PART II

MINERALS

| Column 1 | Column 2 |
|---|---|
| Substance | To be calculated and specified as: |
| Calcium .. .. .. .. .. | Milligrams of calcium. |
| Iodine .. .. .. .. .. | Micrograms of iodine. |
| Iron .. .. .. .. .. | Milligrams of iron. |
| Phosphorus .. .. .. .. | Milligrams of phosphorus. |

## EXPLANATORY NOTE

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

These regulations re-enact with amendments the Labelling of Food Order, 1953, and the Labelling of Food (Amendment) Order, 1953, made under the Defence (Sale of Food) Regulations, 1943, which lapsed in Northern Ireland in 1956 when the Defence Regulations were repealed.

The principal amendments are as follows:—

(*a*) The requirement that liquor labelled as a cocktail must contain not less than 40 per cent. proof spirit has been dispensed with.

(*b*) The exemption from the declaration of fruit basis and alcohol content has been extended to all wines obtained exclusively from grapes and which have not been subject to any process so as to alter their character.

In addition, the regulations contain new provisions relating to the labelling, marking and advertising of margarine and margarine-cheese. Claims that margarine contains or is made with cream or milk are now prohibited unless they are made in the prescribed manner.

**1961. No. 161** **[C]**

# FOOD AND DRUGS

## Ice-Cream

## Composition, Labelling, Heat Treatment, etc.

REGULATIONS, DATED 6TH JULY, 1961, MADE BY THE MINISTRY OF HEALTH AND LOCAL GOVERNMENT UNDER SECTIONS 4, 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 4, 7 and 68 of the Food and Drugs Act (Northern Ireland), 1958(a), having consulted with such organisations as appear to it

(a) 1958. c. 27.

to be representative of interests substantially affected by these regulations, and with the concurrence of the Ministry of Agriculture, hereby makes the following regulations:—

*Citation and commencement*

**1.** These regulations may be cited as the Ice-Cream (Composition, Heat Treatment, Labelling, etc.) Regulations (Northern Ireland), 1961, and shall come into operation on the 30th day of October, 1961.

*Interpretation*

**2.**—(1) In these regulations—

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

"complete cold mix" means a product which is capable of manufacture into a mixture with the addition of water only, is sent out by the manufacturer in airtight containers, and has been made by evaporating a liquid mixture which has already been submitted to heat treatment comparable with that prescribed in these regulations;

"mixture" means a product which is capable of manufacture into ice-cream by freezing only;

"pre-packed" means packed or made up in advance ready for retail sale in a wrapper or container, and where ice-cream packed or made up in a wrapper or container is found on any premises where ice-cream is packed, kept or stored for sale, the ice-cream shall be deemed to be pre-packed unless the contrary is proved, and it shall not be sufficient proof of the contrary to show that the ice-cream had not been labelled in accordance with the provisions of these regulations;

"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 purposes of his catering business, or a sale to a manufacturer for the purposes of his manufacturing business.

(2) Any reference in these regulations to a label marked on a wrapper or container shall be construed as including a reference to any legible marking on the wrapper or container however effected.

## PART I

### STANDARD OF COMPOSITION FOR ICE-CREAM

**3.** In this Part and in the First Schedule any reference to ice-cream includes a reference to ices but nothing in this Part and the First Schedule shall apply to water ices including ice lollies.

**4.** Ice-cream (whether or not it forms part of a composite article of food) intended for sale for human consumption shall conform to the standard of composition set out in the First Schedule.

**5.** No person shall sell or offer or expose for sale any food intended for human consumption under such a description as to lead an intending purchaser to believe he is purchasing ice-cream or a composite article of food containing ice-cream unless the food complies with the said standard or, as the case may be, the composite article of food contains food which complies with the said standard.

**6.** Where a person sells any food to a purchaser in response to a request for ice-cream or for a composite article of food containing ice-cream he shall be deemed to sell ice-cream or, as the case may be, a composite article of food containing ice-cream unless he clearly notifies the purchaser at the time of sale that the food is not, or as the case may be, the composite article of food does not contain, ice-cream.

## PART II

### HEAT TREATMENT OF ICE-CREAM

**7.** The requirements set out in the Second Schedule shall be observed in the manufacture of ice-cream intended for sale for human consumption:

Provided that the requirements set out in paragraph 2 thereof shall not apply to any mixture (whether containing milk solids or not) used, either alone or with other mixtures, in the manufacture of water ice or other similar frozen confection if the mixture has a pH value of 4·5 or less.

**8.** Ice-cream shall not be sold or offered for sale unless—

(*a*) the relevant provisions of Regulation 7 and the Second Schedule have been complied with in relation to its manufacture; and either

(*b*) it has been kept at a temperature not exceeding 28° Fahrenheit since it was frozen, or

(*c*) if its temperature has risen above 28° Fahrenheit at any time since it was frozen, it has again been subjected to the treatment (if any) to which as a mixture it was required to be subjected under paragraph 2 of the Second Schedule or would have been required to be subjected thereunder but for paragraph 1 of the Second Schedule and, after having again been frozen, has been kept at a temperature not exceeding 28° Fahrenheit.

## PART III

### LABELLING, MARKING AND ADVERTISING OF ICE-CREAM

**9.** In this Part any reference to "ice-cream" (except as regards the description "ice-cream" in regulation 12) includes a reference to ices but nothing in this Part shall apply to water ices including ice lollies.

**10.** No person shall give with ice-cream sold by him or display with any ice-cream exposed by him for sale any label, whether attached to or printed on the wrapper or container or not, which bears any word or pictorial device which refers to, or is suggestive of butter, cream or milk or anything connected with the dairy interest unless the ice-cream contains no fat other than milk fat (save as may be introduced by the use as an ingredient of any egg, any flavouring substance or any emulsifying or stabilising agent):

Provided that the label may include a statement to the effect that the ice-cream contains skimmed milk solids.

**11.** No person shall publish, or be party to the publication of, any advertisement for ice-cream which includes any word or pictorial device which refers to or is suggestive of butter, cream or milk or of anything connected with the dairy interest unless the ice-cream to which the advertisement relates contains no fat other than milk fat (save as may be introduced by the use as an ingredient of any egg, any flavouring substance or any emulsifying or stabilising agent):

Provided that the advertisement may include a statement to the effect that the ice-cream contains skimmed milk solids.

**12.** After the 30th November, 1961, no person shall sell or offer or expose for sale under the description "ice-cream" any pre-packed ice-cream which contains any fat other than milk fat (save as may be introduced by the use as an ingredient of any egg, any flavouring substance or any emulsifying or stabilising agent) except in a wrapper or container bearing a label on which there appears in close proximity to such description, the declaration "Contains non-milk fat" such declaration to be conspicuously visible and to be distinctly and legibly printed in letters not less in height than one-quarter of the height of the tallest letter in such description or one-twelfth of an inch, whichever is the taller:

Provided that where any pre-packed ice-cream contains no fat other than vegetable fat (save as may be introduced by the use as an ingredient of any egg, any flavouring substance or any emulsifying or stabilising agent) the declaration "Contains vegetable fat" may so appear as an alternative in place of the declaration "Contains non-milk fat".

**13.** The foregoing provisions of this Part shall apply in relation to ice-cream which forms part of a composite article of food.

**14.** Nothing in this Part shall prevent the use of the expression "ice-cream" or the use of the name of the manufacturer, packer or advertiser of the ice-cream or of any person selling it or exposing it for sale.

**15.** In any proceedings for an offence against Regulation 11 it shall be a defence for the accused 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.

**16.** In any such proceedings as aforesaid against the manufacturer of the ice-cream it shall rest on the accused to prove that he did not publish, and was not a party to the publication of, the advertisement.

*Defacing of Labels*

**17.** No person shall remove, add to, alter, deface or render illegible any statement upon a label printed on or attached to a wrapper or container in pursuance of any provision of these regulations:

Provided that it shall be a defence in any proceedings for an infringement of this regulation for the defendant to prove either—

(*a*) that the ice-cream was in his possession at the time of the infringement otherwise than for sale; or

(*b*) that he acted without intent to deceive.

## PART IV

## MISCELLANEOUS

*Savings*

**18.** Part III, except so far as it relates to advertisements, shall not apply—

(*a*) to any food packed for consumption by Her Majesty's Forces or by a visiting force within the meaning of any of the provisions of Part I of the Visiting Forces Act, 1952(a);

(a) 15 & 16 Geo. 6, & 1 Eliz. 2. c. 67.

(*b*) to any food intended at the time of sale for export from the United Kingdom.

*Penalties*

**19.** 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.

*Defences*

**20.**—(1) Where in any prosecution a person is charged with an infringement of any provision of these regulations in respect of the sale or displaying or possession for sale of any ice-cream and the alleged offence relates to the inaccuracy or omission of any particular required to be shown on a label marked on or attached to a wrapper or container or otherwise given with the ice-cream pursuant to any of the said provisions, it shall be a defence for him to prove—

(*a*) that he purchased the ice-cream in the wrapper or container in which he sold it from a person carrying on business at an address in the United Kingdom, and that the wrapper or container had remained unopened;

(*b*) that such particular was shown on or omitted from (as the case may be) the label when the ice-cream was purchased by him; and

(*c*) that at the time of the alleged infringement he had no reason to believe that these regulations were being infringed:

Provided that a person shall not be entitled to avail himself of the defence provided by this regulation unless within fourteen days of the service of the summons he has sent to the prosecutor a copy of the label upon which he intends to rely with a notice stating that he intends to rely on it and specifying the name and address of the person from whom he received it and has also sent a like notice of his intention to that person.

(2) The person by whom any such label is alleged to have been given shall be entitled to appear at the hearing and to give evidence.

(3) Where the defendant is a servant of the person who purchased the ice-cream with such a label he shall be entitled to rely on the provisions of this regulation in the same way as his employer would have been entitled to do if he had been the defendant.

*Legal Proceedings—Application of Act*

**21.** In any prosecution for an offence under these regulations the relevant provisions of Sections 46, 48, 50 and 53 of the Act shall apply.

*Revocation*

**22.** The Ice-Cream (Heat Treatment, etc.) Regulations (Northern Ireland), 1954(**a**), Regulations 2, 3 and 7 of the Sale of Ice-Cream Regulations

(**a**) S.R. & O. (N.I.) 1954, No. 58.

(Northern Ireland), 1958(**a**), and Regulation 3 of the Ice-Cream and Cream (Supplementary Provisions) Regulations (Northern Ireland), 1960(**b**), are hereby revoked.

Sealed with the Official Seal of the Ministry of Health and Local Government for Northern Ireland this 6th day of July, nineteen hundred and sixty-one.

(L.S.) *Wm. J. Morgan,*
Minister of Health and Local Government.

The Ministry of Agriculture hereby concurs with the foregoing regulations.

Sealed with the Official Seal of the Ministry of Agriculture for Northern Ireland this 6th day of July, nineteen hundred and sixty-one.

(L.S.) *H. W. West,*
Minister of Agriculture.

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## FIRST SCHEDULE

### Standard of Composition for Ice-Cream

1. The standard of composition for ice-cream (whether or not it forms part of a composite article of food) shall be as follows:—

(*a*) Ice-cream shall contain not less than 5 per cent. fat and 7½ per cent. milk solids other than fat so, however, that where ice-cream contains any fruit, fruit pulp or fruit puree it shall either conform to the above standard or, alternatively, the total content of fat and milk solids other than fat shall be not less than 12½ per cent. of the whole including the fruit, fruit pulp or fruit puree, as the case may be, and such total content of fat and milk solids other than fat shall include not less than 7½ per cent. fat and 2 per cent. milk solids other than fat:

Provided that as respects any ice-cream sold, or offered or exposed for sale under any of the descriptions specified in sub-paragraphs (i) and (ii) or under any such other description as is calculated to lead an intending purchaser to believe that he is purchasing ice-cream of any such description as is so specified, the standard shall be as follows:—

(i) Dairy Ice-Cream, Dairy Cream Ice or Cream Ice shall in each case contain not less than 5 per cent. milk fat and no other fat (save as may be introduced by the use as an ingredient of any egg, any flavouring substance or any emulsifying or stabilising agent) and not less than 7½ per cent. milk solids other than fat, so, however, that where any Dairy Ice-Cream, Dairy Cream Ice or Cream Ice contains any fruit, fruit pulp or fruit puree it shall either conform to the standard of composition for that ice-cream or, alternatively, the total content of milk fat and milk solids other than fat shall be not less than 12½ per cent. of the whole including the fruit, fruit pulp or fruit puree, as the case may be, and such total content of milk fat and milk solids other than fat shall include not less than 7½ per cent. milk fat and no other fat (save as may be introduced by the use as an ingredient of any egg, any flavouring substance or any emulsifying or stabilising agent) and not less than 2 per cent. milk solids other than fat.

(ii) Milk Ice, or Milk Ice containing any fruit, fruit pulp or fruit puree, shall contain not less than 2½ per cent. milk fat and no other fat (save

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(**a**) S.R. & O. (N.I.) 1958, No. 91. (**b**) S.R. & O. (N.I.) 1960, No. 70.

as may be introduced by the use as an ingredient of any egg, any flavouring substance or any emulsifying or stabilising agent) and not less than 7 per cent. milk solids other than fat.

(*b*) No ice-cream of any description shall contain any artificial sweetener.

2. In this Schedule:—

(*a*) "artificial sweetener" means any chemical compound which is sweet to the taste, and the expression includes polyhydric alcohols but does not include sugar or any other carbohydrate;

(*b*) each reference to any proportion or percentage means that proportion or percentage by weight.

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## SECOND SCHEDULE

### Heat Treatment of Ice-Cream

1. Where a complete cold mix is used which is reconstituted with wholesome drinking water and to which nothing is added other than colouring or flavouring materials, fruit, nuts, chocolate or other similar substances, the reconstituted mixture shall be converted into ice-cream within one hour of reconstitution.

2. In any case other than that referred to in paragraph 1, after the ingredients have been mixed together the following provisions shall apply:—

(*a*) the mixture shall not be kept for more than one hour at temperatures between 45° Fahrenheit and 150° Fahrenheit before being pasteurised or sterilised in accordance with sub-paragraph (*b*);

(*b*) the mixture shall be subjected to one or other of the methods of pasteurisation or sterilisation set out hereunder:—

*Pasteurisation*

METHOD I.

The mixture shall be raised to and kept at a temperature of not less than 150° Fahrenheit for at least 30 minutes.

METHOD II.

The mixture shall be raised to and kept at a temperature of not less than 160° Fahrenheit for at least 10 minutes.

METHOD III.

The mixture shall be raised to and kept at a temperature of not less than 175° Fahrenheit for at least 15 seconds.

*Sterilisation*

The mixture shall be raised to and kept at a temperature of not less than 300° Fahrenheit for at least 2 seconds.

(*c*) The apparatus used for subjecting the mixture to pasteurisation by Method III or to sterilisation shall be thermostatically controlled and shall be fitted with a positive displacement pump or such other device as may be approved by the Ministry of Health and Local Government for ensuring a constant rate of flow of the mixture during its retention at the prescribed temperature and also with a device which, if any mixture has not been raised to the prescribed temperature, will automatically divert the flow of any such mixture or, as an alternative in the case of sterilisation, stop the apparatus;

(*d*) after the mixture has been pasteurised or sterilised as aforesaid it shall be reduced to a temperature of not more than 45° Fahrenheit within 1½ hours and shall be kept at such a temperature until the freezing process is begun:

Provided that

(i) this requirement shall not apply to a mixture which has been sterilised in accordance with the requirements of sub-paragraph (*b*) if immediately after the mixture has been so sterilised it is placed in sterile airtight containers under sterile conditions and the containers remain unopened, and

(ii) the temperature of a mixture may be allowed to rise above 45° Fahrenheit when added to a mixture (having a pH value of 4·5 or less) for the preparation of water ice or other similar frozen confection if the combined mixture is frozen within one hour of combination;

(*e*) any mixture to which proviso (i) to sub-paragraph (*d*) applies shall, upon the container being opened, be reduced forthwith to a temperature of not more than 45° Fahrenheit and shall be kept at such a temperature until the freezing process is begun;

(*f*) such indicating and recording thermometers shall be used as are necessary for ensuring that the foregoing provisions relating to the temperatures to or at which the mixture is raised, kept or reduced have been complied with;

(*g*) the records of any thermometers used to record temperatures to or at which the mixture is raised, kept or reduced shall be preserved for a period of not less than one month;

(*h*) all apparatus used for the purposes of this paragraph shall be installed, maintained and operated in a proper and efficient manner.

3. In this Schedule—

"ingredients" includes sugar and any whole egg, yolk or albumen (whether dried, frozen or preserved or not) but does not include colouring or flavouring materials or fruit, nuts, chocolate and other similar substances.

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## EXPLANATORY NOTE

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

These regulations consolidate and amend the Ice-Cream (Heat Treatment, etc.) Regulations (Northern Ireland), 1954, and the Sale of Ice-Cream Regulations (Northern Ireland), 1958.

Part I of the regulations prescribes standards of composition for ice-cream and separate standards of composition for dairy ice-cream and milk ice. Alternative standards are prescribed for certain descriptions of ice-cream containing fruit, fruit pulp or fruit puree.

Part II of the regulations requires that ingredients used in the manufacture of ice-cream are to be pasteurised by one or other of three specified methods or sterilised and thereafter kept at a low temperature until the freezing process is begun. The regulations make it an offence to sell or offer for sale ice-cream which has not been so treated or which has been allowed to reach a temperature exceeding 28°F. without again being heat treated. They exempt from the requirement as to pasteurisation or sterilisation certain types of water ices or ice lollies which are sufficiently acid to make such treatment unnecessary.

Provisions contained in Part III of the regulations—

(*a*) prohibit the labelling, marking or advertising of ice-cream in a manner suggestive of butter, cream, milk or anything connected with the dairy interest unless the ice-cream contains no fat other than milk fat (apart