1960 No. 2437 (S. 133)

The Skimmed Milk with Non-Milk Fat (Scotland) Regulations, 1960

Made - - - -	*19th December,* 1960
Laid before Parliament	*5th January,* 1961
Coming into Operation	*19th September,* 1961

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

Citation and Commencement

1. These regulations may be cited as the Skimmed Milk with Non-Milk Fat (Scotland) Regulations, 1960 ; and shall come into operation on the 19th day of September, 1961.

Interpretation

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

" 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 (Scotland) Regulations, 1959(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 (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 ;

(a) 4 & 5 Eliz. 2. c. 30. (b) S.I. 1959/1115 (1959 I, p. 1311).

"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 (Scotland), 1931(a) as amended by the Public Health (Condensed and Dried Milk) Amendment Regulations (Scotland), 1943(b);

"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 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);

"local authority" means the Council of a county or 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;

"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.

(2) These regulations, except so far as they relate 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(d);

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

(a) S.R. & O. 1931/1 (Rev. VIII, p. 47: 1931, p. 1111).
(b) S.R. & O. 1943/1061 (Rev. VIII, pp. 35, 47: 1943 I, p. 289). (c) 10 & 11 Geo. 6. c. 43.
(d) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 67.

(3) Nothing in these regulations shall apply as respects any food, not being a baby food, sold under a description or designation which clearly indicates that such food is not intended or suitable for use as, or as a substitute for, milk, condensed full cream milk or dried full cream milk.

(4) 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.

(5) The provisions of these regulations shall be enforced and executed in any area by the local authority of that area.

(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.

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 to these regulations (as modified by the Second Schedule to these regulations in respect of the specified foods referred to therein);

(*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*) of this paragraph 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 hereof, 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 to these regulations.

(2) Subject to the provisions of paragraph (1) of this regulation and of regulation 6 hereof, 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

(a) 52 & 53 Vict. c. 63.

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) of this regulation 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.

(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) of this regulation, it shall rest on the person charged 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 hereof 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 Food Standards (Ice-Cream) (Scotland) Regulations, 1959(**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) of this regulation 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) of this regulation 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.

(**a**) S.I. 1959/572 (1959 I, p. 1319).

Offences and Penalties

7. 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—

(*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.

8. Nothing in the Condensed Milk (Scotland) Regulations, 1959, and the Public Health (Dried Milk) Regulations (Scotland), 1931, as amended by the Public Health (Condensed and Dried Milk) Amendment Regulations (Scotland), 1943, shall apply as respects any specified food.

Dated this 19th day of December, 1960.

John S. Maclay,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

THE FIRST SCHEDULE

Regulation 3 (1)

PART I

THE PROVISIONS RELATING TO LABELS ON CONTAINERS OF SPECIFIED FOODS REFERRED TO IN REGULATION 3 (1)

1. Each label shall bear whichever of the following declarations is appropriate—

SKIMMED MILK WITH NON-MILK FAT UNFIT FOR BABIES [or NOT TO BE USED FOR BABIES]

CONDENSED SKIMMED MILK WITH NON-MILK FAT UNFIT FOR BABIES [or NOT TO BE USED FOR BABIES]

DRIED SKIMMED MILK WITH NON-MILK FAT UNFIT FOR BABIES [or NOT TO BE USED FOR BABIES]

Provided that in any such declaration—

(*a*) the word "evaporated" may be substituted for the word "condensed";

(*b*) the word "machine-skimmed" or "separated" may be substituted for the word "skimmed";

(*c*) the word "and" may be substituted for the word "with";

(*d*) the word "vegetable", if appropriate, or the appropriate designation of each fat or oil (other than milk fat) present in the food in the container may be substituted for the word "non-milk";

(*e*) the word "fats", "oil" or "oils" may be substituted for the word "fat" where appropriate;

(*f*) if the appropriate designation of each fat or oil is substituted in accordance with sub-paragraph (*d*) of this proviso—

(i) it may be accompanied by a statement whether or not each such fat or oil is hydrogenated;

(ii) the quantity or proportion of each such fat or oil may be added in brackets after the appropriate designation to which it relates;

(*g*) there may be added immediately after any of the descriptions "SKIMMED MILK WITH NON-MILK FAT", "CONDENSED SKIMMED MILK WITH NON-MILK FAT", "DRIED SKIMMED MILK WITH NON-MILK FAT" or any of such descriptions modified in accordance with any of the preceding sub-paragraphs of this proviso, as the case may be, the appropriate designation of any other substance present in the food in the container;

(*h*) if the quantity or proportion and the appropriate designation of each fat or oil (other than milk fat) present in the food in the container is specified on the label either—

(i) in the said declaration in accordance with the provisions of this paragraph, or

(ii) by means of a statement which is clearly legible and appears conspicuously and in a prominent position elsewhere on the label,

and the appropriate designation, wherever it appears, is accompanied by a statement whether or not each such fat or oil is hydrogenated, the words "SHOULD NOT BE USED FOR BABIES EXCEPT UNDER MEDICAL ADVICE" or "MEDICAL ADVICE SHOULD BE OBTAINED BEFORE USING THIS PRODUCT FOR BABY FEEDING" may be substituted for the words "UNFIT FOR BABIES" [or "NOT TO BE USED FOR BABIES"];

(*j*) the words "UNFIT FOR BABIES" [or "NOT TO BE USED FOR BABIES"] may be omitted if the container contains only food of a description specified in Part I of the Second Schedule to these regulations which complies with the requirements specified in relation thereto in Part II of that Schedule.

2. If any brand or descriptive name is used on the label, the aforesaid declaration shall be used in conjunction therewith at least once.

3. Such declaration shall in each case be printed distinctly and legibly in dark block type upon a light-coloured ground or in light block type upon a dark-coloured ground and shall be so printed within a surrounding line and no matter save as aforesaid 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.

4. The minimum height of the type used for such declaration shall be, in the case of containers of quantities of—

(*a*) not more than 2 pounds or 40 fluid ounces, as the case may be, one-eighth of an inch;

(*b*) more than 2 pounds and less than 5 pounds or more than 40 fluid ounces and less than 100 fluid ounces, as the case may be, one-quarter of an inch;

(*c*) 5 pounds or 100 fluid ounces, as the case may be, or more, one-half of an inch.

5. Where any claim is made on the label as to the effect of the specified food in the container in relation to coronary diseases, the label shall also bear a statement

specifying the quantity or proportion and the appropriate designation of each fat or oil present in the food in the container and whether or not each such fat or oil is hydrogenated; and where such statement does not form part of any of the aforesaid declarations, it shall be clearly legible and shall appear conspicuously and in a prominent position elsewhere on the label.

Regulation 5 (1)

PART II

THE PROVISIONS RELATING TO ADVERTISEMENTS FOR SPECIFIED FOODS REFERRED TO IN REGULATION 5 (1)

1. Subject to the provisions of these regulations, in each advertisement such one of the descriptions "skimmed milk with non-milk fat", "condensed skimmed milk with non-milk fat" or "dried skimmed milk with non-milk fat" as may be appropriate shall be applied to the specified food in accordance with the provisions of paragraph 2 below:

Provided that, in any such description—

(*a*) the word "evaporated" may be substituted for the word "condensed";

(*b*) the word "machine-skimmed" or "separated" may be substituted for the word "skimmed";

(*c*) the word "and" may be substituted for the word "with";

(*d*) the word "vegetable", if appropriate, or the appropriate designation of each fat or oil (other than milk fat) present in the food to which the advertisement relates may be substituted for the word "non-milk";

(*e*) the word "fats", "oil" or "oils" may be substituted for the word "fat" where appropriate;

(*f*) if the appropriate designation of each fat or oil is substituted in accordance with sub-paragraph (*d*) of this proviso, it may be accompanied by a statement whether or not each such fat or oil is hydrogenated;

(*g*) there may be added immediately after the word "fat", "fats", "oil" or "oils", as the case may be, the appropriate designation of any other substance present in the food to which the advertisement relates.

2. In each advertisement—

(*a*) the said description shall be used clearly and prominently at least once;

(*b*) if any brand or descriptive name is used, the said description shall be used clearly and prominently in conjunction therewith at least once;

(*c*) wherever the said description is used in visual form, the type or characters within any one description shall be of the same size.

THE SECOND SCHEDULE

Regulation 3 (1) and First Schedule, paragraph 1 (*j*)

PART I

FOODS IN RESPECT OF WHICH THE WORDS "UNFIT FOR BABIES" [OR "NOT TO BE USED FOR BABIES"] MAY BE OMITTED FROM THE LABEL

Alfonal, manufactured by or for Alfonal Limited.

Alfonal Evaporated, manufactured by or for Alfonal Limited.

White Dove brand, manufactured by or for Alfonal Limited.

Efalac, manufactured by or for L. E. Pritchitt and Company Limited.

S.M.A., manufactured by or for John Wyeth and Brother Limited.

PART II

REQUIREMENTS RELATING TO THE FOODS SPECIFIED IN PART I OF THIS SCHEDULE

1. Every food specified in Part I of this Schedule—

(*a*) shall contain poly-unsaturated fatty acids of the *cis-cis* form to the extent of not less than 12 per cent. of the total fatty acids present in such food;

(*b*) shall not contain any protein other than protein derived from milk; and

(*c*) shall not contain any ingredient of no nutritional value.

2. Alfonal shall contain—
(*a*) not less than 3·6 per cent. of protein derived from milk;
(*b*) not less than 3·5 per cent. of fat;
(*c*) 13 ± 4 international units of vitamin D per fluid ounce;
(*d*) not less than 44 international units of vitamin A per fluid ounce whether present as such or as its esters.

3. Alfonal Evaporated and White Dove brand shall each contain—
(*a*) not less than 9·6 per cent. of protein derived from milk;
(*b*) not less than 9·3 per cent. of fat;
(*c*) 33 ± 10 international units of vitamin D per fluid ounce;
(*d*) not less than 110 international units of vitamin A per fluid ounce whether present as such or as its esters.

4. Efalac shall contain—
(*a*) not less than 23·1 per cent. of protein derived from milk;
(*b*) not less than 28·6 per cent. of fat;
(*c*) 100 ± 31 international units of vitamin D per ounce;
(*d*) not less than 357 international units of vitamin A per ounce whether present as such or as its esters.

5. S.M.A. shall contain—
(*a*) not less than 11·6 per cent. of protein derived from milk;
(*b*) not less than 27 per cent. of fat;
(*c*) 92 ± 28 international units of vitamin D per ounce;
(*d*) not less than 321 international units of vitamin A per ounce whether present as such or as its esters;
(*e*) not less than 11·5 mg. of ascorbic acid per ounce.

6. In this Schedule, each reference to any percentage means that percentage by weight.

EXPLANATORY NOTE

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

These regulations—

(*a*) impose requirements as to the labelling and advertising of certain "specified foods" which have the appearance of milk, condensed milk or dried milk and which contain skimmed milk and non-milk fat (Regulations 3 and 5 (1) and the First Schedule), but exempt the foods named in Part I of the Second Schedule from the requirement to bear on the label the declaration "Unfit for babies" (or the permitted alternatives) provided that the composition of the food is as prescribed in Part II of that Schedule;

(*b*) prohibit (subject to certain savings) the labelling or advertising of the specified foods, and beverages containing skimmed milk, in a manner suggestive of milk or anything connected with the dairy interest (Regulations 4 and 5 (2)); and

(*c*) provide that the Condensed Milk (Scotland) Regulations, 1959, and the Public Health (Dried Milk) Regulations (Scotland), 1931, as amended by the Public Health (Condensed and Dried Milk) Amendment Regulations (Scotland), 1943, shall not apply to any specified food (Regulation 8).