STATUTORY INSTRUMENTS

1963 No. 849 (S. 24)

FOOD AND DRUGS

COMPOSITION AND LABELLING—SCOTLAND

The Soft Drinks (Scotland) Regulations 1963

Made - - - -	*22nd April* 1963
Laid before Parliament	*1st May* 1963
Coming into Operation	*20th July* 1964

In exercise of the powers conferred on me by sections 4, 7, 56 and 60(3) 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 or description of food), I hereby make the following regulations: —

Citation and commencement

1. These regulations may be cited as the Soft Drinks (Scotland) Regulations 1963 and shall come into operation on 20th July 1964.

Interpretation

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

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

" carbohydrate " means a substance containing carbon, hydrogen and oxygen only in which the hydrogen and oxygen occur in the same proportion as in water;

" comminuted citrus drink " means a soft drink produced by a process involving the comminution of the entire citrus fruit;

" container " means any vessel, can, box or carton capable of containing a soft drink which is, has been or is capable of being, closed and includes any kind of bottle, but does not include any unclosed cup, mug, glass or other unclosed drinking vessel;

" crush " means a soft drink containing fruit juice, not being a comminuted citrus drink, intended for consumption without dilution and includes any cordial intended for consumption without dilution;

" fruit juice " means the clean, sound, undiluted juice of the fruit or fruits from which it is obtained;

" intoxicating liquor " means any exciseable liquor as defined in the Licensing (Scotland) Act 1959(b);

" potable fruit content " means the total of the fruit constituents of a soft drink derived from the juice, pith and peel;

" printing " includes the processes of embossing and firing on; and " printed " shall be construed accordingly;

" registered trade mark " has the meaning assigned to it by section 68(1) of the Trade Marks Act 1938(c);

(a) 4 & 5 Eliz. 2. c. 30. (b) 7 & 8 Eliz. 2. c. 51. (c) 1 & 2 Geo. 6. c. 22.

"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;

"saccharin" means the substance defined as such in the edition of the British Pharmacopoeia current for the time being;

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

"soft drink" means any liquid intended for sale, as drink for human consumption, either without or after dilution; and includes—

(*a*) any fruit drink, and any fruit juice squash, crush or cordial;

(*b*) soda-water, Indian or quinine tonic-water, and any sweetened artificially carbonated water whether flavoured or unflavoured;

(*c*) ginger beer and any herbal or botanical beverage;

but does not include—

(i) water (except as aforesaid);

(ii) water from natural springs, either in its natural state or with added mineral substances;

(iii) fruit juice, sweetened or unsweetened, whether concentrated (or frozen) or not;

(iv) milk or any preparation of milk;

(v) tea, coffee, dandelion coffee, cocoa or chocolate, or any preparation of tea, coffee, dandelion coffee, cocoa or chocolate;

(vi) any egg product;

(vii) any cereal product, except—

(*aa*) flavoured barley-water and liquid products used in the preparation of barley-water, and

(*ab*) cereal products containing alcohol that are not intoxicating liquor;

(viii) meat, yeast or vegetable extracts, soup or soup mixtures, or any similar product;

(ix) tomato juice, vegetable juice, or any preparation of any such juice or juices;

(x) intoxicating liquor;

(xi) any other unsweetened drink except soda water;

and for the purposes of this definition a product shall not be deemed not to be a soft drink by reason only of the fact that it is capable of being used as a medicine;

"squash" means a soft drink containing fruit juice, not being a comminuted citrus drink, intended for consumption after dilution and includes any cordial intended for consumption after dilution;

"sugar" means any soluble carbohydrate sweetening matter;

"sweetened" means containing any added sugar or added polyhydric alcohol or any saccharin; and "unsweetened" shall be construed accordingly;

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

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

(3) For the purposes of these regulations, the supply of any drink, otherwise than by sale, at, in or from any place where drink is supplied in the course of a business shall be deemed to be a sale of that drink, and any reference to a purchaser shall be construed accordingly.

(4) For the purposes of the Labelling of Food Order 1953(a) as amended(b), these regulations, in so far as they prescribe requirements as to composition for a soft drink, shall be taken to prescribe a standard for a soft drink.

(5) Any reference in these regulations to any order or other regulations shall be construed as a reference to such order or regulations as amended by any subsequent order or regulations and if any order or regulations referred to in these regulations is or are replaced by any subsequent order or regulations the reference shall be construed as a reference to such subsequent order or regulations, as the case may be.

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

3. The Food Standards (General Provisions) Order 1944(d), as amended(e), shall not apply as respects any soft drink for which requirements as to composition are prescribed by these regulations.

Enforcement

4.—(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(f), 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(g); 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.

Exemptions

5.—(1) The following provisions of these regulations shall not apply—

(*a*) in relation to any soft drink intended at the time of sale for exportation to any place outside the United Kingdom or for use as ships' stores;

(*b*) in relation to any soft drink intended at the time of sale 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(h);

(*c*) in relation to any sale, consignment or delivery of a soft drink to a manufacturer for the purposes of his manufacturing business;

(*d*) in relation to any sale of a soft drink otherwise than in a container;

(*e*) as respects added sugar or the quantity of saccharin present in relation to any soft drink sold in a container bearing a label on which

(a) S.I. 1953/536 (1953 I, p. 665).
(b) The relevant amending instrument is S.I. 1959/571 (1959 I, p. 1328).
(c) 52 & 53 Vict. c. 63.
(d) S.R. & O. 1944/42 (1944 II, p. 505).
(e) S.R. & O. 1944/654 (1944 II, p. 508).
(f) 60 & 61 Vict. c. 38.
(g) 10 & 11 Geo. 6. c. 43.
(h) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 67.

there appears clearly and conspicuously in letters of not less than one-eighth of an inch in height a description indicating to an intending purchaser that the soft drink has been prepared for consumption by persons suffering from diabetes if that soft drink contains no added sugar.

(2) The provisions of regulations 8 to 12 hereof inclusive and of Schedule 2 to these regulations shall not apply in relation to any sale, other than a retail sale, of any soft drink in a container containing more than one gallon.

Requirements as to composition for soft drinks

6.—(1) Subject to the provisions of this regulation, any soft drink intended for consumption without dilution which is of a description specified in column 1 of Part I of Schedule 1 to these regulations shall conform to the requirements as to composition set out in relation thereto in the said Part I as respects the fruit juice or potable fruit content, as the case may be, the quantities of added sugar and saccharin therein and as respects other requirements as to composition :

Provided that—

(*a*) any soft drink (other than soda-water) intended for consumption without dilution may contain up to 280 grains of saccharin per 10 gallons if that soft drink also contains not less than 22½ pounds of sugar per 10 gallons;

(*b*) if any soft drink to which this paragraph applies is subjected to brewing in the course of its manufacture, allowance shall be made, in assessing the minimum quantity of added sugar therein, for any change in sugar content due to fermentation during such brewing.

(2) Any soft drink intended for consumption after dilution which is of a description specified in column 1 of Part II of Schedule 1 to these regulations shall conform to the requirements as to composition set out in relation thereto in the said Part II as respects the fruit juice or potable fruit content, as the case may be, and the quantities of added sugar and saccharin therein.

(3) Any soft drink, whether intended for consumption without or after dilution, which comprises two or more of the descriptions of soft drink specified in column 1 of Part I, or of Part II, of Schedule 1 to these regulations shall, as respects the fruit juice or potable fruit content, as the case may be, conform to the requirements as to composition specified in the appropriate Part of that Schedule in relation to each of the descriptions of soft drink comprised in that soft drink, and, as respects the quantities of added sugar and saccharin therein, shall conform to the requirements as to composition specified as aforesaid in relation to any one of the descriptions of soft drink comprised in that soft drink.

(4) No person shall sell any drink under such a description as to lead an intending purchaser to believe that he is purchasing a soft drink to which paragraph (1), (2) or (3) of this regulation applies unless the drink complies with the appropriate requirements as to composition set out as provided in paragraph (1) or (2) hereof in relation to that soft drink or with the provisions of paragraph (3) hereof, as the case may be.

(5) Where a person sells any drink to a purchaser in response to a request for a soft drink to which paragraph (1), (2) or (3) of this regulation applies, he shall be deemed to sell that soft drink and under such a description as is specified in the last foregoing paragraph unless he clearly notifies the purchaser at the time of sale that the drink is not that soft drink.

Addition of acids to soft drinks

7.—(1) Save as hereinafter provided, no soft drink shall contain any added acid:

Provided that—

(*a*) any soft drink may contain ascorbic acid, citric acid, lactic acid, malic acid, nicotinic acid, tartaric acid and any acid inasmuch as the use of that acid in that soft drink is permitted by the Preservatives in Food (Scotland) Regulations 1962(**a**) or the Colouring Matter in Food (Scotland) Regulations 1957(**b**);

(*b*) any soft drink other than a fruit squash, a fruit crush or a comminuted citrus drink may contain acetic acid and phosphoric acid.

(2) No person shall sell, consign or deliver any soft drink which does not comply with this regulation.

Labelling of soft drinks

8.—(1) Subject to the provisions of these regulations, no person shall sell, consign or deliver any citrus squash (whether or not it contains a bitter principle) in a container unless that container bears a label on which there appears as the description of that citrus squash the word "squash" immediately preceded by the name of the appropriate citrus fruit or fruits:

Provided that—

(*a*) in the case of any clear citrus squash, the word "cordial" may be substituted for the word "squash" on the label;

(*b*) in the case of any squash prepared from citrus juice and barley water and from no other fruit juice, there may be substituted for the aforementioned description the words "and barley water" immediately preceded by the name of the appropriate citrus fruit or fruits.

(2) Subject to the provisions of these regulations, no person shall sell, consign or deliver any citrus crush (whether or not it contains a bitter principle) in a container unless that container bears a label on which there appears as the description of that citrus crush the word "crush" immediately preceded by the name of the appropriate citrus fruit or fruits:

Provided that—

(*a*) in the case of any clear citrus crush, the word "cordial" may be substituted for the word "crush" on the label;

(*b*) in the case of any crush prepared from citrus juice and barley water and from no other fruit juice, there may be substituted for the aforementioned description the words "and barley water" immediately preceded by the name of the appropriate citrus fruit or fruits.

(3) Subject to the provisions of these regulations, no person shall sell, consign or deliver any comminuted citrus drink (whether or not it contains a bitter principle) in a container unless that container bears a label on which there appears as the description of that comminuted citrus drink the word "drink" immediately preceded by the name of the appropriate citrus fruit or fruits:

Provided that in the case of any comminuted citrus drink prepared from comminuted citrus fruit and barley water and from no other fruit, there may be substituted for the aforementioned description the words "drink and barley water" immediately preceded by the name of the appropriate citrus fruit or fruits.

(**a**) S.I. 1962/1926 (1962 II, p. 2371). (**b**) S.I. 1957/1123 (1957 I, p. 1003).

9.—(1) No person shall sell, consign or deliver any soft drink, being a flavoured carbonated drink, in a container bearing a label on which there appears—

(*a*) any pictorial device suggestive of any fruit or fruits;

(*b*) any word suggestive of any fruit or fruits not represented in the flavouring of that drink.

(2) Subject to the provisions of these regulations, no person shall sell, consign or deliver any soft drink, being a flavoured carbonated drink, in a container bearing a label on which any word suggestive of any fruit is used in relation to that drink unless that label also bears, equally conspicuously and legibly, either—

(*a*) a word comprising the name of the fruit so suggested followed by the suffix "ade"; or

(*b*) where appropriate, a phrase consisting of the names of the fruits so suggested with the suffix "ade" added to the end of the last of such names; or

(*c*) the word "flavour" immediately preceded by the name or names of the fruit or fruits so suggested.

10. Subject to the provisions of these regulations, no person shall sell, consign or deliver in any container any soft drink to which saccharin has been added unless that container bears a label on which there appear the words "saccharin added" or the words "contains saccharin" or, where appropriate, any one of the following expressions:—

(*a*) "saccharin and sugar added";

(*b*) "sugar and saccharin added";

(*c*) "contains saccharin and sugar";

(*d*) "contains sugar and saccharin".

11. All letters and words required by virtue of regulation 8, 9(2) or 10 hereof to appear on a label on a container shall conform to the requirements set out in Schedule 2 to these regulations.

12. Nothing in regulation 8 hereof shall prohibit the use on a label on a container of any registered trade mark registered and in use before 22nd April 1963.

Penalties

13.—(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 under these regulations.

(2) Any person who is guilty of an offence under these regulations 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.

Application of various sections of the Act

14.—(1) Sections 41(2) and (5) (which relate to proceedings), 42(1), (2) and (3) (which relate to evidence of certificates of analysis), 44 (which relates to the power of a court to require analysis by the Government Chemist), 46(2) (which relates to the conditions under which a warranty may be pleaded as a defence) and 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 against these regulations and in addition as if—

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

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

(2) Section 41(4) 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.

Revocation

15.—(1) The Food Standards (Soft Drinks) Order 1953(**a**) and the Food Standards (Soft Drinks) (Amendment) Order 1954(**b**) are hereby revoked but without prejudice to any proceedings in respect of any contravention of the Food Standards (General Provisions) Order 1944, as amended, construed as one with the said Food Standards (Soft Drinks) Order 1953, as amended.

(2) Section 38 of the Interpretation Act 1889 shall apply as if these regulations were an Act of Parliament and as if any orders revoked by these regulations were Acts of Parliament repealed by an Act of Parliament.

Michael Noble,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

22nd April 1963.

(**a**) S.I. 1953/1828 (1953 I, p. 696). (**b**) S.I. 1954/1089 (1954 I, p. 808).

Regulation 6

SCHEDULE 1

PART I

Requirements as to composition for soft drinks intended for consumption without dilution

Column 1	Column 2	Column 3	Column 4	Column 5
Description of soft drink	Minimum fruit juice (expressed in terms of juice of natural strength) or potable fruit content, as the case may be	Minimum quantity of added sugar per 10 gallons	Maximum quantity of saccharin per 10 gallons	Other requirements as to composition
Citrus juice and barley water	3% citrus fruit juice by volume	4½ lbs.	56 grains	
Lime crushes, lime juice and soda	3% lime juice by volume	4½ lbs.	56 grains	
Other citrus crushes (including citrus crushes containing a bitter principle) not otherwise specified in this Part of this Schedule	5% citrus fruit juice by volume	4½ lbs.	56 grains	
Comminuted citrus fruit and barley drinks	1½ lbs. potable fruit content per 10 gallons	4½ lbs.	56 grains	
Comminuted citrus drinks (including comminuted citrus drinks containing a bitter principle) not otherwise specified in this Part of this Schedule	2 lbs. potable fruit content per 10 gallons	4½ lbs.	56 grains	
Any description of soft drink containing fruit juice (except those specified in Part II of this Schedule) not otherwise specified in this Part of this Schedule	5% non-citrus fruit juice by volume	4½ lbs.	56 grains	
Indian or quinine tonic water	—	4½ lbs.	56 grains	To contain not less than ½ grain of quinine (calculated as quinine sulphate B.P.) per pint
Soda water	—	—	—	To contain not less than 5 grains of sodium bicarbonate per pint
Dry ginger ale	—	3 lbs.	56 grains	

Column 1	Column 2	Column 3	Column 4	Column 5
Description of soft drink	Minimum fruit juice (expressed in terms of juice of natural strength) or potable fruit content, as the case may be	Minimum quantity of added sugar per 10 gallons	Maximum quantity of saccharin per 10 gallons	Other requirements as to composition
Brewed ginger beer, herbal or botanical beverages	—	2 lbs.	80 grains	
Any description of soft drink (except those specified in Part II of this Schedule) not otherwise specified in this Part of this Schedule	—	4½ lbs.	56 grains	

PART II

Requirements as to composition for soft drinks intended for consumption after dilution

Column 1	Column 2	Column 3	Column 4
Description of soft drink	Minimum fruit juice (expressed in terms of juice of natural strength) or potable fruit content, as the case may be	Minimum quantity of added sugar per 10 gallons	Maximum quantity of saccharin per 10 gallons
Citrus juice and barley water	15% citrus fruit juice by volume	22½ lbs.	280 grains
Citrus squashes (including citrus squashes containing a bitter principle) not otherwise specified in this Part of this Schedule	25% citrus fruit juice by volume	22½ lbs.	280 grains
Comminuted citrus fruit and barley drinks	7 lbs. potable fruit content per 10 gallons	22½ lbs.	280 grains
Comminuted citrus drinks (including comminuted citrus drinks containing a bitter principle) not otherwise specified in this Part of this Schedule	10 lbs. potable fruit content per 10 gallons	22½ lbs.	280 grains
Non-citrus fruit squashes	10% non-citrus fruit juice by volume	22½ lbs.	280 grains
Any description of soft drink (except those specified in Part I of this Schedule) not otherwise specified in this Part of this Schedule	—	22½ lbs.	280 grains

Regulation 11

SCHEDULE 2

LABELLING OF CONTAINER

1. Every letter and word appearing on a label on a container which is required so to appear by virtue of regulation 8, 9(2) or 10 of these regulations shall be printed in dark block type upon a light coloured ground or in light block type upon a dark coloured ground and shall be of uniform colour and size:

Provided that the initial letter in any such word may be larger than the other letters in that word.

2.—(1) Subject to the provisions of this paragraph, every letter in any such word shall be either—

(*a*) not less than one-eighth of an inch in height, or

(*b*) of such a size that the area of the smallest rectangle capable of enclosing that letter is not less than one-sixteenth of the area of the smallest rectangle capable of enclosing the largest letter in any word of more than one letter appearing on any label on that container,

whichever is the larger:

Provided that where—

(i) no words appear on the said container save on the cork, stopper or cap closing that container, or

(ii) no words appear on the said container save for such words as are embossed or fired on and signify solely any or all of the following:—

(*aa*) the name and address of the manufacturer of the soft drink contained in the said container;

(*ab*) the name and address of the bottler or packer of that soft drink;

(*ac*) the name of that soft drink;

any word required by virtue of regulation 8, 9(2) or 10 of these regulations to appear on a label on a container may be printed on the exposed surface of the cork, stopper or cap closing that container in letters of not less than one-sixteenth of an inch in height and in dark block type upon a light coloured ground or in light block type upon a dark coloured ground.

(2) In the case of a container having a capacity of not more than 45 fluid ounces, every word appearing on a label on that container which is required so to appear by virtue of regulation 10 of these regulations shall be printed in letters of not less than one-twelfth of an inch in height.

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, re-enact with amendments the Food Standards (Soft Drinks) Order 1953, as amended. The principal changes are:—

(*a*) the standards of composition for soft drinks made from citrus fruit or the juice of citrus fruit have been revised and in the case of comminuted drinks, the regulations have been extended to cover all citrus fruits (regulation 6 and Schedule 1);

(*b*) specific descriptions are prescribed for the labelling of soft drinks made from citrus fruit or the juice of citrus fruits (regulation 8);

(*c*) pictorial devices, suggestive of fruit, on the labels of flavoured carbonated drinks are prohibited and where such labels contain any word suggestive of any fruit, specific labelling provisions apply (regulation 9).

(*d*) the minimum sugar requirements for soft drinks have been increased and the maximum permitted quantity of saccharin has been reduced (regulation 6 and Schedule 1);

(*e*) the regulations require that where soft drinks contain saccharin the label must carry one of a number of specified declarations (regulation 10);

(*f*) the acids permitted for use in soft drinks are specified (regulation 7);

(*g*) the regulations do not apply to any soft drink intended for export or for consumption by Her Majesty's forces or a visiting force or to any soft drink sold in an unclosed drinking vessel (regulation 5(1));

(*h*) all letters and words required by these regulations to appear on labels must conform to specified requirements as to size and colour (regulation 11 and Schedule 2);

(*i*) the regulations will come into operation on 20th July 1964.