is made shall be marked or labelled with the prescribed nutrition labelling shall not apply in the case of—

(*a*) a food which is not prepacked and which is sold to the ultimate consumer at a catering establishment, or

(*b*) a claim contained within generic advertising, but in respect of a food described in sub-paragraph (*a*) there may be given such of the elements of the prescribed nutrition labelling which, but for this paragraph, would have been required or permitted to be given, as it is wished to include, and where all or any such elements are given this shall be in accordance with Part I of Schedule 6A, except that in applying paragraph 4 of that Part, in place of sub-paragraphs (*a*)(i) and (ii) of that paragraph there shall be read references to—

(i) an unquantified serving of the food, and

(ii) any one portion of the food.

(6) Where nutrition labelling not being prescribed nutrition labelling is given it shall be given in all respects as if it were prescribed nutrition labelling except that in applying in this context the requirements for prescribed nutrition labelling described in Schedule 6A, Part II shall be read as if paragraphs 1(*a*)(iv) and (*b*)(iv), and the proviso to sub-paragraph (*b*)(i), were omitted.".

(5) In paragraph 4 (Vitamins) in Schedule 1 (names prescribed by law)—

(*a*) in sub-paragraph (1), for "with or without the words, if any, that appear in brackets in that column of that Table" there shall be substituted "except that in respect of folacin the name "folic acid" may also be used.";

(*b*) for sub-paragraph (2) there shall be substituted—

"(2) The name for vitamin K shall be "vitamin K".".

(6) (*a*) In item 3 (claims relating to foods for particular nutritional uses) in Part II (restricted claims) of Schedule 6 (claims), for "the prescribed energy statement" in paragraph 3(*b*) in column 2 there shall be substituted "the prescribed nutrition labelling and may be marked or labelled with further information in respect of either or both of—

(i) any nutrient or component of a nutrient (whether or not a claim is made in respect of such nutrient or component), or

(ii) any other component or characteristic, which is essential to the food's suitability for its particular nutritional use.

(*b*) In item 4 (claims relating to babies or young children) in Part II of Schedule 6, for "the prescribed energy statement" in paragraph 2(*b*) in column 2 there shall be substituted "the prescribed

nutrition labelling and may be marked or labelled with further information in respect of either or both of—

(i) any nutrient or component of a nutrient (whether or not a claim is made in respect of such nutrient or component), or

(ii) any other component or characteristic, which is essential to the food's suitability for its particular nutritional use.''.

(*c*) Item 5 (diabetic claim) in Part II of Schedule 6 shall be deleted.

(*d*) In item 8 (protein claims) in Part II of Schedule 6, for paragraph 3 in column 2 there shall be substituted—

''3. The food must be marked or labelled with the prescribed nutrition labelling.''.

(*e*) In item 9 (vitamin claims) in Part II of Schedule 6—

(i) in paragraph 1 in column 2, for ''recommended daily amount'', in each case where it occurs, there shall be substituted ''recommended daily allowance'', and

(ii) for paragraph 2 in column 2 there shall be substituted—

''2. The food must be marked or labelled—

(*a*) in the case of a food to which nutrition labelling relates—

(i) where the claim is in respect of unspecified vitamins (whether alone or together with named vitamins), then in respect of any of those unspecified vitamins which are listed in Table A, with the prescribed nutrition labelling and, in addition, with a statement of the percentages of the recommended daily allowance for such vitamins as are contained in either a quantified serving of the food or, provided that the total number of portions contained in the sales unit of the food is stated, in one such portion of the food, and

(ii) where the claim is in respect of a named vitamin or of named vitamins (whether alone or together with unspecified vitamins), then in respect of that or those named vitamins, with the prescribed nutrition labelling and, in addition, with a statement of the percentages of the recommended daily allowance for such vitamins as are contained in either a quantified serving of the food or, provided that the total number of portions contained in the sales unit of the food is stated, in one such portion of the food; and

(*b*) in the case of food supplements or waters other than natural mineral waters, in respect of any vitamins, whether unspecified, named or both—

(i) with a statement of the percentage of the recommended daily allowance of those vitamins contained in either a quantified serving or (provided that the food is prepacked) a portion of the food, and

(ii) where the food is prepacked, of the number of portions contained in the package,

and the name used in such marking or labelling for any such vitamin shall be the name specified for that vitamin in column 1 of Table A.''.

(*f*) In item 11 (polyunsaturated fatty acid claims), in Part II of Schedule 6 for sub-paragraph 1(*d*) in column 2 there shall be substituted—

''(*d*) the food must be marked or labelled with the prescribed nutrition labelling.''.

(*g*) For item 13 (energy claims) in Part II of Schedule 6 there shall be substituted—

(In Column 1— Types of Claim)	(In Column 2— Conditions)
''*Nutrition claims*	
13. Any nutrition claim not dealt with under any other item in this Part	1. The food must be capable of fulfilling the claim. 2. The food shall be marked or labelled with the prescribed nutrition labelling.''.

(*h*) For Table A (vitamins in respect of which claims may be made) and Table B (minerals in respect of which claims may be made) in Schedule 6 there shall be substituted—

''TABLE A

Vitamins in respect of which claims may be made

Column 1	Column 2
Vitamin	*Recommended daily allowance*
Vitamin A	800 μg
Vitamin D	5 μg
Vitamin E	10 mg
Vitamin C	60 mg
Thiamin	1.4 mg
Riboflavin	1.6 mg
Niacin	18 mg
Vitamin B6	2 mg
Folacin	200 μg
Vitamin B12	1 μg
Biotin	0.15 mg
Pantothenic acid	6 mg

TABLE B

Minerals in respect of which claims may be made

Column 1	Column 2
Mineral	*Recommended daily allowance*
Calcium	800 mg
Phosphorous	800 mg
Iron	14 mg
Magnesium	300 mg
Zinc	15 mg
Iodine	150 μg

Note: As a rule a significant amount means 15% of the recommended daily allowance listed in respect of each vitamin and mineral specified in Table A and B that is supplied by 100g or 100ml of a food, or per package of a food if the package contains only a single portion.".

(7) Immediately after Schedule 6 there shall be inserted the following Schedule—

"SCHEDULE 6A Regulation 37(4), (5) and (6)

Nutrition Labelling

PART I

PRESENTATION OF PRESCRIBED NUTRITION LABELLING

1. Prescribed nutrition labelling shall consist of such of the following items as under Part II are either required or permitted to be given. Subject to paragraphs 2, 3, 4, 5 and 6, the items and, where applicable, their order and manner of listing, are—

"energy	[×] kj and [×] kcal
protein	[×] g
carbohydrate	[×] g
of which:	
— sugars	[×] g
— polyols	[×] g
— starch	[×] g
fat	[×] g
of which:	
— saturates	[×] g
— mono-unsaturates	[×] g
— polyunsaturates	[×] g
— cholesterol	[×] mg

fibre	[×] g
sodium	[×] g
[vitamins]	[× units]
[minerals]	[× units]''.

2. In the event that there is also required to be given the name and amount of any substance which belongs to, or is a component of, one of the items already given such substance or component shall be listed immediately after the item to which it relates, and in the following manner—

''[item]	[×] g or mg
of which—	
[substance or component]	[×] g or mg.''

3. (*a*) For [vitamins] and [minerals] there shall be substituted, as appropriate, the names of any vitamin or mineral listed in Table A or B in Schedule 6.

(*b*) For [item] there shall be substituted the name of the relevant item from the list in paragraph 1.

(*c*) For [substance or component] there shall be substituted the name of the substance or component.

(*d*) For [×] there shall be substituted the appropriate amount in each case and, in respect of vitamins and minerals, such amounts—

(i) shall be expressed in the units of measurement specified in relation to the respective vitamins and minerals given in Table A or B in Schedule 6, and

(ii) shall also be expressed as a percentage of the recommended daily allowance specified for such vitamins and minerals in those Tables.

4. All amounts given—

(*a*) are to be per hundred grams or hundred millilitres of the food, as is appropriate, and, where it is wished to do so, those in either—

(i) a quantified serving of the food, or

(ii) provided that the total number of portions contained in that sales unit of the food is stated, in one such portion of the food,

(*b*) shall be such amounts as are contained in the food as sold to the ultimate consumer or to a catering establishment save that, where sufficiently detailed instructions are given for the preparation for consumption of the food, they may (if expressly said to be so) be such amounts as are contained in the food after the completion of such preparation in accordance with the said instructions, and

(*c*) shall be averages based, either alone or in any combination, on—

(i) the manufacturer's analysis of the food,

(ii) a calculation from the actual average values of the ingredients used in the preparation of the food,

(iii) a calculation from generally established and accepted data,

and "averages" for the purposes of this sub-paragraph means the figures which best represent the respective amounts of the nutrients which a given food contains, there having been taken into account seasonal variability, patterns of consumption and any other factor which may cause the actual amount to vary.

5. In the calculation of the energy value the following conversion factors shall be employed—

(*a*) 1 gram of carbohydrate (excluding polyols) shall be deemed to contribute 17 kj (4 kcal);

(*b*) 1 gram of polyols shall be deemed to contribute 10 kj (2.4 kcal);

(*c*) 1 gram of protein shall be deemed to contribute 17 kj (4 kcal);

(*d*) 1 gram of fat shall be deemed to contribute 37 kj (9 kcal);

(*e*) 1 gram of ethanol shall be deemed to contribute 29 kj (7 kcal);

(*f*) 1 gram of organic acid shall be deemed to contribute 13 kj (3 kcal).

6. Any prescribed nutrition labelling shall be presented together in one conspicuous place—

(*a*) in tabular form with any numbers aligned, or

(*b*) if there is insufficient space to permit tabular listing, in linear form.

PART II

CONTENTS OF PRESCRIBED NUTRITION LABELLING

1. In respect of any food other than one to which paragraph 2 applies, prescribed nutrition labelling shall be given as follows—

(*a*) before 6th October 1995—

(i) it shall include energy and the amounts of protein, carbohydrates and fat;

(ii) where such is the subject of a nutrition claim, it shall also include the amounts of any sugars, polyols, starch, saturates, mono-unsaturates, polyunsaturates, cholesterol, fibre, sodium, vitamins or minerals, and in the absence of such a claim it may include any of these, provided that in either case only those vitamins or minerals present in a significant amount as described in the Note to Tables A and B in Schedule 6 may be so included;

(iii) where, further to paragraph (ii), the amounts of any of mono-unsaturates, polyunsaturates or cholesterol has been included, it shall also include (where it does not already do so under that paragraph) saturates; and

(iv) where such is the subject of a nutrition claim, it shall also include the name and amount of any substance which belongs to, or is a component of, one of the nutrients already required or permitted to be included;

(*b*) after 5th October 1995—

(i) it shall include either—

(*aa*) energy and the amounts of protein, carbohydrate and fat, or

(*bb*) energy and the amounts of protein, carbohydrate, sugars, fat, saturates, fibre and sodium,

provided that, where sugars, saturates, fibre or sodium is, or are, the subject of a nutrition claim, it shall be given in accordance with sub-paragraph (*bb*);

(ii) where such is the subject of a nutrition claim, it shall also include the amounts of any polyols, starch, mono-unsaturates, polyunsaturates, cholesterol, vitamins or minerals, and in the absence of such a claim it may include any of these, provided that in either case only those vitamins or minerals present in a significant amount as described in the Note to Table A and B in Schedule 6 shall, or may, be so included;

(iii) where labelling is given in accordance with sub-paragraph (i)(*aa*) and, further to paragraph (ii) the amounts of any of mono-unsaturates, polyunsaturates or cholesterol has been included, it shall also include the amount of saturates, and

(iv) where such is the subject of a nutrition claim, it shall also include the name and amount of any substance which belongs to, or is a component of, one of the nutrients already required or permitted to be included.

2.—(1) In respect of any food which is not prepacked and which is sold either—

(*a*) to the ultimate consumer other than at a catering establishment, or

(*b*) to a catering establishment,

the prescribed nutrition labelling shall include such of energy and the amounts of any nutrient and the name and the amount of any substance which belongs to, or is a component of, any nutrient, in respect of which a nutrition claim is made, and it may include any of the items listed in paragraph 1 of Part I in respect of which there is no such claim.''.

(8) In Schedule 7 (misleading descriptions), in that part of column 2 corresponding to the item in column 1 relating to ''vitamin'' etc., for condition (*b*) there shall be substituted—

''(*b*) vitamin K.''.

Transitional provision

3. In any proceedings in respect of an act done before 1st March 1995 which is alleged to constitute a contravention of regulation 36 of the principal

Regulations as read with regulation 37 of, and Schedule 6 to, those Regulations, as the said regulation 37 and Schedule 6 are amended by regulation 2(3), (4) and (6) of these Regulations, the defendant shall not be convicted of an offence under the principal Regulations if that act was in accordance with regulations 36 and 37 of, and Schedule 6 to, the principal Regulations before amendment by regulation 2(3), (4) and (6) of these Regulations.

Sealed with the Official Seal of the Department of Health and Social Services on 9th June 1994.

(L.S.) *D. A. Baker*
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations further amend the Food Labelling Regulations (Northern Ireland) 1984 ("the principal Regulations"). They implement the provisions of Council Directive No. 90/496/EEC (OJ No. L276, 6.10.90, p. 40) on nutrition labelling for foodstuffs.

Where a nutrition claim is made in respect of a food, nutrition labelling, described as "prescribed nutrition labelling", must be given and changes giving effect to this are made to the conditions governing restricted claims (which include nutrition claims) under Schedule 6 to the principal Regulations. The manner and content of prescribed nutrition labelling are set out in a new Schedule 6A to the principal Regulations. Before 6th October 1995 the contents of prescribed nutrition labelling shall include, as a minimum, energy and the amounts of protein, carbohydrate and fat present in the food, and from that date it may alternatively include, again as a minimum, energy and the amounts of protein, carbohydrate, sugars, fat, saturates, fibre and sodium, provided that where a nutrition claim is made in respect of any of sugars, saturates, fibre or sodium this alternative is the form in which it shall be given. Exempted from these requirements are food which is not prepacked and which is sold to the ultimate consumer at a catering establishment and nutrition claims made within generic advertising (new regulation 37(5) of the principal Regulations) (regulation 2(4)).

Where no nutrition claim is made for a food, nutrition labelling may be given voluntarily, in which event (and subject to minor qualifications) it is required to be given in the same form as prescribed nutrition labelling (new regulation 37(6) of the principal Regulations) (regulation 2(4)).

The Regulations come into operation on 1st March 1995 but there are transitional provisions establishing that no offence is committed in respect of an act done in respect of food labelling which does not meet the new conditions introduced by these Regulations where such act was done before the coming into operation of these Regulations and in accordance with the conditions then obtaining.